

Florida Gaming Control Commission

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September 01, 2022

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FLORIDA DEPARTMENT OF BUSINESS & PROFESSIONAL  
REGULATIONS

FLORIDA GAMING CONTROL COMMISSION PUBLIC HEARING  
FIRST GENERAL BUSINESS MEETING

VOLUME 1 (Pages 1 - 157)

DATE TAKEN: Thursday, September 1st, 2022  
TIME: 9:30 a.m. - 12:24 p.m.  
PLACE: W.V. Knott Building at  
The Capitol Complex, Room 412,  
Tallahassee, Florida 32399  
And Teleconference  
And Live Broadcast  
Stenographer appeared remotely via  
Live Broadcast

Stenographically Reported By:  
Brandy Duxbury, Stenographer

Job No.: 269967

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23 BOARD MEMBERS:

24 Chairman John MacIver  
25 Vice-Chair Michael Yaworsky  
26 Commissioner Julie Brown  
27 Commissioner John D'Aquila  
28 Commissioner Chuck Drago  
29 Executive Director Louis Trombetta

30 Also Present:

31 John Zachem, Public Comment Speaker  
32 Jorge Gazale (phonetic), Public Comment Speaker  
33 John Lockwood, Public Comment Speaker

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35

36

1	I N D E X		
2	RE: Discussions:		
3			PAGE
4	APPROVAL OF MEETING MINUTES FROM JULY 6TH, 2022 MEETING		
5			
6	By Chairman John MacIver		6
7	DISCUSSION OF AMENDED APPLICATIONS FOR PARI-MUTUEL OPERATING LICENSES		
8	By Executive Director Louis Trombetta		
9	2.1. 2022-037945 In re: Tampa Bay Downs		8
10	2.2. 2022-039135 In re: Gulfstream Park		9
11			
12	DISCUSSION OF APPLICATIONS FOR TRANSFER OF PERMIT-HOLDER TAX CREDIT/EXEMPTION		
13	By Executive Director Louis Trombetta		
14	3.1. 2022-039514 In re: TBD Entertainment, LLC		11
15	3.2. 2022-039506 In re: Investment Corporation of Palm Beach		11
16	3.3. 2022-039077 In re: St. Petersburg Kennel Club, Inc.		11
17			
18	DISCUSSION OF DEFAULT FINAL ORDERS		
19	By Marc Taupier		
20	4.1. 2022-021526, 2021-004913, and 2020-053235 DBPR v. Alexis Romero Delgado		13
21	By Emily Alvarado		
22	4.2. 2022-024544 DBPR v. Todd Seglem		18
23			
24	DISCUSSION OF CONSENT ORDERS		
25	By Emily Alvarado		
26	5.1. 2022-016405 DBPR v. Ronne Garcia, Jr.		23
27	5.2. 2022-026122 DBPR v. Courtney Warren		25
28	5.3. 2022-027408 DBPR v. Richard Flores		25
29	5.4. 2022-027412 DBPR v. Joseph Gerstel		25
30	5.5. 2022-028029 DBPR v. TBD Entertainment, LLC		26
31	5.6. 2022-028395 DBPR v. OBS Real Estate Holdings, LLC		30
32	5.7. 2022-031049 DBPR v. TBD Entertainment, LLC		32
33	5.8. 2022-034120 DBPR v. Juan Alvarado		32
34			

1	I N D E X (Cont.)	
2		
3	DISCUSSION OF LICENSE DENIALS	
	By Marc Taupier	
4	6.1. 2022-024016 Steven Selvey	35
5	6.2. 2022-024620 Scott Motyk	37
6	6.3. 2022-024632 Freddie Hughs	39
7	6.4. 2022-028758 Alfredo Fong	49
8	6.5. 2022-029108 Maxx Bennett	50
9	6.6. 2022-031302 Raul Quinones	51
10	6.7. 2022-031564 Daniel Smith	53
11	6.8. 2022-032710 Yvette Campos	55
12	6.9. 2022-033421 Kristina Vazquez	69
13	6.10. 2022-035398 Marlon McKenzie	70
14	By John Zachem	
15	6.11. 2022-040619 Jorge Callejas	74
16	DISCUSSION OF FINAL ORDER PURSUANT TO REQUEST FROM RESPONDENT	
17	By Marc Taupier	
18	7.1. 2022-016265 DBPR v. Nicolas Paul Gagne	91
19	DISCUSSION OF AMENDED FINAL ORDER	94
20	By Marc Taupier	
21	8.1. 2022-001846 DBPR v. John Mungillo	
22	PUBLIC COMMENT	
23	By Jorge Gazale	105
24	By John M. Lockwood, ESQ.	108
25	UPDATES FROM EXECUTIVE DIRECTOR	118
26	OTHER MATTERS	149
27	PUBLIC COMMENT	
28	By Jorge Gazale	150
29	By John Zachem	153
30	Reporter's Certificate	157
31		
32		
33		
34		
35		

1 Proceedings began at 9:30 a.m.:

2 MR. MACIVER: Good morning,  
3 Commissioners. Thank you and welcome,  
4 everybody, to the September 1st general  
5 business meeting, the Florida Gaming Control  
6 Commission. I still have to look when I try  
7 to remember what our full name is.

8 Lou just reminded me, just as a  
9 matter of housekeeping for anybody, if  
10 there's a specific agenda item that you wish  
11 to make comment on, please see Ms. Stinson  
12 and fill out a speaker card, so that I know  
13 to recognize you during that particular  
14 agenda item, and I don't pause for all of  
15 the other 50 agenda items for which no one  
16 actually desires to speak.

17 With that, Lou, we don't have a  
18 guest leader for the pledge this time  
19 around, do we?

20 MR. TROMBETTA: No, we don't.

21 MR. MACIVER: Okay, okay.

22 Ms. Brown, would you like to lead  
23 us?

24 MS. BROWN: I'd be honored.

25 MR. MACIVER: Thank you.

1 MS. BROWN: Please rise.

2 (Whereupon, everyone stood for the Pledge of  
3 Allegiance.)

4 MR. MACIVER: I really, really,  
5 really hope the Florida channel is catching  
6 the fish tank behind us. That's all anybody  
7 is going to watch for the next hour or two.

8 Commissioners, the first item on  
9 the agenda, of course, is approval of  
10 meeting minutes. This will go back to the  
11 July 6th, 2022 meeting. I don't know about  
12 you all, but when I went through and  
13 reviewed my meeting packet for today, I was  
14 foolish enough to go in order and reviewed  
15 all of those minutes before I got to any of  
16 these substantive things that were down  
17 below it, and completely drained my brain of  
18 any power and having to go into a second  
19 session to review the rest of our meeting  
20 materials, but the meeting minutes looked in  
21 order to me.

22 Is there any discussion? Without  
23 objection, show those on adopted. Seeing  
24 none, they're adopted.

25 Commissioners, I think that we can

1 combine 2.1 and 2.2, if there's no  
2 objection.

3           The applications for the  
4 pari-mutuel operating licenses to make those  
5 amendments. I did want to suggest that as  
6 we move forward as a commission throughout  
7 the course of the next year or so, we'll  
8 probably be doing things like looking at  
9 our policies, looking at our rules, and  
10 doing everything within our power to try and  
11 streamline our processes, eliminate red tape  
12 where it's not necessary. And these  
13 applications, or the depth of inquiry that  
14 goes into these amended applications, I  
15 think is probably a vestige for a time when  
16 making these amendments had a much more  
17 significant impact upon the general revenue.

18           With that, not being a significant  
19 -- isn't anymore -- it -- as significant  
20 anymore, I think that's one area that we may  
21 be looking at in the future as maybe  
22 lessening the burdens upon the industry  
23 people who are making these requests.  
24 Certainly, we still need to be informed, we  
25 still need to approve, but having a --

1 essentially, a sworn affidavit and a  
2 multi-page application that someone has to  
3 go through and have prepared, it seems to  
4 just be, from a cost benefit, from the  
5 industry practitioner, to be a little bit  
6 too burdensome to me, but I just -- sorry,  
7 I'm -- thank you for indulging me on riffing  
8 for that for a second, but I think that's an  
9 area where we can probably cut a little red  
10 tape in the future.

11 Mr. Trombetta, do you want to go  
12 ahead and present Item Number 2?

13 MR. TROMBETTA: Yes, Chair. Thank  
14 you. So Item 2 -- sorry, this mic is a  
15 little too close. There we go. Item Number  
16 2 contains, as you suggested, two  
17 applications to amend racing schedules.  
18 2.1, Case Number 2022-037945, is a request  
19 from Tampa Bay Downs, which is a  
20 thoroughbred permit holder to -- they were  
21 canceling a single performance and adding  
22 another. So essentially, they're canceling  
23 one, and adding another, so the number of  
24 races will stay the same.

25 Based on -- sort of the review of

1 the statute and rules, the recommendation  
2 here is to approve the requested amendment.

3 MR. MACIVER: And there was no  
4 objection from any other entities, correct?

5 MR. TROMBETTA: Correct, yes, sir.

6 MR. MACIVER: Members, any  
7 discussion? Any debate? Do I have a  
8 motion?

9 MR. DRAGO: Motion.

10 MR. MACIVER: Second?

11 MS. BROWN: Second.

12 MR. MACIVER: Any objection?  
13 Seeing none, that motions carries. And,  
14 sorry, I said we were going to consolidate  
15 those first two, and I just ran right  
16 through them, sorry.

17 MR. TROMBETTA: A chair. Cou-  
18 sho- -- would be you like the second one?

19 MR. MACIVER: Yes.

20 MR. TROMBETTA: So Item Number 2.2  
21 is Case Number 2022-039135. This is a  
22 similar matter involving Gulfstream, which  
23 is also a thoroughbred permit holder,  
24 requesting to -- there's a little bit more  
25 -- there's more amendments on this one.

1           They are requesting to cancel all  
2 Thursday performances in September, and then  
3 there's a request to modify three charity  
4 racing days. So same similar thing where  
5 they're going to be canceling one charity  
6 day and adding another. So they're going to  
7 be canceling Saturday, September 3rd and  
8 adding December 31st. Canceling January 1st  
9 of 2023 -- sorry, January 21st of 2023, and  
10 adding February 4th of 2023, and then  
11 canceling February 25th of 2023, and adding  
12 March 4th of 2023.

13           So in terms of the charity racing  
14 days, the number of charity racing days will  
15 stay the same; they're just moving when  
16 they're actually going race. And, again,  
17 the initial request was to cancel all  
18 Thursday performances in September. They  
19 have five scheduled.

20           Based on the review of the  
21 application and the relevant statute and  
22 rule provisions, the recommendation here is  
23 to approve this request to amend their  
24 license as well.

25           MR. MACIVER: Commissioners, any

1 discussion?

2 MS. BROWN: Move to approve the  
3 staff recommendation on Gulfstream.

4 MR. D'AQUILA: Second.

5 MR. MACIVER: Any objection? Show  
6 that motion carries.

7 Let's try and consolidate all of  
8 Number 3 together. Mr. Trombetta, can you  
9 just give us the overview of what we're  
10 doing here?

11 And to my mind this is it not  
12 quite ministerial, but about as close as we  
13 get to ministerial duties, so if you can  
14 kind of just touch, for the general public,  
15 what we're doing here.

16 MR. TROMBETTA: Yes, Chair, Thank  
17 you. So just for purposes of the record,  
18 I'm just going to say the case numbers, and  
19 then I'll provide kind of an overview of  
20 what they all are.

21 So you have three Greyhound tax  
22 credit transfer requests. So Case Number  
23 2022-039514 is Tampa Greyhound, Permit  
24 Number 140, Item 3.1 on the agenda. Case  
25 Number 2022-039506 is Palm Beach, Permit

1 Number 149. And Item Number 3.3 is Case  
2 Number 2002-039077, which is a request from  
3 St. Petersburg Kennel Club, Permit Number  
4 151 paragraph.

5 All three of these permit holders  
6 are requesting to transfer Greyhound tax  
7 credits that they received under the  
8 statute. Tampa Bay -- Tampa Bay, Permit  
9 140, is requesting to transfer \$360,000  
10 worth of Greyhound tax credits. Palm Beach  
11 is requesting to transfer \$340,000 worth of  
12 Greyhound tax credits. And St. Pete Kennel  
13 Club is requesting to transfer \$360,000 of  
14 Greyhound tax credits.

15 There are no kind of exceptions to  
16 any of these requests. The factual basis is  
17 essentially the same for all of them. They  
18 have -- they're eligible to transfer these  
19 tax credits. The law, the applicable law,  
20 after review also does not seem to be an  
21 issue for any of them, so the recommendation  
22 for all three is to approve the request to  
23 transfer.

24 MR. MACIVER: Commissioners, any  
25 discussion or debate? A motion?

1 MR. D'AQUILA: Motion.

2 MR. DRAGO: Motion.

3 MR. MACIVER: Any objection? Show  
4 the motion carries to approve those three.

5 MR. TROMBETTA: Thank you, Chair.

6 MR. MACIVER: And Item Number 4.  
7 We are moving on to discussion of default  
8 final orders.

9 Is that Mr. Marshman or Mr.  
10 Trombetta?

11 MR. MARSHMAN: Good morning,  
12 Mr. Chair. That will actually be other  
13 attorneys from the Office of General Counsel  
14 this morning.

15 MR. MACIVER: All righty.  
16 Mr. Taupier, do you want to lead us in?

17 MR. TAUPIER: Yes, sir. Good  
18 morning, Commission. Mar Taupier for the  
19 record.

20 The first Item Number 4.1 is FGCC  
21 v. Alexis Romero Delgado. Respective case  
22 numbers are 2022-021526, 2021-004913, and  
23 2020-053235. Those administrative  
24 complaints are all of the same violation, a  
25 violation of Section 550.105(7), which is

1 having a financial responsibility unpaid  
2 that related to peri-mutuel wagering or the  
3 industry.

4 In each case the Respondent was  
5 served with an administrative complaint, and  
6 no response was filed within 21 days.  
7 Because Respondent did not file anything  
8 within 21 days, pursuant to Florida  
9 Administrative Code Rule 28-106.114(4), "Any  
10 person who receives written notice of an  
11 agency decision and who fails to file a  
12 written request for a hearing within 21  
13 days, waives the right to a hearing on such  
14 matters."

15 So before you are three cases  
16 where I ask that you find that they were  
17 properly served and waive the right to a  
18 formal hearing under Chapter 120. The  
19 current status of this licensee is that it  
20 expired. I did provide the law where can  
21 take against a license if it were to be  
22 current at this point, and in violation you  
23 can still go back and take action. So I  
24 would ask that you revoke that license for  
25 disciplinary action, and make them

1 ineligible until those obligations are paid.

2 I will note that the obligations  
3 within three cases amounts to almost  
4 \$100,000, which is quite a lot of money that  
5 they are not paying back, so the  
6 recommendation from the Division is to do  
7 that.

8 MR. MACIVER: Was -- so there was  
9 no response filed. Was there any contact  
10 with the licensee in the form of trying to  
11 make informal settlement? Was there any  
12 response back to them at all informally, or  
13 were they just dead silent on it?

14 MR. TAUPIER: So with the  
15 Commission, they were dead silent with us.  
16 One of the parties that is owed money, he is  
17 a regular with the Florida Game and Control  
18 Commission and our cases, Brad Bailey  
19 (phonetic), and we do know that -- I believe  
20 they're trying to work something out --  
21 don't quote me on that.

22 But as far as discussions with who  
23 they needed to have a discussion with, with  
24 their license, they did not have it with us.

25 MR. MACIVER: And I don't remember

1 from my review of the packet, but these  
2 cases are all the same licensee, and we're  
3 just revoking the same license three times?

4 MR. TAUPIER: We're revoking the  
5 license --

6 MR. MACIVER: Cumulatively.

7 MR. TAUPIER: Cumulatively,  
8 correct.

9 MR. MACIVER: Commissioners,  
10 questions?

11 MS. BROWN: Thank you, and thanks  
12 to all the staff for the investigation and  
13 the time and energy that went into these  
14 cases.

15 How long do they have? Do they  
16 have a time period to pay back the  
17 obligations?

18 And also, if they -- can they make  
19 a set schedule in commitment with the Gaming  
20 Commission?

21 MR. TAUPIER: So by statute, there  
22 is no particular time to which the law  
23 requires them to pay these obligations. We  
24 have in the past with these kinds of cases  
25 gotten correspondence from the individuals

1 who are being owed the money, where they  
2 have entered into an agreement with them and  
3 have a payment plan with them, and they  
4 withdraw their complaint.

5 So at that time, we usually drop  
6 the complaint until they're not in  
7 compliance with whatever payment plan they  
8 had with the third party.

9 MS. BROWN: Okay. Thank you. I  
10 was just wondering if it was in perpetuity  
11 once the obligations are met. I mean, this  
12 could be five, six years down the road.

13 MR. TAUPIER: Correct, it could  
14 be, or never.

15 MS. BROWN: Thank you.

16 MR. MACIVER: Commissioners, any  
17 further questions? Any debate? Do I have a  
18 motion to accept the recommendation of  
19 staff?

20 MS. BROWN: Motion?

21 MR. MACIVER: And a second?

22 MR. D'AQUILA: Second.

23 MR. MACIVER: And do have any  
24 objection? Seeing none, show the motion  
25 carries, and -- and we can enter that final

1 order.

2 Item 4.2.

3 MS. ALVARADO: Good morning,  
4 Commissioners. I'm Emily Alvarado. I'm  
5 here to present Item 4.2, which is FGCC v.  
6 Todd Matthew Seglem in Case Number  
7 2022-024544. In your case materials, you  
8 were provided the administrative complaint.  
9 It was a three-count administrative  
10 complaint alleging violations of Rule  
11 61D-11.0048(a), 61D-11.0042, and  
12 61D-11.004(a). You were also provided the  
13 USPS certified tracking number, as well as  
14 the delivery confirmation. The Respondent  
15 failed to respond within 21 days pursuant to  
16 Rule 28-106.114.

17 The Division would recommend that  
18 the staff -- the Commission -- that the  
19 Respondent is subject to an administrative  
20 fine of up to \$1,000 per violation. We  
21 recommend an additional fine of \$50 for each  
22 one, so \$150 in total. The Division would  
23 ask the Commission to enter an order finding  
24 that Respondent was properly served, they  
25 waived their right to a formal hearing, and

1 that the factual allegations in the  
2 administrative complaint are accepted as the  
3 finding of facts in this case.

4 MR. MACIVER: Similarly, I'm  
5 curious about any of the discussions that  
6 were happening with the licensee prior to  
7 formal action being taken. Was there any  
8 corporation during the pendency of the  
9 process?

10 MS. ALVARADO: No, this Respondent  
11 did not communicate with us at all.

12 MR. MACIVER: Commissioners?

13 MR. DRAGO: Oops. One question as  
14 to the fines, how we come up with the  
15 number, whether or not there's a formula, or  
16 if we -- there's something ensuring that  
17 we're being consistent with it.

18 Do we look at their past history  
19 -- whether this is first, second, third  
20 violation of this type, et cetera -- how do  
21 we come up with the number, I guess, is what  
22 I'm asking?

23 MS. ALVARADO: So we do look to  
24 the disciplinary history. This specific  
25 Respondent had no disciplinary history with

1 these rules. And then obviously the  
2 severity of the rule that they're violating,  
3 we consider that as well, but there's no  
4 specific guidelines that tell us what the  
5 set fine would be for these rules.

6 MR. DRAGO: But there are attempts  
7 to be consistent, I guess, across the board?

8 MS. ALVARADO: Yes.

9 MR. DRAGO: I know there's a lot  
10 of factors that change on a case-by-case  
11 situation, but we pay mind to making sure  
12 we're consistent across the board and  
13 everybody is getting the same --

14 MS. ALVARADO: Yes, Commissioner.

15 MR. DRAGO: -- same shot?

16 MS. ALVARADO: Yes.

17 MR. DRAGO: Okay. Thank you.

18 MR. MACIVER: That's actually  
19 something that I actually wanted to touch on  
20 when we go to discuss the consent orders,  
21 but it may be appropriate to address it now,  
22 just some guidance from the Commission  
23 possible on how we approach those informal  
24 settlement negotiations.

25 And let me be clear from the

1     outset that I have the full confidence that  
2     you are approaching this in the manner that  
3     I describe and with full integrity.  When I  
4     see smaller fines, it makes me generally  
5     skeptical, though, so I wanted to just make  
6     sure that we know moving toward that as a  
7     Commission, at least my hope -- and I think  
8     the Commissioners will agree with me -- my  
9     hope would be that when we're having those  
10    formal settlement negotiations, our goal is  
11    always compliance.  It is not -- we are not  
12    a competitive prosecutorial body, for lack  
13    of a better term.  We're not putting wins in  
14    a win column when we get a settlement of a  
15    certain amount.  We're not saying we need  
16    our pound of flesh to make this go away.  
17    This is what is the amount that we need to  
18    have them pay just to ensure compliance.  
19    And if that is amounts is zero and a  
20    warning, then -- then that's okay too, but  
21    our goal should always be a good-faith basis  
22    to believe that they are going to start  
23    complying with the rule that they're  
24    violating.

25                   With that, Commissioners, any

1 further discussion? Any debate? Do I have  
2 a motion to accept the staff recommendation?

3 MR. D'AQUILA: I'll make a motion.

4 MR. MACIVER: Second.

5 MR. DRAGO: Second.

6 MR. MACIVER: And do I see any  
7 objection? Seeing none, show the motion  
8 carries. Thank you, Ms. Alvarado.

9 And moving on into our discussion  
10 of consent orders. Item Number 5 and 5.1.  
11 And I don't remember from memo to memo whose  
12 case was which, so when I get to it, just  
13 jump right in.

14 MS. ALVARADO: I'll actually be  
15 handling 5.1 through 5.8, so the whole  
16 section 5 --

17 MR. MACIVER: All right. We're on  
18 a roll here.

19 MS. ALVARADO: I'm prepared to  
20 discuss them together, but I can also go  
21 through them individually, if you prefer,  
22 whichever way.

23 MR. MACIVER: With apologies to my  
24 fellow commissioners, I think we probably do  
25 have to go through these types of things on

1 an individual basis because the  
2 determination of the propriety of what we're  
3 doing is going to vary a case-by-case basis.

4 MS. ALVARADO: Okay. So the first  
5 case, Item 5.1, is FGCC v. Ronnie Garcia, in  
6 Case Number 2022-016405. In your case  
7 materials, you were provided the  
8 administrative complaint, which showed that  
9 Respondent removed tips from a tip box prior  
10 to all his tips being counted. That's in  
11 violation of 61D-11.0045. You were also  
12 provided the settlement and consent order  
13 which was signed and notarized by the  
14 Respondent. The Respondent also sent in a  
15 money order to the Division with an  
16 administrative fine of \$200.

17 This is the Respondent's second  
18 violation in Florida. The first one was in  
19 2022 as well, in March of 2022. That one,  
20 he was given an administrative fine of 100.  
21 The division would ask that you enter an  
22 order adopting the incorporating the  
23 proposed settlement and consent order in  
24 this case.

25 MR. MACIVER: And remind me what

1 the penalty was in the consent order?

2 MS. ALVARADO: This one was \$200.

3 MR. MACIVER: Okay.

4 Commissioners, any questions?

5 MS. BROWN: I would make a motion  
6 to adopt the consent order as recommendation  
7 by the staff recommendation for Mr. Garcia.

8 MR. D'AQUILA: Second.

9 MR. MACIVER: I might -- I might  
10 have a further question before we get to  
11 that.

12 One more time, the facts of what  
13 he was accused of were --

14 MS. ALVARADO: He removed --  
15 they're required to count the tip box  
16 altogether, and he had removed his tips  
17 prior to them counting the box in total.

18 MR. MACIVER: Okay, okay. So it  
19 wasn't necessarily him -- he wasn't  
20 pocketing chips --

21 MS. ALVARADO: No.

22 MR. MACIVER: -- he was taking  
23 what was legitimately his just in an  
24 improper procedure.

25 MS. ALVARADO: Right.

1 MR. MACIVER: Any objection to the  
2 motion? Show that the motion carries.  
3 Thank you.

4 MS. ALVARADO: Items 4.2 through  
5 4.4 (sic) are legally and factually the  
6 same. Again, I can do them separately, but  
7 they are the same facts.

8 MR. MACIVER: For the record, 5.2  
9 to 5.4?

10 MS. ALVARADO: Yes. So in these  
11 cases, they are FGCC v. Courtney Warren, in  
12 Case Number 2022-01212 -- 0622, FGCC v.  
13 Richard Flores, 2022-027408, FGCC vs. Joseph  
14 Gerstel in Case Number 2022-027412.

15 In these cases the Respondents  
16 were found failing to wear their photo ID  
17 while they were working at Tampa Bay Downs.  
18 It's a violation of 61D-11.0098. You were  
19 provided the settlement and consent order,  
20 which had an administrative fine of \$50.  
21 All three of them had sent in their cashier  
22 check or money order already, so the  
23 Commission would ask that the Division adopt  
24 the settlement and consent order of these  
25 three cases.

1 MR. MACIVER: And no prior  
2 violations?

3 MS. ALVARADO: No prior  
4 violations.

5 MR. MACIVER: -- by any of these  
6 three?

7 Commissioners, any questions? Any  
8 debate? I entertain a motion.

9 MR. DRAGO: Motion to approve.

10 MR. YAWORSKY: Second.

11 MR. MACIVER: Any objection?  
12 Seeing non, show that motion will carry to  
13 approve 5.2 through 5.4.

14 MS. ALVARADO: Item 5.5 is FGCC v.  
15 TBD Entertainment, LLC, in Case Number  
16 2022-028029. In this case the Respondent  
17 failed to provide the table number on a  
18 damaged card envelope. When a damaged card  
19 is removed, they're required to stick it in  
20 an envelope and put certain information on  
21 that envelope, and they didn't put the table  
22 number on there. That's in violation of  
23 61D-11.0144(b)(2). You were also provided  
24 the settlement and consent order which had  
25 an administrative fine of \$300, as well as

1 the -- we've received the cashier's check to  
2 the Division already.

3 This is the second violation by  
4 the Respondent. Their first one was in  
5 2020, and also received a fine of \$300, so  
6 we'd ask that the Commission enter an order  
7 adopting and incorporating the settlement  
8 and consent order in this case as well.

9 MR. MACIVER: This is a curiosity  
10 question, and I'm sorry to belabor what  
11 should be an easy button, but -- so our rule  
12 exists to keep things -- to preserve  
13 integrity and whatnot. What's the -- for  
14 someone who knows gambling better than the  
15 chair does, what's -- what is the  
16 opportunity that we are trying to prohibit  
17 with this particular rule?

18 What does someone do when they're  
19 not putting that table number on there?  
20 What -- what opportunity for malfeasance  
21 exists that we're preventing?

22 MS. ALVARADO: I would assume that  
23 they -- to ensure that the whole deck of  
24 cards was also removed; that's just my  
25 assumption. I'm not 100 percent on why they

1 were required to do that.

2 MR. MACIVER: Okay.

3 MR. TROMBETTA: Thank you, Mr.  
4 Chair. If I may provide a little bit of  
5 background? So I believe this is the rule  
6 -- this was the case -- and I apologize.  
7 I'm trying to do 100 things here. This is  
8 the rule involving marking the bag after a  
9 card is removed from play? Okay, so the  
10 plan there is on -- it's inventory purposes.

11 We want to make sure that cards  
12 that are introduced to play and removed from  
13 play have not been compromised, and so when  
14 -- the process is that when a card is  
15 removed, it's placed into a bag, and it's  
16 marked so that we know sort of where it came  
17 from; and for our purposes, we can kinds of  
18 back track what happened, if anything did  
19 happen. A huge majority is a card just  
20 kind of gets broken or damaged just from  
21 normal course of play. But we have some  
22 rules in place to kind of make sure that if  
23 there was some type of wrongdoing, we can  
24 kind of backtrack and figure out what  
25 happened.

1 MR. MACIVER: Gotcha. Okay.

2 Commissioners, any other  
3 questions, or any debate?

4 MR. DRAGO: I just one question.  
5 He had a previous violation for the same  
6 violation or a different violation?

7 MS. ALVARADO: Yes, it was the --  
8 it wasn't -- the card -- the card didn't  
9 have the signature on it. It was a similar  
10 violation. They're required to have a  
11 signature and table number at the time it  
12 was taken, and this one didn't have the  
13 table number, the prior one didn't have a  
14 signature from the supervisor.

15 MR. DRAGO: Thank you.

16 MR. D'AQUILA: Question. Do we  
17 know exactly how many times this particular  
18 person had this happen? Was it just --

19 MS. ALVARADO: It's only one  
20 prior.

21 MR. D'AQUILA: It's only one  
22 prior, okay. Thank you.

23 MS. BROWN: I will move to approve  
24 the consent order for -- in 2022-028029 case  
25 number.

1 MR. YAWORSKY: Second.

2 MR. MACIVER: Any objection? Show  
3 that motion adopted.

4 MS. ALVARADO: The next item is  
5 5.6, which is FGCC v. OBS Real Estate  
6 Holdings, LLC, in Case Number 2022-028395.  
7 In this case the Respondent failed to have  
8 the complete entries on their poker room  
9 camera observation log, which is in  
10 violation of 61D-11.02517. They sent in the  
11 signed and notarized settlement and consent  
12 order, which had an administrative fine of  
13 \$250. They also sent in a money order  
14 already.

15 This Respondent had no prior  
16 violations of this. The Division would that  
17 the Commission enter an order adopting the  
18 settlement and consent order in this case.

19 MR. MACIVER: I'm sorry,  
20 Ms. Alvarado, I was looking at something  
21 when you went over the probably key part for  
22 me. What was the violation again?

23 MS. ALVARADO: They failed to have  
24 complete entries in their security log.  
25 They were missing time, signature, missing

1 information. It wasn't complete.

2 MR. MACIVER: Thank you,  
3 Commissioners?

4 MR. DRAGO: Just one question.  
5 This is not because of a malfunction of the  
6 camera or something. This is something that  
7 the staff failed to do?

8 MS. ALVARADO: Yes.

9 MR. DRAGO: Just fill out the  
10 forms, indicate times and dates. It wasn't  
11 a malfunction somebody wasn't aware of or  
12 something in the camera, correct?

13 MS. ALVARADO: No, they failed to  
14 fill out -- they actually did fill out other  
15 areas of information with the same incident  
16 that they were observing, but they didn't  
17 fill out certain parts of the form that they  
18 were required to fill out.

19 MR. DRAGO: Thank you.

20 MR. MACIVER: Any further  
21 questions? Any debate? I'll entertain a  
22 motion.

23 MR. DRAGO: Motion to approve.

24 MR. MACIVER: And a second?

25 MR. D'AQUILA: Second.

1 MR. MACIVER: Without objection,  
2 show that motions carries.

3 MS. ALVARADO: Next item is 5.7.  
4 FGCC v. TBD Entertainment, LLC, in Case  
5 Number 2022-031049. And in this case the  
6 Respondent failed to ensure that the  
7 drop-box was transported from the count room  
8 with more than one employee present, which  
9 is a violation of 61D-11.1751(e). They sent  
10 in a signed settlement and consent order  
11 with an administrative fine of \$250. They  
12 also sent in the money order. They have no  
13 prior violation of this rule. The Division  
14 would ask the Commission to adopt this  
15 settlement and consent order in this case as  
16 well.

17 MR. MACIVER: Commissioners, any  
18 questions? Any debate? And seeing none,  
19 I'll entertain a motion.

20 MR. DRAGO: Motion to approve.

21 MS. BROWN: I second.

22 MR. MACIVER: Any objections?  
23 Show the motion adopted.

24 MS. ALVARADO: The last item in  
25 Section 5 is 5.8, which is FGCC v. Juan

1 Alvarado, in Case Number 2022-034120. In  
2 this case the Respondent raced a horse at  
3 Gulfstream Park with -- it was determined to  
4 have Omeprazole Sulfate present in the  
5 system -- in his system. It's a violation  
6 of Section 550.24151(a) and  
7 61D-6.00(a)(2)(s). You were provided the  
8 settlement and consent order which had a  
9 written warning.

10 This is Respondent's first  
11 violation in Florida. This drug is a Class  
12 D drug under the ARCI guidelines, 2014  
13 guidelines that we follow. The recommended  
14 penalty for a Class D drug is a written  
15 warning for a first offense, so the Division  
16 would ask that you enter an order  
17 incorporating the settlement and consent  
18 order.

19 MR. MACIVER: Commissioners, any  
20 questions?

21 MS. BROWN: For the permit holder,  
22 what happens after the sample has been  
23 tested, and it's been found to be a  
24 violation of Class D, is there any  
25 follow-up?

1 MS. ALVARADO: For a Class D, no.  
2 Anything from a C -- an A to a C would  
3 require, likely, a first revocation, so they  
4 would be involved in that, but here there  
5 would be no involvement by the permit  
6 holder.

7 MS. BROWN: Okay. And this is the  
8 first violation?

9 MS. ALVARADO: Yes.

10 MR. MACIVER: Any further  
11 questions, or any debate? Commissioners, do  
12 I have a motion?

13 MS. BROWN: To approve the consent  
14 order of this item.

15 MR. MACIVER: And a second?

16 MR. D'AQUILA: I'll second.

17 MR. MACIVER: I see no objection.  
18 Show that motion carries. Thank you,  
19 Ms. Alvarado.

20 And Item number 6, a discussion of  
21 license denials, again, sort of similar to  
22 the last, I don't remember from memo to memo  
23 whose name was on each one, so just jump in  
24 when it's yours.

25 MR. TAUPIER: Marc Taupier for the

1 record. I'll be handling 6.1 through 6.10.

2 MR. MACIVER: Okay.

3 MR. TAUPIER: First one, 6.1., is  
4 Steven Selvey, Case Number 2022-024016.  
5 Mr. Selvey applied to get a pari-mutuel  
6 wagering individual occupational license.  
7 Upon review of his application, it is found  
8 that he had two felony convictions from  
9 2016, which were leaving the scene of a  
10 crash involving injury and criminal  
11 mischief.

12 Mr. Selvey did apply for a waiver,  
13 but on several occasions the Division staff  
14 tried to schedule that interview with him,  
15 and no communication back from him has been  
16 made; therefore, pursuant to our rule  
17 regarding waiver, failure to participate in  
18 that interview shall result in a denial or  
19 request for the waiver.

