

FLORIDA GAMING CONTROL
COMMISSION

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PUBLIC COMMISSION
MEETING

DATE: October 6, 2022
TIME: 9:30 a.m. - 12:00 p.m.
LOCATION: W.V. Knott Building-Capital Complex
4th Floor, Room 412
Tallahassee, Florida

Reported by:

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1 COMMISSION MEMBERS:
2 JOHN MACIVER, CHAIRMAN
3 MICHAEL YAWORSKY, VICE CHAIR
4 JULIE I. BROWN, COMMISSIONER
5 CHUCK DRAGO, COMMISSIONER
6 JOHN D'AQUILA, COMMISSIONER

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P R O C E E D I N G S

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2 CHAIR: Good morning, everybody and welcome
3 to the October 6th, regular meeting of the Florida
4 Gaming Control Commission.

5 Commissioner Drago, would you be inclined to
6 lead us in the pledge?

7 COMMISSIONER DRAGO: Yes. All rise and join
8 me in the pledge of allegiance.

9 (Audience participation).

10 CHAIR: All righty. We have a pretty full
11 agenda today so I'm going to go ahead and jump
12 right into it. Mr. Trombetta, I believe we're
13 going to have Ms. Stinson present Item 1 on the
14 agenda, correct?

15 MR. TROMBETTA: Yes, Mr. Chair.

16 Let me go find her. I think she might have
17 just stepped out to go, maybe, get more speaker
18 cards or --

19 CHAIR: Sure.

20 Lou, if you wanted to give the 50,000-foot
21 intro to this -- I kind of wanted to make a few
22 comments on it before we got into the real
23 details, so I think that that would be just fine.

24 MR. TROMBETTA: I -- I could do that. I'd
25 also offer one other suggestion if we might do No.

1 2 instead of No. 1.

2 CHAIR: Let's go ahead and do the
3 50,000-foot.

4 MR. TROMBETTA: Okay.

5 So what we have before you, sorry, excuse me
6 -- is essentially a request from Tampa Bay Downs
7 to issue a salience waiver as provided under the
8 federal Horseracing Safety Integrity Act. HISA
9 provides -- there she is -- a -- Liz, do you mind
10 jumping in?

11 MS. STINSON: Absolutely.

12 MR. TROMBETTA: Sure. Thank you.

13 CHAIR: And Ms. Stinson, we're just doing
14 sort of the 50,000-foot intro at this moment.
15 We'll get into the weeds once we get into
16 discussion but, kind of, just the what is this
17 agenda item is what we are looking for.

18 MS. STINSON: Thank you. So this agenda item
19 addresses Tampa Bay Downs' request for an
20 exemption from the ban on the Lasix in
21 thoroughbred horseracing. January 1st of 2023,
22 Lasix is going to be banned by the Horseracing
23 Integrity and Safety Authority and the federal law
24 which bans Lasix permits states to seek a
25 three-year exemption from the ban while the

1 effects of Lasix on HIS -- on racing horses is
2 studied.

3 Tampa Bay Downs requests for the Commission
4 to seek an exemption. They're requesting an
5 exemption from the Horseracing Integrity and
6 Safety Authority.

7 CHAIR: Thank you.

8 And commissioners and general public, this
9 request gave me a significant amount of pause and
10 I'm not going to bury the lead. I am going to
11 vote for this today, so in this discussion it will
12 probably sound like I am resistant to do so but I
13 am going to vote for this today and I think -- and
14 I'm going to encourage my fellow commissioners to
15 also vote for this today, but I want to be very
16 clear about what it is I think we're doing and
17 why.

18 This gave me pause because the question of
19 'should' exists in this. And once we start to ask
20 the question about whether something is good
21 policy, a 'should' question, it raises red flags
22 about whether we are starting to intrude into the
23 realm of the Florida legislature who makes those
24 policy issue decisions. Our -- our organic
25 statutes, our authorizing statutes, tell us that

1 we have the authority to exercise all executive
2 power as it relates to gaming in Florida.

3 To be sure, that executive power will include
4 quasi-legislative power where we have to make some
5 decisions when the legislature has told us, for
6 instance, prohibit or allow this drug based upon
7 the safety of the horses, then it would be
8 incumbent upon us to figure out the safety of the
9 horses and make that decision.