20 Since that waiver cannot be  
21 granted, the Commission has the opportunity  
22 to either grant or deny the license. The  
23 Division recommends that the Commission  
24 authorize the issuance of a notice of intent  
25 to deny for those two criminal convictions.

1 MR. MACIVER: Now, for the sake of  
2 the general public, I'm going to try and  
3 give my very simple understanding of how our  
4 authority works in this process, and please  
5 correct me where I error.

6 When they make the application, by  
7 statute, there is a -- either felony or list  
8 of related misdemeanors which would make  
9 them potentially ineligible within our  
10 discretion. Before we exercise that  
11 discretion, that application will go to the  
12 executive director who can make a  
13 determination to make a waiver before that  
14 comes to us.

15 If there is no waiver granted,  
16 then it comes to us for an exercise of  
17 discretion where we decide whether or not  
18 the good moral character of this person  
19 warrants them actually receiving a license  
20 or not.

21 MR. TAUPIER: Correct.

22 MR. MACIVER: Okay.

23 Commissioners, questions? Any debate? Do I  
24 have a motion to accept the staff  
25 recommendation?

1 MS. BROWN: So moved.

2 MR. MACIVER: And a second?

3 MR. DRAGO: Second.

4 MR. MACIVER: And don't see any  
5 objection? Show that motion carries.

6 MR. TAUPIER: Next item, 6.2.,  
7 Scott Motyk, Case Number 2022-024620.

8 Mr. Motyk did apply for a PMW occupational  
9 license. Upon review of his application,  
10 Mr. Motyk has had several felony convictions  
11 and misdemeanor disqualifying convictions.

12 There were 16 counts of burglary  
13 of a structure or conveyance. And all of  
14 these convictions ran through 2012 to 2014,  
15 just for the record. There was a burglary  
16 with armed, or became armed, with a  
17 dangerous weapon, dealing in stolen  
18 property, false verification of ownership of  
19 pawned item. Petty theft first degree, two  
20 counts of that, and petty theft second  
21 degree, there were three counts of that.

22 Mr. Motyk did apply for a waiver.  
23 The interview was conducted, and the  
24 executive director declined to waive the  
25 felony and misdemeanor disqualifying

1 convictions. Based off of the disqualifying  
2 or potential disqualifying convictions, the  
3 staff recommendation is that you authority  
4 the notice of intent to deny license based  
5 off of the 16 or so convictions from 2012 to  
6 2014.

7 MS. BROWN: How much reference  
8 letters did this individual have that --  
9 that supporting his licensure.

10 MR. TAUPIER: My recollection  
11 recalls three. After reviewing them, I will  
12 say that one of them talked about him prior  
13 to getting in trouble, so it would be the  
14 recommendation that -- that doesn't  
15 necessarily show rehabilitation or good  
16 moral character since the events to which we  
17 would potential deny happened after that  
18 knowledge.

19 And the other ones -- obviously  
20 it's up to the Commissions discretion, but  
21 within those letters, there wasn't much  
22 stating what he did after coming out of  
23 prison to show that he has been  
24 rehabilitated other than time has passed  
25 without committing another crime.

1 MS. BROWN: Thank you.

2 MR. MACIVER: Any further  
3 discussion, questions or debate?

4 MS. BROWN: I'm going to go ahead  
5 and make a motion, but I do want to just  
6 point out that I think the letters are  
7 something important that the Commission  
8 should really scrutinize, and also look at  
9 the time period for when these crimes were  
10 committed, and whether, and as the attorney  
11 pointed out, there's been some  
12 rehabilitation. So with that, I would make  
13 a motion to approve the staff recommendation  
14 on this item.

15 MR. MACIVER: And a second?

16 MR. D'AQUILA: Second.

17 MR. MACIVER: And any objections?  
18 Seeing none, show that carries.

19 MR. TAUPIER: Next item, 6.3,  
20 2022-024632. This is Freddie Hughs. This  
21 one is a bit different than the waiver.

22 Mr. Hughs does have some  
23 convictions ranging from 1975 all the way to  
24 2017. There was -- and I believe I provided  
25 it to you in your packets -- the Division of

1 Peri-Mutuel Wagering did waive the  
2 convictions and gave a conditional license  
3 to Mr. Hughs, and part of that conditional  
4 license was that he would agree to be  
5 subject to a cardroom rule where if he were  
6 to be arrested in the future, he has to  
7 report that arrest within five days to the  
8 Division.

9           Once he got that conditional  
10 license, not too long after he was  
11 arrested for DUI and possession of drug  
12 paraphernalia. Those aren't necessarily  
13 disqualifying, but they are a violation of  
14 the terms of the conditional license to  
15 which he was granted; therefore, this isn't  
16 necessarily a waiver case, or waiver of any  
17 convictions, but we are asking -- the  
18 Division of Peri-Mutuel Wagering is asking  
19 that a notice of intent be authorized to  
20 deny his application based off of violating  
21 the rule on his conditional license. And  
22 for the record, that conditional license was  
23 revoked, and that is another grounds for us  
24 to deny his current application.

25           MR. MACIVER: If I can -- again,

1 for the general public -- let me just try  
2 and make a simple restatement of what we're  
3 doing. Thank you, Commissioners, for the  
4 indulgence and correct me where I make any  
5 error on this part.

6 So a felony or the listed  
7 numerated areas of a misdemeanor --  
8 presumptively, as directed by the  
9 legislature -- is something that would make  
10 someone presumptively, arguably, not  
11 eligible for the license. That's the things  
12 that we're supposed to focus on to presume  
13 that this person is not eligible when  
14 exercising our discretion.

15 If they've committed that, that  
16 disqualifying event, then it shifts to them  
17 to show either rehabilitation or otherwise  
18 show good moral character. Where they've  
19 had a conditional license, we take it again  
20 as a presumptive of a lack of moral  
21 character that you did not abide by the  
22 conditional license. So what we're talking  
23 about here isn't so much a -- a -- older  
24 crimes that had been previously for given,  
25 but a lack of show something good moral

1 character necessary to move forward.

2 Roughly, correct?

3 MR. TAUPIER: You're in the  
4 ballpark; that's correct.

5 MR. MACIVER: Commissioners, any  
6 questions?

7 MS. BROWN: I have a question.  
8 This particular licensee, he has licenses in  
9 other states?

10 MR. TAUPIER: That, I don't  
11 believe. ARCI came back -- just one moment  
12 to indulge. I'm not seeing any license,  
13 other than Delaware, and that does know show  
14 that it's current. I know that he also had  
15 a license in Pennsylvania, which was revoked  
16 as well.

17 MS. BROWN: I guess the question  
18 really goes to once we issue a notice of  
19 intent to deny, if they have active licenses  
20 in other states, is it Florida's previous  
21 policy to notify those other states?

22 MR. TAUPIER: So the way  
23 discipline works with these kinds of  
24 licenses, with PMW licenses, not necessarily  
25 slot or card room, there is a system called

1 ARCI where everyone in the nation that has a  
2 racing commission will upload the discipline  
3 to that, and all of the commissions within  
4 in the United States can review it.

5 I'm not sure what the reciprocity  
6 agreements we have with other states are,  
7 but we may have some. And reciprocity just  
8 means that if we revoke a license, or if we  
9 deny a license, that's the same action that  
10 the other state would take, and vice versa.

11 So putting a notice of intent to  
12 deny, and then denying it after the time  
13 period has elapsed for a challenge, would  
14 result in other jurisdictions, if their laws  
15 and rules allow, to either revoke his  
16 current permit or deny any kind of  
17 application in the future from him.

18 MS. BROWN: Thank you.

19 MR. MACIVER: And correct me if  
20 I'm wrong, but the reciprocal of what  
21 Commissioner Brown just described is how  
22 this case ended up before us, correct? His  
23 revocation in Pennsylvania was reported to  
24 us, rather than him regarding it to us?

25 MR. TAUPIER: Correct.

1 MR. MACIVER: Commissioners, any

2 --

3 MR. DRAGO: Just -- just one  
4 question. So what we're looking at is  
5 basically the fact that he violated the  
6 conditions of the original temporary  
7 license, correct?

8 I mean, that's the bottom line  
9 here is that he was granted a conditional  
10 license, temporary license, based on certain  
11 conditions, and he violated at least one of  
12 those conditions; therefore, we -- we -- we  
13 vote here to deny his application?

14 MR. TAUPIER: In the simplest  
15 form; that's correct. There was an  
16 administrative complaint that was filed to  
17 address him violating that consent order  
18 which resulted in the revocation, so we're  
19 not necessarily adjudicating the case twice,  
20 but we're using would that result was in  
21 order to deny the license now.

22 MR. DRAGO: I see. Thank you.  
23 That clarifies it.

24 MR. MACIVER: And, again, in an  
25 over simplification of terms, the conditions

1 that were placed on the temporary license  
2 were, essentially, don't break the law.

3 MR. TAUPIER: Correct.

4 MR. MACIVER: Okay.

5 MS. BROWN: If you break the law.

6 MR. YAWORSKY: Yeah, just one  
7 quick -- what was it? Don't break the law,  
8 or if you break the law, report it to us. I  
9 just want to make that -- I think it was if  
10 you break the law report it to us as a  
11 condition.

12 MR. TAUPIER: Correct, so the  
13 condition that he --

14 MR. YAWORSKY: Or if you're  
15 arrested.

16 MR. TAUPIER: Correct, if he was  
17 arrested.

18 MR. YAWORSKY: Okay.

19 MR. TAUPIER: Because there's a  
20 presumption of innocence in the United  
21 States, so maybe there -- that case could be  
22 dropped, or if it's not a disqualifying  
23 offense we, might not be able to use it the  
24 future, but he was required to at least tell  
25 us he was arrested.

1 MR. YAWORSKY: So general law  
2 around this would kind of intimates that you  
3 should not break the law; and if you do, you  
4 could be subject to. But the specific  
5 escalated provision on this individuals  
6 license was if they are arrested, they have  
7 that added burden of reporting it to us,  
8 which is not necessarily on a typical  
9 licensee; is that correct?

10 MR. TAUPIER: It's typical on  
11 every card room licensee. It is an actual  
12 rule that we have that they have to follow,  
13 but not with someone who has a PMW license.

14 MR. YAWORSKY: But not in this  
15 case?

16 MR. TAUPIER: Correct.

17 MR. D'AQUILA: Okay. Thank you.  
18 So is it standard, he had five days to  
19 notify upon breaking the law or so forth,  
20 right, and that's a standard?

21 MR. TAUPIER: That's the standard.  
22 That's what the rule states.

23 MR. D'AQUILA: Okay.

24 MR. TAUPIER: That's correct. So  
25 every licensee would be subject to the same

1     timeframe.

2                   MR. D'AQUILA:   Okay.  Thank you.

3                   MS. BROWN:   In the recommendation,  
4     it also suggests -- the staff is  
5     recommending that this applicant be  
6     ineligible for any license; is that correct?

7                   MR. TAUPIER:   The recommendation  
8     is that you can deny or declare him  
9     ineligible for any license in the future.  
10    If you want to declare him ineligible for at  
11    certain amount or fixed time of years, you  
12    can do that.

13                   At this point, based off of what I  
14    have here, this would -- all of these would  
15    be disqualifying for any license we could  
16    give him.  So for any license, you could do  
17    inability.

18                   MR. MACIVER:   But to clarify, in  
19    our order today, are we prohibiting him from  
20    applying in the future, or we just saying  
21    you can apply, but we'll probably say no  
22    again.

23                   MR. TAUPIER:   I believe that's up  
24    to you if you want to do that.  The  
25    recommendation is to deny the license.  If

1 want to impose the ineligibility as well,  
2 you can. I did not have any conversations  
3 to recommendation that, but I just wanted to  
4 put it on you guys so you're aware that you  
5 also have that opportunity to declare  
6 someone ineligible.

7 MR. MACIVER: The recommendation  
8 did not include that portion, and,  
9 Commissioners, from my part, I don't think  
10 we had should add on to the recommendation  
11 unless there's a desire to do so that  
12 someone would like to put forward.

13 MS. BROWN: No, I just -- I saw  
14 the language in there giving -- granting us  
15 the authority, and I also don't think that  
16 we should go that far, and I think we should  
17 just deny the application, yeah.

18 MR. MACIVER: Great. Any further  
19 discussion or debate? Do I have a motion?

20 MR. YAWORSKY: So moved.

21 MR. MACIVER: And do I have a  
22 second?

23 MR. D'AQUILA: Second.

24 MR. MACIVER: And without  
25 objection, show that motion carries.

1 MR. TAUPIER: Next agenda item is  
2 6.4, Alfredo Fong, Case Number 2022-028758.  
3 This individual applied for pari-mutuel  
4 wagering individual occupational license.  
5 Upon receipt of that completed  
6 application, it was found that the applicant  
7 did have potentially disqualifying felony  
8 convictions from 2013 and '14, burglary,  
9 first degree, were both of those convictions  
10 out of Georgia.

11 A waiver was conducted of  
12 Mr. Fong. He attended, and the executive  
13 director declined to waive the disqualifying  
14 offenses; therefore; it is the  
15 recommendation of the Division of  
16 Peri-Mutuel Wagering that a notice of intent  
17 to deny the issue for these felonies.

18 MR. MACIVER: Questions? Any  
19 debate? Do I have a motion?

20 MS. BROWN: Recommendation.

21 MR. MACIVER: And a second?

22 MR. D'AQUILA: Second.

23 MR. MACIVER: And any discussion  
24 -- or, I'm sorry, discussion and debate is  
25 done. Any objection? So the motion carries.

1 MR. TAUPIER: The next item is  
2 6.5, Max Bennett, Case Number 2022-029108.  
3 This individual applied for a PMW individual  
4 occupational license.

5 Upon complete of our -- or upon  
6 receipt of the completed application, it was  
7 found that in 2014, Applicant was convicted  
8 of possession of marijuana over 20 grams,  
9 altering, destroying or concealing physical  
10 evidence. In 2015, actual possession of  
11 synthetic cannabinoids. In 2015 he was  
12 convicted of a third-degree felony of child  
13 abuse.

14 Based off of those convictions, a  
15 waiver was conducted of the applicant. All  
16 of that was sent to the executive director,  
17 and the executive director declined to waive  
18 the criminal convictions; therefore, the  
19 recommendation from the Division of  
20 Peri-Mutuel Wagering is to deny or to  
21 authorize the issuance of a notice of intent  
22 to deny the license based off of those four  
23 felony convictions.

24 MR. MACIVER: Commissioners, any  
25 questions or debate? Do I have a motion to

1 accept the staff recommendation?

2 MR. DRAGO: Motion.

3 MR. YAWORSKY: Second.

4 MR. MACIVER: Show that motion  
5 carries.

6 MR. TAUPIER: Next item is 6.6,  
7 Raul Quinones, 2022-031302. This is an  
8 application for a PMW individual  
9 occupational license.

10 After a completed application was  
11 submitted and reviewed, it appears that the  
12 applicant did have felony convictions that  
13 would potentially be disqualifying. That  
14 was in 2014 in Pennsylvania. Manufacturing,  
15 delivering or possessing with intent to  
16 deliver a controlled substance. And in 2014  
17 -- this was all charged in the same case --  
18 criminal use of a communications facsimile  
19 -- or facility. Those are felonies in  
20 Pennsylvania, and would be felonies in the  
21 state of Florida. He also had a  
22 Pennsylvania horse racing license as a  
23 groom, that was also revoked in  
24 Pennsylvania. He's not currently licensed  
25 anywhere else according to our records.

1                   Based off of that information, a  
2 waiver interview was conducted for the  
3 criminal convictions to which the executive  
4 director declined to waive the criminal  
5 convictions. Based off of that, the  
6 recommendation from the Division of  
7 Peri-Mutuel Wagering is to authorize the  
8 issuance of a notice of intent to deny based  
9 off of the revocation of the groom license  
10 in Pennsylvania and for the disqualifying  
11 felony convictions in Pennsylvania from  
12 2014.

13                   MR. MACIVER: Commissioners, any  
14 questions or debate?

15                   MS. BROWN: I just want to point  
16 out, Marc, and also just for the public,  
17 there's a voluminous amount of information  
18 on all of these particular applicants. The  
19 investigation and the interviews aren't done  
20 lightly, and what we're doing is not done  
21 lightly. And then I want to compliment you  
22 all also for your thorough staff  
23 recommendation and delivering this.

24                   MR. TAUPIER: Thank you.

25                   MR. MACIVER: Further question or

1 debate? I'll entertain a motion.

2 MS. BROWN: With that, I would  
3 move to approve the staff recommendation on  
4 Mr. Quinones.

5 MR. MACIVER: And a second?

6 MR. D'AQUILA: Second.

7 MR. MACIVER: Any objection? Show  
8 that motion carries.

9 MR. TAUPIER: Next item is 6.7,  
10 Daniel Smith, Case Number 2022-031564. This  
11 individual applied for a slot machine, card  
12 room and pari-mutuel combination license.

13 After a complete application was  
14 received, it appears that this individual  
15 did have a conviction of a misdemeanor  
16 involving larceny. Specifically, in 2019 in  
17 Florida, this applicant was adjudicated  
18 guilty of a petty-theft crime.

19 An interview was conducted -- or  
20 give me one second. An interview was  
21 conducted, and the executive director  
22 declined to waive the petty-theft  
23 conviction; therefore, based off of the  
24 applicable disqualify misdemeanor offense of  
25 petty theft, which relates to larceny in the

1 State of Florida, the recommendation from  
2 the Division of Peri-Mutuel Wagering is to  
3 authorize a notice of intent to deny based  
4 off of that.

5 MR. MACIVER: I'd just like to  
6 point out I think the general parlance of  
7 when you're talking about criminal activity,  
8 people tend to look at something like petty  
9 theft and say it's at the much lower scale  
10 of the things that someone can be found  
11 guilty of. It's probably your poster child  
12 for certainly criminal, but less serious  
13 criminal activity.

14 But I want to point out that in  
15 the statute, that gives us the discretion to  
16 deny a license. It is actually one of the  
17 enumerated offenses as any misdemeanor  
18 having to do with larceny, and I think for  
19 obvious reasons. Someone who has the  
20 inclination or doesn't have the fortitude to  
21 not steal isn't someone that we can have  
22 participating in these games that rely so is  
23 much on integrity.

24 With that said, I don't think that  
25 it's always the case, and I think that

1 there's a definite distinction between this  
2 case and the next case when we get into  
3 that, but I would entertain any question or  
4 debate? And a motion?

5 MS. BROWN: Move to approve the  
6 staff recommendation in this matter.

7 MR. MACIVER: And a second?

8 MR. D'AQUILA: I'll second.

9 MR. MACIVER: Any objection? Show  
10 that motion carries.

11 MR. TAUPIER: Next agenda item is  
12 6.8, Yvette Campos, Case Number 2022-032710.  
13 Ms. Campos did apply for a card room  
14 individual occupational license. Upon  
15 review of the completed application that was  
16 submitted to the Division, it appears that  
17 applicant was conviction of petty theft in  
18 2014 in the State of Florida, adjudication  
19 was withheld.

20 A waiver interview was conducted,  
21 and the executive director declined to waive  
22 the petty theft; therefore, it is the  
23 Divisions recommendation that the Gaming  
24 Control Commission authorize a notice of  
25 intent to deny based off of the misdemeanor

1 petty theft, which is related to larceny and  
2 potentially disqualifying.

3 MR. MACIVER: Commissioners, I'm  
4 gonna -- I'm gonna share my thoughts on this  
5 particular case, and then I'm actually going  
6 to invite some discussion and debate about  
7 this to see the direction that the  
8 Commission would like to do.

9 First of all, let me point out  
10 that I do not disagree with the executive  
11 director's declination of a waiver in this  
12 case. Again, the legislature has  
13 specifically pointed out petty theft as one  
14 of those enumerated crimes that we should  
15 take seriously, and then it becomes  
16 incumbent upon the licensee to show good  
17 moral character subsequent to that  
18 violation.

19 In this case, we have a licensee  
20 -- I believe Ms. Campos is about 38 years  
21 old. At the age of 20, she had what appears  
22 to be a shoplifting violation. And to be  
23 sure, that does disqualify someone, but I  
24 don't think that that is a lifetime ban.  
25 We're talking about an 18-year-old violation

1 that was committed by someone in their  
2 youth. And the normal things that would  
3 count towards rehabilitation for those  
4 crimes -- time from the incident, things of  
5 that nature -- I think should be taken into  
6 consideration here, and it shouldn't be a  
7 lifetime ban.

8           With that said, her subsequent  
9 activity, she has a hard time drive -- not  
10 driving when she's not supposed to. There's  
11 some driving while license is suspended.  
12 Those are things not related to the game  
13 activity, but they certainly can inform us  
14 on her willingness to be a law-abiding  
15 citizen. We can also certainly take into  
16 account the pressures that exist in  
17 someone's lives, especially when it's around  
18 a crime like driving with a suspended  
19 license, and -- can -- and I think we need  
20 to take into consideration how that affects  
21 our judgment of her good moral character in  
22 relation to an 18-year-old petty-theft  
23 charge and her ability to function as an  
24 honest person in a gambling environment.

25           I, from my part, am inclined to

1 move to deny the recommendation of staff,  
2 and to go ahead and issue the license. But,  
3 again, because of that -- because of the  
4 drying record of her, and the things that  
5 that may or may not indicate, I really want  
6 the other Commissioners input here on what  
7 we think we should do.

8 MR. YAWORSKY: Could I ask a  
9 question, Chair -- staff?

10 MR. MACIVER: Yeah, of course.

11 MR. YAWORSKY: Was the -- was the  
12 individual licensee, on their application,  
13 did they disclose the prior violations of  
14 law?

15 MR. TAUPIER: I believe she put no  
16 to the question of have you ever been  
17 conviction or had adjudication withheld for  
18 a felony of a misdemeanor involving forgery,  
19 larceny, extortion, et cetera, et cetera. I  
20 will say that larceny is not necessarily an  
21 enumerated crime. It's not -- it's in the  
22 criminal jury instructions relating to petty  
23 theft.

24 So she did answer no to the  
25 specific things that we put in there. I

1 can't say whether or not she believes  
2 larceny was a petty theft, but I just wanted  
3 to make that distinction that it might not  
4 be clear to someone who's not a lawyer what  
5 that distinction may be.

6 MR. MACIVER: So there's at least  
7 indicia that she may not have been overly  
8 dishonest in her application?

9 MR. TAUPIER: Correct. And when  
10 confronted about it and asking for the  
11 information, she did provide it.

12 MR. DRAGO: Of course, we read all  
13 this, all the documents, but if someone  
14 could remind me again of the process in  
15 terms of this person and how we reached this  
16 point and what she said.

17 My understanding is she gave some  
18 information that may not be accurate in the  
19 interview, such as it occurred when she was  
20 12 years old, rather than 20 years old.  
21 There was a fine that's still outstanding, I  
22 understand. It still hasn't been paid for  
23 that. So can you remind me of those  
24 details, so that we have all that out here  
25 before we make a decision.

1           MR. TAUPIER: Sure. Based off of  
2 the interview that we had with her, it  
3 appears that this conviction stemmed from  
4 her being a customer at Burdines. She did  
5 walk out with a couple of items. She was  
6 not arrested, but did have a notice to  
7 appear to court.

8           She did all of that and was placed  
9 on probation and to pay fines. I believe  
10 that there was a capias for her arrest after  
11 that for failure to pay the fine. I will  
12 let this Commission know that a driver's  
13 license gets suspended for unpaid court  
14 costs, because I know that that is something  
15 that you're thinking about -- her license  
16 and possibly why it's expired or not valid.

17           But in her interview -- give me  
18 one moment -- she told us all of that. I'm  
19 not quite sure, 12 -- I don't know where  
20 that necessarily is. I don't see that  
21 within the summary of the interview that she  
22 said it was 12 at the time or anything like  
23 that, but she did disclose all of the  
24 information during the interview. She did  
25 submit the amended application before the

1 interview, and she did state that she was  
2 unaware of the \$300 fine being owed to the  
3 Courts. I don't have an update as to  
4 whether or not that's still paid. I don't  
5 have access to that kind of information.

6 MR. DRAGO: So is there still a  
7 capias for her at this point?

8 MR. TAUPIER: At this point there  
9 is it not. She was arrested on the capias  
10 --

11 MR. DRAGO: Oh.

12 MR. TAUPIER: -- and it was  
13 squared away.

14 What -- again, I can't say this is  
15 what happened in this case, but typically  
16 when someone violates probation on  
17 misdemeanors, they will revoke the probation  
18 and terminate it, and assess all of the  
19 costs that are still due as a lien, so I've  
20 had a lot of clients -- I used to be a  
21 public defender who thought that that meant  
22 they owed no more money. But it is still  
23 assessed as a lien, and it is still money  
24 owed to which they can still make payments  
25 to the clerk, but technically it's not a

1 condition of probation because probation is  
2 no longer there.

3 MR. DRAGO: Thank you.

4 MS. BROWN: Thank you. Does this  
5 individual -- does she -- Ms. Campos, does  
6 she have any other licenses with the state  
7 or with DBPR?

8 MR. TAUPIER: To our records, I do  
9 not see that she holds any other licenses.

10 MS. BROWN: And was this after  
11 the -- and just for the process, is the  
12 individual allowed to appear before the  
13 Commission when we deliberate over these  
14 matters? Were they given notice that these  
15 proceedings are to occur?

16 MR. TAUPIER: The individuals for  
17 these license denials were not because the  
18 final agency action would be the actual  
19 denial. A notice of intent to deny arguable  
20 is not necessarily final agency action to  
21 which notice would be necessarily required.  
22 So at this point, we're still at the point  
23 of where we want -- or where the Commission  
24 sort of want to go as far as either going  
25 forward or not going forward.

1 MS. BROWN: I mean, I'm also of a  
2 similar mind frame that a 2004 particular  
3 crime should not affect this individual's  
4 livelihood for the rest of her life, but I  
5 think there are -- you know, based on what  
6 we have here today, it's hard to go against  
7 the recommendation with all the evidence.

8 MR. YAWORSKY: I would just agree.  
9 I would just agree with that. Sorry, not  
10 disagree. I think that -- I think that with  
11 the information we have before us, I think  
12 the Commissioner has a great point about  
13 making individuals aware that they could be  
14 afforded this opportunity to present  
15 additional information on their behalf to  
16 the Commission. I think that that is  
17 something we should consider.

18 Frankly, I think maybe we need to  
19 have a Commissioner's workshop or something  
20 in the coming month or so to discuss kind of  
21 this whole process, and that's probably a  
22 discussion for another time, but the -- I  
23 might be at a point if it's -- and this  
24 would just be curiosity really. Would it be  
25 -- at this point today, I assume that we

1 could issue some sort of directive to -- and  
2 I'm not making this motion at this time.  
3 I'm just putting this out there to  
4 conditionally approve the license, as in  
5 other cases, is that an allowable -- with  
6 certain expectations, such as we already  
7 discussed with reporting an arrest  
8 immediately or something to that effect?

9 MR. TAUPIER: Absolutely. You  
10 grant any license with conditions so long as  
11 the granting of that license and the  
12 conditions imposed are at the time.

13 MR. D'AQUILA: So that would be,  
14 again, five days, and it could be for  
15 anything -- misdemeanor, felony, a license  
16 -- a driver's license not be being reviewed  
17 or anything of that sort; it would be  
18 thorough?

19 MR. TAUPIER: That's correct.

20 MR. D'AQUILA: Okay.

21 MR. TAUPIER: She is applying for  
22 a card room occupational license, so she  
23 would already be subject to that rule. If  
24 she were to be arrested, she would already  
25 have to, pursuant to the license she would

1 get, notify us within five days of any  
2 arrest.

3 MR. MACIVER: My part,  
4 Commissioners, I will say I am weary, one of  
5 conditional licensure in the first place;  
6 two, our issuance of that license with those  
7 conditions would be final agency action, and  
8 we would have to be very clear about what  
9 conditions we wanted to impose. I don't  
10 think that's something we could delegate to  
11 staff to sign on the dotted line. With  
12 their understanding of what we expected them  
13 to do, we would have to -- we'd actually  
14 have to take that action and be clear about  
15 the action we were taking.

16 On top of that, I would defer to  
17 our counsel because he deals in this area  
18 all the time, but I've been weary of other  
19 regulatory entities where I have seen  
20 conditional licenses approved, that the  
21 authority to issue that conditional license  
22 was somewhat questionable, and I'd want to  
23 make sure that all of our I's were dotted,  
24 and all of our T's were crossed before we  
25 ever went down that road.

1                   With that said, I'm not saying  
2                   that I'm -- I'm not hard-lining it. I'm  
3                   saying I think we should take those  
4                   considerations before we consider going down  
5                   that road.

6                   MR. YAWORSKY: Can I ask  
7                   Counsel -- because I think Counsel should  
8                   respond because we just took action earlier  
9                   on a conditional license and the lack of  
10                  compliance -- so are the laws that we have,  
11                  in your opinion as counsel, sound as it  
12                  relates to conditional licensing?

13                  MR. MARSHMAN: I believe you're  
14                  referring to -- if we can put that on the  
15                  record, just to make the record clear. This  
16                  was, I believe, Mr. Hughs. That was item of  
17                  6.3.

18                  So to your question, Mr. Vice  
19                  Chair, the rules are clear and the laws are  
20                  clear that in Mr. Hughs case and in any  
21                  other case where you have a conditional  
22                  license -- to the Chair's point as well --  
23                  as long as you give us specific, direct,  
24                  clear instructions on how to issues the  
25                  conditional license, that is allowed. We

1 are allowed to issue a license with  
2 conditions. And for Mr. Hughs -- as  
3 Mr. Taupier pointed out -- that wasn't so  
4 much as a waiver case as the other ones are  
5 today. It is him failing to abide by the  
6 terms of a condition license.

7 So for Mr. Hughs' action, I  
8 believe the Commission is on solid ground  
9 taking the action that it just did. And for  
10 this individual applicant in items 6.8, if  
11 you were so inclined, you could issue, or  
12 direct staff to issue, a final order with a  
13 conditional license with conditions.

14 But, again, as Mr. Taupier pointed  
15 out, some of the reporting requirements  
16 would already apply to her based on existing  
17 rule, so it would almost be a redundant  
18 condition.

19 MR. MACIVER: My electronic copy  
20 of our meeting packet has -- the battery  
21 died. I apologize. So, actually, just  
22 please remind me, when was the date of  
23 completed application?

24 MR. TAUPIER: The date of the  
25 completed application looks to be June 30th,

1 2022. And with the waiver process, everyone  
2 who elects to go through the waiver process  
3 signs a waiver of the 90-day deadline for  
4 the agency to make action on that license  
5 application.

6 MR. MACIVER: Commissioner, I'm  
7 going to make a proposal that we temporarily  
8 table this application for the next meeting  
9 so that we can maybe delve into this a  
10 little bit more, maybe have a little bit  
11 more informal contact with the applicant,  
12 give an opportunity, perhaps, to make that  
13 case for a shift of good moral character.

14 Can I have a motion to table this  
15 application?

16 MR. YAWORSKY: So moved.

17 MR. MACIVER: And a second?

18 MS. BROWN: Second.

19 MR. MACIVER: Any objection? Show  
20 this application table for the next meeting.

21 MS. BROWN: And thank you,  
22 Mr. Chair. I think that's a good  
23 suggestion. What I would like to ask legal,  
24 if they're -- before our next meeting, if  
25 you could -- just so that we could

1 understand our authority a little bit  
2 clearer when it comes to temporary licenses,  
3 if you could share with us kind of the  
4 precedential nature prior to the Games and  
5 Commissioning being informed of temporary  
6 licenses and the fact pattern of how they've  
7 been issued in the past so that we get an  
8 understanding, just several examples so that  
9 we see what type of conditions -- pardon me,  
10 conditional licenses, so we get a better,  
11 clearly understanding of our authority.

12 MR. MARSHMAN: Yes, ma'am.

13 MS. BROWN: Thank you.

14 MR. MACIVER: I believe we're Item  
15 6.9.

16 MR. TAUPIER: 6.9, Kristina --

17 MR. MACIVER: Sorry,  
18 Commissioners, was there any further  
19 discussion? Okay. Please.

20 MR. TAUPIER: Item 6.9, Kristina  
21 Vazquez, Case Number 2022-033421. This  
22 individual applied for a PMW individual  
23 occupational license. That completed  
24 application was submitted and reviewed.

25 Upon review of that application,

1 it appears that the applicant did have two  
2 felony convictions; one from 2002, marijuana  
3 possession with intent to sell; and from  
4 2000, a driving while license cancelled,  
5 suspended or revoked. A waiver interview  
6 was conduct, and that interview, as long --  
7 as well as the application packet, went to  
8 the executive director. The executive  
9 director declined to waive those felony  
10 convictions.

11 The recommendation from the  
12 Division of Peri-Mutuel wagering is to  
13 authorize a notice of intent to deny license  
14 application based off of those two felony  
15 convictions.

16 MR. MACIVER: Commissioners, any  
17 questions or debate? I'll entertain a  
18 motion.

19 MR. D'AQUILA: I make a motion.

20 MR. MACIVER: And a second?

21 MR. YAWORSKY: Second.

22 MR. MACIVER: Any objection? Show  
23 that motion carries.

24 MR. TAUPIER: Item 6.10, Marlon  
25 McKenzie, Case Number 2022-035398. This

1 applicant applied for a slot, card room and  
2 Peri-Mutuel combo license.

3           Upon review of the application  
4 that was submitted, it appears that there  
5 was a 2014 petty-theft conviction where  
6 adjudication was withheld out of Broward  
7 County. A waiver interview was scheduled.  
8 They attended, and all that information went  
9 to the executive director.

10           The executive director did not  
11 waive the petty-theft misdemeanor;  
12 therefore, the recommendation from the  
13 Division of Peri-Mutuel Wagering is that a  
14 notice of intent to deny be authorized and  
15 issued for the misdemeanor crime related to  
16 larceny.

17           MR. MACIVER: We're talking about  
18 Mr. McKenzie here, correct? Item 6.10?

19           MR. TAUPIER: I'm sorry, that was  
20 Kristina Vasquez.

21           MR. MACIVER: This was the weird  
22 one with the very, very, very delayed  
23 rearrest.

24           MR. TAUPIER: Correct. I had the  
25 wrong one.

1                   Correction, for the record, this  
2    is 6.10, Marlon McKenzie, 2022-035398. This  
3    individual did apply for a PMW individual  
4    occupational license, and that was received.

5  
6                   And upon review of that  
7    application, it appears that the applicant  
8    was convicted of possession of marijuana  
9    within intent to sell in 2002, and driving  
10   with a license cancelled, suspended or  
11   revoked, habitual traffic offender from  
12   2000. And I apologize, I just got the names  
13   mixed up.

14                  And to the point that you just  
15   made, this individual did have this pending  
16   for many, many years and admitted during the  
17   waiver interview that he absconded to  
18   Jamaica in order to pay for a private  
19   attorney. He did come back. He was  
20   arrested and did ultimately resolve this  
21   case; however, the executive director, after  
22   reviewing that interview, still declined to  
23   waive the felony convictions and therefore,  
24   the recommendation is to authorize the  
25   issuance of an intent to deny license based

1 off of those convictions.

2 MR. MACIVER: Commissioners, any  
3 questions? Any debate? I'll entertain a  
4 motion.

5 MR. DRAGO: Motion to approve.

6 MR. MACIVER: Second?

7 MR. D'AQUILA: I'll second.

8 MR. MACIVER: Without objection,  
9 show that motion carriers.

10 Commissioners, I know it seems odd  
11 in the middle of a -- the enumeration that  
12 we have of our agenda items, but I think  
13 this is actually the appropriate time for us  
14 to take a quick break. Say about ten  
15 minutes?

16 (Off the record from 10:42 a.m. until 11:02  
17 a.m.)

18 MR. MACIVER: All right, everyone.  
19 Welcome back, calling the meeting back to  
20 record. And we are moving on to Item Number  
21 6.11, Jorge Callejas.

22 MR. TAUPIER: Before we move on,  
23 Chair. It looks like I skipped over  
24 Kristina Vazquez, Item 6.9.

25 MR. MACIVER: I believe so. I

1 think -- yeah, we -- after Yvette Campos,  
2 you did one case, which I believe was  
3 Vazquez, before we went on to McKenzie.

4 MR. TAUPIER: Okay. I wanted to  
5 make sure my record is clear. So for  
6 Kristina Vazquez, just to reiterate for the  
7 record, you're authorizing the --

8 MR. MACIVER: To motion to carry  
9 to issue a notice of intent to deny the  
10 license.

11 MR. TAUPIER: Okay. Thank you.

12 MR. MACIVER: Thank you. And  
13 moving on to Item Number 6.11. We do have a  
14 speaker card, Mr. Zachem. I am going to go  
15 ahead and preface this by -- Commissioners,  
16 my intent, if this is no objection, is to  
17 temporarily postpone this case today.

18 There are some -- certainly some  
19 questions about where specifically our  
20 authority lies or doesn't lie with the  
21 ability to accept or deny this application  
22 -- again, we'll get to the debate on whether  
23 or not you all want to do that in a moment  
24 -- but Mr. Zachem, I'll go ahead and  
25 recognize your comments.

1 MR. ZACHEM: Thank you, Mr. Chair.  
2 And you might have made my comments  
3 irrelevant for today now. Thank you for  
4 saying that before I walked up.

5 MR. MACIVER: I did not mean to  
6 steal your thunder, sir.

7 MR. ZACHEM: It's still  
8 appreciated.

9 And, Commissions, I think I had a  
10 chance to introduce myself before. My name  
11 is John Zachem, and I appreciate all the  
12 work you're doing. I've sat in a similar  
13 seat before, and it's not easy all the time  
14 understanding some of the details.

15 I'm here for Mr. Callejas, and the  
16 reason I'm here is as a friend. He works  
17 at -- or I should say worked at the agency  
18 for a long, long period of time. I think  
19 you seen some of his background in his bio.  
20 He started off as an OPS employee, worked  
21 for over 25 years for the agency, and  
22 building his way up. His father worked at  
23 the agency.

24 And a big part of what I'm here  
25 for is for him to speak on his behalf and

1 just to say that he -- anything that you can  
2 do to help him out in this situation. He  
3 submitted his letter of resignation back in  
4 July. The idea behind it was, you got a  
5 gentleman that's in his early 60s. He's  
6 mostly -- he hasn't officially turned in his  
7 paperwork to retire, but he's really towards  
8 that point, and he's living in South  
9 Florida, which I'm sure many of you know is  
10 a very expensive location.

11 So now he's trying to use that  
12 subject matter that he gained that  
13 knowledge, so he can be able to work at a  
14 facility. The things that he's doing at  
15 that facility are not something that I think  
16 the original intent of the statute was to  
17 protect against text against.

18 The idea to be able to have some  
19 form of a lobbying ban or a work ban or a  
20 prohibition there generally applies to  
21 people more like this level. When you're  
22 talking about an attorney that might be  
23 representing someone before the agency, you  
24 want to create a prohibition so they're not  
25 bouncing back and forth -- a lobbyist,

1 something like that. The Commission on  
2 Ethics has spoken on that a few times too,  
3 trying to create that protection so you  
4 don't have somebody that's gaining  
5 information working for an agency, and then  
6 being able to use it when they spring back  
7 out. I served my time during the same  
8 period of time I had to do it. That's what  
9 most of the folks up here do.

10 But what you have in this  
11 situation with Mr. Callejas, he's in South  
12 Florida, and a very smart man, but probably  
13 not privy to some of the nuances and details  
14 as far as some of the prohibitions. This  
15 just started coming on, and from a broader  
16 perspective, something for your  
17 consideration, and something that I  
18 certainly wouldn't tell you how to do your  
19 job, but this creates some roadblocks in you  
20 trying to staff some of these positions.

21 If you're telling people that they  
22 can't work in the industry that they know  
23 for a full two years even after the leave  
24 the agency, even when they might retire or  
25 resign or if they've got a better

1 opportunity, from a position where they're  
2 not going to be using it for then intended  
3 purpose, that protection against lobbying or  
4 law, I think you're going to have a few  
5 challenges in filling your staff positions.

6 I know beyond what Mr. Callejas is  
7 saying, is some other people are looking at  
8 this too to say, "Well, I wasn't quite aware  
9 that that's going to be the problem." So  
10 for your future hires -- and I realize that  
11 solution might not be available to you today  
12 -- but if there's an opportunity to perhaps  
13 create a clarification or correction, either  
14 legislatively by rule making, whatever your  
15 authority might be, I think it would help a  
16 lot of your people and a lot of the  
17 industry.

18 So getting back to Jorge. He's a  
19 super guy. If you get a chance to meet him,  
20 his personality is huge. And if ever get a  
21 chance to talk to him, I'd say reserve an  
22 extra five to ten minutes, because what  
23 timeframe you thought you were going to  
24 spend with him -- when I was in PMW, I  
25 thought it was going to be about 20 minutes;

1 45 minutes later, I was told "You need to go  
2 because you got another appointment." So  
3 he's a super person. Again, he's -- I would  
4 say one question or one offering that I  
5 would make in this case is perhaps you could  
6 look to see when his position actually moved  
7 from DBPR to the Gaming Commission. I think  
8 some of those timeframes a lot of people are  
9 pointing to July 1. I don't know  
10 specifically, but I didn't see anything in  
11 the record, and I'm not going to pretend to  
12 be an expert on the record since I haven't  
13 had a chance to go that deep in it.

14 If there's a period of time where  
15 maybe his position moved a little later,  
16 maybe that law doesn't necessarily apply to  
17 him. I don't know if he was an employee of  
18 the Commission at the timeframe that he  
19 resigned or submitted his letter. There  
20 might be an opportunity there, or there  
21 could be an opportunity where you send out a  
22 notice that says, "These laws apply. You  
23 were officially a member of the Commission,  
24 so from this point forward, you know, you're  
25 bound by this," so that there's more

1 knowledge for your people out there.

2 But now that I've stepped on my  
3 own toes by actually making suggestions to  
4 you even after I said I wouldn't, Jorge is a  
5 super guy, and if you all could help, it  
6 would be very much appreciated, not just for  
7 him, but many of the people that work with  
8 him.

9 MR. MACIVER: Thank you, Mr.  
10 Zachem. Very well. Any questions? Seeing  
11 none. Thank you.

12 Commissioners, let me suggest what  
13 I'm weary about, specifically with the  
14 application. You've already read the  
15 packet, you've seen the provision in Chapter  
16 16-715, and specifically who that is  
17 addressed to.

18 It says that the employees who has  
19 worked here for two years cannot hold a  
20 license. It doesn't specifically say -- and  
21 this may be splitting hairs -- but it  
22 doesn't say that the -- that the Commission  
23 will deny the license or shall deny the  
24 license or has the discretion to deny the  
25 license, but I've seen plenty of court cases

1 before where you have that sort passive  
2 voice language, or the language speaks to  
3 someone who can't have something, and then  
4 the issuing authority is told "Well, you're  
5 the issuing authority, so who do you expect  
6 is going to do it?" So there is certainly  
7 an argument that it is -- that are we  
8 beholden to apply that provision in our  
9 licensing scheme. There's also a very  
10 strong argument though that the enforcement  
11 mechanism for that provision is the  
12 Commission on Ethics. And if we preempt  
13 their ability to exercise their discretion  
14 over that statute preemptively in our  
15 licensing approach, we may be -- we may be  
16 stepping on their toes, we may be intruding  
17 upon their purview, we may be preventing  
18 them from being able to do their job.

19 So I'm very, very weary of moving  
20 forward with a notice of intent to deny on  
21 this license, but I'm similarly weary of  
22 issuance the license. And I don't want to  
23 suggest this kicking the can down the road,  
24 but I think this license application needs  
25 some more thought and some more review

1 before we act on it, and that's why I would  
2 the Commission's indulgence to table this  
3 application for a later date.

4 I'm sorry, I had one question  
5 though. Is -- Ms. Alvarado, there is no  
6 waiver of a Deemer Provision on this  
7 particular license; is that correct?

8 MS. ALVARADO: No, there's not.

9 MR. MACIVER: And when would that  
10 provision take place?

11 MS. ALVARADO: November 13th,  
12 2022.

13 MR. MACIVER: Okay.  
14 Commissioners, any questions?

15 MR. YAWORSKY: I do. We have  
16 received no information related to any kind  
17 of -- that the Applicant has sought and an  
18 opinion from the Commission -- on the other  
19 Commission?

20 MS. ALVARADO: No, he is not.

21 MR. YAWORSKY: He is not.

22 MS. ALVARADO: I don't have  
23 knowledge that he has at this point.

24 MR. YAWORSKY: Okay. So I believe  
25 it's correct that in the past the Commission

1 of Ethics has looked at similar laws, the  
2 lobbying ban and I think the two-year ban on  
3 various other -- I think there's a broad  
4 two-year ban from employees with all kinds  
5 of state agencies to then proceed to go out  
6 and work in the industry.

7 And I think -- I can't remember if  
8 it was statutory or just an ethic's opinion  
9 that indicated that there was kind of a  
10 grandfather intent that was then --

11 MS. ALVARADO: Right, so  
12 16.7151(d) allows a commissioner or employee  
13 of the Commission to ask the Commission on  
14 Ethics for an advisory opinion on the issue.

15 MR. YAWORSKY: Okay. So that --  
16 in this case the applicant could go seek out  
17 that opinion --

18 MS. ALVARADO: Yes.

19 MR. YAWORSKY: -- in the interim.  
20 I think that -- I think that the Chair's  
21 thoughts are valid about the extent of  
22 the -- for what it's worth, the extent of  
23 our authority in this space.

24 I also think that depending on the  
25 outcome of that question -- which I would

1 really love of to hear from counsel before  
2 this is postponed, you know at the next  
3 meeting what the outcome of a legal review  
4 is on that question, but I think depending  
5 on that, it may move the applicant to maybe  
6 to seek out that opinion.

7 MR. MACIVER: If I could have one  
8 clarification -- and, Mr. Vice Chair,  
9 correct me if I'm not clarifying, but if I'm  
10 misstating -- we are not suggesting that  
11 Mr. Callejas has to go get that opinion --

12 MR. YAWORSKY: No.

13 MR. MACIVER: -- and present it to  
14 us before we will make a determination. I'm  
15 -- again, we have to go some serious  
16 consideration about where our authority  
17 lies, and I don't want to set the precedent  
18 today to say, "If you want a license and you  
19 fall in this situation, you need to bring us  
20 an ethic's opinion." Vice Commissioner  
21 Yaworsky was just pointing out a very valid  
22 point that there does seem to be an avenue  
23 that he could take, and we would certainly  
24 be interested in the avenue of that as well.

25 MR. YAWORSKY: That's correct.

1 Yeah, I think depending on the outcome of  
2 the opinion that we may gather as to where  
3 our authority stands, it may be -- it could  
4 be a potential noteworthy thing to receive  
5 an opinion. Definitely not setting any  
6 precedent. That's absolutely correct.

7 MS. BROWN: And, if I may. I  
8 think Mr. Zachem's points were very well  
9 taken, and I do think that an interpretation  
10 of this needs to be fully vetted through  
11 maybe our general counsel before we even  
12 move forward with an opinion from the  
13 Commission on Ethics, if we were to seek  
14 that course.

15 Mr. Zachem, I do have a question.  
16 Pardon me for bringing it back up, if you  
17 don't mind. I think either way, this is  
18 precedential what we do, so I think tabling  
19 this matter is very important so that we  
20 could spend a little bit more thought and  
21 time in interpreting and deciding what path  
22 we need to go.

23 Mr. Callejas, when he -- do you  
24 know if when he applied -- when he resigned,  
25 did he already have a position? Was he

1 resigning for this position?

2 MR. ZACHEM: I'm not sure if he  
3 had right away, but I do know he has  
4 accepted a position. The role that he's  
5 serving in now is in security at a facility,  
6 so it's not one that -- I think other than  
7 maybe having lunch with old friends, and  
8 then if investigators ask for a security  
9 tape, that might be the limitation of his  
10 interaction with the agency.

11 But I do know that he is trying to  
12 work at a facility right now. I believe he  
13 started employment, but I'm not sure if it's  
14 contingent upon approval of his license.  
15 That's one question I would ask of the Chair  
16 if you're tabling this. I do know that  
17 there's sometimes temporary licenses that  
18 are afforded. I don't know if that can  
19 happen during this period of time, or if he  
20 ends up being in a position where he loses  
21 his employment. Because if you say another  
22 30 days, I don't know if that's still going  
23 to be there for him -- just a consideration,  
24 sir.

25 And I know that's not the chief

1 concern. The chief concern is making sure  
2 the interpretation of law is one that's done  
3 correctly and you follow your statutory  
4 authority, but I would just add that.

5 MR. MACIVER: And without being  
6 obtuse or suggesting that none of this  
7 weighs upon me, because it does, just only  
8 that particular issue isn't before the  
9 Commission today, so I wouldn't be able to  
10 address a temporary licensure at this time.

11 MR. MARSHMAN: Mr. Callejas does  
12 have a temporary license already.

13 MR. ZACHEM: Does he? That  
14 answers that question.

15 MS. BROWN: And I just wanted to  
16 thank you for raising the comments too and  
17 presenting some -- it has given us a lot  
18 more thought, and I think that the  
19 appropriate action is for us to table it so  
20 that we can have our general counsel and his  
21 team look at this a little more thoroughly.

22 MR. DRAGO: The temporary license,  
23 so that will last long enough for us to look  
24 at this later on? In other words, it's not  
25 a 30-day license or anything like that?

1 That temporary license is in effect at this  
2 point, correct? So he's working at this  
3 point?

4 MR. MARSHMAN: I can't speak as to  
5 whether Mr. Callejas is working at the  
6 facility. However, I do know that if he  
7 submits a facially sufficient application,  
8 he entitled by law to a temporary license,  
9 so I would defer to Mr. Trombetta or  
10 Mr. Dillmore about the length of time that  
11 it typically lasts, but I know right now  
12 sitting here that he has a temporary  
13 license.

14 MR. DRAGO: Okay.

15 MR. ZACHEM: Just to briefly  
16 answer your question. He is working right  
17 now, so I knew I could supply that to be  
18 able to help out there. He does have  
19 employment. He is down in South Florida  
20 working at a facility now with a temporary  
21 license. I didn't know if he had it or not  
22 yet, so --

23 MR. DRAGO: So the timeframe isn't  
24 a big deal in terms of he's not going to be  
25 working if we don't get this answer today.

1 He's working. He can continue to work until  
2 we have an opportunity to look at this  
3 matter again next month or next meeting or  
4 whatever; is that correct?

5 MR. MACIVER: Unless his temporary  
6 license expires to prior to us  
7 addressing the issue --

8 MR. DRAGO: That's what I'm --

9 MR. MACIVER: -- which -- which I  
10 believe may very well be the case.

11 MR. DRAGO: And can anybody answer  
12 whether that's the case or not?

13 MR. MARSHMAN: Yes, I believe  
14 there is an expiration on the temporary  
15 license, somewhere between 30 and 90 days,  
16 which is something else for the Commission  
17 to consider.

18 If this applicant indicates that  
19 he is seeking a formal opinion, I'm not sure  
20 how long it takes for the Commission on  
21 Ethics to issue an opinion, so we may be  
22 speaking in a matter of months, not in 90  
23 days. So that's just something else for the  
24 Commission to consider as we bear down on  
25 the issue longer.

1 MS. BROWN: And just -- I'm happy  
2 that you raised this, and I'm happy this is  
3 before us, because I know that when the  
4 legislation was going through, a lot of it  
5 they were -- they were basing it on the  
6 Public Service Commission statute, which it  
7 does not prohibit any employee from a  
8 two-year ban from folks that appear before  
9 the Commission.

10 So it is kind of a nuance if it  
11 was based on -- if the intent was to base  
12 the statute similarly to the Public Service  
13 Commission, which does not have a two-year  
14 ban on all employees, just certain ones,  
15 then this does need to be looked at a little  
16 bit more thoroughly.

17 MR. DRAGO: Yeah, I agree. I  
18 think it's -- I think we need a little bit  
19 more time to look at this and get some more  
20 information so that we all feel comfortable,  
21 if nothing else, making a decision on this.  
22 It's too important, as they are, but this is  
23 important not only to this one individual,  
24 but hence forth when -- when hiring folks  
25 and how we're going to act from this point

1 on. So I think -- I think it would be a  
2 good move for us at this point to table this  
3 and get some more information. I've got  
4 more and more questions that have come up in  
5 my mind, and I know everybody as well,  
6 before we make this decision.

7 MR. MACIVER: Further questions or  
8 debate? I'll entertain a motion to table  
9 the issue?

10 MR. YAWORSKY: So moved.

11 MS. BROWN: Second.

12 MR. MACIVER: Without objection,  
13 show that motion carries.

14 Commissioners, we are moving on to  
15 Item Number 7, discussion of a final order  
16 pursuant to a request from respondent.

17 MR. TAUPIER: Marc Taupier, for  
18 the record. This is FGCC v. Nicolas Paul  
19 Gagne. Case Number 2022-016265.

20 This is a case where an  
21 administrative complaint was filed against  
22 Mr. Gagne. Based off of several incidents  
23 where Dania was looking at the kind of tips  
24 in the reports coming in for their dealers  
25 receiving tips. They specifically look at

1 the amount to see if there's any kind of  
2 variances that are awkward or just really  
3 out there, and they saw that Mr. Gagne's  
4 tips were excessively high compared to  
5 everyone else.

6           Upon review of that report, they  
7 went through surveillance and found that  
8 Mr. Gagne was essentially taking money from  
9 the pot and either put it into his tip jar  
10 or taking from money from the impressed tray  
11 and replacing it with money from the pot.  
12 The money in the middle, which is the pot,  
13 should be going to the player who wins the  
14 hand; therefore, cheating out the players at  
15 the table from the duly awarded amount that  
16 they should be getting. Mr. Gagne was  
17 interviewed by security at Dania. He  
18 admitted to the allegations.

19           Dania did suspend him and  
20 terminated his employment. They did a  
21 one-year exclusion against him. The  
22 administrative complaint alleges a violation  
23 against of Rule 61D-dash 11.0054, which is  
24 engaging in any act, practice or course of  
25 operation that would constitute a fraud or

1     deceit upon any participant in a game or the  
2     card room operator.

3             The administrative complaint was  
4     served on Mr. Gagne. Mr. Gagne did, within  
5     the 21 days, filed an election of rights.  
6     He selected the option to waive his right to  
7     a formal hearing under Chapter 120, and  
8     elected that the Commission enter whatever  
9     discipline that they seem fit for this case.  
10    The recommendation from the Division of  
11    Peri-Mutuel Wagering, based off of the  
12    voluminous amounts of time that this  
13    occurred, is to revoke his license.

14            MR. MACIVER: Commissioners,  
15    questions?

16            MS. BROWN: Marc, so after this is  
17    issued, say we go ahead with the staff  
18    recommendation, what -- from a procedural  
19    standpoint, what are his rights thereafter?

20            MR. TAUPIER: So if there was a  
21    final order entered, he could appeal that to  
22    DCA within 30 days of rendition of that  
23    final order, but at this time he has waived  
24    any other hearing.

25            MS. BROWN: Okay. Thank you.

1 MR. MACIVER: Any further  
2 discussion? Any debate? I'll entertain a  
3 motion to accept the staff recommendation?

4 MR. DRAGO: Motion to accept.

5 MS. BROWN: Second.

6 MR. MACIVER: Without objection,  
7 show that carries.

8 Other than public comments -- and  
9 thank you for those in audience who have  
10 been waiting so patiently for the public  
11 comment period -- but other than public  
12 comment, I believe we're at the last item on  
13 the agenda -- or this part of the agenda.

14 I apologize. I apologize to my  
15 executive director, but we are on the last  
16 portion of the licensure portion of our  
17 agenda.

18 MR. TAUPIER: The next item is  
19 Item 8. It is an amended final order. It  
20 is FGCC v. John Mungillo, Case Number  
21 2022-001846.

22 The procedural history behind this  
23 is that the individual is a horse trainer.  
24 He raced a horse at a facility, and the  
25 horses, if you place first or second or

1 third, are automatically tested for drugs.  
2 Based off the ARCI guidelines, depending on  
3 what the drug is and what the amount is,  
4 dictates sort of what the penalty is.

5 We do have a rule. The rule -- we  
6 call this a stacking violation. So when we  
7 have NSAID, non-steroidal anti-inflammatory  
8 drugs, you are allowed to have one in the  
9 horse's body, but it's to a certain level.  
10 If you have more than one, that's what we  
11 call a stacking violation; you are stacking  
12 the drugs. We do have a rule, which was  
13 provided to you in your packet that outlines  
14 what the levels and what the class penalty  
15 should be for those levels.

16 In this instance, we have Flunixin  
17 and Phenylbutazone. The levels that were  
18 detected were not levels that if we looked  
19 at ARCI, they would be a Class C violation;  
20 but because we have a rule, the Division has  
21 made these levels a violation imposing the  
22 Class C fine portion of the ARC guidelines.

23 A final order was issued for  
24 revocation of the porch -- purse, which  
25 would typically be a Class C violation, but

1 because we have the rule that says fines  
2 only, that was a mistake. So we are asking  
3 that the final order be amended to take out  
4 the portion where the purse should be  
5 returned, and to only asses the fines based  
6 off of the ARC guidelines under Class C.

7 MR. D'AQUILA: Question.

8 MR. TAUPIER: Sure.

9 MR. D'AQUILA: Both of those  
10 drugs, are they anti-inflammatories?

11 MR. TAUPIER: They both are  
12 NSAIDs, correct.

13 MR. D'AQUILA: Okay.

14 MR. MACIVER: I had a question  
15 about this, and I don't -- this is mostly a  
16 curiosity question. I don't think we need  
17 to revisit the staff recommendation on the  
18 amended final order. But what I did notice  
19 between the initial final order and the  
20 amended final order, that initially we felt  
21 the penalty would have been, I believe, the  
22 minimum fine level, plus the revocation of  
23 the purse. We're going to reissue the final  
24 order just subtracting the revocation of the  
25 purse portion, but we still feel that the

1 minimum level of the fine is what is  
2 necessary to bring compliance?

3 MR. TAUPIER: That is -- I don't  
4 want to misspeak or put anything on the  
5 record that I shouldn't, but it's not  
6 that -- we're not reevaluating what the  
7 penalties should be.

8 I believe that Mr. Ross Marshman  
9 has dealt with a case about amending final  
10 orders to where penalty really -- you're  
11 just fixing the order, and not necessarily  
12 adjusting or going above on the penalty  
13 itself.

14 MR. MACIVER: Is a revocation of a  
15 purse punitive or administrative?

16 MR. MARSHMAN: So even before we  
17 get to that, just the procedural posture  
18 that you all are in, as Mr. Taupier  
19 indicated, there's already a final order.  
20 We're not asking you to enter an amended  
21 final order.

22 People's substantial interests are  
23 being affected by this, and the other side  
24 to this case has already agreed to an  
25 amended final order revoking the purse. If

1 today, for instance, the Commission wanted  
2 to add an additional sanction, I would  
3 advise against that because that is  
4 exceeding the scope of not only what the  
5 parties have agreed, but also, that's more  
6 than correcting a scrivener's error, that's  
7 affecting substantial rights.

8           So I do think that a purse could  
9 be punitive and not necessarily  
10 administrative, just an administrative  
11 problem. So I'm not comfortable sitting  
12 here today advising that we could exceed the  
13 scope of what the staff is recommending;  
14 however, in the future we can consider,  
15 pursuant to the Commission's guidance --

16           MR. MACIVER: And that was the  
17 nature of my question. Again, I don't think  
18 we need to revisit either. I think it opens  
19 up too many cans of worms to do so; but I  
20 did notice that we were removing one  
21 sanction, and it wasn't being replaced with  
22 anything else. So as a practical effect,  
23 the reissuance of this order is lessening  
24 the penalty that is being imposed.

25           If that is reasonable to get

1 compliance, then great; if it's not, then,  
2 again, on a cost-benefit analysis, I don't  
3 think it's worth opening that can of worms  
4 in this particular case, but I was very  
5 curious.

6 Further questions?

7 MS. BROWN: I have a question  
8 about HISA really. And so with the new  
9 federal rules, is that going to change our  
10 current Florida rule?

11 MR. MARSHMAN: The short answer is  
12 yes. There are two components to the Horse  
13 Racing Integrity and Safety Act that we're  
14 going to apply to Florida. There are rules  
15 in effect now, but only for half of the  
16 program. The other half, the drug-testing  
17 program, is not yet in effect. That's going  
18 to be in effect in January in the coming  
19 year.

20 So, yes, the short answer is it  
21 will be impacted, and it will be preempted  
22 by the federal act, and it's reasonable to  
23 expect you will see less and less horse  
24 racing testing violations as the Horse  
25 Racing Integrity and Safety Authority begins

1 to fully regulate horse racing covered  
2 activities in this state.

3 MR. TROMBETTA: Chair, with your  
4 permission, I can add just a little bit more  
5 background on this. So currently we're  
6 operating -- the reason there's a  
7 recommended penalty in this situation is  
8 that by statute, the Division of Peri-Mutuel  
9 Wagering was required to adopt penalty  
10 schedules and classification for substances  
11 as provided by the Association Racings  
12 Commissioners International in a document  
13 that they circulated in 2014.

14 What's happening -- to add to  
15 Mr. Marshman's point, what's happening when  
16 that second part of HISA's program becomes  
17 effective -- which there isn't a firm date.  
18 They're sometime at the start of 2023 --  
19 there's going be federal rules for both the  
20 classification of substances and the  
21 penalties. And states are expected to then,  
22 as Mr. Ross --

23 I just called you Mr. Ross too.

24 As Mr. Marshman said, the federal  
25 rules that are going to be adopted by HISA

1 are going to preempt state law. So when  
2 that drug program does go into effect, the  
3 rules that we are currently following that  
4 apply to this case in front of you may  
5 change as the federal rules, from all the  
6 indications we're getting, are a little bit  
7 different.

8 MS. BROWN: Thank you, both of  
9 you.

10 Mr. Trombetta, so as a follow-up,  
11 once those are implemented and the -- this  
12 new regulatory body governs the safety of  
13 the horse tracks and the -- what -- what  
14 effect does that have with this rule then,  
15 and our authority then for hearing these  
16 matters?

17 MR. TROMBETTA: Well, the intent  
18 of HISA is to standardize safety and  
19 regulation of horse racing around the  
20 country.

21 The current system is that the --  
22 this is a great example -- the allowable  
23 limits and how stacking penalties are, are  
24 handled -- vary greatly from state to state,  
25 so the intent of this federal bill was to

1 kind of standardize it.

2           The -- and I'm forgetting your  
3 question now. But the point of what's going  
4 to happen here with the drugs is that -- so  
5 that a horse trainer in New York that comes  
6 to Florida will know that whatever  
7 substance -- allowable limit of a substance  
8 in New York is going to be the same as it is  
9 in Florida. And so the drug-testing program  
10 in its whole, it's a little unclear of how  
11 that's going to work out.

12           So the federal bill allows for --  
13 it actually requires HISA -- HISA is split  
14 into two committees: One is the Racetrack  
15 Safety Committee, the other one deals with  
16 drugs and the use of drugs in animals. That  
17 second committee has to enter into an  
18 agreement with a third party to come with  
19 rules and the system for how they're  
20 actually going to operate.

21           So they've identified that third  
22 party at this point, but in the coming  
23 months, we're going to get formalized rules  
24 that we adopted by the FTC, dealing both  
25 with those penalties, the classifications

1 and some of the procedures involved. Right  
2 now we have rules for our procedures. So  
3 the collection, for example, how a sample is  
4 collected and how it's sent to our lab and  
5 how it's examined, that is also going to  
6 change. And it's still a little unclear how  
7 that all is going to work out, but they are  
8 -- that third-party organization is reaching  
9 out to states currently to set up meetings  
10 and try to talk to us to start working out  
11 how that is going to work.

12 MS. BROWN: So, Mr. Trombetta,  
13 would this body then just be implementing  
14 the new proposed standardized rules, or will  
15 there be that other entity that regulates  
16 and monitors the new rules?

17 MR. TROMBETTA: So I'm going to  
18 punt a little bit. It's still sort of --  
19 it's a little unclear. There's been  
20 communication that makes it appear that  
21 adjudication of people that have violated  
22 the rules for permitted substances will be  
23 held at a -- will be handled at a federal  
24 level, not from us.

25 But there's the opportunity for

1 them to enter into contracts with states for  
2 services, and we envision that this might be  
3 one that they try to work with states to  
4 handle. So it's still a little unclear of  
5 what -- and it's not just Florida's rules.  
6 All state racing commissions are dealing  
7 with the same issue of what's going to  
8 happen, and it's still a little unclear.

9 MR. MACIVER: Commissioners, any  
10 further discussion? And I am actually  
11 forgetting where we are in the process now.  
12 We have the -- the discussion of the amended  
13 the final order before us.

14 Do I have I motion to adopt the  
15 staff recommendation?

16 MR. DRAGO: Motion to adopt.

17 MR. MACIVER: And a second?

18 MR. D'AQUILA: I'll second that.

19 MR. MACIVER: Without objection,  
20 show that carries.

21 Commissioners, if you don't mind,  
22 I'd like to jump -- and, Mr. Trombetta, I  
23 apologize -- but I'm going to jump out of  
24 order a little bit. Normally, the next  
25 matter on the agenda would be the updates

1 from the Executive Director.

2 Representative Morales, thank you  
3 so very much for being patient through the  
4 entire meeting. It was incredibly gracious  
5 of you.

6 Mr. Gazale (phonetic), I believe  
7 he wanted to make a public comment, and I'm  
8 going to go ahead and recognize you at this  
9 time.

10 MR. GAZALE: Yes, hi. My name is  
11 Jorge Gazale. I'm in the State of Florida.  
12 I'm from California. I've been here about a  
13 year and a half. And watching the gaming  
14 industry and learning about it, I wanted to  
15 know what is legal to operate in the State  
16 of Florida and what is illegal, so I can  
17 advise my friends who want to invest, or me,  
18 personally, if I want to invest in the  
19 process, you know. I just have a question  
20 about the tribes, the Indian tribes, and I  
21 know the tribes are federally related and  
22 work the state. I understand that. In  
23 California have similar -- we have a lot of  
24 casinos that are Indian operated.

25 But here, I see there's some

1 gaming -- you a commission for it. I wanted  
2 to ask what if somebody wants to open a  
3 building tomorrow, you know, start a  
4 building, what can he operate? What kind of  
5 gambling can he do? Anything can -- or race  
6 gambling. I don't know. What's the  
7 process? I just want know -- I know you  
8 have to apply for a license -- I understand  
9 that -- but what -- if I apply, what do I  
10 get?

11 I mean, what can I apply for, and  
12 what can I -- what are the -- the situation  
13 and the -- I'm just asking. I'm interested,  
14 because I'd like to get into the industry.  
15 But before I get in, I want to know the  
16 rules and regulations so I don't make  
17 mistakes unnecessary, you know? Thank you  
18 for taking the question.

19 MR. MACIVER: Understood.  
20 Understood. And, again, thank you for  
21 patiently waiting all day. I am going with  
22 some -- I'm going to, with some apology on  
23 the front end, address this. At a very,  
24 very high level, we won't be able to get to  
25 much into the details, obviously. In a

1 Commission meeting, we're not prepared to  
2 address the highly technical, what is and  
3 what isn't legal about gaming regulation in  
4 Florida; it's too broad of a subject. And  
5 quite frankly, wouldn't be in the agenda.  
6 We'd probably have to notice something in  
7 that depth.

8 At a very high level, I think that  
9 I could ask our general counsel to point you  
10 in the direction of the correct statutes to  
11 review about what industries are actually  
12 regulated and licensed versus which ones  
13 aren't allowed in Florida. So there's some  
14 constitutional provisions and some statutes  
15 that he could certainly essentially point  
16 you in the right direction to review.

17 Separate from that, I would -- if  
18 you're going to enter into this industry in  
19 Florida -- or really anywhere, I could  
20 probably make the same comment -- this  
21 industry is a little bit different than a  
22 lot of others in that gambling is at its  
23 basis prohibited in Florida, and then  
24 there's very limited exception to how you  
25 enter into that licensure scheme of course.

1 And because it is so highly regulated, I  
2 have to caution extremely. I would consult  
3 someone who is well versed in gaming law,  
4 specifically in gaming law in Florida, and  
5 having a good attorney or a good counselor  
6 that you can refer to on that subject  
7 matter.

8 Beyond that, I couldn't get into  
9 too much more detail in this sort of form,  
10 but I'll entertain any comments that the  
11 Commissioners might think could be helpful  
12 as well.