10 But where the legislature hasn't directed us
11 to do so, then it is a legislative function and
12 it's not our role. With that said, the
13 legislature of the state of Florida has spoken on
14 this issue. The statute allows for Salix; Lasix;
15 florisene. The legislature has allowed for this
16 drug within 24 hours but not within four hours.
17 That is the policy decision that was made by the
18 people of the state of Florida as expressed
19 through their legislature. It is our job as an
20 executive function to effectuate the will of the
21 State legislature.

22 Notwithstanding what the administrative
23 request is from the federal government, they can't
24 authorize us to do something that we don't have
25 the authority to do as given to us by the

1 legislature. We cannot make that policy decision
 2 of should we have waiver or not. We shouldn't be
 3 making that policy decision. What we should be
 4 doing as an executive function, is communicating
 5 to the federal government our State legislature
 6 has made this decision. This is the state law and
 7 to effectuate it, it is necessary for us to seek
 8 this waiver. That's what I think we should be
 9 thinking about and what we should be doing today.

10 We will hear some testimony of course, and
 11 I'm very thankful to the people who traveled all
 12 the way here to tell us about the pros and cons of
 13 being able to or not use this drug. However, I
 14 think what we are considering, as an executive
 15 function, is simply whether we are carrying out
 16 the will of the people that has been expressed by
 17 their legislature. With that, I will open it up
 18 to questions for Ms. Stinson and I expect you'll
 19 probably want to call in some experts to answer
 20 some of those questions.

21 VICE-CHAIR: So I -- I think I -- I -- if
 22 we're clarifying our positions, I think where I
 23 stand at the moment is -- is very much so
 24 undecided on the merits of the matter. I,
 25 specifically in my mind, I -- I kind of,

1 explicitly, kept myself from making a conclusion
2 of whether or not this should be allowed until I
3 think we heard some testimony from -- from folks
4 that are -- that did travel here and I'm looking
5 forward to hearing what they have to say on the
6 matter.

7 And so I don't have any immediate questions
8 for you Ms. Stinson but I -- I do hope to learn as
9 we go along with all the background material that
10 has been provided which, thank you to the staff
11 and others who have -- who have already submitted
12 information. It has been helpful.

13 COMMISSIONER DRAGO: And I -- and I agree and
14 I'd like to hear the whole presentation. I'd like
15 to hear everything and I'd like to hear the
16 comments from the public and certainly, Ms.
17 Stinson, your presentation and all this
18 information that you've provided, so, I'm -- I'm
19 ready and willing to -- to hear both sides of the
20 argument at this point.

21 MS. STINSON: Absolutely.

22 First, I wanted to direct the commission to
23 550.0251, which deals with the powers and duties
24 of the Florida Gaming Control Commission. And
25 under Subsection 11, it specifically says that the

1 commission shall supervise and regulate the
2 welfare of racing animals at pari-mutuel
3 facilities. So that is a jumping-off point for
4 this discussion.

5 At this point I will turn to Dr. Cole who
6 will give you an overview of what Lasix does and
7 how it affects racing animals.

8 DR. COLE: A veterinary -- a veterinary
9 pharmacologist. I run the drug testing program at
10 the University of Florida which currently carries
11 out the drug testing program for the Commission.
12 I'm going to try to keep my presentation very
13 concise and I'm not going to try to turn you into
14 veterinarians or pharmacologists, but I do want
15 you to have an understanding of the situation of
16 why we're using Lasix and what's the condition
17 about it.

18 So first, before we talk about Lasix, we have
19 to talk about why we use Lasix. Basically, we are
20 addressing an issue that is a very old issue in
21 racehorses called exercise induced pulmonary
22 hemorrhage. The name's kind of new, the condition
23 has been around for hundreds of years. The figure
24 that you see is of a horse that was originally
25 called Bartlett's Childers. This was a horse in

1 the 1700s, it -- it used to develop blood at its
2 (indiscernible) so consistently after it raced
3 that it's name was colloquially changed to
4 Bleeding Childers; so, very common condition. It
5 is a great grand sire of Eclipse, which was one of
6 the most famous racehorses in modern day.

7 So take home, this isn't a new condition.
8 It's also important to know that it is only -- not
9 only a condition of racehorses. It's been
10 diagnosed in almost every breed of horse that
11 exercises intensely and that's another important
12 point. It is the intense activity of racing or
13 some other athletic competition that generates
14 this bleeding that occurs in the lungs. So horses
15 in the Olympics doing eventing, reining horses,
16 any horse, again, that does severe activity,
17 intense activity might develop this condition.