13 MS. BROWN: I would just add,  
14 thank you for coming all the way up here and  
15 being interested in the industry and sitting  
16 through a long Commission meeting, and our  
17 staff is a really -- very well versed and  
18 certainly would be happy to talk with you  
19 after this meeting. Thank you.

20 MR. MACIVER: Thank you very much.

21 Mr. Lockwood, I know you've been  
22 waiting for a very, very long time too. Why  
23 don't I go ahead and address you at this  
24 time.

25 (Microphone appears to be off.)

1 MR. LOCKWOOD: I apologize. For  
2 those that do not know me --

3 MR. MACIVER: Your voice is so  
4 much deeper and ominous now.

5 MR. LOCKWOOD: Excellent. That's  
6 exactly what I was going for.

7 So for those that don't know me, I  
8 have a practice here in Tallahassee mainly  
9 advising regulated industry clients, and a  
10 large subset of that are those within the  
11 pari-mutuel gaming industry. I represent  
12 clients throughout the State of Florida, and  
13 it's been a very rewarding experience, and  
14 certainly looking forward to working with  
15 this Commission as we kind of move this  
16 industry forward.

17 You know, one of the things I did  
18 want to talk about to the Commission -- and,  
19 unfortunately, we weren't here the last  
20 Commission meeting -- is this decision last  
21 month concerning RB Jai-Alai, and its impact  
22 on Highly licensure agreements.

23 As you recall, this involved an  
24 Orlando area permit holder, Jai-Alai  
25 specifically, who requested to go from zero

1 performances to 40 performances. It came  
2 before the Commission -- and quite frankly,  
3 when we were flipping through the meeting  
4 packet, we were initially expecting that  
5 this would be resolved on a basis that zero  
6 to 40 is not a minor amendment; it should  
7 have been summarily rejected at that point  
8 in time. However, the Commission took one  
9 step forward and denied this request on the  
10 basis that Chapter 550 does not afford  
11 Jai-Alai permit holders the right at all to  
12 amend their annual operating licenses. And,  
13 unfortunately, Jai-Alai permit holders,  
14 since at least 1992, have been afforded this  
15 right and have consistently relied upon that  
16 when they were entering into their annual  
17 applications, and so now this has changed.

18           You know, while I understand that  
19 the preferred mode of statutory construction  
20 is looking at the plain language, one thing  
21 that I would urge this Commission to be  
22 mindful of, Chapter 550 dates back 90 years.  
23 It's been amended countless times, many of  
24 those times very poorly. It's been patched  
25 together. We have countless declaratory

1 judgments, Appellate opinions, declaratory  
2 statements, agency final orders from DOAH  
3 that have basically served as exhibits of  
4 how this framework is interpreted.

5 In fact, the phraseologist that  
6 was kind of relied upon to deny the  
7 application for RB Jai-Alai had already been  
8 subject to a previous declaratory statement  
9 at the agency concerning inter-track  
10 wagering. Some of these Jai-Alai permit  
11 holders back in 2014 had grown concerned  
12 that the language or gains was omitted their  
13 ability to conduct inter-track wagering, so  
14 we came before the Division of Pari-Mutuel  
15 Wagering at that time to get a confirmation  
16 that the fact that even though this mention  
17 of racing, the intent of 550.615 was in fact  
18 that Jai-Alai permit holders as well would  
19 be able to engage in this activity.

20 It appears now, based on the  
21 decision last week, that's potentially been  
22 implicitly revoked. What this industry  
23 certainly needs is a complete rewrite of  
24 Chapter 550, and I think this industry would  
25 welcome a complete rewrite of Chapter 550.

1 Unfortunately, based on my experience and  
2 many others in this industry, that's simply  
3 not going to happen.

4           And I'm not necessarily suggesting  
5 that the agency should take this into  
6 account when it's trying to decide the  
7 outcome. What I am suggesting though is  
8 that maybe that should be taken into account  
9 when we decide the vehicle in which that  
10 outcome is going to be achieved, and that  
11 result is going to be achieved.

12           During a time in which many  
13 operators have transitioned away from live  
14 pari-mutuel events completely, Magic City  
15 Jai-Alai, one of my clients, has invested  
16 considerable sums of money to enhance and  
17 promote the support of Jai-Alai at their  
18 facility. We even had a documentary that  
19 was made on what they were doing for the  
20 Jai-Alai players at Magic City. We served  
21 as a bridge for previous players of the  
22 University of Miami to come and train and  
23 continue with their -- trying to enhance  
24 their athletic abilities, and maybe  
25 potentially go to NFL training camps and

1 things, all while getting paid to conduct  
2 Jai-Alai events to obtain health insurance,  
3 things of that nature.

4 Just this year Magic City signed a  
5 very large agreement with ESP to broadcast  
6 live Jai-Alai tournaments on TV. And that's  
7 a major event. We have players coming from  
8 all over the country. I mean, this is at a  
9 point where, you know, pari-mutuel events  
10 are declining, but this entity continues to  
11 invest money, and they're starting to see  
12 returns on that, and they're starting to see  
13 people having a renewed interest in the  
14 sport.

15 Unfortunately, now we're in a  
16 position where, you know, this season is at  
17 danger, and that agreement is at danger.  
18 Because the fiscal year that we're in, 2022  
19 to '23, we obtained these dates last  
20 December from the state when we applied for  
21 that, and now we're locked into those dates.  
22 Whereas previously, we would have the  
23 ability to adjust the schedule. And that's  
24 very important when it comes to Jai-Alai  
25 permits, especially because the dogs, the

1 horses, things of that nature, they're hired  
2 directly on those peri-mutuel facilities in  
3 most cases. With Jai-Alai, we have players  
4 traveling in from France, Spain, Mexico, all  
5 over the world. We have issues now with  
6 ESPN potentially; you know, we may have  
7 schedule changes, things of that. Issues  
8 that before would have easily been resolved  
9 through amendments to our license,  
10 unfortunately now are not going to be able  
11 to be done through that.

12           And so certainly going forward,  
13 once we arrive to the December 15th to  
14 January 4th licensing window, now the  
15 operators understand that for the season  
16 ahead of us, that we can accommodate for  
17 that. Unfortunately, now we're just in this  
18 position in this season where we're not  
19 really sure what's going to happen. I mean,  
20 certainly -- and we've worked with staff on  
21 this. We have scenarios in place for how we  
22 could cancel performances. The problem is  
23 re-adding those performances and bringing  
24 those back on other days.

25           And so all I would ask is that

1 when, you know, making these decisions, you  
2 know -- certainly, that magnitude of a  
3 decision was something that was new to me  
4 see an agency do that in the context of an  
5 individual license application for one  
6 particular permit holder.

7 Absent this Commission, most of  
8 the permit holders in the State of Florida  
9 would have never known that RB Jai-Alai was  
10 actually suggesting those changes to their  
11 application, or even that they got denied  
12 that application based on that particular  
13 legal reasoning because of the area that  
14 they're in; and also, generally, those are  
15 just not public decisions that are done in  
16 that fashion.

17 So all I would ask, and just urge  
18 the Commission to caution on some of  
19 decisions. I mean, we've already seen with  
20 Mr. Callejas and the issues that he has in  
21 that. You know, there are significant  
22 ramifications that can occur for changes,  
23 especially in this particular scenario. So  
24 with that, that's all the comments I have.

25 MR. MACIVER: Very well taken,

1 Mr. Lockwood.

2 Questions or comments, members?

3 MS. BROWN: Can we just have our  
4 -- if they would like to -- our staff  
5 respond or make a comment.

6 MR. MARSHMAN: Mr. Lockwood and I  
7 had conversations about this decision, and  
8 its ramifications. I can certainly  
9 sympathize with everything that he stated  
10 from a regulated party's perspective;  
11 however, I would reiterate to the Commission  
12 what I explained last time, which is the  
13 plain language of the statute is the guiding  
14 force for the Commission. It's the way the  
15 law is written. We cannot change the way  
16 the law is written. We can only apply it  
17 the way it is.

18 And prior practice, which may not  
19 have been in line with the correct language  
20 of the statute, is not an appropriate  
21 guidepost to guide further action. I would  
22 never advise the Commission to follow what I  
23 thought or suspected to be an omission or a  
24 mistake in the drafting. I am only confined  
25 with the language of the statute, and I

1 believe that the best advice I can give you  
2 is to rely on the plain language of the  
3 statute.

4 MS. BROWN: Mr. Chair, if I may,  
5 just a follow-up.

6 And as we go through and make  
7 proposed rules or proposes changes to  
8 legislatures, as our enabling statute as  
9 directed us to do over the next year or so,  
10 would this be that type of a rule that you  
11 would suggest us to consider modifying or  
12 make up the change?

13 MR. MARSHMAN: Mr. Trombetta might  
14 be the better one for that. I'm just a  
15 lawyer.

16 MS. BROWN: Thank you.

17 MR. TROMBETTA: Yeah, I was trying  
18 to jump in.

19 MS. BROWN: Who's he?

20 MR. TROMBETTA: Well, my role -- I  
21 have a different hat now. So from the  
22 policy side, I think to your point, I think  
23 we are in the process of -- and that's part  
24 of sort of jumping to the next portion of  
25 the agenda, but there is the opportunity to

1 present legislative proposals.

2 I intend to discuss with the  
3 Commission many ideas or thoughts or what  
4 you guys would like. I think this would be  
5 an area that I think, just based on the  
6 comments from Mr. Lockwood, the industry  
7 would -- I think it would be well received  
8 in the industry, but I think any type of  
9 policy change like that, I think -- if you  
10 do have thoughts, I hope to kind of have a  
11 further discussion with you.

12 MR. MACIVER: Thank you again,  
13 Mr. Lockwood. And I think we can move on to  
14 the executive director's update.

15 MR. TROMBETTA: Thank you,  
16 Mr. Chair.

17 So I have a few things. I wanted  
18 to start with -- well, first just thanking  
19 everybody for getting this meeting together.  
20 I think as the Commission, I hope, would  
21 agree, we're evolving. I think the meetings  
22 are being ran much smoother. There's a lot  
23 of people that are working behind the scenes  
24 to get -- I think the materials for this  
25 meeting were over 1400 pages, to get them

1 together in conditions that aren't optimal  
2 right now.

3 MR. MACIVER: You didn't think our  
4 earlier meetings were smooth?

5 MR. TROMBETTA: I thought they did  
6 go pretty smooth, but they did not contain  
7 items that this one does. And I think this  
8 type of meeting is probably more of what's  
9 to come, and I think for our first attempt,  
10 so far it's gone pretty well, and I hope I  
11 don't mess it up, but really, thank you.

12 The people that you don't see in  
13 -- the people that you do -- I think, you  
14 know, Marc, Emily, Ross -- you guys, thank  
15 you very much. You've done a very good job,  
16 but there's people that you don't see too.  
17 There's a lot of people working to get  
18 things on the agenda, to get the notices  
19 done. You know, Liz has been -- Liz has  
20 been just assuming tons of duties, and  
21 really, I just wanted to start by thanking  
22 staff for helping get us here.

23 On that staff issue, we've done a  
24 lot hiring wise too. So I think in the  
25 previous meeting, I said we hired six people

1 in July. I don't have the total, but we've  
2 hired a lot more in August, and we have  
3 several more that are about to start. So  
4 we've been filling out our IT team. We've  
5 hired -- now, we have, essentially, a  
6 director of IT. We have two people under  
7 her; one is going to be on the  
8 infrastructure side, one is on the  
9 application side, and we're really working  
10 to kind of separate our network from DBPR  
11 and get our own network up and running in  
12 our new building, which I'm also going to  
13 touch on.

14 We've also been filling out our  
15 admin team. So we've been working -- we  
16 found solutions on our hiring HR side. We  
17 continue -- we've hired a budget manager  
18 that's helping us with some of the budget  
19 issues. We've hired some other positions  
20 that that are helping with purchasing, with  
21 contracts, so we're kind of slowly filling  
22 out that team.

23 Mr. Carl Herold is here in the  
24 building. He was the director of law  
25 enforcement that you guys selected. He's

1     come on board and is kind of immediately  
2     hitting the ground running in some ideas.  
3     He has applications -- or advertisements out  
4     there for two positions, and we're working  
5     on probably getting advertisement ready for  
6     another one. So we really are making some  
7     good improvements on the legal side.

8             Mr. Chair, do you have -- okay.

9             And we are hoping to continue  
10     that. Essentially, we've -- we're kind of  
11     going from the top down.

12             We've also -- we're running out of  
13     space in our current building, so I have  
14     good news in that we finalized the lease for  
15     the new Tallahassee office. The address is  
16     4070 Esplanade. This is in the Southwood  
17     office complex. We have a lease for the  
18     entire second floor. We also have a  
19     separate contract done now with DMS for  
20     construction and build-out of that space.  
21     But the plan is start moving people  
22     essentially immediately. I think Susie and  
23     some of the IT people are there right now.

24             The sort of thought process is to  
25     establish our kind on infrastructure on the

1 network side, make sure that people can do  
2 their jobs there, and then start moving some  
3 of the admin folks over to that side. The  
4 thought process is to keep PMW where they  
5 are, as they're comfortable in that  
6 building, they've been in that building, we  
7 have space for them. As we continue to hire  
8 -- we're already pretty much out of space,  
9 so we need to have the new divisions in that  
10 other space.

11 The plan for construction is sort  
12 of a lengthy one. Just the timeframe right  
13 now to get materials to get contractors  
14 done, it's going to be several months -- I'm  
15 just trying to set expectations there --  
16 before the full building is done.

17 I'd like to suggest -- and we've  
18 been working with DMS to do construction on  
19 essentially one side of the building while  
20 we operate on the other, and then kind of  
21 flip, and that way we can utilize the space  
22 and still do the construction. It does make  
23 construction a little bit longer, but it  
24 provided the immediate need for additional  
25 space so that we can continue to operate.

1                   Any questions on either of those  
2 two issues, the hiring personnel or the  
3 space?

4                   MR. DRAGO: Just a question on the  
5 space and the construction. You said the  
6 build-out would take a couple of months to  
7 complete or to start?

8                   MR. TROMBETTA: To start.

9                   MR. DRAGO: Okay.

10                  MR. TROMBETTA: Thank you.

11                  MR. DRAGO: That's what I thought  
12 you said.

13                  MR. TROMBETTA: We have -- we've  
14 been working with DMS to finalize plans with  
15 an architect. That -- we've completed the  
16 initial stage, which is essentially an  
17 overview. They kind of do -- just do the  
18 floor plan. Then right now, they then --  
19 the architects meet with engineers to work  
20 on -- sort of the stuff you don't see, the  
21 electric, the -- you know, the air  
22 conditioning, the water, so some of that.

23                  So once they can turn that back  
24 around, then we move into the construction  
25 phase. And we have -- but even that, we

1 have to get contractors that can do it.  
2 Once we have somebody, they have to order  
3 everything, get people organized and  
4 everything else. So it is going to be a  
5 lengthy time. The goal is that hopefully  
6 we'll sort of be nearing completion in July,  
7 start of the next fiscal year, but I do want  
8 to emphasize that right now it's tough.

9           There's -- you know, the supply  
10 chain issues have not been completely  
11 resolved on the construction side, and I  
12 think that in the meantime, we should be  
13 kind of operating from that space. We're  
14 going to have offices for all five of the  
15 Commissioners, for our admin team, for the  
16 IT team, for the law enforcement group, and  
17 potentially -- we're still trying to figure  
18 out OGC, the General Counsel's Office. I  
19 know there's a technical issue in that to  
20 utilize Versa, which is our software we use  
21 for our licensing database, essentially.  
22 It's just going to be a lot easier if  
23 they're in the DPR Blair Stone Building.  
24 Right now, the plan is to keep legal in that  
25 building as well.

1           Two -- yeah, two other updates.  
2       So I just wanted to follow-up on the City of  
3       Jacksonville's ordinance that could -- you  
4       know, we've kind of identified early on that  
5       this ordinance, if passed, could potentially  
6       legalize activity that would be otherwise be  
7       prohibited.

8           Just again to catch up, we  
9       submitted a letter. We then followed up and  
10      went to a subcommittee's meeting, and made  
11      public comment that the Gaming Commission  
12      existed, and that we're here to help. We've  
13      provided help that we did oppose the  
14      ordinance. On August 24th, the City Council  
15      withdrew that ordinance, so Jacksonville is  
16      no longer seeking to adopt that ordinance.

17           Any questions on that?

18           Okay. And then the -- just sort  
19      of some operational items that I have going  
20      on in the back -- and I think might be good  
21      for something that Vice Yaworsky brought up  
22      -- in terms of legislative proposals, we're  
23      also working on a legislative budget  
24      request. So by statute, the Commission has  
25      to provide a budget request. We are -- my

1 team is working on identifying issues that  
2 will go into that request. I think that if  
3 we do have a subsequent meeting sometime in  
4 mid-September to talk about some of these  
5 operational items, I think that would be a  
6 great opportunity to kind of present more  
7 details to you, get some feedback, and  
8 really kind of move forward on that.

9           The other item that I'd like to  
10 present at that meeting is -- essentially,  
11 it's part of what's called the Long-Range  
12 Performance Plans. LRPP, is the -- how it's  
13 known, which I don't like how that word  
14 sounds. But, yeah, there's a -- we have to  
15 come up with agency objectives and goals and  
16 a mission statement, so I'd like your input  
17 on that. So at the same time, I think if we  
18 do have this subsequent meeting, I would  
19 like to kind of bring that up at that  
20 meeting too.

21           I'd suggest -- other commissions  
22 do this -- they have, essentially, like  
23 operational meetings, and it's covered  
24 content that doesn't affect the substantial  
25 rights of other people immediately. So

1 you're not -- it wouldn't be license denials  
2 or consent orders. It would be operations  
3 items that we still need Commission input,  
4 and I think that -- beginning -- have a  
5 meeting in early September would be very  
6 helpful for achieving some of our goals with  
7 the upcoming legislative session.

8 Any feedback on that?

9 MR. MACIVER: Well, yes. I like  
10 the idea that we still keep our general  
11 business meeting, and if we bifurcate our  
12 general business meeting into having a  
13 portion that is affects the substantial  
14 rights of others, and then we have another  
15 portion of that meeting afterward; I think  
16 that works good. And also, of course, we do  
17 have to intersperse our meetings from time  
18 to time with issues that come because of a  
19 timely nature.

20 At some point in time,  
21 Commissioners, we may find our workload  
22 exceeds the one meeting a month, and we  
23 might have to amend our schedule for doing  
24 that, but I think we are on the right track  
25 right now for -- to continue to do a monthly

1 meeting and intersperse it with the things  
2 that come up. I think bifurcating the one  
3 general meeting a month rather than  
4 burdening folks with a separate meeting is  
5 probably the approach when it comes to the  
6 portion that wouldn't affect the substantial  
7 rights of others, but, I mean, you and I,  
8 we'll be able to sit down and work on that  
9 as we're putting together the agendas for  
10 the meetings, so.

11 MR. TROMBETTA: Yes, sir. Thank  
12 you.

13 MR. YAWORSKY: Just one question  
14 on that --

15 MR. TROMBETTA: Yes, sir.

16 MR. YAWORSKY: -- if I could.  
17 When is the LRPP due?

18 MR. TROMBETTA: So -- oh, man. I  
19 don't know the date off the top of my head.  
20 I have an October 1st deadline that I'm  
21 working with internally, but I think it  
22 might be October 14th that it has to go  
23 somewhere, so.

24 MR. YAWORSKY: Okay. And the LBR?

25 MR. TROMBETTA: LBR, same thing.

1 So there's -- we had to provide the initial  
2 -- October -- it's beginning of October as  
3 well. It might be the same day. I think  
4 it's October 14th as well.

5 MR. YAWORSKY: So I just want to  
6 make sure with respect to the Chair that --  
7 and with everyone's time -- that if there is  
8 feedback from the Commission, as it stands  
9 now in -- the meeting would be the first  
10 Thursday of October, which I believe is  
11 the --

12 MR. TROMBETTA: 6th, I think.

13 MR. YAWORSKY: That the 6th would  
14 be -- the Chair feels and the staff feel  
15 that if there is substantial feedback from  
16 the Commission as a whole, that that would  
17 be enough time between the 6th and the 15th  
18 when all these materials are due to --

19 MR. MACIVER: Probably --

20 MR. YAWORSKY: -- make those  
21 amendments.

22 MR. MACIVER: Probably not. And  
23 I'll -- and although we don't have the  
24 details of when to have a separate meeting  
25 hammered out yet, I would envision that on

1 the budget issues, we'll probably have to  
2 have a separated -- probably Zoom for  
3 everybody's convenience -- meeting between  
4 now and the next general meeting.

5 Again, we'll hammer out those  
6 details, and I won't blindside you all at  
7 the last minute.

8 MS. BROWN: Just being very  
9 familiar with the kind of process, I think  
10 having those type of internal affairs -- or  
11 non-substantive, but more administrative --  
12 since we are so administrative heavy for a  
13 while, we may really want to consider just  
14 having it knowing that we'll have it Zoom,  
15 you know, every month and have it in person  
16 every month, because it may just help as we  
17 get through next the year; things like  
18 build-out, things like workshop, discussing  
19 workshop, potential workshop, things like  
20 that. I'm completely supportive.

21 MR. YAWORSKY: And just -- if I  
22 may, just for familiarity for everyone's  
23 sake and the public's sake, the LRPP  
24 especially, is a -- this will be our first  
25 one -- it is a long-term document that

1 requires all kinds of information about what  
2 the agency is doing and what it plans to do  
3 over the course of time for, I believe, five  
4 years at least.

5 So there may be -- there's a lot  
6 to it. And especially because this is in  
7 our first one, it's kind of setting the  
8 stage for futures ones, so there may be a  
9 necessity to really dig in on this quickly,  
10 and to truly get feedback from everyone on  
11 that, in a comprehension manner, I think.

12 MR. MACIVER: Let's -- then let's  
13 continue that discussion offline. We may  
14 actually have to even set up, in addition  
15 to a Zoom meeting, to discuss approval of  
16 things, maybe we need a Commission workshop,  
17 where we sit down and pow wow about what we  
18 need to do about this.

19 Anything further?

20 MR. TROMBETTA: No, Chair. Thank  
21 you.

22 MR. MACIVER: Commissioners,  
23 questions?

24 MR. D'AQUILA: I have a question,  
25 Mr. Trombetta. How are we doing with regard

1 to our website now being live with regard to  
2 the public being able to ask questions? And  
3 can you give us an update, without specific  
4 numbers, the volume of questions and the  
5 type of questions we're answering, and how  
6 we're serving the public now that our site  
7 is live?

8 And I bring that up especially in  
9 context to the gentleman's question earlier  
10 about gaming in Florida and how we're  
11 interfacing.

12 MR. TROMBETTA: Yes, sir. So good  
13 news on that front in two ways. So first,  
14 we -- again, we are currently relying on  
15 Dukehart (phonetic) to support our IT needs.  
16 One of those needs is the updates to the  
17 website.

18 From what I understand, there was  
19 a meeting that went well yesterday, or two  
20 days ago, in which we, being the Gaming  
21 Commission, now have more autonomy on what  
22 we can put on our own Web page, and the  
23 timing of it. So good news there is that we  
24 can update our Web page more easily than we  
25 were -- would be able to a week ago. So

1 that part is good news.

2 The other good news is that we  
3 were able to get the complaint portal up.  
4 It kind of immediately -- so we're -- and on  
5 the front end for the user, they can go to  
6 our website, fgcc.fl.gov or dot com, and  
7 there's a button that says file complaint.  
8 They can do that -- they can file  
9 anonymously or they can provide, you know,  
10 their information.

11 When they do that, it goes into,  
12 essentially, a database that we created. We  
13 have over -- almost 80 items right now in  
14 that database over the past two months.  
15 Now, this does not just contain stuff that  
16 came to the website; it's also calls. The  
17 reason that -- that database is to also  
18 collect information on calls, e-mails and  
19 stuff that goes right through the portal.  
20 Stuff that goes through the portal is  
21 easiest because it goes right to the  
22 database, so.

23 We then, on the back end, right  
24 have been filtering items to staff to  
25 resolve the issues or complaints, or just

1 kind of provide answers to some of the  
2 questions. We're getting a range of stuff  
3 from -- stuff as in people, you know, giving  
4 us tips about illegal operations, to  
5 questions about licensing, to, you know,  
6 sort of questions about how does this work  
7 in Florida. We get a variety of stuff.  
8 It's all kind of going in, and we are doing  
9 a good job. Joe's team -- sorry, Joe  
10 Dillmore, the director of PMW, and Ross  
11 Marshman both have kind of taken the lead in  
12 kind of filtering and distributing  
13 responses, and then we have been successful  
14 in closing a lot of them and getting, you  
15 know, feedback to the public.

16 MR. D'AQUILA: Have there been  
17 discussions -- and I'm sure the volume will  
18 pick up with time. Have there been  
19 discussions about creating what we call  
20 FAQs, frequently asked questions, that will  
21 help deal with the sheer volume that we can  
22 expect as our Commission becomes more known  
23 and as gaming becomes more popular, and our  
24 population grows here in the State of  
25 Florida? Will -- do you envision that being

1 a possibility -- because I imagine many of  
2 these are somewhat more just informational,  
3 general --

4 MR. TROMBETTA: Yeah.

5 MR. D'AQUILA: -- without  
6 rewriting the statutes, so to speak?

7 MR. TROMBETTA: Right.

8 MR. D'AQUILA: So it needs legal  
9 review, but --

10 MR. TROMBETTA: So I can tell you  
11 -- I like the idea of coming up with FAQs.  
12 And I think if you guys give me that  
13 blessing, I think we can go down that road.  
14 It does come with it some complications from  
15 the legal side, and that we have to be very  
16 careful in what we say and what we put in  
17 there. We don't want to say something that  
18 is different from what the statute or rule  
19 says.

20 You know, but I think for some of  
21 these items -- you know, is bingo legal? We  
22 get some of these -- we could have an FAQ  
23 that just directs people to the statute in  
24 849 that talks about bingo with -- or with  
25 little explanation. I think there are ways

1 to work around this, but it's a process that  
2 is going to take a little bit of time.

3 There has been thoughts about doing it, but  
4 --

5 MR. MACIVER: Did you all see  
6 Mr. Marshman squirm when he said little  
7 explanation.

8 MR. TROMBETTA: Yeah, and that is  
9 a problem; is that I think it would be  
10 helpful, and we're trying to figure out how  
11 to strike a balance between providing some  
12 sort of helpful resource to the public, and  
13 not putting ourselves in any type of  
14 problems legally.

15 MR. D'AQUILA: I mean, as long as  
16 we're considering, you know, serving the  
17 public with those matters that require more  
18 immediate attention and using our legal  
19 resources that we do have efficiently, if we  
20 have some vehicle for filtering that --

21 MR. TROMBETTA: Yeah.

22 MR. D'AQUILA: I think it's going  
23 to be increasingly important with time.

24 MR. TROMBETTA: And -- in a --  
25 sort of with your permission, Commissioner,

1 if I could have a month. Give me a month to  
2 try to figure it out, and next month you can  
3 put me on the spot and say, "Okay, what are  
4 we doing with FAQs?" I'd appreciate that.  
5 I will -- give me this month to kind of come  
6 up with a plan to see how we can make this  
7 work.

8 MR. D'AQUILA: If I may add one  
9 more question?

10 MR. TROMBETTA: Yes, sir.

11 MR. D'AQUILA: I think it would be  
12 helpful for the Commission also to know, as  
13 we go month by month, the breakout. It will  
14 help us channel our resources and thoughts.  
15 And where there might be issues, you know,  
16 what types of questions are they?

17 MR. TROMBETTA: The breakout of  
18 the completion.

19 MR. D'AQUILA: Yeah, are they  
20 poker rooms? Are they horse racing? Is it  
21 just general. "I want to start a business in  
22 the State of Florida." Is it -- I'm very  
23 curious as to how many people -- especially  
24 the anonymous, you know, tips and so forth.

25 And even, you know, if there is

1 geographic data, so forth, I think it would  
2 help our -- as we plan our resources going  
3 forward. You know, all things of business  
4 we do, so to speak, especially in this time  
5 of, you know, limited resources.

6 MR. TROMBETTA: Yes, sir.

7 MR. YAWORSKY: If I might, would  
8 it be possible to get a summary review, so  
9 to speak, of these decisions that are coming  
10 before the Commission? And I'm not speaking  
11 of any particular one, but just a summary  
12 report to the Commissioners on matters that  
13 are coming -- could potentially come before  
14 the Commission that affect the substantial  
15 interest of the people.

16 I think what we saw today -- I'm  
17 not -- I don't want to -- I think we saw a  
18 lot of questions not only about individual  
19 matters within a particular case, but around  
20 the Commission's process that we've  
21 inherited from PMW -- I want to say this  
22 without -- with making it clear this is not  
23 a criticism of any of the work that PMW has  
24 done or is doing now on behalf the  
25 Commission, but I think that we, as

1 Commissioners, have an obligation to make  
2 sure we understand the beginning to end of  
3 our process, how these -- how these  
4 decisions that are being made as they come  
5 to us and whether or not they come to us.

6 I think we had a discussion when  
7 we were meeting yesterday about -- and I  
8 think Commissioner Drago touched on this  
9 earlier -- Chair had some thoughts as well  
10 that I thought were well taken about making  
11 sure that there's equitable treatment and  
12 that we -- the fines are adequate. And I  
13 think the first step in that is not so much  
14 necessarily to -- this is my thought -- I  
15 don't think the first step in that is for us  
16 to immediately begin changing it. I think  
17 we need to understand fully what's going on  
18 now.

19 So would it be possible for us to  
20 get a report of sorts of a delineated list  
21 of all things that may come before the  
22 Commission and understanding of how those  
23 workflows proceed now, their de-processes,  
24 checks and balances that are in place, to  
25 ensure equitable treatment, to ensure fines

1 are not -- not inadequate or excessive, and  
2 make sure that we're kind of on the -- and,  
3 please, if you all agree, please feel free  
4 to add things to this. But I think it is  
5 important that we as a Commission understand  
6 that.

7 MR. TROMBETTA: Could I make, just  
8 for clarity purposes, and maybe a suggestion  
9 too. It might be easier too if you kind of  
10 identified a few things for us to -- like  
11 maybe we could break it up over time where  
12 we could touch on waivers, you know, some of  
13 the stuff on the agenda today, because the  
14 exhaustive list would be --

15 MR. MACIVER: Let me actually  
16 touch on this a little bit here.

17 MR. TROMBETTA: Sure.

18 MR. MACIVER: I echo the sentiment  
19 of both of my colleagues in a very general  
20 sense that I think as we grow, for us to be  
21 able to maintain the position of the buck  
22 stops here with us, and to maintain our  
23 accountability for what this Commission  
24 does, we're in time going to want to watch  
25 the information flow to us increase

1 substantially.

2           There are -- there are reports  
3 we're going to have to see -- and these are  
4 two very good examples of the breakdown of  
5 the types of complaints we're getting,  
6 definitely -- and then, yes, a report on the  
7 activities that we're taking and our ability  
8 to see that those are equitable and not  
9 capricious. Those are two very good  
10 examples, but they're reflective of a larger  
11 thing that will have to happen, that we're  
12 going to have to, as a commission, know  
13 everything the Commission is doing.

14           That is said on the backdrop of  
15 the Commission staff is still very much in  
16 COVID form. The executive suite is not  
17 entirely built-out yet. You are  
18 recognizably still understaffed until you  
19 can get fully hired up. So how we  
20 prioritize what reports are going to have to  
21 come to us is something that we're going to  
22 have to focus on in the coming weeks. What  
23 we need to prioritize your time doing and  
24 focusing on so that we're making sure we're  
25 hitting the important things, yes, is very

1 important, but it's in a longer-term goal,  
2 and a longer-term aspiration for us to be a  
3 very fully informed commission.

4 I'm thinking about our law  
5 enforcement section too, and all the  
6 activities that that's going to start taking  
7 on. We're ultimately going to have to be  
8 the buck stops here people on all that  
9 activity as well. So with one director of  
10 gaming enforcement at the moment, I don't  
11 think you can start spending your time  
12 putting out reports to us yet, but it's  
13 going to come, right? So I just wanted to  
14 touch on those things as well.

15 MR. YAWORSKY: Yeah. If I could  
16 just clarify. I wasn't seeking as much of a  
17 -- I agree -- that point is well taken. I  
18 don't want you really spending time on this  
19 as a sacrifice of other things. If you say  
20 you don't have the time to do it right now,  
21 then we'll have to figure out another  
22 mechanism.

23 I was really -- what I'm really  
24 just looking for is a summary not of what is  
25 going on currently, it's more of a summary

1 of what will potentially come our way and  
2 how that's coming our way. Not by an  
3 itemized list of what those items are and  
4 what have been, just an explainer of what is  
5 taking place and how that is going to be a  
6 generalized process document, not a --

7 MR. YAWORSKY: Just not a -- how  
8 this stuff is coming to be, what -- how the  
9 decisions are being made, not a case by  
10 case, so that we can understand -- I may not  
11 be explaining it as well as I'd like. It  
12 would be -- so that we can understand what's  
13 coming before us, and what has taken place  
14 in the -- not -- again, not particularly,  
15 but generally how this is coming to us.

16 MR. TROMBETTA: Sure. And I  
17 think, just based on the comments we heard,  
18 we absolutely can work to get something like  
19 that to you. Even like the -- one of the  
20 people that where just hired in IT is a --  
21 from what I understand, they can do exactly  
22 what we're asking for the complaints. They  
23 can create a report that will provide some  
24 type of graphical display of whatever field  
25 we want so that we can have it. So I think

1 there are some easy solutions that I think  
2 we can kind of work with you guys.

3 MR. D'AQUILA: If I may, Executive  
4 Director Trombetta. I -- one of the  
5 trend-lines I've seen having dealt with so  
6 many government agencies, both on a federal  
7 and a state level, they're almost required  
8 to use the agency's website. The sheer  
9 where information -- you know, keeping track  
10 where all these matters are and how people  
11 communicate is such an incredible expense,  
12 but the trend-line -- you mentioned earlier  
13 about, you know, phone calls or, you know,  
14 tips and so forth. To the extent that we  
15 have a modern day, new secure site, even  
16 registering everything through the site and  
17 where human hands don't touch it from a  
18 gathering and monitoring perspective is  
19 huge, both from a qualitative perspective  
20 and a cost perspective, so I would just be  
21 thinking about that.

22 I mean, I know myself. I can  
23 think of four where I can cite where I'm not  
24 even allowed to call anybody, and these are  
25 very large agencies. It must go through the

1 site. I hope sometimes what I'm saying is  
2 anonymous. But I would think about that as  
3 you're building because it has a direct  
4 implication on the budget that you're  
5 working on, and it deals -- as I see our  
6 lists go up here, it will help us in our  
7 90-day -- you know, what we strive for in  
8 meeting what the public expects of us as  
9 well; that's all.

10           And a point to reiterate earlier  
11 on the FAQs, of course, there must be the  
12 proper disclaimers, and legal must bless  
13 that. We live in a world of disclaimers.  
14 You know, most anybody in professional  
15 services has an e-mail, but if you go to  
16 print it, it's four pages, of which  
17 90 percent you never read for a reason. So  
18 just food for thought.

19           And I know you're thinking of all  
20 this, but I think about like we're --  
21 there's this little trajectory in the  
22 youthfulness of our Commission, where we're  
23 heading, and I think this will make a really  
24 -- it will really help things out months and  
25 years from now.

1 MR. TROMBETTA: Thank you.

2 MR. DRAGO: It could just -- not  
3 to beat this horse to death, but in terms of  
4 what others are speaking about. From a  
5 historical perspective, I think --  
6 personally, I feel a need to have more  
7 history, and we've talked about it before.  
8 When it comes to the fines and when it comes  
9 to those kinds of things, I just want to  
10 make sure that I feel -- personally feel  
11 comfortable that we are being fair and  
12 equitable to the folks, and have a good  
13 understanding of where this comes from.

14 In addition to that, if we're  
15 doing something different, like we did with  
16 the Jai-Alai, that's different from before,  
17 have a good understanding of why we're doing  
18 it different, and I did on this one. I mean,  
19 it was explained to me -- Mr. Marshman has  
20 explained it very well, and I understood --  
21 I understood it. But those are the kinds of  
22 things that I am personally interested in  
23 having some background, and so that I  
24 understand completely why we are doing this,  
25 and why we're doing it differently than it

1 was done before. So as we go along, I know  
2 as a case comes up, this is not how we used  
3 to do it, this is how we're doing it now. I  
4 really want to know that.

5           So I think a historical  
6 perspective, I think, if I'm hearing  
7 everybody here, we're hungry for a little  
8 bit more historical perspective on these.  
9 You folks have been doing this, and you all  
10 got it. It's all in your head. It's  
11 just -- you know, it's easy, but for us who  
12 haven't been and doing this job, it's  
13 important.

14           And it will probably be -- we talk  
15 about not having enough people right now,  
16 and we don't want to overburden you, and we  
17 don't, but I think now is the time when we  
18 need that because for a year from now, we  
19 won't need it as much because we're going to  
20 be closer -- not there, but closer to where  
21 a plane where you all are at, so that we --  
22 you don't have to explain every little thing  
23 to us in terms of history like that.

24           So I think that's -- that's what  
25 I'm looking for, keeping that in mind that

1 we need as much history as you could  
2 possibly provide. I'm not looking for more  
3 paperwork. Liz is looking at me like she  
4 wants to shoot me back there. I'm not  
5 looking for more paperwork, but, you know,  
6 some way to express that so that we feel  
7 comfortable, and we all feel comfortable  
8 about the fines and what the rulings we're  
9 making and so forth. It's all based in --  
10 it's based in history in equitable  
11 situations. Thank you.

12 MS. BROWN: Thank you. I agree  
13 with all of my colleagues, and I think that  
14 actually Commissioner D'Aquila's point is  
15 really well taken because that is the kind  
16 of information that needs to be included in  
17 the LRPP; you know, what are we generating  
18 on the website? So, I mean, that should be  
19 priority. But certainly, with these cases,  
20 as you heard with the conditional license  
21 that came up today, we all were talking  
22 about that kind of additional background.  
23 And when it comes to fines and it's not a  
24 rule, how are they set so that it is --  
25 we're consistent, and we're not excessive,

1 and I think those are like -- they're  
2 on-point things, but -- and then the  
3 summary, I guess, ultimately, I don't know  
4 how that would -- other than what we're  
5 talking about here today. But I do think  
6 Commissioner D'Aquila's points are really  
7 well taken, and I hope we can get that done  
8 next month.

9 MR. TROMBETTA: Yes. Or  
10 potentially too, I'm thinking -- just in my  
11 head just talking. I don't -- I don't want  
12 -- don't hold me to this, but something --  
13 if we do have this operational meeting  
14 before October 6th, that maybe we can start  
15 trying something in that meeting. I mean, I  
16 think -- I think there's -- just so -- we  
17 can absolutely do this. I think it's good  
18 for the Commission in general, and I'm going  
19 to do everything I can to help make that  
20 happen.

21 MR. MACIVER: All right.  
22 Commissioners, I've jumped around a bit. We  
23 are on item -- I don't know the number. We  
24 are on other matters.

25 Anything else for the good of the

1 order from the Commissioners?

2 Because today was the first day we  
3 did speaker cards -- and I want to thank the  
4 people who put those in -- but I am going  
5 to, at this meeting still, and then we'll  
6 probably go to a required speaker card  
7 meeting format at the next meeting. But  
8 because we didn't put that out there ahead  
9 of time now, I will entertain any other  
10 public comment.

11 MR. MACIVER: Sure.

12 MR. GAZALE: Well, thank you  
13 earlier for letting me speak. I just want to  
14 --

15 MR. MACIVER: And one more time,  
16 just for the record, it's Mr. Gazale?

17 MR. GAZALE: Gazale, Jorge, yes.  
18 I want to congratulate you for being the  
19 Commission seeing here taking charge. And I  
20 know one thing, the gaming industry on the  
21 planet earth is big. Humanity love to  
22 gamble, you know. And what I know, I know  
23 I've been to Vegas, Macao, Monte Carlo. You  
24 go to all these places, you see people  
25 gambling, and they go back. It's not like

1 they're forced them, no. It's a  
2 continuation. So what I believe, this --  
3 what you guys are doing is going to be big,  
4 much bigger than what you guys think. It's  
5 going to be bigger -- it's going to be -- in  
6 my opinion, it's going to be probably the  
7 biggest department in Florida, you know,  
8 because it's a human nature. If you look at  
9 a few studies in the past ten years, if you  
10 look at cryptocurrency, where people are  
11 doing -- gambling by Bitcoin and other  
12 stuff, NFTs, so it's a human nature,  
13 gambling.

14 So what I really appreciate you  
15 guys doing is trying to regulate and tell  
16 people, especially small businesses. It  
17 gives them a chance to play with the big  
18 guys, you know, give everybody equal field  
19 so we can challenge each other. Because  
20 capital is more when you give everybody a  
21 clear vision, like these are the facts about  
22 how can I apply. I cannot go -- if I cannot  
23 go hire a bunch of lawyers to start my game,  
24 what can I do start? You know, because  
25 we're not -- all have the qualifications to

1 play the game from the top.

2 So I appreciate you guys, you  
3 know, doing and taking time to answer the  
4 questions, because this is a big mission.  
5 It's a big job. You just started. You're  
6 putting your crew together, and I believe  
7 it's going to be big. And it's going to  
8 something other states will copy you guys,  
9 because, you know, you're putting new ideas  
10 and new methods for everybody. And at the  
11 end of the day, if we have rules, people  
12 should follow -- I believe in law and order.  
13 People should follow the law and order, and  
14 will just have to be given to everybody at  
15 equal level, so everybody can have a chance  
16 to play with the game.

17 And we are all Citizens of Florida  
18 and Citizens of the United States of  
19 America. So we came here, and we want to do  
20 something good. And thank you again for  
21 allowing the public, and I appreciate what I  
22 learned today. Thank you all, and  
23 congratulations again, and get on to a great  
24 mission, you know?

25 MR. MACIVER: Thank you. We

1 appreciate your time and encouragement.

2 Any further -- Mr. Zachem?

3 MR. ZACHEM: As the hour grows  
4 late, I'll try and be brief. I'm sure  
5 everyone else's stomach is growling too.

6 My name is John Zachem, as I said  
7 before, I represent the Amusement Machine  
8 Association of Florida, and we want to thank  
9 you all for the work you're putting in for  
10 the illegal slot machines that are going  
11 through the state in various areas.

12 And one of the biggest things that  
13 we want to work with you on is the  
14 consistency on how the law is enforced.  
15 You'll see different locations that I think  
16 this Commission is going to help a lot with.  
17 These locations are enforcing them some ways  
18 compared to others. I hear people say  
19 gray-market game. To me, I don't think  
20 there's any gray. It's either an illegal  
21 slot machine or it's not.

22 One of the comments I heard  
23 earlier about putting facts up, and some of  
24 the authority that the Commission has, I  
25 think it's going to help a lot with that, so

1 we'd love the opportunity to support you.  
2 I'm an attorney that works with this group,  
3 and we'd absolutely support the idea and  
4 love the idea of putting up "Here's  
5 something that you legally cannot do," and I  
6 think a lot of people will be able to fall  
7 in line. And that's also for law  
8 enforcement as well as the people that are  
9 acting in these locations. Because I've had  
10 an opportunity to sit down in four different  
11 counties, and the interpretation of what a  
12 slot opinion is and what's legal has changed  
13 from county to county to county. And the  
14 subject matter before you, and with you all  
15 conveying that message, I think it's going  
16 to help a lot.

17 We thank the director as well for  
18 speaking in Jacksonville and trying to make  
19 things clear. We've also operated as group.  
20 That we live in these communities, and so  
21 you know that the Amusement Machine  
22 Association, most of these are family-owned  
23 groups that have been in business for  
24 decades in Florida. One of my clients is  
25 second generation. The things that they do

1 are your -- not slot machines, but the pool  
2 tables, the dartboards -- I don't know if  
3 they have jukeboxes anymore. I might be  
4 dating myself -- but those types of things  
5 that you see in these locations, as well as  
6 games that you might play on the corner, the  
7 which one of these is different on these  
8 screens? Those types of things.

9 But with that, there's confusion  
10 over what can be there. And you all coming  
11 up and being able to say, "That's not  
12 supposed to be there, or this is," we've  
13 said routinely just tell us what we can and  
14 can't do, and we'd be more than happy to  
15 comply.

16 And at the same period of time --  
17 we live in these communities -- when we see  
18 a bad actor -- we've registered with Duval  
19 County and the City of Jacksonville saying,  
20 "Here's where we are. We think we're  
21 following the law. We think we're doing  
22 things appropriately. Come take a look at  
23 us." And we work with them routinely, and  
24 at the same period of time, we say, "Look at  
25 that group over there. They're not doing

1 this. And the blacked-out windows that are  
2 occurring that are over there where people  
3 are coming at different hours, you might  
4 want to take a look."

5 So we've been working with them,  
6 and we look forward to working with you all  
7 too. I won't take any more time because I'm  
8 hungry too. But anyway, we look forward to  
9 working with you all in the future. Thank  
10 you very much for your service.

11 MR. MACIVER: Thank you,  
12 Mr. Zachem. And on the subject of jukeboxes  
13 being outdated, rock and roll will never  
14 die.

15 And with that, Commissioners,  
16 unless there's any opposition, I say we are  
17 adjourned.

18 (The proceedings concluded at 12:24 p.m.)

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REPORTER'S CERTIFICATE

STATE OF FLORIDA  
COUNTY OF LEON

I, Brandy Duxbury, Stenographer,  
certify that I was authorized to and did  
stenographically report the foregoing public  
hearing proceedings, and that the transcript  
is a true and complete record of my  
stenographic notes.

Dated this 12th day of September,

2022.  


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Brandy Duxbury, Stenographer

Job No. : 269967

<hr/> <b>\$</b> <hr/>	<b>11:02</b> 73:16	<b>1st</b> 5:4 10:8 128:20	<b>2017</b> 39:24
<b>\$1,000</b> 18:20	<b>12</b> 59:20 60:19, 22	<hr/> <b>2</b> <hr/>	<b>2019</b> 53:16
<b>\$100,000</b> 15:4	<b>120</b> 14:18 93:7	<b>2</b> 8:12,14,16	<b>2020</b> 27:5
<b>\$150</b> 18:22	<b>12:24</b> 156:18	<b>2.1</b> 7:1 8:18	<b>2020-053235</b> 13:23
<b>\$200</b> 23:16 24:2	<b>13th</b> 82:11	<b>2.2</b> 7:1 9:20	<b>2021-004913</b> 13:22
<b>\$250</b> 30:13 32:11	<b>14</b> 49:8	<b>20</b> 50:8 56:21 59:20 78:25	<b>2022</b> 6:11 23:19 68:1 82:12 113:18
<b>\$300</b> 26:25 27:5 61:2	<b>140</b> 11:24 12:9	<b>2000</b> 70:4 72:12	<b>2022-001846</b> 94:21
<b>\$340,000</b> 12:11	<b>1400</b> 118:25	<b>2002</b> 70:2 72:9	<b>2022-01212</b> 25:12
<b>\$360,000</b> 12:9,13	<b>149</b> 12:1	<b>2002-039077</b> 12:2	<b>2022-016265</b> 91:19
<b>\$50</b> 18:21 25:20	<b>14th</b> 128:22 129:4	<b>2004</b> 63:2	<b>2022-016405</b> 23:6
<hr/> <b>0</b> <hr/>	<b>151</b> 12:4	<b>2012</b> 37:14 38:5	<b>2022-021526</b> 13:22
<b>0622</b> 25:12	<b>15th</b> 114:13 129:17	<b>2013</b> 49:8	<b>2022-024016</b> 35:4
<hr/> <b>1</b> <hr/>	<b>16</b> 37:12 38:5	<b>2014</b> 33:12 37:14 38:6 50:7 51:14,16 52:12 55:18 71:5 100:13 111:11	<b>2022-024544</b> 18:7
<b>1</b> 79:9	<b>16-715</b> 80:16	<b>2015</b> 50:10,11	<b>2022-024620</b> 37:7
<b>100</b> 23:20 27:25 28:7	<b>16.7151(d)</b> 83:12	<b>2016</b> 35:9	<b>2022-024632</b> 39:20
<b>10:42</b> 73:16	<b>18-year-old</b> 56:25 57:22		<b>2022-027408</b> 25:13
<b>11.0054</b> 92:23	<b>1975</b> 39:23		<b>2022-027412</b> 25:14
	<b>1992</b> 110:14		<b>2022-028029</b> 26:16 29:24

<b>2022-028395</b> 30:6	<b>24th</b> 125:14	<b>4.2</b> 18:2,5 25:4	<b>550.105(7)</b> 13:25
<b>2022-028758</b> 49:2	<b>25</b> 75:21	<b>4.4</b> 25:5	<b>550.24151(a)</b> 33:6
<b>2022-029108</b> 50:2	<b>25th</b> 10:11	<b>40</b> 110:1,6	<b>550.615</b> 111:17
<b>2022-031049</b> 32:5	<b>28-106.114</b> 18:16	<b>4070</b> 121:16	<hr/> <b>6</b> <hr/>
<b>2022-031302</b> 51:7	<b>28-106.114(4)</b> 14:9	<b>45</b> 79:1	<b>6</b> 34:20
<b>2022-031564</b> 53:10	<hr/> <b>3</b> <hr/>	<b>4th</b> 10:10,12 114:14	<b>6.1</b> 35:1,3
<b>2022-032710</b> 55:12	<b>3</b> 11:8	<hr/> <b>5</b> <hr/>	<b>6.10</b> 35:1 70:24 71:18 72:2
<b>2022-033421</b> 69:21	<b>3.1</b> 11:24	<b>5</b> 22:10,16 32:25	<b>6.11</b> 73:21 74:13
<b>2022-034120</b> 33:1	<b>3.3</b> 12:1	<b>5.1</b> 22:10,15 23:5	<b>6.2</b> 37:6
<b>2022-035398</b> 70:25 72:2	<b>30</b> 86:22 89:15	<b>5.2</b> 25:8 26:13	<b>6.3</b> 39:19 66:17
<b>2022-037945</b> 8:18	<b>30-day</b> 87:25	<b>5.4</b> 25:9 26:13	<b>6.4</b> 49:2
<b>2022-039135</b> 9:21	<b>30th</b> 67:25	<b>5.5</b> 26:14	<b>6.5</b> 50:2
<b>2022-039506</b> 11:25	<b>31st</b> 10:8	<b>5.6</b> 30:5	<b>6.6</b> 51:6
<b>2022-039514</b> 11:23	<b>38</b> 56:20	<b>5.7</b> 32:3	<b>6.7</b> 53:9
<b>2023</b> 10:9,10,11,12 100:18	<b>3rd</b> 10:7	<b>5.8</b> 22:15 32:25	<b>6.8</b> 55:12 67:10
<b>21</b> 14:6,8,12 18:15 93:5	<hr/> <b>4</b> <hr/>	<b>50</b> 5:15	<b>6.9</b> 69:15,16,20 73:24
<b>21st</b> 10:9	<b>4</b> 13:6	<b>550</b> 110:10,22 111:24,25	<b>60s</b> 76:5
<b>23</b> 113:19	<b>4.1</b> 13:20		<b>61d-11.004(a)</b>

18:12		<b>access</b>	<b>actor</b>
<b>61D-11.0042</b>	<hr/> <b>9</b> <hr/>	61:5	155:18
18:11		<b>accommodate</b>	<b>actual</b>
<b>61D-11.0045</b>	<b>90</b>	114:16	46:11 50:10
23:11	89:15,22	<b>account</b>	62:18
<b>61d-11.0048(a)</b>	110:22 145:17	57:16 112:6,8	<b>add</b>
18:11	<b>90-day</b>	<b>accountability</b>	48:10 87:4
<b>61D-11.0098</b>	68:3 145:7	140:23	98:2 100:4,14
25:18	<b>9:30</b>	<b>accurate</b>	108:13 137:8
<b>61d-11.0144(b)(2)</b>	5:1	59:18	140:4
26:23	<hr/> <b>A</b> <hr/>	<b>accused</b>	<b>added</b>
<b>61D-11.02517</b>	<b>a.m.</b>	24:13	46:7
30:10	5:1 73:16,17	<b>achieved</b>	<b>adding</b>
<b>61d-11.1751(e)</b>	<b>abide</b>	112:10,11	8:21,23 10:6,8,10,11
32:9	41:21 67:5	<b>achieving</b>	<b>addition</b>
<b>61d-6.00(a)(2)(s)</b>	<b>abilities</b>	127:6	131:14 146:14
33:7	112:24	<b>act</b>	<b>additional</b>
<b>61d-dash</b>	<b>ability</b>	82:1 90:25	18:21 63:15
92:23	57:23 74:21	92:24 99:13,22	98:2 122:24
<b>6th</b>	81:13 111:13	<b>acting</b>	148:22
6:11 129:12,13,17 149:14	113:23 141:7	154:9	<b>address</b>
<hr/> <b>7</b> <hr/>	<b>absconded</b>	<b>action</b>	20:21 44:17
<b>7</b>	72:17	14:23,25 19:7	87:10 106:23
91:15	<b>Absent</b>	43:9 62:18,20	107:2 108:23
<hr/> <b>8</b> <hr/>	115:7	65:7,14,15	121:15
<b>8</b>	<b>absolutely</b>	66:8 67:7,9	<b>addressed</b>
94:19	64:9 85:6	68:4 87:19	80:17
<b>80</b>	143:18 149:17	116:21	<b>addressing</b>
133:13	154:3	<b>active</b>	89:7
<b>849</b>	<b>abuse</b>	42:19	<b>adequate</b>
135:24	50:13	<b>activities</b>	139:12
	<b>accept</b>	100:2 141:7	<b>adjourned</b>
	17:18 22:2	142:6	156:17
	36:24 51:1	<b>activity</b>	<b>adjudicated</b>
	74:21 94:3,4	54:7,13 57:9,13 111:19	53:17
	<b>accepted</b>	125:6 142:9	<b>adjudicating</b>
	19:2 86:4		44:19

<b>adjudication</b> 55:18 58:17 71:6 103:21	<b>advice</b> 117:1	86:10 111:2,9 112:5 115:4 126:15 131:2	<b>allegations</b> 19:1 92:18
<b>adjust</b> 113:23	<b>advise</b> 98:3 105:17 116:22	<b>agency's</b> 144:8	<b>alleges</b> 92:22
<b>adjusting</b> 97:12	<b>advising</b> 98:12 109:9	<b>agenda</b> 5:10,14,15 6:9 11:24 49:1 55:11 73:12 94:13, 17 104:25 107:5 117:25 119:18 140:13	<b>Allegiance</b> 6:3
<b>admin</b> 120:15 122:3 124:15	<b>advisory</b> 83:14	<b>agendas</b> 128:9	<b>alleging</b> 18:10
<b>administrative</b> 13:23 14:5,9 18:8,9,19 19:2 23:8,16, 20 25:20 26:25 30:12 32:11 44:16 91:21 92:22 93:3 97:15 98:10 130:11, 12	<b>affairs</b> 130:10	<b>agree</b> 21:8 40:4 63:8,9 90:17 118:21 140:3 142:17 148:12	<b>allowable</b> 64:5 101:22 102:7
<b>admitted</b> 72:16 92:18	<b>affect</b> 63:3 126:24 128:6 138:14	<b>agreed</b> 97:24 98:5	<b>allowed</b> 62:12 66:25 67:1 95:8 107:13 144:24
<b>adopt</b> 24:6 25:23 32:14 100:9 104:14,16 125:16	<b>affected</b> 97:23	<b>agreements</b> 43:6 109:22	<b>allowing</b> 152:21
<b>adopted</b> 6:23,24 30:3 32:23 100:25 102:24	<b>affecting</b> 98:7	<b>ahead</b> 8:12 39:4 58:2 74:15,24 93:17 105:8 108:23 114:16 150:8	<b>altering</b> 50:9
<b>adopting</b> 23:22 27:7 30:17	<b>affects</b> 57:20 127:13	<b>air</b> 123:21	<b>altogether</b> 24:16
<b>advertisement</b> 121:5	<b>affidavit</b> 8:1	<b>Alexis</b> 13:21	<b>Alvarado</b> 18:3,4 19:10, 23 20:8,14,16 22:8,14,19 23:4 24:2,14, 21,25 25:4,10 26:3,14 27:22 29:7,19 30:4, 20,23 31:8,13 32:3,24 33:1 34:1,9,19 82:5,8,11,20, 22 83:11,18
<b>advertisements</b> 121:3	<b>afford</b> 110:10	<b>Alfredo</b> 49:2	<b>amend</b> 8:17 10:23 110:12 127:23
	<b>afforded</b> 63:14 86:18 110:14		<b>amended</b> 7:14 60:25
	<b>afterward</b> 127:15		
	<b>age</b> 56:21		
	<b>agencies</b> 83:5 144:6,25		
	<b>agency</b> 14:11 62:18, 20 65:7 68:4 75:17,21,23 76:23 77:5,24		

94:19 96:3, 18,20 97:20, 25 104:12 110:23	96:10	35:7 36:6,11 37:9 40:20,24 43:17 44:13 48:17 49:6 50:6 51:8,10 53:13 55:15 58:12 59:8 60:25 67:23, 25 68:5,8,15, 20 69:24,25 70:7,14 71:3 72:7 74:21 80:14 81:24 82:3 88:7 111:7 115:5, 11,12 120:9	75:8 80:6
<b>amending</b> 97:9	<b>anti- inflammatory</b> 95:7	<b>apologies</b> 7:19,20 155:3	<b>approach</b> 20:23 81:15 128:5
<b>amendment</b> 9:2 110:6	<b>apologize</b> 28:6 67:21 72:12 94:14 104:23 109:1	<b>applications</b> 7:3,13,14 8:17 110:17 121:3	<b>approaching</b> 21:2
<b>amendments</b> 7:5,16 9:25 114:9 129:21	<b>apology</b> 106:22	<b>applied</b> 35:5 49:3 50:3 53:11 69:22 71:1 85:24 113:20	<b>appropriately</b> 155:22
<b>America</b> 152:19	<b>appeal</b> 93:21	<b>applies</b> 76:20	<b>approval</b> 6:9 86:14 131:15
<b>amount</b> 21:15,17 47:11 52:17 92:1,15 95:3	<b>appears</b> 51:11 53:14 55:16 56:21 60:3 70:1 71:4 72:7 108:25 111:20	<b>apply</b> 35:12 37:8,22 47:21 55:13 67:16 72:3 79:16,22 81:8 99:14 101:4 106:8,9,11 116:16 151:22	<b>approve</b> 7:25 9:2 10:23 11:2 12:22 13:4 26:9,13 29:23 31:23 32:20 34:13 39:13 53:3 55:5 64:4 73:5
<b>amounts</b> 15:3 21:19 93:12	<b>Appellate</b> 111:1	<b>applying</b> 47:20 64:21	<b>approved</b> 65:20
<b>Amusement</b> 153:7 154:21	<b>applicable</b> 12:19 53:24	<b>appointment</b> 79:2	<b>ARC</b> 95:22 96:6
<b>analysis</b> 99:2	<b>applicant</b> 47:5 49:6 50:7,15 51:12 53:17 55:17 67:10 68:11 70:1 71:1 72:7 82:17 83:16 84:5 89:18	<b>appreciated</b>	<b>architect</b> 123:15
<b>animals</b> 102:16	<b>applicants</b> 52:18		<b>architects</b> 123:19
<b>annual</b> 110:12,16	<b>application</b> 8:2 10:21		<b>ARCI</b> 33:12 42:11 43:1 95:2,19
<b>anonymous</b> 137:24 145:2			<b>area</b> 7:20 8:9 65:17 109:24 115:13 118:5
<b>anonymously</b> 133:9			<b>areas</b> 31:15 41:7 153:11
<b>answering</b> 132:5			
<b>answers</b> 87:14 134:1			
<b>anti- inflammatories</b>			

<b>arguable</b> 62:19	<b>attempt</b> 119:9	<b>autonomy</b> 132:21	<b>balance</b> 136:11
<b>arguably</b> 41:10	<b>attempts</b> 20:6	<b>avenue</b> 84:22,24	<b>balances</b> 139:24
<b>argument</b> 81:7,10	<b>attended</b> 49:12 71:8	<b>awarded</b> 92:15	<b>ballpark</b> 42:4
<b>armed</b> 37:16	<b>attention</b> 136:18	<b>aware</b> 31:11 48:4 63:13 78:8	<b>ban</b> 56:24 57:7 76:19 83:2,4 90:8,14
<b>arrest</b> 40:7 60:10 64:7 65:2	<b>attorney</b> 39:10 72:19 76:22 108:5 154:2	<b>awkward</b> 92:2	<b>base</b> 90:11
<b>arrested</b> 40:6,11 45:15,17,25 46:6 60:6 61:9 64:24 72:20	<b>attorneys</b> 13:13	<hr/> <b>B</b> <hr/>	<b>based</b> 8:25 10:20 38:1,4 40:20 44:10 47:13 50:14,22 52:1,5,8 53:23 54:3 55:25 60:1 63:5 67:16 70:14 72:25 90:11 91:22 93:11 95:2 96:5 111:20 112:1 115:12 118:5 143:17 148:9,10
<b>arrive</b> 114:13	<b>audience</b> 94:9	<b>back</b> 6:10 14:23 15:5,12 16:16 28:18 35:15 42:11 72:19 73:19 76:3,25 77:6 78:18 85:16 110:22 111:11 114:24 123:23 125:20 133:23 148:4 150:25	
<b>aspiration</b> 142:2	<b>August</b> 120:2 125:14	<b>backdrop</b> 141:14	
<b>asses</b> 96:5	<b>authority</b> 36:4 38:3 48:15 65:21 69:1,11 74:20 78:15 81:4,5 83:23 84:16 85:3 87:4 99:25 101:15 153:24	<b>background</b> 28:5 75:19 100:5 146:23 148:22	<b>basically</b> 44:5 111:3
<b>assess</b> 61:18	<b>authorize</b> 35:24 50:21 52:7 54:3 55:24 70:13 72:24	<b>backtrack</b> 28:24	<b>basing</b> 90:5
<b>assessed</b> 61:23	<b>authorized</b> 40:19 71:14	<b>bad</b> 155:18	<b>basis</b> 12:16 21:21 23:1,3 107:23 110:5,10
<b>Association</b> 100:11 153:8 154:22	<b>authorizing</b> 74:7	<b>bag</b> 28:8,15	<b>battery</b> 67:20
<b>assume</b> 27:22 63:25	<b>automatically</b> 95:1	<b>Bailey</b> 15:18	<b>Bay</b>
<b>assuming</b> 119:20			
<b>assumption</b> 27:25			
<b>athletic</b> 112:24			

8:19 12:8 25:17	<b>bigger</b> 151:4,5	44:8	<b>brought</b> 125:21
<b>Beach</b> 11:25 12:10	<b>biggest</b> 151:7 153:12	<b>bouncing</b> 76:25	<b>Broward</b> 71:6
<b>bear</b> 89:24	<b>bill</b> 101:25 102:12	<b>bound</b> 79:25	<b>Brown</b> 5:22,24 6:1 9:11 11:2 16:11 17:9, 15,20 24:5 29:23 32:21 33:21 34:7,13 37:1 38:7 39:1,4 42:7, 17 43:18,21 45:5 47:3 48:13 49:20 52:15 53:2 55:5 62:4,10 63:1 68:18,21 69:13 85:7 87:15 90:1 91:11 93:16, 25 94:5 99:7 101:8 103:12 108:13 116:3 117:4,16,19 130:8 148:12
<b>beat</b> 146:3	<b>bingo</b> 135:21,24	<b>box</b> 23:9 24:15,17	
<b>began</b> 5:1	<b>bio</b> 75:19	<b>Brad</b> 15:18	
<b>begin</b> 139:16	<b>bit</b> 8:5 9:24 28:4 39:21 68:10 69:1 85:20 90:16,18 100:4 101:6 103:18 104:24 107:21 122:23 136:2 140:16 147:8 149:22	<b>brain</b> 6:17	
<b>beginning</b> 127:4 129:2 139:2		<b>break</b> 45:2,5,7,8,10 46:3 73:14 140:11	
<b>begins</b> 99:25		<b>breakdown</b> 141:4	
<b>behalf</b> 63:15 75:25 138:24	<b>Bitcoin</b> 151:11	<b>breaking</b> 46:19	
<b>beholden</b> 81:8	<b>blacked-out</b> 156:1	<b>breakout</b> 137:13,17	
<b>belabor</b> 27:10	<b>Blair</b> 124:23	<b>bridge</b> 112:21	
<b>believes</b> 59:1	<b>bless</b> 145:12	<b>briefly</b> 88:15	
<b>benefit</b> 8:4	<b>blessing</b> 135:13	<b>bring</b> 84:19 97:2 126:19 132:8	<b>buck</b> 140:21 142:8
<b>Bennett</b> 50:2	<b>blindside</b> 130:6	<b>bringing</b> 85:16 114:23	<b>budget</b> 120:17,18 125:23,25 130:1 145:4
<b>bifurcate</b> 127:11	<b>board</b> 20:7,12 121:1	<b>broad</b> 83:3 107:4	<b>build-out</b> 121:20 123:6 130:18
<b>bifurcating</b> 128:2	<b>body</b> 21:12 95:9 101:12 103:13	<b>broadcast</b> 113:5	<b>building</b> 75:22 106:3,4 120:12,24 121:13 122:6,
<b>big</b> 75:24 88:24 150:21 151:3, 17 152:4,5,7	<b>bottom</b>	<b>broader</b> 77:15	
		<b>broken</b> 28:20	

16,19 124:23, 25 145:3	77:11 78:6 84:11 85:23 87:11 88:5 115:20	29:8 42:25 46:11 53:11 55:13 64:22 71:1 74:14 93:2 150:6	28:6 29:24 30:6,7,18 32:4,5,15 33:1,2 35:4 37:7 40:16 43:22 44:19 45:21 46:15 49:2 50:2 51:17 53:10 54:25 55:2,12 56:5,12,19 61:15 66:20, 21 67:4 68:13 69:21 70:25 72:21 74:2,17 79:5 83:16 89:10,12 91:19,20 93:9 94:20 97:9,24 99:4 101:4 138:19 143:9, 10 147:2
<b>built-out</b> 141:17	<b>calling</b> 73:19	<b>cardroom</b> 40:5	<b>case-by-case</b> 20:10 23:3
<b>bunch</b> 151:23	<b>calls</b> 133:16,18 144:13	<b>cards</b> 27:24 28:11 150:3	<b>cased</b> 114:3
<b>burden</b> 46:7	<b>camera</b> 30:9 31:6,12	<b>careful</b> 135:16	<b>cases</b> 14:15 15:3,18 16:2,14,24 25:11,15,25 64:5 80:25 148:19
<b>burdening</b> 128:4	<b>Campos</b> 55:12,13 56:20 62:5 74:1	<b>Carl</b> 120:23	<b>cashier</b> 25:21
<b>burdens</b> 7:22	<b>camps</b> 112:25	<b>Carlo</b> 150:23	<b>cashier's</b> 27:1
<b>burdensome</b> 8:6	<b>cancel</b> 10:1,17 114:22	<b>carriers</b> 73:9	<b>casinos</b> 105:24
<b>Burdines</b> 60:4	<b>canceled</b> 8:21,22 10:5, 7,8,11	<b>carries</b> 9:13 11:6 13:4 17:25 22:8 25:2 32:2 34:18 37:5 39:18 48:25 49:25 51:5 53:8 55:10 70:23 91:13 94:7 104:20	<b>catch</b> 125:8
<b>burglary</b> 37:12,15 49:8	<b>cancelled</b> 70:4 72:10	<b>carry</b> 26:12 74:8	
<b>business</b> 5:5 127:11,12 137:21 138:3 154:23	<b>cannabinoids</b> 50:11	<b>case</b> 8:18 9:21 11:18,22,24 12:1 13:21 14:4 18:6,7 19:3 22:12 23:5,6,24 25:12,14 26:15,16 27:8	
<b>businesses</b> 151:16	<b>cans</b> 98:19		
<b>button</b> 27:11 133:7	<b>capias</b> 60:10 61:7,9		
<hr/> <b>C</b> <hr/>	<b>capital</b> 151:20		
<b>California</b> 105:12,23	<b>capricious</b> 141:9		
<b>call</b> 95:6,11 134:19 144:24	<b>card</b> 5:12 26:18 28:9,14,19		
<b>called</b> 42:25 100:23 126:11			
<b>Callejas</b> 73:21 75:15			

<b>catching</b> 6:5	<b>changing</b> 139:16	<b>Citizens</b> 152:17,18	<b>close</b> 8:15 11:12
<b>caution</b> 108:2 115:18	<b>channel</b> 6:5 137:14	<b>City</b> 112:14,20 113:4 125:2, 14 155:19	<b>closer</b> 147:20
<b>certified</b> 18:13	<b>Chapter</b> 14:18 80:15 93:7 110:10, 22 111:24,25	<b>clarification</b> 78:13 84:8	<b>closing</b> 134:14
<b>cetera</b> 19:20 58:19	<b>character</b> 36:18 38:16 41:18,21 42:1 56:17 57:21 68:13	<b>clarifies</b> 44:23	<b>Club</b> 12:3,13
<b>chain</b> 124:10	<b>charge</b> 57:23 150:19	<b>clarify</b> 47:18 142:16	<b>Code</b> 14:9
<b>chair</b> 8:13 9:17 11:16 13:5,12 27:15 28:4 58:9 66:19 68:22 73:23 75:1 84:8 86:15 100:3 117:4 118:16 121:8 129:6, 14 131:20 139:9	<b>charged</b> 51:17	<b>clarifying</b> 84:9	<b>colleagues</b> 140:19 148:13
<b>Chair's</b> 66:22 83:20	<b>charity</b> 10:3,5,13,14	<b>clarity</b> 140:8	<b>collect</b> 133:18
<b>challenge</b> 43:13 151:19	<b>cheating</b> 92:14	<b>class</b> 33:11,14,24 34:1 95:14, 19,22,25 96:6	<b>collected</b> 103:4
<b>challenges</b> 78:5	<b>check</b> 25:22 27:1	<b>classification</b> 100:10,20	<b>collection</b> 103:3
<b>chance</b> 75:10 78:19, 21 79:13 151:17 152:15	<b>checks</b> 139:24	<b>classifications</b> 102:25	<b>column</b> 21:14
<b>change</b> 20:10 99:9 101:5 103:6 116:15 117:12 118:9	<b>chief</b> 86:25 87:1	<b>clear</b> 20:25 59:4 65:8,14 66:15,19,20, 24 74:5 138:22 151:21 154:19	<b>combination</b> 53:12
<b>changed</b> 110:17 154:12	<b>child</b> 50:12 54:11	<b>clearer</b> 69:2	<b>combine</b> 7:1
	<b>chips</b> 24:20	<b>clerk</b> 61:25	<b>combo</b> 71:2
	<b>circulated</b> 100:13	<b>clients</b> 61:20 109:9, 12 112:15 154:24	<b>comfortable</b> 90:20 98:11 122:5 146:11 148:7
	<b>cite</b> 144:23		<b>comment</b> 5:11 94:11,12 105:7 107:20 116:5 125:11 150:10
	<b>citizen</b> 57:15		<b>comments</b> 74:25 75:2 87:16 94:8

108:10 115:24 116:2 118:6 143:17 153:22	<b>Commission's</b> 82:2 98:15 138:20	126:21	<b>completed</b> 49:5 50:6 51:10 55:15 67:23,25 69:23 123:15
<b>commission</b> 5:6 7:6 13:18 15:15,18 16:20 18:18, 23 20:22 21:7 25:23 27:6 30:17 32:14 35:21,23 39:7 43:2 55:24 56:8 60:12 62:13,23 63:16 67:8 77:1 79:7,18, 23 80:22 81:12 82:18, 19,25 83:13 85:13 87:9 89:16,20,24 90:6,9,13 93:8 98:1 106:1 107:1 108:16 109:15,18,20 110:2,8,21 115:7,18 116:11,14,22 118:3,20 125:11,24 127:3 129:8, 16 131:16 132:21 134:22 137:12 138:10,14,25 139:22 140:5, 23 141:12,13, 15 142:3 145:22 149:18 150:19 153:16,24	<b>commissioner</b> 20:14 43:21 63:12 68:6 83:12 84:20 136:25 139:8 148:14 149:6 <b>Commissioner's</b> 63:19 <b>commissioners</b> 5:3 6:8,25 10:25 12:24 16:9 17:16 18:4 19:12 21:8,25 22:24 24:4 26:7 29:2 31:3 32:17 33:19 34:11 36:23 41:3 42:5 44:1 48:9 50:24 52:13 56:3 58:6 65:4 69:18 70:16 73:2,10 74:15 80:12 82:14 91:14 93:14 100:12 104:9,21 108:11 124:15 127:21 131:22 138:12 139:1 149:22 150:1 156:15 <b>Commissioning</b> 69:5 <b>commissions</b> 38:20 43:3 75:9 104:6	<b>commitment</b> 16:19 <b>committed</b> 39:10 41:15 57:1 <b>committee</b> 102:15,17 <b>committees</b> 102:14 <b>committing</b> 38:25 <b>communicate</b> 19:11 144:11 <b>communication</b> 35:15 103:20 <b>communications</b> 51:18 <b>communities</b> 154:20 155:17 <b>compared</b> 92:4 153:18 <b>competitive</b> 21:12 <b>complaint</b> 14:5 17:4,6 18:8,10 19:2 23:8 44:16 91:21 92:22 93:3 133:3,7 <b>complaints</b> 13:24 133:25 141:5 143:22 <b>complete</b> 30:8,24 31:1 50:5 53:13 111:23,25 123:7	<b>concern</b> 87:1 <b>concerned</b> 111:11 <b>concluded</b>

156:18	<b>congratulate</b>	<b>consult</b>	<b>convicted</b>
<b>condition</b>	150:18	108:2	50:7,12 72:8
45:11,13 62:1	<b>congratulations</b>	<b>contact</b>	<b>conviction</b>
67:6,18	152:23	15:9 68:11	53:15,23
<b>conditional</b>	<b>consent</b>	<b>content</b>	55:17 58:17
40:2,3,9,14,	20:20 22:10	126:24	60:3 71:5
21,22 41:19,	23:12,23	<b>context</b>	<b>convictions</b>
22 44:9 65:5,	24:1,6 25:19,	115:4 132:9	35:8,25
20,21 66:9,	24 26:24 27:8	<b>contingent</b>	37:10,11,14
12,21,25	29:24 30:11,	86:14	38:1,2,5
67:13 69:10	18 32:10,15	<b>continuation</b>	39:23 40:2,17
148:20	33:8,17 34:13	151:2	49:8,9 50:14,
<b>conditionally</b>	44:17 127:2	<b>continue</b>	18,23 51:12
64:4	<b>considerable</b>	89:1 112:23	52:3,5,11
<b>conditioning</b>	112:16	120:17 121:9	70:2,10,15
123:22	<b>consideration</b>	122:7,25	72:23 73:1
<b>conditions</b>	57:6,20 77:17	127:25 131:13	<b>copy</b>
44:6,11,12,25	84:16 86:23	<b>continues</b>	67:19 152:8
64:10,12	<b>considerations</b>	113:10	<b>corner</b>
65:7,9 67:2,	66:4	<b>contract</b>	155:6
13 69:9 119:1	<b>consistency</b>	121:19	<b>corporation</b>
<b>conduct</b>	153:14	<b>contractors</b>	19:8
70:6 111:13	<b>consistent</b>	122:13 124:1	<b>correct</b>
113:1	19:17 20:7,12	<b>contracts</b>	9:4,5 16:8
<b>conducted</b>	148:25	104:1 120:21	17:13 31:12
37:23 49:11	<b>consistently</b>	<b>Control</b>	36:5,21 41:4
50:15 52:2	110:15	5:5 15:17	42:2,4 43:19,
53:19,21	<b>consolidate</b>	55:24	22,25 44:7,15
55:20	9:14 11:7	<b>controlled</b>	45:3,12,16
<b>confidence</b>	<b>constitute</b>	51:16	46:9,16,24
21:1	92:25	<b>convenience</b>	47:6 59:9
<b>confined</b>	<b>constitutional</b>	130:3	64:19 71:18,
116:24	107:14	<b>conversations</b>	24 82:7,25
<b>confirmation</b>	<b>construction</b>	48:2 116:7	84:9,25 85:6
18:14 111:15	110:19 121:20	<b>conveyance</b>	88:2 89:4
<b>confronted</b>	122:11,18,22,	37:13	96:12 107:10
59:10	23 123:5,24	<b>conveying</b>	116:19
<b>confusion</b>	124:11	154:15	<b>correcting</b>
155:9			98:6



<b>dating</b> 155:4	<b>debate</b> 9:7 12:25 17:17 22:1 26:8 29:3 31:21 32:18 34:11 36:23 39:3 48:19 49:19,24 50:25 52:14 53:1 55:4 56:6 70:17 73:3 74:22 91:8 94:2	47:8,10 48:5	<b>deliver</b> 51:16
<b>day</b> 10:6 106:21 129:3 144:15 150:2 152:11	<b>decades</b> 154:24	<b>declination</b> 56:11	<b>delivering</b> 51:15 52:23
<b>days</b> 10:4,14 14:6, 8,13 18:15 40:7 46:18 64:14 65:1 86:22 89:15, 23 93:5,22 114:24 132:20	<b>deceit</b> 93:1	<b>declined</b> 37:24 49:13 50:17 52:4 53:22 55:21 70:9 72:22	<b>delivery</b> 18:14
<b>DBPR</b> 62:7 79:7 120:10	<b>December</b> 10:8 113:20 114:13	<b>declining</b> 113:10	<b>delve</b> 68:9
<b>DCA</b> 93:22	<b>decide</b> 36:17 112:6,9	<b>Deemer</b> 82:6	<b>denial</b> 35:18 62:19
<b>de-processes</b> 139:23	<b>deciding</b> 85:21	<b>deep</b> 79:13	<b>denials</b> 34:21 62:17 127:1
<b>dead</b> 15:13,15	<b>decision</b> 14:11 59:25 90:21 91:6 109:20 111:21 115:3 116:7	<b>deeper</b> 109:4	<b>denied</b> 110:9 115:11
<b>deadline</b> 68:3 128:20	<b>decisions</b> 115:1,15,19 138:9 139:4 143:9	<b>default</b> 13:7	<b>deny</b> 35:22,25 38:4,17 40:20,24 42:19 43:9, 12,16 44:13, 21 47:8,25 48:17 49:17 50:20,22 52:8 54:3,16 55:25 58:1 62:19 70:13 71:14 72:25 74:9,21 80:23,24 81:20 111:6
<b>deal</b> 88:24 134:21	<b>deck</b> 27:23	<b>defender</b> 61:21	
<b>dealers</b> 91:24	<b>declaratory</b> 110:25 111:1, 8	<b>defer</b> 65:16 88:9	
<b>dealing</b> 37:17 102:24 104:6	<b>declare</b>	<b>definite</b> 55:1	
<b>deals</b> 65:17 102:15 145:5		<b>degree</b> 37:19,21 49:9	
<b>dealt</b> 97:9 144:5		<b>Delaware</b> 42:13	
<b>death</b> 146:3		<b>delayed</b> 71:22	
		<b>delegate</b> 65:10	<b>denying</b> 43:12
		<b>Delgado</b> 13:21	<b>department</b> 151:7
		<b>deliberate</b> 62:13	<b>depending</b> 83:24 84:4 85:1 95:2
		<b>delineated</b> 139:20	<b>depth</b> 7:13 107:7

<b>describe</b> 21:3	<b>directed</b> 41:8 117:9	81:13	134:12
<b>desire</b> 48:11	<b>direction</b> 56:7 107:10, 16	<b>discuss</b> 20:20 22:20 63:20 118:2 131:15	<b>division</b> 15:6 18:17,22 23:15,21 25:23 27:2 30:16 32:13 33:15 35:13, 23 39:25 40:8,18 49:15 50:19 52:6 54:2 55:16 70:12 71:13 93:10 95:20 100:8 111:14
<b>desires</b> 5:16	<b>directive</b> 64:1	<b>discussed</b> 64:7	
<b>destroying</b> 50:9	<b>directly</b> 114:2	<b>discussing</b> 130:18	
<b>detail</b> 108:9	<b>director</b> 36:12 37:24 49:13 50:16, 17 52:4 53:21 55:21 70:8,9 71:9,10 72:21 94:15 105:1 120:6,24 134:10 142:9 144:4 154:17	<b>discussion</b> 6:22 9:7 11:1 12:25 13:7 15:23 22:1,9 34:20 39:3 48:19 49:23, 24 56:6 63:22 69:19 91:15 94:2 104:10, 12 118:11 131:13 139:6	
<b>details</b> 59:24 75:14 77:13 106:25 126:7 129:24 130:6	<b>director's</b> 56:11 118:14	<b>discussions</b> 15:22 19:5 134:17,19	<b>divisions</b> 55:23 122:9
<b>detected</b> 95:18	<b>directs</b> 135:23	<b>dishonest</b> 59:8	<b>DMS</b> 121:19 122:18 123:14
<b>determination</b> 23:2 36:13 84:14	<b>disagree</b> 56:10 63:10	<b>display</b> 143:24	<b>DOAH</b> 111:2
<b>determined</b> 33:3	<b>disciplinary</b> 14:25 19:24, 25	<b>disqualify</b> 53:24 56:23	<b>document</b> 100:12 130:25 143:6
<b>dictates</b> 95:4	<b>discipline</b> 42:23 43:2 93:9	<b>disqualifying</b> 37:11,25 38:1,2 40:13 41:16 45:22 47:15 49:7,13 51:13 52:10 56:2	<b>documentary</b> 112:18
<b>die</b> 156:14	<b>disclaimers</b> 145:12,13	<b>distinction</b> 55:1 59:3,5	<b>documents</b> 59:13
<b>died</b> 67:21	<b>disclose</b> 58:13 60:23	<b>distributing</b>	<b>dogs</b> 113:25
<b>differently</b> 146:25	<b>discretion</b> 36:10,11,17 38:20 41:14 54:15 80:24		<b>dot</b> 133:6
<b>dig</b> 131:9			<b>dotted</b> 65:11,23
<b>Dillmore</b> 88:10 134:10			<b>Downs</b> 8:19 25:17
<b>direct</b> 66:23 67:12 145:3			<b>DPR</b> 124:23

<b>drafting</b> 116:24	<b>drugs</b> 95:1,8,12 96:10 102:4, 16	<b>easiest</b> 133:21	<b>Emily</b> 18:4 119:14
<b>Drago</b> 9:9 13:2 19:13 20:6,9, 15,17 22:5 26:9 29:4,15 31:4,9,19,23 32:20 37:3 44:3,22 51:2 59:12 61:6,11 62:3 73:5 87:22 88:14, 23 89:8,11 90:17 94:4 104:16 123:4, 9,11 139:8 146:2	<b>drying</b> 58:4	<b>easily</b> 114:8 132:24	<b>emphasize</b> 124:8
<b>drained</b> 6:17	<b>due</b> 61:19 128:17 129:18	<b>easy</b> 27:11 75:13 144:1 147:11	<b>employee</b> 32:8 75:20 79:17 83:12 90:7
<b>drive</b> 57:9	<b>DUI</b> 40:11	<b>echo</b> 140:18	<b>employees</b> 80:18 83:4 90:14
<b>driver's</b> 60:12 64:16	<b>Dukehart</b> 132:15	<b>effect</b> 64:8 88:1 98:22 99:15, 17,18 101:2, 14	<b>employment</b> 86:13,21 88:19 92:20
<b>driving</b> 57:10,11,18 70:4 72:9	<b>duly</b> 92:15	<b>effective</b> 100:17	<b>enabling</b> 117:8
<b>drop</b> 17:5	<b>duties</b> 11:13 119:20	<b>efficiently</b> 136:19	<b>encouragement</b> 153:1
<b>drop-box</b> 32:7	<b>Duval</b> 155:18	<b>elapsed</b> 43:13	<b>end</b> 106:23 133:5, 23 139:2 152:11
<b>dropped</b> 45:22	<hr/> <b>E</b> <hr/>	<b>elected</b> 93:8	<b>ended</b> 43:22
<b>drug</b> 33:11,12,14 40:11 95:3 101:2	<b>e-mail</b> 145:15	<b>election</b> 93:5	<b>ends</b> 86:20
<b>drug-testing</b> 99:16 102:9	<b>e-mails</b> 133:18	<b>electric</b> 123:21	<b>energy</b> 16:13
	<b>earlier</b> 66:8 119:4 132:9 139:9 144:12 145:10 150:13 153:23	<b>electronic</b> 67:19	<b>enforced</b> 153:14
	<b>early</b> 76:5 125:4 127:5	<b>elects</b> 68:2	<b>enforcement</b> 81:10 120:25 124:16 142:5, 10 154:8
	<b>earth</b> 150:21	<b>eligible</b> 12:18 41:11, 13	<b>enforcing</b> 153:17
	<b>easier</b> 124:22 140:9	<b>eliminate</b> 7:11	<b>engage</b> 111:19
		<b>else's</b> 153:5	

<b>engaging</b> 92:24	<b>entries</b> 30:8,24	133:12	<b>exceptions</b> 12:15
<b>engineers</b> 123:19	<b>enumerated</b> 54:17 56:14	<b>establish</b> 121:25	<b>excessive</b> 140:1 148:25
<b>enhance</b> 112:16,23	58:21	<b>Estate</b> 30:5	<b>excessively</b> 92:4
<b>ensure</b> 21:18 27:23 32:6 139:25	<b>enumeration</b> 73:11	<b>ethic's</b> 83:8 84:20	<b>exclusion</b> 92:21
<b>ensuring</b> 19:16	<b>envelope</b> 26:18,20,21	<b>Ethics</b> 77:2 81:12 83:1,14 85:13 89:21	<b>executive</b> 36:12 37:24 49:12 50:16, 17 52:3 53:21 55:21 56:10 70:8 71:9,10 72:21 94:15 105:1 118:14 141:16 144:3
<b>enter</b> 17:25 18:23 23:21 27:6 30:17 33:16 93:8 97:20 102:17 104:1 107:18,25	<b>envision</b> 104:2 129:25 134:25	<b>event</b> 41:16 113:7	<b>exercise</b> 36:10,16 81:13
<b>entered</b> 17:2 93:21	<b>equal</b> 151:18 152:15	<b>events</b> 38:16 112:14 113:2,9	<b>exercising</b> 41:14
<b>entering</b> 110:16	<b>equitable</b> 139:11,25 141:8 146:12 148:10	<b>everybody's</b> 130:3	<b>exhaustive</b> 140:14
<b>entertain</b> 26:8 31:21 32:19 53:1 55:3 70:17 73:3 91:8 94:2 108:10 150:9	<b>error</b> 36:5 41:5 98:6	<b>everyone's</b> 129:7 130:22	<b>exhibits</b> 111:3
<b>Entertainment</b> 26:15 32:4	<b>escalated</b> 46:5	<b>evidence</b> 50:10 63:7	<b>exist</b> 57:16
<b>entire</b> 105:4 121:18	<b>ESP</b> 113:5	<b>evolving</b> 118:21	<b>existed</b> 125:12
<b>entities</b> 9:4 65:19	<b>Esplanade</b> 121:16	<b>examined</b> 103:5	<b>existing</b> 67:16
<b>entitled</b> 88:8	<b>ESPN</b> 114:6	<b>examples</b> 69:8 141:4,10	<b>exists</b> 27:12,21
<b>entity</b> 103:15 113:10	<b>essentially</b> 8:1,22 12:17 45:2 92:8 107:15 120:5 121:10,22 122:19 123:16 124:21 126:10,22	<b>exceed</b> 98:12	<b>expect</b> 81:5 99:23 134:22
		<b>exceeding</b> 98:4	<b>expectations</b>
		<b>exceeds</b> 127:22	
		<b>Excellent</b> 109:5	
		<b>exception</b> 107:24	

64:6 122:15	<b>extortion</b>	<b>fails</b>	131:10 134:15
<b>expected</b>	58:19	14:11	<b>feel</b>
65:12 100:21	<b>extra</b>	<b>failure</b>	90:20 96:25
<b>expecting</b>	78:22	35:17 60:11	129:14 140:3
110:4	<b>extremely</b>	<b>fair</b>	146:6,10
<b>expects</b>	108:2	146:11	148:6,7
145:8		<b>fall</b>	<b>feels</b>
<b>expense</b>	<b>F</b>	84:19 154:6	129:14
144:11	<b>facially</b>	<b>false</b>	<b>fellow</b>
<b>expensive</b>	88:7	37:18	22:24
76:10	<b>facilities</b>	<b>familiar</b>	<b>felonies</b>
<b>experience</b>	114:2	130:9	49:17 51:19,
109:13 112:1	<b>facility</b>	<b>familiarity</b>	20
<b>expert</b>	51:19 76:14,	130:22	<b>felony</b>
79:12	15 86:5,12	<b>family-owned</b>	35:8 36:7
<b>expiration</b>	88:6,20 94:24	154:22	37:10,25 41:6
89:14	112:18	<b>FAQ</b>	49:7 50:12,23
<b>expired</b>	<b>facsimile</b>	135:22	51:12 52:11
14:20 60:16	51:18	<b>FAQS</b>	58:18 64:15
<b>expires</b>	<b>fact</b>	134:20 135:11	70:2,9,14
89:6	44:5 69:6	137:4 145:11	72:23
<b>explain</b>	111:5,16,17	<b>fashion</b>	<b>felt</b>
147:22	<b>factors</b>	115:16	96:20
<b>explained</b>	20:10	<b>father</b>	<b>FGCC</b>
116:12	<b>facts</b>	75:22	13:20 18:5
146:19,20	19:3 24:12	<b>February</b>	23:5 25:11,
<b>explainer</b>	25:7 151:21	10:10,11	12,13 26:14
143:4	153:23	<b>federal</b>	30:5 32:4,25
<b>explaining</b>	<b>factual</b>	99:9,22	91:18 94:20
143:11	12:16 19:1	100:19,24	<b>fgcc.fl.gov</b>
<b>explanation</b>	<b>factually</b>	101:5,25	133:6
135:25 136:7	25:5	102:12 103:23	<b>field</b>
<b>express</b>	<b>failed</b>	144:6	143:24 151:18
148:6	18:15 26:17	<b>federally</b>	<b>figure</b>
<b>extent</b>	30:7,23 31:7,	105:21	28:24 124:17
83:21,22	13 32:6	<b>feedback</b>	136:10 137:2
144:14	<b>failing</b>	126:7 127:8	142:21
	25:16 67:5	129:8,15	<b>file</b>
			14:7,11

133:7,8	32:11 59:21	99:10,14	<b>forced</b>
<b>filed</b>	60:11 61:2	102:6,9	151:1
14:6 15:9	95:22 96:22	105:11,16	<b>forgery</b>
44:16 91:21	97:1	107:4,13,19,	58:18
93:5	<b>fines</b>	23 108:4	<b>forgetting</b>
<b>fill</b>	19:14 21:4	109:12 115:8	102:2 104:11
5:12 31:9,14,	60:9 96:1,5	132:10 134:7,	<b>form</b>
17,18	139:12,25	25 137:22	15:10 31:17
<b>filling</b>	146:8 148:8,	151:7 152:17	44:15 76:19
78:5 120:4,	23	153:8 154:24	108:9 141:16
14,21	<b>firm</b>	<b>Florida's</b>	<b>formal</b>
<b>filtering</b>	100:17	42:20 104:5	14:18 18:25
133:24 134:12	<b>fiscal</b>	<b>flow</b>	19:7 21:10
136:20	113:18 124:7	140:25	89:19 93:7
<b>final</b>	<b>fish</b>	<b>Flunixin</b>	<b>formalized</b>
13:8 17:25	6:6	95:16	102:23
62:18,20 65:7	<b>fit</b>	<b>focus</b>	<b>format</b>
67:12 91:15	93:9	41:12 141:22	150:7
93:21,23	<b>fixed</b>	<b>focusing</b>	<b>forms</b>
94:19 95:23	47:11	141:24	31:10
96:3,18,19,	<b>fixing</b>	<b>folks</b>	<b>formula</b>
20,23 97:9,	97:11	77:9 90:8,24	19:15
19,21,25	<b>flesh</b>	122:3 128:4	<b>fortitude</b>
104:13 111:2	21:16	146:12 147:9	54:20
<b>finalize</b>	<b>flip</b>	<b>follow</b>	<b>forward</b>
123:14	122:21	33:13 46:12	7:6 42:1
<b>finalized</b>	<b>flipping</b>	87:3 116:22	48:12 62:25
121:14	110:3	152:12,13	79:24 81:20
<b>financial</b>	<b>floor</b>	<b>follow-up</b>	85:12 109:14,
14:1	121:18 123:18	33:25 101:10	16 110:9
<b>find</b>	<b>Flores</b>	117:5 125:2	114:12 126:8
14:16 127:21	25:13	<b>Fong</b>	138:3 156:6,8
<b>finding</b>	<b>Florida</b>	49:2,12	<b>found</b>
18:23 19:3	5:5 6:5 14:8	<b>food</b>	25:16 33:23
<b>fine</b>	15:17 23:18	145:18	35:7 49:6
18:20,21 20:5	33:11 51:21	<b>foolish</b>	50:7 54:10
23:16,20	53:17 54:1	6:14	92:7 120:16
25:20 26:25	55:18 76:9	<b>force</b>	<b>frame</b>
27:5 30:12	77:12 88:19	116:14	63:2

<b>framework</b>	156:9	150:20	<b>Georgia</b>
111:4	<b>futures</b>	<b>Garcia</b>	49:10
<b>France</b>	131:8	23:5 24:7	<b>Gerstel</b>
114:4		<b>gather</b>	25:14
<b>frankly</b>	<hr/> <b>G</b> <hr/>	85:2	<b>give</b>
63:18 107:5	<b>Gagne</b>	<b>gathering</b>	11:9 36:3
110:2	91:19,22	144:18	47:16 53:20
<b>fraud</b>	92:8,16 93:4	<b>gave</b>	60:17 66:23
92:25	<b>Gagne's</b>	40:2 59:17	68:12 117:1
<b>Freddie</b>	92:3	<b>Gazale</b>	132:3 135:12
39:20	<b>gained</b>	105:6,10,11	137:1,5
<b>free</b>	76:12	150:12,16,17	151:18,20
140:3	<b>gaining</b>	<b>general</b>	<b>giving</b>
<b>frequently</b>	77:4	5:4 7:17	48:14 134:3
134:20	<b>gains</b>	11:14 13:13	<b>goal</b>
<b>friend</b>	111:12	36:2 41:1	21:10,21
75:16	<b>gamble</b>	46:1 54:6	124:5 142:1
<b>friends</b>	150:22	85:11 87:20	<b>goals</b>
86:7 105:17	<b>gambling</b>	107:9 124:18	126:15 127:6
<b>front</b>	27:14 57:24	127:10,12	<b>good</b>
101:4 106:23	106:5,6	128:3 130:4	5:2 13:11,17
132:13 133:5	107:22 150:25	135:3 137:21	18:3 36:18
<b>FTC</b>	151:11,13	140:19 149:18	38:15 41:18,
102:24	<b>game</b>	<b>generalized</b>	25 56:16
<b>full</b>	15:17 57:12	143:6	57:21 68:13,
5:7 21:1,3	93:1 151:23	<b>generally</b>	22 91:2 108:5
77:23 122:16	152:1,16	21:4 76:20	119:15 121:7,
<b>fully</b>	153:19	115:14 143:15	14 125:20
85:10 100:1	<b>games</b>	<b>generating</b>	127:16
139:17 141:19	54:22 69:4	148:17	132:12,23
142:3	155:6	<b>generation</b>	133:1,2 134:9
<b>function</b>	<b>gaming</b>	154:25	141:4,9
57:23	5:5 16:19	<b>gentleman</b>	146:12,17
<b>future</b>	55:23 79:7	76:5	149:17,25
7:21 8:10	105:13 106:1	<b>gentleman's</b>	152:20
40:6 43:17	107:3 108:3,4	132:9	<b>good-faith</b>
45:24 47:9,20	109:11 125:11	<b>geographic</b>	21:21
78:10 98:14	132:10,20	138:1	<b>Gotcha</b>
	134:23 142:10		29:1

<b>government</b> 144:6	<b>group</b> 124:16 154:2, 19 155:25	119:14 120:25 135:12 144:2 151:3,4,15,18 152:2,8	15
<b>governs</b> 101:12	<b>groups</b> 154:23		<b>happy</b> 90:1,2 108:18 155:14
<b>gracious</b> 105:4	<b>grow</b> 140:20	<hr/> <b>H</b> <hr/>	<b>hard</b> 57:9 63:6
<b>grams</b> 50:8	<b>growling</b> 153:5	<b>habitual</b> 72:11	<b>hard-lining</b> 66:2
<b>grandfather</b> 83:10	<b>grown</b> 111:11	<b>hairs</b> 80:21	<b>hat</b> 117:21
<b>grant</b> 35:22 64:10	<b>grows</b> 134:24 153:3	<b>half</b> 99:15,16 105:13	<b>head</b> 128:19 147:10 149:11
<b>granted</b> 35:21 36:15 40:15 44:9	<b>guess</b> 19:21 20:7 42:17 149:3	<b>hammer</b> 130:5	<b>heading</b> 145:23
<b>granting</b> 48:14 64:11	<b>guest</b> 5:18	<b>hammered</b> 129:25	<b>health</b> 113:2
<b>graphical</b> 143:24	<b>guidance</b> 20:22 98:15	<b>hand</b> 92:14	<b>hear</b> 84:1 153:18
<b>gray</b> 153:20	<b>guide</b> 116:21	<b>handle</b> 104:4	<b>heard</b> 143:17 148:20 153:22
<b>gray-market</b> 153:19	<b>guidelines</b> 20:4 33:12,13 95:2,22 96:6	<b>handled</b> 101:24 103:23	<b>hearing</b> 14:12,13,18 18:25 93:7,24 101:15 147:6
<b>great</b> 48:18 63:12 99:1 101:22 126:6 152:23	<b>guidepost</b> 116:21	<b>handling</b> 22:15 35:1	<b>heavy</b> 130:12
<b>greatly</b> 101:24	<b>guiding</b> 116:13	<b>hands</b> 144:17	<b>held</b> 103:23
<b>Greyhound</b> 11:21,23 12:6,10,12,14	<b>guilty</b> 53:18 54:11	<b>happen</b> 28:19 29:18 86:19 102:4 104:8 112:3 114:19 141:11 149:20	<b>helpful</b> 108:11 127:6 136:10,12 137:12
<b>groom</b> 51:23 52:9	<b>Gulfstream</b> 9:22 11:3 33:3	<b>happened</b> 28:18,25 38:17 61:15	<b>helping</b> 119:22 120:18,20
<b>ground</b> 67:8 121:2	<b>guy</b> 78:19 80:5	<b>happening</b> 19:6 100:14,	<b>Herold</b>
<b>grounds</b> 40:23	<b>guys</b> 48:4 118:4		

120:23	<b>holders</b>	<b>huge</b>	<b>immediately</b>
<b>high</b>	12:5 110:11,	28:19 78:20	64:8 121:1,22
92:4 106:24	13 111:11,18	144:19	126:25 133:4
107:8	115:8	<b>Hughs</b>	139:16
<b>highly</b>	<b>Holdings</b>	39:20,22 40:3	<b>impact</b>
107:2 108:1	30:6	66:16,20 67:2	7:17 109:21
109:22	<b>holds</b>	<b>Hughs'</b>	<b>impacted</b>
<b>hire</b>	62:9	67:7	99:21
122:7 151:23	<b>honest</b>	<b>human</b>	<b>implemented</b>
<b>hired</b>	57:24	144:17 151:8,	101:11
114:1 119:25	<b>honored</b>	12	<b>implementing</b>
120:2,5,17,19	5:24	<b>Humanity</b>	103:13
141:19 143:20	<b>hope</b>	150:21	<b>implication</b>
<b>hires</b>	6:5 21:7,9	<b>hungry</b>	145:4
78:10	118:10,20	147:7 156:8	<b>implicitly</b>
<b>hiring</b>	119:10 145:1		111:22
90:24 119:24	149:7	<hr/> <b>I</b> <hr/>	<b>important</b>
120:16 123:2	<b>hoping</b>	<b>I's</b>	39:7 85:19
<b>HISA</b>	121:9	65:23	90:22,23
99:8 100:25	<b>horse</b>	<b>ID</b>	113:24 136:23
101:18 102:13	33:2 51:22	25:16	140:5 141:25
<b>HISA's</b>	94:23,24	<b>idea</b>	142:1 147:13
100:16	99:12,23,24	76:4,18	<b>impose</b>
<b>historical</b>	100:1 101:13,	127:10 135:11	48:1 65:9
146:5 147:5,8	19 102:5	154:3,4	<b>imposed</b>
<b>history</b>	137:20 146:3	<b>ideas</b>	64:12 98:24
19:18,24,25	<b>horse's</b>	118:3 121:2	<b>imposing</b>
94:22 146:7	95:9	152:9	95:21
147:23 148:1,	<b>horses</b>	<b>identified</b>	<b>impressed</b>
10	94:25 114:1	102:21 125:4	92:10
<b>hitting</b>	<b>hour</b>	140:10	<b>improper</b>
121:2 141:25	6:7 153:3	<b>identifying</b>	24:24
<b>hold</b>	<b>hours</b>	126:1	<b>improvements</b>
80:19 149:12	156:3	<b>illegal</b>	121:7
<b>holder</b>	<b>housekeeping</b>	105:16 134:4	<b>inability</b>
8:20 9:23	5:9	153:10,20	47:17
33:21 34:6	<b>HR</b>	<b>imagine</b>	<b>inadequate</b>
109:24 115:6	120:16	135:1	140:1

<b>incident</b> 31:15 57:4	69:22 72:3,15 90:23 94:23 115:5 138:18	68:11	<b>instructions</b> 58:22 66:24
<b>incidents</b> 91:22	<b>individual's</b> 63:3	<b>informally</b> 15:12	<b>insurance</b> 113:2
<b>inclination</b> 54:20	<b>individually</b> 22:21	<b>information</b> 26:20 31:1,15 52:1,17 59:11,18 60:24 61:5 63:11,15 71:8 77:5 82:16 90:20 91:3 131:1 133:10, 18 140:25 144:9 148:16	<b>integrity</b> 21:3 27:13 54:23 99:13, 25
<b>inclined</b> 57:25 67:11	<b>individuals</b> 16:25 46:5 62:16 63:13	<b>informational</b> 135:2	<b>intend</b> 118:2
<b>include</b> 48:8	<b>indulge</b> 42:12	<b>informed</b> 7:24 69:5 142:3	<b>intended</b> 78:2
<b>included</b> 148:16	<b>indulgence</b> 41:4 82:2	<b>infrastructure</b> 120:8 121:25	<b>intent</b> 35:24 38:4 40:19 42:19 43:11 49:16 50:21 51:15 52:8 54:3 55:25 62:19 70:3,13 71:14 72:9,25 74:9, 16 76:16 81:20 83:10 90:11 101:17, 25 111:17
<b>incorporating</b> 23:22 27:7 33:17	<b>indulging</b> 8:7	<b>inherited</b> 138:21	<b>inter-track</b> 111:9,13
<b>increase</b> 140:25	<b>industries</b> 107:11	<b>initial</b> 10:17 96:19 123:16 129:1	<b>interaction</b> 86:10
<b>increasingly</b> 136:23	<b>industry</b> 7:22 8:5 14:3 77:22 78:17 83:6 105:14 106:14 107:18,21 108:15 109:9, 11,16 111:22, 24 112:2 118:6,8 150:20	<b>initially</b> 96:20 110:4	<b>interest</b> 113:13 138:15
<b>incredible</b> 144:11	<b>ineligibility</b> 48:1	<b>injury</b> 35:10	<b>interested</b> 84:24 106:13 108:15 146:22
<b>incredibly</b> 105:4	<b>ineligible</b> 15:1 36:9 47:6,9,10 48:6	<b>innocence</b> 45:20	<b>interests</b> 97:22
<b>incumbent</b> 56:16	<b>inform</b> 57:13	<b>input</b> 58:6 126:16 127:3	<b>interfacing</b> 132:11
<b>Indian</b> 105:20,24	<b>informal</b> 15:11 20:23	<b>inquiry</b> 7:13	
<b>indications</b> 101:6		<b>instance</b> 95:16 98:1	
<b>indicia</b> 59:7			
<b>individual</b> 23:1 35:6 38:8 49:3,4 50:3 51:8 53:11,14 55:14 58:12 62:5,12 67:10			

<b>interim</b> 83:19	28:10	<b>issues</b> 66:24 114:5,7 115:20 120:19 123:2 124:10 126:1 127:18 130:1 133:25 137:15	<hr/> <b>J</b> <hr/>
<b>internal</b> 130:10	<b>invest</b> 105:17,18 113:11	<b>issuing</b> 81:4,5	<b>Jacksonville</b> 125:15 154:18 155:19
<b>internally</b> 128:21	<b>invested</b> 112:15	<b>item</b> 5:10,14 6:8 8:12,14,15 9:20 11:24 12:1 13:6,20 18:2,5 22:10 23:5 26:14 30:4 32:3,24 34:14,20 37:6,19 39:14,19 49:1 50:1 51:6 53:9 55:11 66:16 69:14, 20 70:24 71:18 73:20, 24 74:13 91:15 94:12, 18,19 126:9 149:23	<b>Jacksonville's</b> 125:3
<b>International</b> 100:12	<b>investigation</b> 16:12 52:19	<b>issued</b> 69:7 71:15 93:17 95:23	<b>Jai-alai</b> 109:21,24 110:11,13 111:7,10,18 112:15,17,20 113:2,6,24 114:3 115:9 146:16
<b>interpretation</b> 85:9 87:2 154:11	<b>investigators</b> 86:8		<b>Jamaica</b> 72:18
<b>interpreted</b> 111:4	<b>invite</b> 56:6		<b>January</b> 10:8,9 99:18 114:14
<b>interpreting</b> 85:21	<b>involved</b> 34:4 103:1 109:23		<b>jar</b> 92:9
<b>intersperse</b> 127:17 128:1	<b>involvement</b> 34:5		<b>job</b> 77:19 81:18 119:15 134:9 147:12 152:5
<b>interview</b> 35:14,18 37:23 52:2 53:19,20 55:20 59:19 60:2,17,21,24 61:1 70:5,6 71:7 72:17,22	<b>involving</b> 9:22 28:8 35:10 53:16 58:18		<b>jobs</b> 122:2
<b>interviewed</b> 92:17	<b>irrelevant</b> 75:3		<b>Joe</b> 134:9
<b>interviews</b> 52:19	<b>issuance</b> 35:24 50:21 52:8 65:6 72:25 81:22	<b>itemized</b> 143:3	<b>Joe's</b> 134:9
<b>intimates</b> 46:2	<b>issue</b> 12:21 42:18 49:17 58:2 64:1 65:21 67:1,11,12 74:9 83:14 87:8 89:7,21, 25 91:9 104:7 119:23 124:19	<b>items</b> 5:15 25:4 60:5 67:10 73:12 119:7 125:19 126:5 127:3 133:13, 24 135:21 143:3	<b>John</b> 75:11 94:20 153:6
<b>introduce</b> 75:10			<b>Jorge</b> 73:21 78:18 80:4 105:11 150:17
<b>introduced</b> 28:12			
<b>intruding</b> 81:16			
<b>inventory</b>			

<b>Joseph</b> 25:13	<b>kind</b> 11:14,19	103:4	43:14 66:10, 19 79:22 83:1
<b>Juan</b> 32:25	12:15 28:20, 22,24 43:16	<b>lack</b> 21:12 41:20, 25 66:9	<b>lawyer</b> 59:4 117:15
<b>judgment</b> 57:21	46:2 61:5	<b>language</b> 48:14 81:2	<b>lawyers</b> 151:23
<b>judgments</b> 111:1	63:20 69:3	110:20 111:12	<b>LBR</b> 128:24,25
<b>jukeboxes</b> 155:3 156:12	82:16 83:9	116:13,19,25	<b>lead</b> 5:22 13:16 134:11
<b>July</b> 6:11 76:4 79:9 120:1 124:6	90:10 91:23	117:2	<b>leader</b> 5:18
<b>jump</b> 22:13 34:23 104:22,23 117:18	92:1 102:1	<b>larceny</b> 53:16,25 54:18 56:1 58:19,20 59:2 71:16	<b>learned</b> 152:22
<b>jumped</b> 149:22	106:4 109:15	<b>large</b> 109:10 113:5 144:25	<b>learning</b> 105:14
<b>jumping</b> 117:24	111:6 118:10	<b>larger</b> 141:10	<b>lease</b> 121:14,17
<b>June</b> 67:25	120:10,21	<b>lasts</b> 88:11	<b>leave</b> 77:23
<b>jurisdictions</b> 43:14	121:1,10,25	<b>late</b> 153:4	<b>leaving</b> 35:9
<b>jury</b> 58:22	122:20 123:17	<b>law</b> 12:19 14:20 16:22 45:2,5, 7,8,10 46:1, 3,19 58:14 78:4 79:16 87:2 88:8 101:1 108:3,4 116:15,16 120:24 124:16 142:4 152:12, 13 153:14 154:7 155:21	<b>legal</b> 68:23 84:3 105:15 107:3 115:13 121:7 124:24 135:8, 15,21 136:18 145:12 154:12
<hr/> <b>K</b> <hr/>	124:13 125:4	<b>law-abiding</b> 57:14	<b>legalize</b> 125:6
<b>keeping</b> 144:9 147:25	126:6,8,19	<b>laws</b>	<b>legally</b> 25:5 136:14 154:5
<b>Kennel</b> 12:3,12	130:9 131:7		<b>legislation</b> 90:4
<b>key</b> 30:21	133:4 134:1, 8,11,12 137:5		<b>legislative</b>
<b>kicking</b> 81:23	140:2,9 144:2		
	148:15,22		
	<b>kinds</b> 16:24 28:17 42:23 83:4 131:1 146:9, 21		
	<b>knew</b> 88:17		
	<b>knowing</b> 130:14		
	<b>knowledge</b> 38:18 76:13 80:1 82:23		
	<b>Kristina</b> 69:16,20 71:20 73:24 74:6		
	<hr/> <b>L</b> <hr/>		
	<b>lab</b>		

118:1 125:22, 23 127:7	21,22 41:11, 19,22 42:12, 15 43:8,9 44:7,10,21 45:1 46:6,13 47:6,9,15,16, 25 49:4 50:4, 22 51:9,22 52:9 53:12 54:16 55:14 57:11,19 58:2 60:13,15 62:17 64:4, 10,11,15,16, 22,25 65:6,21 66:9,22,25 67:1,6,13 68:4 69:23 70:4,13 71:2 72:4,10,25 74:10 80:20, 23,24,25 81:21,22,24 82:7 84:18 86:14 87:12, 22,25 88:1,8, 13,21 89:6,15 93:13 106:8 114:9 115:5 127:1 148:20	65:20 69:2,6, 10 86:17 110:12 <b>licensing</b> 66:12 81:9,15 114:14 124:21 134:5 <b>licensure</b> 38:9 65:5 87:10 94:16 107:25 109:22 <b>lie</b> 74:20 <b>lien</b> 61:19,23 <b>lies</b> 74:20 84:17 <b>life</b> 63:4 <b>lifetime</b> 56:24 57:7 <b>lightly</b> 52:20,21 <b>limit</b> 102:7 <b>limitation</b> 86:9 <b>limited</b> 107:24 138:5 <b>limits</b> 101:23 <b>list</b> 36:7 139:20 140:14 143:3 <b>listed</b> 41:6 <b>lists</b> 145:6	<b>live</b> 112:13 113:6 132:1,7 145:13 154:20 155:17 <b>livelihood</b> 63:4 <b>lives</b> 57:17 <b>living</b> 76:8 <b>Liz</b> 119:19 148:3 <b>LLC</b> 26:15 30:6 32:4 <b>lobbying</b> 76:19 <b>lobbying</b> 78:3 83:2 <b>lobbyist</b> 76:25 <b>location</b> 76:10 <b>locations</b> 153:15,17 154:9 155:5 <b>locked</b> 113:21 <b>Lockwood</b> 108:21 109:1, 5 116:1,6 118:6,13 <b>log</b> 30:9,24 <b>long</b> 16:15 40:10 64:10 66:23
<b>legislatively</b> 78:14			
<b>legislature</b> 41:9 56:12			
<b>legislatures</b> 117:8			
<b>legitimately</b> 24:23			
<b>length</b> 88:10			
<b>lengthy</b> 122:12 124:5			
<b>lessening</b> 7:22 98:23			
<b>letter</b> 76:3 79:19 125:9			
<b>letters</b> 38:8,21 39:6			
<b>letting</b> 150:13			
<b>level</b> 76:21 95:9 96:22 97:1 103:24 106:24 107:8 144:7 152:15			
<b>levels</b> 95:14,15,17, 18,21			
<b>license</b> 10:24 14:21, 24 15:24 16:3,5 34:21 35:6,22 36:19 37:9 38:4 40:2,4,10,14,	<b>licensed</b> 51:24 107:12		
	<b>licensee</b> 14:19 15:10 16:2 19:6 42:8 46:9,11, 25 56:16,19 58:12		
	<b>licenses</b> 7:4 42:8,19, 24 62:6,9		

70:6 75:18 87:23 89:20 108:16,22 136:15	130:23 148:17	53:5,7 54:5 55:7,9 56:3 58:10 59:6 65:3 67:19 68:6,17,19 69:14,17 70:16,20,22 71:17,21 73:2,6,8,18, 25 74:8,12 75:5 80:9 82:9,13 84:7, 13 87:5 89:5, 9 91:7,12 93:14 94:1,6 96:14 97:14 98:16 104:9, 17,19 106:19 108:20 109:3 115:25 118:12 119:3 127:9 129:19,22 131:12,22 136:5 140:15, 18 149:21 150:11,15 152:25 156:11	<b>majority</b> 28:19
<b>Long-range</b> 126:11	<b>lunch</b> 86:7		<b>make</b> 5:11 7:4 14:25 15:11 16:18 21:5,16 22:3 24:5 28:11,22 36:6,8,12,13 39:5,12 41:2, 4,9 45:9 59:3,25 61:24 65:23 66:15 68:4,7,12 70:19 74:5 79:5 84:14 91:6 105:7 106:16 107:20 116:5 117:6, 12 122:1,22 129:6,20 137:6 139:1 140:2,7 145:23 146:10 149:19 154:18
<b>long-term</b> 130:25	<b>M</b>		
<b>longer</b> 62:2 89:25 122:23 125:16	<b>Macao</b> 150:23		
<b>longer-term</b> 142:1,2	<b>machine</b> 53:11 153:7, 21 154:21		
<b>looked</b> 6:20 83:1 90:15 95:18	<b>machines</b> 153:10 155:1		
<b>loses</b> 86:20	<b>MACIVER</b> 5:2,21,25 6:4 9:3,6,10,12, 19 10:25 11:5 12:24 13:3,6, 15 15:8,25 16:6,9 17:16, 21,23 19:4,12 20:18 22:4,6, 17,23 23:25 24:3,9,18,22 25:1,8 26:1, 5,11 27:9 28:2 29:1 30:2,19 31:2, 20,24 32:1, 17,22 33:19 34:10,15,17 35:2 36:1,22 37:2,4 39:2, 15,17 40:25 42:5 43:19 44:1,24 45:4 47:18 48:7, 18,21,24 49:18,21,23 50:24 51:4 52:13,25		
<b>lot</b> 15:4 20:9 61:20 78:16 79:8 87:17 90:4 105:23 107:22 118:22 119:17,24 120:2 124:22 131:5 134:14 138:18 153:16,25 154:6,16			
<b>Lou</b> 5:8,17			
<b>love</b> 84:1 150:21 154:1,4			
<b>lower</b> 54:9			
<b>LRPP</b> 126:12 128:17			
		<b>made</b> 35:16 72:15 75:2 95:21 112:19 125:10 139:4 143:9	<b>makes</b> 21:4 103:20
		<b>Magic</b> 112:14,20 113:4	<b>making</b> 7:16,23 20:11 63:13 64:2 78:14 80:3 87:1 90:21 115:1 121:6 138:22 139:10 141:24 148:9
		<b>magnitude</b> 115:2	<b>malfeasance</b> 27:20
		<b>maintain</b> 140:21,22	<b>malfunction</b> 31:5,11
		<b>major</b> 113:7	<b>man</b>

77:12 128:18	<b>matter</b>	118:19,25	<b>mic</b>
<b>manager</b>	5:9 9:22 55:6	119:8,25	8:14
120:17	76:12 85:19	125:10 126:3,	<b>microphone</b>
<b>manner</b>	89:3,22	10,18,20	108:25
21:2 131:11	104:25 108:7	127:5,11,12,	<b>middle</b>
<b>Manufacturing</b>	154:14	15,22 128:1,	73:11 92:12
51:14	<b>matters</b>	3,4 129:9,24	<b>mind</b>
<b>Mar</b>	14:14 62:14	130:3,4	11:11 20:11
13:18	101:16 136:17	131:15 132:19	63:2 85:17
<b>Marc</b>	138:12,19	139:7 145:8	91:5 104:21
34:25 52:16	144:10 149:24	149:13,15	147:25
91:17 93:16	<b>Matthew</b>	150:5,7	<b>mindful</b>
119:14	18:6	<b>meetings</b>	110:22
<b>March</b>	<b>Max</b>	103:9 118:21	<b>minimum</b>
10:12 23:19	50:2	119:4 126:23	96:22 97:1
<b>marijuana</b>	<b>Mckenzie</b>	127:17 128:10	<b>ministerial</b>
50:8 70:2	70:25 71:18	<b>member</b>	11:12,13
72:8	72:2 74:3	79:23	<b>minor</b>
<b>marked</b>	<b>means</b>	<b>members</b>	110:6
28:16	43:8	9:6 116:2	<b>minute</b>
<b>marking</b>	<b>meant</b>	<b>memo</b>	130:7
28:8	61:21	22:11 34:22	<b>minutes</b>
<b>Marlon</b>	<b>meantime</b>	<b>mention</b>	6:10,15,20
70:24 72:2	124:12	111:16	73:15 78:22,
<b>Marshman</b>	<b>mechanism</b>	<b>mentioned</b>	25 79:1
13:9,11 66:13	81:11 142:22	144:12	<b>mischief</b>
69:12 87:11	<b>med-september</b>	<b>mess</b>	35:11
88:4 89:13	126:4	119:11	<b>misdemeanor</b>
97:8,16 99:11	<b>meet</b>	<b>message</b>	37:11,25 41:7
100:24 116:6	78:19 123:19	154:15	53:15,24
117:13 134:11	<b>meeting</b>	<b>met</b>	54:17 55:25
136:6 146:19	5:5 6:10,11,	17:11	58:18 64:15
<b>Marshman's</b>	13,19,20	<b>methods</b>	71:11,15
100:15	67:20 68:8,	152:10	<b>misdemeanors</b>
<b>materials</b>	20,24 73:19	<b>Mexico</b>	36:8 61:17
6:20 18:7	84:3 89:3	114:4	<b>missing</b>
23:7 118:24	105:4 107:1	<b>Miami</b>	30:25
122:13 129:18	108:16,19	112:22	<b>mission</b>
	109:20 110:3		

<p>126:16 152:4, 24</p> <p><b>misspeak</b> 97:4</p> <p><b>misstating</b> 84:10</p> <p><b>mistake</b> 96:2 116:24</p> <p><b>mistakes</b> 106:17</p> <p><b>mixed</b> 72:13</p> <p><b>mode</b> 110:19</p> <p><b>modern</b> 144:15</p> <p><b>modify</b> 10:3</p> <p><b>modifying</b> 117:11</p> <p><b>moment</b> 42:11 60:18 74:23 142:10</p> <p><b>money</b> 15:4,16 17:1 23:15 25:22 30:13 32:12 61:22,23 92:8,10,11,12 112:16 113:11</p> <p><b>monitoring</b> 144:18</p> <p><b>monitors</b> 103:16</p> <p><b>Monte</b> 150:23</p> <p><b>month</b> 63:20 89:3</p>	<p>109:21 127:22 128:3 130:15, 16 137:1,2,5, 13 149:8</p> <p><b>monthly</b> 127:25</p> <p><b>months</b> 89:22 102:23 122:14 123:6 133:14 145:24</p> <p><b>moral</b> 36:18 38:16 41:18,20,25 56:17 57:21 68:13</p> <p><b>Morales</b> 105:2</p> <p><b>morning</b> 5:2 13:11,14, 18 18:3</p> <p><b>motion</b> 9:8,9 11:6 12:25 13:1,2, 4 17:18,20,24 22:2,3,7 24:5 25:2 26:8,9, 12 30:3 31:22,23 32:19,20,23 34:12,18 36:24 37:5 39:5,13 48:19,25 49:19,25 50:25 51:2,4 53:1,8 55:4, 10 64:2 68:14 70:18,19,23 73:4,5,9 74:8 91:8,13 94:3,</p>	<p>4 104:14,16</p> <p><b>motions</b> 9:13 32:2</p> <p><b>Motyk</b> 37:7,8,10,22</p> <p><b>move</b> 7:6 11:2 29:23 42:1 53:3 55:5 58:1 73:22 84:5 85:12 91:2 109:15 118:13 123:24 126:8</p> <p><b>moved</b> 37:1 48:20 68:16 79:6,15 91:10</p> <p><b>moving</b> 10:15 13:7 21:6 22:9 73:20 74:13 81:19 91:14 121:21 122:2</p> <p><b>multi-page</b> 8:2</p> <p><b>Mungillo</b> 94:20</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>names</b> 72:12</p> <p><b>nation</b> 43:1</p> <p><b>nature</b> 57:5 69:4 98:17 113:3 114:1 127:19 151:8,12</p>	<p><b>nearing</b> 124:6</p> <p><b>necessarily</b> 24:19 38:15 40:12,16 42:24 44:19 46:8 58:20 60:20 62:20, 21 79:16 97:11 98:9 112:4 139:14</p> <p><b>necessity</b> 131:9</p> <p><b>needed</b> 15:23</p> <p><b>negotiations</b> 20:24 21:10</p> <p><b>network</b> 120:10,11 122:1</p> <p><b>news</b> 121:14 132:13,23 133:1,2</p> <p><b>NFL</b> 112:25</p> <p><b>NFTS</b> 151:12</p> <p><b>Nicolas</b> 91:18</p> <p><b>non-steroidal</b> 95:7</p> <p><b>non-substantive</b> 130:11</p> <p><b>normal</b> 28:21 57:2</p> <p><b>notarized</b> 23:13 30:11</p>
---	---	---	--

<b>note</b>	25:12,14	<b>obligations</b>	72:11
15:2	26:15,17,22	15:1,2 16:17,	<b>offense</b>
<b>noteworthy</b>	27:19 29:11,	23 17:11	33:15 45:23
85:4	13,25 30:6	<b>OBS</b>	53:24
<b>notice</b>	32:5 33:1	30:5	<b>offenses</b>
14:10 35:24	34:20 35:4	<b>observation</b>	49:14 54:17
38:4 40:19	37:7 49:2	30:9	<b>offering</b>
42:18 43:11	50:2 53:10	<b>observing</b>	79:4
49:16 50:21	55:12 69:21	31:16	<b>office</b>
52:8 54:3	70:25 73:20	<b>obtain</b>	13:13 121:15,
55:24 60:6	74:13 91:15,	113:2	17 124:18
62:14,19,21	19 94:20	<b>obtained</b>	<b>offices</b>
70:13 71:14	149:23	113:19	124:14
74:9 79:22	<b>numbers</b>	<b>obtuse</b>	<b>officially</b>
81:20 96:18	11:18 13:22	87:6	76:6 79:23
98:20 107:6	132:4	<b>obvious</b>	<b>offline</b>
<b>notices</b>	<b>numerated</b>	54:19	131:13
119:18	41:7	<b>occasions</b>	<b>OGC</b>
<b>notify</b>	<hr/>	35:13	124:18
42:21 46:19	<b>O</b>	<b>occupational</b>	<b>older</b>
65:1	<hr/>	35:6 37:8	41:23
<b>November</b>	<b>objection</b>	49:4 50:4	<b>Omeprazole</b>
82:11	6:23 7:2 9:4,	51:9 55:14	33:4
<b>NSAID</b>	12 11:5 13:3	64:22 69:23	<b>ominous</b>
95:7	17:24 22:7	72:4	109:4
<b>NSAIDS</b>	25:1 26:11	<b>occur</b>	<b>omission</b>
96:12	30:2 32:1	62:15 115:22	116:23
<b>nuance</b>	34:17 37:5	<b>occurred</b>	<b>omitted</b>
90:10	48:25 49:25	59:19 93:13	111:12
<b>nuances</b>	53:7 55:9	<b>occurring</b>	<b>on-point</b>
77:13	68:19 70:22	156:2	149:2
<b>number</b>	73:8 74:16	<b>October</b>	<b>one-year</b>
8:12,15,18,23	91:12 94:6	128:20,22	92:21
9:20,21 10:14	104:19	129:2,4,10	<b>Oops</b>
11:8,22,24,25	<b>objections</b>	149:14	19:13
12:1,2,3	32:22 39:17	<b>odd</b>	<b>open</b>
13:6,20 18:6,	<b>objectives</b>	73:10	106:2
13 19:15,21	126:15	<b>offender</b>	
22:10 23:6	<b>obligation</b>		
	139:1		

<b>opening</b> 99:3	103:25 117:25 126:6 154:1, 10	<b>ordinance</b> 125:3,5,14, 15,16	<b>packet</b> 6:13 16:1 67:20 70:7 80:15 95:13 110:4
<b>opens</b> 98:18	<b>oppose</b> 125:13	<b>organization</b> 103:8	<b>packets</b> 39:25
<b>operate</b> 102:20 105:15 106:4 122:20, 25	<b>opposition</b> 156:16	<b>organized</b> 124:3	<b>pages</b> 118:25 145:16
<b>operated</b> 105:24 154:19	<b>OPS</b> 75:20	<b>original</b> 44:6 76:16	<b>paid</b> 15:1 59:22 61:4 113:1
<b>operating</b> 7:4 100:6 110:12 124:13	<b>optimal</b> 119:1	<b>Orlando</b> 109:24	<b>Palm</b> 11:25 12:10
<b>operation</b> 92:25	<b>option</b> 93:6	<b>outcome</b> 83:25 84:3 85:1 112:7,10	<b>paperwork</b> 76:7 148:3,5
<b>operational</b> 125:19 126:5, 23 149:13	<b>order</b> 6:14,21 18:1, 23 23:12,15, 22,23 24:1,6 25:19,22,24 26:24 27:6,8 29:24 30:12, 13,17,18 32:10,12,15 33:8,16,18 34:14 44:17, 21 47:19 67:12 72:18 91:15 93:21, 23 94:19 95:23 96:3, 18,19,20,24 97:11,19,21, 25 98:23 104:13,24 124:2 150:1 152:12,13	<b>outdated</b> 156:13	<b>paragraph</b> 12:4
<b>operations</b> 127:2 134:4		<b>outlines</b> 95:13	<b>paraphernalia</b> 40:12
<b>operator</b> 93:2		<b>outset</b> 21:1	<b>pardon</b> 69:9 85:16
<b>operators</b> 112:13 114:15		<b>outstanding</b> 59:21	<b>pari-mutuel</b> 7:4 35:5 49:3 53:12 109:11 112:14
<b>opinion</b> 66:11 82:18 83:8,14,17 84:6,11,20 85:2,5,12 89:19,21 151:6 154:12		<b>overburden</b> 147:16	<b>Park</b> 33:3
<b>opinions</b> 111:1		<b>overly</b> 59:7	<b>parlance</b> 54:6
<b>opportunity</b> 27:16,20 35:21 48:5 63:14 68:12 78:1,12 79:20,21 89:2	<b>orders</b> 13:8 20:20 22:10 97:10 111:2 127:2	<b>overview</b> 11:9,19 123:17	<b>part</b> 30:21 40:3 41:5 48:9 57:25 65:3 75:24 94:13 100:16 117:23 126:11 133:1
		<b>owed</b> 15:16 17:1 61:2,22,24	<b>participant</b> 93:1
		<b>ownership</b> 37:18	
		P	
		<b>p.m.</b> 156:18	

<b>participate</b> 35:17	<b>pay</b> 16:16,23	147:15 150:4, 24 151:10,16	<b>permits</b> 113:25
<b>participating</b> 54:22	20:11 21:18	152:11,13	<b>permitted</b> 103:22
<b>parties</b> 15:16 98:5	60:9,11 72:18	153:18 154:6, 8 156:2	<b>perpetuity</b> 17:10
<b>parts</b> 31:17	<b>paying</b> 15:5	<b>People's</b> 97:22	<b>person</b> 14:10 29:18
<b>party</b> 17:8 102:18, 22	<b>payment</b> 17:3,7	<b>percent</b> 27:25 145:17	36:18 41:13
<b>party's</b> 116:10	<b>payments</b> 61:24	<b>performance</b> 8:21 126:12	57:24 59:15
<b>passed</b> 38:24 125:5	<b>penalties</b> 97:7 100:21	<b>performances</b> 10:2,18 110:1	79:3 130:15
<b>passive</b> 81:1	101:23 102:25	114:22,23	<b>personality</b> 78:20
<b>past</b> 16:24 19:18	<b>penalty</b> 24:1 33:14	<b>peri-mutuel</b> 14:2 40:1,18	<b>personally</b> 105:18 146:6, 10,22
69:7 82:25	95:4,14 96:21	49:16 50:20	<b>personnel</b> 123:2
133:14 151:9	97:10,12	52:7 54:2	<b>perspective</b> 77:16 116:10
<b>patched</b> 110:24	98:24 100:7,9	70:12 71:2,13	144:18,19,20
<b>path</b> 85:21	<b>pendency</b> 19:8	93:11 100:8	146:5 147:6,8
<b>patient</b> 105:3	<b>pending</b> 72:15	111:14 113:9	<b>Pete</b> 12:12
<b>patiently</b> 94:10 106:21	<b>Pennsylvania</b> 42:15 43:23	114:2	<b>Petersburg</b> 12:3
<b>pattern</b> 69:6	51:14,20,22, 24 52:10,11	<b>period</b> 16:16 39:9	<b>petty</b> 37:19,20
<b>Paul</b> 91:18	<b>people</b> 7:23 54:8	43:13 75:18	53:25 54:8
<b>pause</b> 5:14	76:21 77:21	77:8 79:14	55:17,22
<b>pawned</b> 37:19	78:7,16 79:8	86:19 94:11	56:1,13 58:22
	80:1,7 103:21	155:16,24	59:2
	113:13 118:23	<b>permission</b> 100:4 136:25	<b>petty-theft</b> 53:18,22
	119:12,13,16, 17,25 120:6	<b>permit</b> 8:20 9:23	57:22 71:5,11
	121:21,23	11:23,25	<b>phase</b> 123:25
	122:1 124:3	12:3,5,8	<b>Phenylbutazone</b> 95:17
	126:25 134:3	33:21 34:5	
	135:23 137:23	43:16 109:24	
	138:15 142:8	110:11,13	
	143:20 144:10	111:10,18	
		115:6,8	

<b>phone</b> 144:13	<b>player</b> 92:13	<b>pointing</b> 79:9 84:21	51:15
<b>phonetic</b> 15:19 105:6 132:15	<b>players</b> 92:14 112:20, 21 113:7 114:3	<b>points</b> 85:8 149:6	<b>possession</b> 40:11 50:8,10 70:3 72:8
<b>photo</b> 25:16	<b>pledge</b> 5:18 6:2	<b>poker</b> 30:8 137:20	<b>possibility</b> 135:1
<b>phraseologist</b> 111:5	<b>plenty</b> 80:25	<b>policies</b> 7:9	<b>possibly</b> 60:16 148:2
<b>physical</b> 50:9	<b>PMW</b> 37:8 42:24 46:13 50:3 51:8 69:22 72:3 78:24 122:4 134:10 138:21,23	<b>policy</b> 42:21 117:22 118:9	<b>poster</b> 54:11
<b>pick</b> 134:18	<b>pocketing</b> 24:20	<b>pool</b> 155:1	<b>postpone</b> 74:17
<b>place</b> 28:22 65:5 82:10 94:25 114:21 139:24 143:5,13	<b>point</b> 14:22 39:6 47:13 52:15 54:6,14 56:9 59:16 61:7,8 62:22 63:12, 23,25 66:22 72:14 76:8 79:24 82:23 84:22 88:2,3 90:25 91:2 100:15 102:3, 22 107:9,15 110:7 113:9 117:22 127:20 142:17 145:10 148:14	<b>poorly</b> 110:24	<b>postponed</b> 84:2
<b>places</b> 150:24		<b>popular</b> 134:23	<b>posture</b> 97:17
<b>plain</b> 110:20 116:13 117:2		<b>population</b> 134:24	<b>pot</b> 92:9,11,12
<b>plan</b> 17:3,7 28:10 121:21 122:11 123:18 124:24 137:6 138:2		<b>porch</b> 95:24	<b>potential</b> 38:2,17 85:4 130:19
<b>plane</b> 147:21		<b>portal</b> 133:3,19,20	<b>potentially</b> 36:9 49:7 51:13 56:2 111:21 112:25 114:6 124:17 125:5 138:13 143:1 149:10
<b>planet</b> 150:21		<b>portion</b> 48:8 94:16 95:22 96:4,25 117:24 127:13,15 128:6	<b>pound</b> 21:16
<b>plans</b> 123:14 126:12 131:2		<b>position</b> 78:1 79:6,15 85:25 86:1,4, 20 113:16 114:18 140:21	<b>pow</b> 131:17
<b>play</b> 28:9,12,13,21 151:17 152:1, 16 155:6		<b>positions</b> 77:20 78:5 120:19 121:4	<b>power</b> 6:18 7:10
	<b>pointed</b> 39:11 56:13 67:3,14	<b>possessing</b>	<b>practical</b> 98:22
			<b>practice</b> 92:24 109:8

116:18	<b>presumptive</b>	60:9 61:16,17	<b>prohibited</b>
<b>practitioner</b>	41:20	62:1	107:23 125:7
8:5	<b>presumptively</b>	<b>problem</b>	<b>prohibiting</b>
<b>precedent</b>	41:8,10	78:9 98:11	47:19
84:17 85:6	<b>pretend</b>	114:22 136:9	<b>prohibition</b>
<b>precedential</b>	79:11	<b>problems</b>	76:20,24
69:4 85:18	<b>pretty</b>	136:14	<b>prohibitions</b>
<b>preempt</b>	119:6,10	<b>procedural</b>	77:14
81:12 101:1	122:8	93:18 94:22	<b>promote</b>
<b>preempted</b>	<b>preventing</b>	97:17	112:17
99:21	27:21 81:17	<b>procedure</b>	<b>proper</b>
<b>preemptively</b>	<b>previous</b>	24:24	145:12
81:14	29:5 42:20	<b>procedures</b>	<b>properly</b>
<b>preface</b>	111:8 112:21	103:1,2	14:17 18:24
74:15	119:25	<b>proceed</b>	<b>property</b>
<b>prefer</b>	<b>previously</b>	83:5 139:23	37:18
22:21	41:24 113:22	<b>proceedings</b>	<b>proposal</b>
<b>preferred</b>	<b>print</b>	5:1 62:15	68:7
110:19	145:16	156:18	<b>proposals</b>
<b>prepared</b>	<b>prior</b>	<b>process</b>	118:1 125:22
8:3 22:19	19:6 23:9	19:9 28:14	<b>proposed</b>
107:1	24:17 26:1,3	36:4 59:14	23:23 103:14
<b>present</b>	29:13,20,22	62:11 63:21	117:7
8:12 18:5	30:15 32:13	68:1,2 104:11	<b>proposes</b>
32:8 33:4	38:12 58:13	105:19 106:7	117:7
63:14 84:13	69:4 89:6	117:23 121:24	<b>propriety</b>
118:1 126:6,	116:18	122:4 130:9	23:2
10	<b>prioritize</b>	136:1 138:20	<b>prosecutorial</b>
<b>presenting</b>	141:20,23	139:3 143:6	21:12
87:17	<b>priority</b>	<b>processes</b>	<b>protect</b>
<b>preserve</b>	148:19	7:11	76:17
27:12	<b>prison</b>	<b>professional</b>	<b>protection</b>
<b>pressures</b>	38:23	145:14	77:3 78:3
57:16	<b>private</b>	<b>program</b>	<b>provide</b>
<b>presume</b>	72:18	99:16,17	11:19 14:20
41:12	<b>privy</b>	100:16 101:2	26:17 28:4
<b>presumption</b>	77:13	102:9	59:11 125:25
45:20	<b>probation</b>	<b>prohibit</b>	129:1 133:9
		27:16 90:7	

134:1 143:23 148:2	11:17 28:10, 17 140:8	44:4 52:25 55:3 58:9,16 66:18 79:4 82:4 83:25 84:4 85:15 86:15 87:14 88:16 96:7, 14,16 98:17 99:7 102:3 105:19 106:18 123:4 128:13 131:24 132:9 137:9	15:21 <hr/> <b>R</b> <hr/>
<b>provided</b> 18:8,12 23:7, 12 25:19 26:23 33:7 39:24 95:13 100:11 122:24 125:13	<b>purse</b> 95:24 96:4, 23,25 97:15, 25 98:8		<b>race</b> 10:16 106:5
<b>providing</b> 136:11	<b>pursuant</b> 14:8 18:15 35:16 64:25 91:16 98:15		<b>raced</b> 33:2 94:24
<b>provision</b> 46:5 80:15 81:8,11 82:6, 10	<b>purview</b> 81:17		<b>races</b> 8:24
<b>provisions</b> 10:22 107:14	<b>put</b> 26:20,21 48:4,12 58:15,25 66:14 92:9 97:4 132:22 135:16 137:3 150:4,8	<b>questionable</b> 65:22	<b>Racetrack</b> 102:14
<b>public</b> 11:14 36:2 41:1 52:16 61:21 90:6,12 94:8,10,11 105:7 115:15 125:11 132:2, 6 134:15 136:12,17 145:8 150:10 152:21	<b>putting</b> 21:13 27:19 43:11 64:3 128:9 136:13 142:12 152:6, 9 153:9,23 154:4	<b>questions</b> 16:10 17:17 24:4 26:7 29:3 31:21 32:18 33:20 34:11 36:23 39:3 42:6 49:18 50:25 52:14 70:17 73:3 74:19 80:10 82:14 91:4,7 93:15 99:6 116:2 123:1 125:17 131:23 132:2, 4,5 134:2,5, 6,20 137:16 138:18 152:4	<b>racings</b> 8:17 10:4,13, 14 43:2 51:22 99:13,24,25 100:1 101:19 104:6 111:17 137:20
<b>public's</b> 130:23	<hr/> <b>Q</b> <hr/>		<b>raised</b> 90:2
<b>punitive</b> 97:15 98:9	<b>qualifications</b> 151:25		<b>raising</b> 87:16
<b>punt</b> 103:18	<b>qualitative</b> 144:19	<b>quick</b> 45:7 73:14	<b>ramifications</b> 115:22 116:8
<b>purchasing</b> 120:20	<b>questing</b> 10:1	<b>quickly</b> 131:9	<b>ran</b> 9:15 37:14 118:22
<b>purpose</b> 78:3	<b>question</b> 19:13 24:10 27:10 29:4,16 31:4 42:7,17	<b>Quinones</b> 51:7 53:4	<b>range</b> 134:2
<b>purposes</b>		<b>quote</b>	<b>ranging</b> 39:23
			<b>Raul</b> 51:7
			<b>RB</b> 109:21 111:7 115:9

<b>re-adding</b> 114:23	53:14 72:4 82:16 118:7	47:5 98:13	<b>regulated</b> 107:12 108:1 109:9 116:10
<b>reached</b> 59:15	<b>receives</b> 14:10	<b>recommends</b> 35:23	<b>regulates</b> 103:15
<b>reaching</b> 103:8	<b>receiving</b> 36:19 91:25	<b>record</b> 11:17 13:19 25:8 35:1 37:15 40:22 58:4 66:15 72:1 73:16,20 74:5,7 79:11, 12 91:18 97:5 150:16	<b>regulation</b> 101:19 107:3
<b>read</b> 59:12 80:14 145:17	<b>reciprocal</b> 43:20	<b>records</b> 51:25 62:8	<b>regulations</b> 106:16
<b>ready</b> 121:5	<b>reciprocity</b> 43:5,7	<b>red</b> 7:11 8:9	<b>regulatory</b> 65:19 101:12
<b>Real</b> 30:5	<b>recognizably</b> 141:18	<b>redundant</b> 67:17	<b>rehabilitated</b> 38:24
<b>realize</b> 78:10	<b>recognize</b> 5:13 74:25 105:8	<b>reevaluating</b> 97:6	<b>rehabilitation</b> 38:15 39:12 41:17 57:3
<b>rearrest</b> 71:23	<b>recollection</b> 38:10	<b>refer</b> 108:6	<b>reissuance</b> 98:23
<b>reason</b> 75:16 100:6 133:17 145:17	<b>recommend</b> 18:17,21	<b>reference</b> 38:7	<b>reissue</b> 96:23
<b>reasonable</b> 98:25 99:22	<b>recommendation</b> 9:1 10:22 11:3 12:21 15:6 17:18 22:2 24:6,7 36:25 38:3,14 39:13 47:3,7, 25 48:3,7,10 49:15,20 50:19 51:1 52:6,23 53:3 54:1 55:6,23 58:1 63:7 70:11 71:12 72:24 93:10, 18 94:3 96:17 104:15	<b>referring</b> 66:14	<b>reiterate</b> 74:6 116:11 145:10
<b>reasoning</b> 115:13		<b>reflective</b> 141:10	<b>rejected</b> 110:7
<b>reasons</b> 54:19		<b>regard</b> 131:25 132:1	<b>related</b> 14:2 36:8 56:1 57:12 71:15 82:16 105:21
<b>recall</b> 109:23		<b>registered</b> 155:18	<b>relates</b> 53:25 66:12
<b>recalls</b> 38:11		<b>registering</b> 144:16	<b>relating</b> 58:22
<b>receipt</b> 50:6		<b>regular</b> 15:17	<b>relation</b> 57:22
<b>receipted</b> 49:5		<b>regulate</b> 100:1 151:15	<b>relevant</b> 10:21
<b>receive</b> 85:4	<b>recommended</b> 33:13 100:7		
<b>received</b> 12:7 27:1,5	<b>recommending</b>		

<b>relied</b> 110:15 111:6	91:24 141:2, 20 142:12	<b>resign</b> 77:25	<b>responses</b> 134:13
<b>rely</b> 54:22 117:2	<b>represent</b> 109:11 153:7	<b>resignation</b> 76:3	<b>responsibility</b> 14:1
<b>relying</b> 132:14	<b>Representative</b> 105:2	<b>resigned</b> 79:19 85:24	<b>rest</b> 6:19 63:4
<b>remember</b> 5:7 15:25 22:11 34:22 83:7	<b>representing</b> 76:23	<b>resigning</b> 86:1	<b>restatement</b> 41:2
<b>remind</b> 23:25 59:14, 23 67:22	<b>request</b> 8:18 10:3,17, 23 12:2,22 14:12 35:19 91:16 110:9 125:24,25 126:2	<b>resolve</b> 72:20 133:25	<b>result</b> 35:18 43:14 44:20 112:11
<b>reminded</b> 5:8	<b>requested</b> 9:2 109:25	<b>resolved</b> 110:5 114:8 124:11	<b>resulted</b> 44:18
<b>removed</b> 23:9 24:14,16 26:19 27:24 28:9,12,15	<b>requesting</b> 9:24 12:6,9, 11,13	<b>resource</b> 136:12	<b>retire</b> 76:7 77:24
<b>removing</b> 98:20	<b>requests</b> 7:23 11:22 12:16	<b>resources</b> 136:19 137:14 138:2,5	<b>returned</b> 96:5
<b>rendition</b> 93:22	<b>require</b> 34:3 136:17	<b>respect</b> 129:6	<b>returns</b> 113:12
<b>replaced</b> 98:21	<b>required</b> 24:15 26:19 28:1 29:10 31:18 45:24 62:21 100:9 144:7 150:6	<b>Respective</b> 13:21	<b>revenue</b> 7:17
<b>replacing</b> 92:11	<b>requirements</b> 67:15	<b>respond</b> 18:15 66:8 116:5	<b>review</b> 6:19 8:25 10:20 12:20 16:1 35:7 37:9 43:4 55:15 69:25 71:3 72:6 81:25 84:3 92:6 107:11, 16 135:9 138:8
<b>report</b> 40:7 45:8,10 92:6 138:12 139:20 141:6 143:23	<b>requires</b> 16:23 102:13 131:1	<b>respondent</b> 14:4,7 18:14, 19,24 19:10, 25 23:9,14 26:16 27:4 30:7,15 32:6 33:2 91:16	<b>reviewed</b> 6:13,14 51:11 64:16 69:24 113:13
<b>reported</b> 43:23	<b>reserve</b> 78:21	<b>Respondent's</b> 23:17 33:10	<b>reviewing</b> 38:11 72:22
<b>reporting</b> 46:7 64:7 67:15		<b>Respondents</b> 25:15	
<b>reports</b>		<b>response</b> 14:6 15:9,12	

<b>revisit</b> 96:17 98:18	<b>roadblocks</b> 77:19	96:1 99:10 101:14 117:10 135:18 148:24	<b>scenario</b> 115:23
<b>revocation</b> 34:3 43:23 44:18 52:9 95:24 96:22, 24 97:14	<b>rock</b> 156:13	<b>rules</b> 7:9 9:1 20:1, 5 28:22 43:15 66:19 99:9,14 100:19,25 101:3,5 102:19,23 103:2,14,16, 22 104:5 106:16 117:7 152:11	<b>scenarios</b> 114:21
<b>revoke</b> 14:24 43:8,15 61:17 93:13	<b>role</b> 86:4 117:20	<b>rulings</b> 148:8	<b>scene</b> 35:9
<b>revoked</b> 40:23 42:15 51:23 70:5 72:11 111:22	<b>roll</b> 22:18 156:13	<b>running</b> 120:11 121:2, 12	<b>scenes</b> 118:23
<b>revoking</b> 16:3,4 97:25	<b>Romero</b> 13:21	<b>s</b>	<b>schedule</b> 16:19 35:14 113:23 114:7 127:23
<b>rewarding</b> 109:13	<b>Ronnie</b> 23:5	<b>sacrifice</b> 142:19	<b>scheduled</b> 10:19 71:7
<b>rewrite</b> 111:23,25	<b>room</b> 30:8 32:7 42:25 46:11 53:12 55:13 64:22 71:1 93:2	<b>safety</b> 99:13,25 101:12,18 102:15	<b>schedules</b> 8:17 100:10
<b>rewriting</b> 135:6	<b>rooms</b> 137:20	<b>sake</b> 36:1 130:23	<b>scheme</b> 81:9 107:25
<b>Richard</b> 25:13	<b>Ross</b> 97:8 100:22, 23 119:14 134:10	<b>sample</b> 33:22 103:3	<b>scope</b> 98:4,13
<b>riffing</b> 8:7	<b>Roughly</b> 42:2	<b>sanction</b> 98:2,21	<b>Scott</b> 37:7
<b>rights</b> 93:5,19 98:7 126:25 127:14 128:7	<b>routinely</b> 155:13,23	<b>sat</b> 75:12	<b>screens</b> 155:8
<b>righty</b> 13:15	<b>rule</b> 10:22 14:9 18:10,16 20:2 21:23 27:11, 17 28:5,8 32:13 35:16 40:5,21 46:12,22 64:23 67:17 78:14 92:23 95:5,12,20	<b>Saturday</b> 10:7	<b>scrivener's</b> 98:6
<b>rise</b> 6:1		<b>scale</b> 54:9	<b>scrutinize</b> 39:8
<b>road</b> 17:12 65:25 66:5 81:23 135:13			<b>season</b> 113:16 114:15,18
			<b>seat</b> 75:13
			<b>section</b> 13:25 22:16 32:25 33:6 142:5

<b>secure</b> 144:15	77:7 93:4 111:3 112:20	<b>sho-</b> 9:18	30:25
<b>security</b> 30:24 86:5,8 92:17	<b>service</b> 90:6,12 156:10	<b>shoot</b> 148:4	<b>signed</b> 23:13 30:11 32:10 113:4
<b>seek</b> 83:16 84:6 85:13	<b>services</b> 104:2 145:15	<b>shoplifting</b> 56:22	<b>significant</b> 7:17,18,19 115:21
<b>seeking</b> 89:19 125:16 142:16	<b>serving</b> 86:5 132:6 136:16	<b>short</b> 99:11,20	<b>signs</b> 68:3
<b>Seglem</b> 18:6	<b>session</b> 6:19 127:7	<b>shot</b> 20:15	<b>silent</b> 15:13,15
<b>selected</b> 93:6 120:25	<b>set</b> 16:19 20:5 84:17 103:9 122:15 131:14 148:24	<b>show</b> 6:23 11:5 13:3 17:24 22:7 25:2 26:12 30:2 32:2,23 34:18 37:5 38:15,23 39:18 41:17, 18,25 42:13 48:25 51:4 53:7 55:9 56:16 68:19 70:22 73:9 91:13 94:7 104:20	<b>similar</b> 9:22 10:4 29:9 34:21 63:2 75:12 83:1 105:23
<b>sell</b> 70:3 72:9	<b>setting</b> 85:5 131:7	<b>showed</b> 23:8	<b>similarly</b> 19:4 81:21 90:12
<b>Selvey</b> 35:4,5,12	<b>settlement</b> 15:11 20:24 21:10,14 23:12,23 25:19,24 26:24 27:7 30:11,18 32:10,15 33:8,17	<b>showed</b> 23:8	<b>simple</b> 36:3 41:2
<b>send</b> 79:21	<b>severity</b> 20:2	<b>side</b> 97:23 117:22 120:8,9,16 121:7 122:1, 3,19 124:11 135:15	<b>simplest</b> 44:14
<b>sense</b> 140:20	<b>share</b> 56:4 69:3	<b>sign</b> 65:11	<b>simplification</b> 44:25
<b>sentiment</b> 140:18	<b>sheer</b> 134:21 144:8	<b>signature</b> 29:9,11,14	<b>single</b> 8:21
<b>separate</b> 107:17 120:10 121:19 128:4 129:24	<b>shift</b> 68:13		<b>single</b> 8:21
<b>separated</b> 130:2	<b>shifts</b> 41:16		<b>sir</b> 9:5 13:17 75:6 86:24 128:11,15 132:12 137:10 138:6
<b>separately</b> 25:6			<b>sit</b> 128:8 131:17 154:10
<b>September</b> 5:4 10:2,7,18 127:5			
<b>served</b> 14:5,17 18:24			

<b>site</b> 132:6 144:15, 16 145:1	67:8	<b>speak</b> 5:16 75:25 88:4 135:6 138:4,9 150:13	<b>spring</b> 77:6
<b>sitting</b> 88:12 98:11 108:15	<b>solution</b> 78:11	<b>speaker</b> 5:12 74:14 150:3,6	<b>squared</b> 61:13
<b>situation</b> 20:11 76:2 77:11 84:19 100:7 106:12	<b>solutions</b> 120:16 144:1	<b>speaking</b> 89:22 138:10 146:4 154:18	<b>squirm</b> 136:6
<b>situations</b> 148:11	<b>someone's</b> 57:17	<b>speaks</b> 81:2	<b>St</b> 12:3,12
<b>skeptical</b> 21:5	<b>sort</b> 8:25 28:16 34:21 62:24 64:1,17 81:1 95:4 103:18 108:9 117:24 121:24 122:11 123:20 124:6 125:18 134:6 136:12,25	<b>specific</b> 5:10 19:24 20:4 46:4 58:25 66:23 132:3	<b>stacking</b> 95:6,11 101:23
<b>skipped</b> 73:23	<b>sorts</b> 139:20	<b>specifically</b> 53:16 56:13 74:19 79:10 80:13,16,20 91:25 108:4 109:25	<b>staff</b> 11:3 16:12 17:19 18:18 22:2 24:7 31:7 35:13 36:24 38:3 39:13 47:4 51:1 52:22 53:3 55:6 58:1,9 65:11 67:12 77:20 78:5 93:17 94:3 96:17 98:13 104:15 108:17 114:20 116:4 119:22, 23 129:14 133:24 141:15
<b>slot</b> 42:25 53:11 71:1 153:10, 21 154:12 155:1	<b>sought</b> 82:17	<b>spend</b> 78:24 85:20	<b>stage</b> 123:16 131:8
<b>slowly</b> 120:21	<b>sound</b> 66:11	<b>spending</b> 142:11,18	<b>stalking</b> 95:11
<b>small</b> 151:16	<b>sounds</b> 126:14	<b>split</b> 102:13	<b>standard</b> 46:18,20,21
<b>smaller</b> 21:4	<b>South</b> 76:8 77:11 88:19	<b>splitting</b> 80:21	<b>standardize</b> 101:18 102:1
<b>smart</b> 77:12	<b>Southwood</b> 121:16	<b>spoken</b> 77:2	<b>standardized</b> 103:14
<b>Smith</b> 53:10	<b>space</b> 83:23 121:13, 20 122:7,8, 10,21,25 123:3,5 124:13	<b>sport</b> 113:14	
<b>smooth</b> 119:4,6	<b>Spain</b> 114:4	<b>spot</b> 137:3	
<b>smoother</b> 118:22			
<b>software</b> 124:20			
<b>solid</b>			

<b>standpoint</b> 93:19	103:9 104:1,3 152:8,18	<b>Stinson</b> 5:11	<b>submit</b> 60:25
<b>stands</b> 85:3 129:8	<b>stating</b> 38:22	<b>stolen</b> 37:17	<b>submits</b> 88:7
<b>start</b> 21:22 100:18 103:10 106:3 118:18 119:21 120:3 121:21 122:2 123:7,8 124:7 137:21 142:6,11 149:14 151:23,24	<b>status</b> 14:19 <b>statute</b> 9:1 10:21 12:8 16:21 36:7 54:15 76:16 81:14 90:6,12 100:8 116:13,20,25 117:3,8 125:24 135:18,23	<b>stomach</b> 153:5 <b>Stone</b> 124:23 <b>stood</b> 6:2 <b>stops</b> 140:22 142:8	<b>submitted</b> 51:11 55:16 69:24 71:4 76:3 79:19 125:9 <b>subsequent</b> 56:17 57:8 126:3,18
<b>started</b> 75:20 77:15 86:13 152:5	<b>statutes</b> 107:10,14 135:6	<b>streamline</b> 7:11 <b>strike</b> 136:11	<b>subset</b> 109:10 <b>substance</b> 51:16 102:7
<b>starting</b> 113:11,12	<b>statutory</b> 83:8 87:3 110:19	<b>strive</b> 145:7 <b>strong</b> 81:10	<b>substances</b> 100:10,20 103:22
<b>state</b> 43:10 51:21 54:1 55:18 61:1 62:6 83:5 100:2 101:1,24 104:6 105:11, 15,22 109:12 113:20 115:8 134:24 137:22 144:7 153:11	<b>stay</b> 8:24 10:15 <b>steal</b> 54:21 75:6 <b>stemmed</b> 60:3	<b>structure</b> 37:13 <b>studies</b> 151:9 <b>stuff</b> 123:20 133:15,19,20 134:2,3,7 140:13 143:8 151:12	<b>substantial</b> 97:22 98:7 126:24 127:13 128:6 129:15 138:14
<b>stated</b> 116:9	<b>statutes</b> 107:10,14 135:6	<b>subcommittee's</b> 125:10	<b>substantially</b> 141:1
<b>statement</b> 111:8 126:16	<b>statutory</b> 83:8 87:3 110:19	<b>subject</b> 18:19 40:5 46:4,25 64:23 76:12 107:4 108:6 111:8 154:14 156:12	<b>substantive</b> 6:16
<b>statements</b> 111:2	<b>stay</b> 8:24 10:15		<b>subtracting</b> 96:24
<b>states</b> 42:9,20,21 43:4,6 45:21 46:22 100:21	<b>steal</b> 54:21 75:6		<b>successful</b> 134:13
	<b>stemmed</b> 60:3		<b>sufficient</b> 88:7
	<b>step</b> 110:9 139:13, 15		<b>suggest</b> 7:5 80:12 81:23 117:11 122:17 126:21
	<b>stepped</b> 80:2		
	<b>stepping</b> 81:16		
	<b>Steven</b> 35:4		
	<b>stick</b> 26:19		

<b>suggested</b> 8:16	<b>supposed</b> 41:12 57:10 155:12	<b>taking</b> 24:22 65:15 67:9 92:8,10 106:18 141:7 142:6 143:5 150:19 152:3	24 47:7,23 49:1 50:1 51:6 52:24 53:9 55:11 58:15 59:9 60:1 61:8,12 62:8,16 64:9, 19,21 67:3, 14,24 69:16, 20 70:24 71:19,24 73:22 74:4,11 91:17 93:20 94:18 96:8,11 97:3,18
<b>suggesting</b> 84:10 87:6 112:4,7 115:10	<b>surveillance</b> 92:7	<b>talk</b> 78:21 103:10 108:18 109:18 126:4 147:14	<b>tax</b> 11:21 12:6, 10,12,14,19
<b>suggestion</b> 68:23 140:8	<b>Susie</b> 121:22	<b>talked</b> 38:12 146:7	<b>TBD</b> 26:15 32:4
<b>suggestions</b> 80:3	<b>suspected</b> 116:23	<b>talking</b> 41:22 54:7 56:25 71:17 76:22 148:21 149:5,11	<b>team</b> 87:21 120:4, 15,22 124:15, 16 126:1 134:9
<b>suggests</b> 47:4	<b>suspend</b> 92:19	<b>talks</b> 135:24	<b>technical</b> 107:2 124:19
<b>suite</b> 141:16	<b>suspended</b> 57:11,18 60:13 70:5 72:10	<b>Tallahassee</b> 109:8 121:15	<b>technically</b> 61:25
<b>Sulfate</b> 33:4	<b>sworn</b> 8:1	<b>Tampa</b> 8:19 11:23 12:8 25:17	<b>telling</b> 77:21
<b>summarily</b> 110:7	<b>sympathize</b> 116:9	<b>tank</b> 6:6	<b>temporarily</b> 68:7 74:17
<b>summary</b> 60:21 138:8, 11 142:24,25 149:3	<b>synthetic</b> 50:11	<b>tape</b> 7:11 8:10 86:9	<b>temporary</b> 44:6,10 45:1 69:2,5 86:17 87:10,12,22 88:1,8,12,20 89:5,14
<b>sums</b> 112:16	<b>system</b> 33:5 42:25 101:21 102:19	<b>Taupier</b> 13:16,17,18 15:14 16:4,7, 21 17:13 34:25 35:3 36:21 37:6 38:10 39:19 42:3,10,22 43:25 44:14 45:3,12,16,19 46:10,16,21,	
<b>super</b> 78:19 79:3 80:5	<hr/> <b>T</b> <hr/>		
<b>supervisor</b> 29:14	<b>table</b> 26:17,21 27:19 29:11, 13 68:8,14,20 82:2 87:19 91:2,8 92:15		
<b>supply</b> 88:17 124:9	<b>tables</b> 155:2		
<b>support</b> 112:17 132:15 154:1,3	<b>tabling</b> 85:18 86:16		
<b>supporting</b> 38:9	<b>takes</b> 89:20		
<b>supportive</b> 130:20			

<b>ten</b> 73:14 78:22 151:9	28:7 41:11 54:10 57:2,4, 12 58:4,25 76:14 109:17	136:3 137:14 139:9	<b>timeframe</b> 47:1 78:23 79:18 88:23 122:12
<b>tend</b> 54:8	113:1,3 114:1,7 118:17 119:18	<b>three-count</b> 18:9	<b>timeframes</b> 79:8
<b>term</b> 21:13	128:1 130:17, 18,19 131:16 138:3 139:21	<b>thunder</b> 75:6	<b>timely</b> 127:19
<b>terminate</b> 61:18	140:4,10 141:25 142:14,19	<b>Thursday</b> 10:2,18 129:10	<b>times</b> 16:3 29:17 31:10 77:2 110:23,24
<b>terminated</b> 92:20	145:24 146:9, 22 149:2 153:12 154:19,25 155:4,8,22	<b>time</b> 5:18 7:15 16:13,16,22 17:5 24:12 29:11 30:25 38:24 39:9 43:12 47:11 57:4,9 60:22 63:22 64:2,12 65:18 73:13 75:13,18 77:7,8 79:14 85:21 86:19 87:10 88:10 90:19 93:12, 23 105:9 108:22,24 110:8 111:15 112:12 116:12 124:5 126:17 127:17,18,20 129:7,17 131:3 134:18 136:2,23 138:4 140:11, 24 141:23 142:11,18,20 147:17 150:9, 15 152:3 153:1 155:16, 24 156:7	<b>timeframes</b> 79:8
<b>terms</b> 10:13 40:14 44:25 59:15 67:6 88:24 125:22 146:3 147:23	<b>thinking</b> 60:15 142:4 144:21 145:19 149:10		<b>timely</b> 127:19
<b>tested</b> 33:23 95:1	<b>third-degree</b> 50:12		<b>times</b> 16:3 29:17 31:10 77:2 110:23,24
<b>testing</b> 99:24	<b>third-party</b> 103:8		<b>timing</b> 132:23
<b>text</b> 76:17	<b>thoroughbred</b> 8:20 9:23		<b>tip</b> 23:9 24:15 92:9
<b>thanking</b> 118:18 119:21	<b>thought</b> 61:21 78:23, 25 81:25 85:20 87:18 116:23 119:5 121:24 122:4 123:11 139:10,14 145:18		<b>tips</b> 23:9,10 24:16 91:23,25 92:4 134:4 137:24 144:14
<b>theft</b> 37:19,20 53:25 54:9 55:17,22 56:1,13 58:23 59:2	<b>thoughts</b> 56:4 83:21 118:3,10		<b>today</b> 6:13 47:19 63:6,25 67:5 74:17 75:3 78:11 84:18 87:9 88:25 98:1,12 138:16 140:13 148:21 149:5 150:2 152:22
<b>thing</b> 10:4 85:4 110:20 128:25 141:11 147:22 150:20			<b>Todd</b> 18:6
<b>things</b> 6:16 7:8 22:25 27:12			<b>toes</b> 80:3 81:16
			<b>told</b> 60:18 79:1 81:4

<b>tomorrow</b> 106:3	<b>transfer</b> 11:22 12:6,9, 11,13,18,23	<b>trouble</b> 38:13	141:18
<b>tons</b> 119:20	<b>transitioned</b> 112:13	<b>turn</b> 123:23	<b>understand</b> 59:22 69:1 105:22 106:8 110:18 114:15 132:18 139:2, 17 140:5 143:10,12,21 146:24
<b>top</b> 65:16 121:11 128:19 152:1	<b>transported</b> 32:7	<b>turned</b> 76:6	
<b>total</b> 18:22 24:17 120:1	<b>traveling</b> 114:4	<b>TV</b> 113:6	
<b>touch</b> 11:14 20:19 120:13 140:12,16 142:14 144:17	<b>tray</b> 92:10	<b>two-year</b> 83:2,4 90:8, 13	<b>understanding</b> 36:3 59:17 65:12 69:8,11 75:14 139:22 146:13,17
<b>touched</b> 139:8	<b>treatment</b> 139:11,25	<b>tying</b> 112:23	<b>understood</b> 106:19,20 146:20,21
<b>tough</b> 124:8	<b>trend-line</b> 144:12	<b>type</b> 19:20 28:23 69:9 117:10 118:8 119:8 130:10 132:5 136:13 143:24	<b>United</b> 43:4 45:20 152:18
<b>tournaments</b> 113:6	<b>trend-lines</b> 144:5	<b>types</b> 22:25 137:16 141:5 155:4,8	<b>University</b> 112:22
<b>track</b> 28:18 127:24 144:9	<b>tribes</b> 105:20,21	<b>typical</b> 46:8,10	<b>unnecessary</b> 106:17
<b>tracking</b> 18:13	<b>Trombetta</b> 5:20 8:11,13 9:5,17,20 11:8,16 13:5, 10 28:3 88:9 100:3 101:10, 17 103:12,17 104:22 117:13,17,20 118:15 119:5 123:8,10,13 128:11,15,18, 25 129:12 131:20,25 132:12 135:4, 7,10 136:8, 21,24 137:10, 17 138:6 140:7,17 143:16 144:4 146:1 149:9	<b>typically</b> 61:15 88:11 95:25	<b>unpaid</b> 14:1 60:13
<b>tracks</b> 101:13			<b>upcoming</b> 127:7
<b>traffic</b> 72:11			<b>update</b> 61:3 118:14 132:3,24
<b>train</b> 112:22			<b>updates</b> 104:25 125:1 132:16
<b>trainer</b> 94:23 102:5			<b>upload</b> 43:2
<b>training</b> 112:25			<b>urge</b> 110:21 115:17
<b>trajectory</b> 145:21			
		<hr/> <b>U</b> <hr/>	
		<b>ultimately</b> 72:20 142:7 149:3	
		<b>unaware</b> 61:2	
		<b>unclear</b> 102:10 103:6, 19 104:4,8	
		<b>understaffed</b>	

<b>user</b> 133:5	85:10	52:17 93:12	<b>walk</b> 60:5
<b>USPS</b> 18:13	<b>vice</b> 43:10 66:18	<b>vote</b> 44:13	<b>walked</b> 75:4
<b>utilize</b> 122:21 124:20	84:8,20		<b>wanted</b> 20:19 21:5
<hr/>	125:21	<hr/>	48:3 59:2
<b>v</b> <hr/>	<b>violated</b> 44:5,11	<b>W</b> <hr/>	65:9 74:4
<b>valid</b> 60:16 83:21	103:21	<b>wagering</b> 14:2 35:6	87:15 98:1
84:21	<b>violates</b> 61:16	40:1,18 49:4,	105:7,14
<b>variances</b> 92:2	<b>violating</b> 20:2 21:24	16 50:20 52:7	106:1 118:17
<b>variety</b> 134:7	40:20 44:17	54:2 70:12	119:21 125:2
<b>vary</b> 23:3 101:24	<b>violation</b> 13:24,25	71:13 93:11	142:13
<b>Vasquez</b> 71:20	14:22 18:20	100:9 111:10,	<b>warning</b> 21:20 33:9,15
<b>Vazquez</b> 69:21 73:24	19:20 23:11,	13,15	<b>warrants</b> 36:19
74:3,6	18 25:18	<b>waiting</b> 94:10 106:21	<b>Warren</b> 25:11
<b>Vegas</b> 150:23	26:22 27:3	108:22	<b>watch</b> 6:7 140:24
<b>vehicle</b> 112:9 136:20	29:5,6,10	<b>waive</b> 14:17 37:24	<b>watching</b> 105:13
<b>verification</b> 37:18	30:10,22	40:1 49:13	<b>water</b> 123:22
<b>versa</b> 43:10 124:20	32:9,13 33:5,	50:17 52:4	<b>ways</b> 132:13 135:25
<b>versed</b> 108:3,17	11,24 34:8	53:22 55:21	153:17
<b>versus</b> 107:12	40:13 56:18,	70:9 71:11	<b>weapon</b> 37:17
<b>vestige</b> 7:15	22,25 92:22	72:23 93:6	<b>wear</b> 25:16
<b>vetted</b>	95:6,11,19,	<b>waived</b> 18:25 93:23	<b>weary</b> 65:4,18 80:13
	21,25	<b>waiver</b> 35:12,17,19,	81:19,21
	<b>violations</b> 18:10 26:2,4	20 36:13,15	<b>Web</b> 132:22,24
	30:16 58:13	37:22 39:21	<b>website</b>
	99:24	40:16 49:11	
	<b>vision</b> 151:21	50:15 52:2	
	<b>voice</b> 81:2 109:3	55:20 56:11	
	<b>volume</b> 132:4 134:17,	67:4 68:1,2,3	
	21	70:5 71:7	
	<b>voluminous</b>	72:17 82:6	
		<b>waivers</b> 140:12	
		<b>waives</b> 14:13	

132:1,17	<b>words</b>	63:19 130:18,	18 117:9
133:6,16	87:24	19 131:16	124:7 130:17
144:8 148:18	<b>work</b>	<b>world</b>	147:18
<b>week</b>	15:20 75:12	114:5 145:13	<b>years</b>
111:21 132:25	76:13,19	<b>worms</b>	17:12 47:11
<b>weeks</b>	77:22 80:7	98:19 99:3	56:20 59:20
141:22	83:6 86:12	<b>worth</b>	72:16 75:21
<b>weighs</b>	89:1 102:11	12:10,11	77:23 80:19
87:7	103:7,11	83:22 99:3	110:22 131:4
<b>weird</b>	104:3 105:22	<b>wow</b>	145:25 151:9
71:21	123:19 128:8	131:17	<b>yesterday</b>
<b>whatnot</b>	134:6 136:1	<b>written</b>	132:19 139:7
27:13	137:7 138:23	14:10,12	<b>York</b>
<b>whichever</b>	143:18 144:2	33:9,14	102:5,8
22:22	153:9,13	116:15,16	<b>youth</b>
<b>willingness</b>	155:23	<b>wrong</b>	57:2
57:14	<b>worked</b>	43:20 71:25	<b>youthfulness</b>
<b>win</b>	75:17,20,22	<b>wrongdoing</b>	145:22
21:14	80:19 114:20	28:23	<b>Yvette</b>
<b>window</b>	<b>workflows</b>		55:12 74:1
114:14	139:23	<hr/> <b>Y</b> <hr/>	
<b>windows</b>	<b>working</b>	<hr/> <b>Z</b> <hr/>	
156:1	25:17 77:5	<b>Zachem</b>	
<b>wins</b>	88:2,5,16,20,	74:14,24	
21:13 92:13	25 89:1	75:1,7,11	
<b>wise</b>	103:10 109:14	80:10 85:15	
119:24	118:23 119:17	86:2 87:13	
<b>withdraw</b>	120:9,15	88:15 153:2,	
17:4	121:4 122:18	3,6 156:12	
<b>withdrew</b>	123:14 125:23	<b>Zachem's</b>	
125:15	126:1 128:21	85:8	
<b>withheld</b>	145:5 156:5,	<b>Zoom</b>	
55:19 58:17	6,9	130:2,14	
71:6	<b>workload</b>	131:15	
<b>wondering</b>	127:21		
17:10	<b>works</b>		
<b>word</b>	36:4 42:23		
126:13	75:16 127:16		
	154:2		
	<b>workshop</b>		
		<b>year</b>	
		7:7 99:19	
		105:13 113:4,	