18 So why do they do this? Because it is very
19 unusual. As far as I'm aware no other species
20 develops this condition at anywhere near the
21 frequency that horses do. And it's probably a
22 very special condition associated with how the
23 horse has been bred and selected through the
24 years. So what you're seeing is very -- I
25 probably won't do -- since you're looking at that

1 one, so it is a very stylized version of the
2 cardiovascular system, obviously, the lungs are
3 missing in this horse.

4 But just so we're all on the same page,
5 deoxygenated or low-oxygen blood comes back into
6 the heart from the venous system, it goes into the
7 right side of the heart, it's then pumped into the
8 lungs where it receives oxygen back into the left
9 side of the heart where it's then pumped and
10 distributed throughout the body. This is very
11 similar our own system, without a doubt. This is
12 a little bit more stylized version, same type
13 issue though.

14 By convention, deoxygenated blood is going to
15 be pronounced in blue and once it's oxygenated in
16 red. The important part is those two lungs that
17 are in pink on each side. When blood goes from
18 the right side of the heart into the lungs, is
19 where it gets oxygenated. And the problem occurs
20 in the horse under intense exercises. The
21 pressures that that heart generates become very,
22 very high and the pressure in those pulmonary
23 arteries is very, very high and it results in
24 rupturing of those small venules and capillaries
25 that are in the lungs.

1 Why horses do this is more of an evolutionary¹²
2 question because almost all horses do it. We've
3 developed a very, very strong pump and
4 unfortunately the lungs require that that tissue
5 be very, very thin in between the blood vessels
6 and the air so that you can have that oxygen
7 exchange. And this just demonstrates it more from
8 the view of the lungs. We have these little
9 grape-like clusters, they're the alveoli, and as
10 the blood comes out of the heart in those blue
11 veins and it is oxygenated, the pressures are so
12 high that some of those capillaries rupture and,
13 as you see in that little small picture, we end up
14 getting some blood into the lungs.

15 So where does Lasix come in? So Lasix is a
16 diuretic. It is essentially a drug that causes
17 the kidneys to produce a lot of urine and very
18 dilute urine. So it is a way the body eliminates
19 excess water and -- and electrolytes. It's
20 referred to as a loop diuretic because that's the
21 place that it works. Again, not trying to turn
22 you into medics or -- but our kidney would look
23 exactly the same. So this as a cross-section
24 through the kidney and the work horse of the
25 kidney is called the nephron and that's that inset

1 on the side. And that very long loop there is the¹³
2 loop of henle. That's where the all the magic
3 happens.

4 So, normally, if you just drink a lot of
5 water, it's -- your body, your brain, is going to
6 tell the kidney, we've got plenty of water on
7 board, create a dilute urine and eliminate some of
8 that excess. If by other chance, you've been
9 working out in the yard for several hours, you
10 haven't been drinking in the hot summer sun,
11 you're probably going to be dehydrated and your
12 kidney is going to start to retain water and
13 produce a more concentrated urine.

14 We use Lasix in human medicine a lot,
15 primarily for conditions where you retain a lot of
16 water, so, congestive heart failure or
17 hypertension. So many of you may be familiar with
18 people who develop hypertension. We tend to
19 develop it on our systemic side of the
20 circulation, not in the pulmonary arteries.
21 Occasionally people do develop pulmonary
22 hypertension, but they develop it more
23 consistently -- it's something that's always
24 present.

25 The horse's pulmonary hypertension only

1 develops during intense exercise. When it's at
2 rest, it's totally normal. It's a very safe drug,
3 relatively, and it's a very effective drug. So
4 the only risks that we see in people who take it
5 consistently, they may develop a low level of
6 potassium, which is called hypokalemia, and
7 occasionally, they can even develop actual low
8 blood pressure.

9 So what does it do in the horse that has
10 EIPH? So let me tell you a little bit of how we
11 use it. So on race day, again, no sooner than
12 four hours before the race, a veterinarian would
13 administer, generally, 250 milligrams, maybe more
14 maybe a little less depending upon the
15 veterinarian and how they feel the horse -- what
16 dose they need. The horse will very quickly begin
17 to urinate, five to ten, 15 minutes. It will
18 produce a lot of urine and it will continue to
19 urinate for probably up to 30 or 40 minutes
20 intermittently. Over that time period it can lose
21 about 30 pounds of water, maybe more maybe less,
22 again, depending on the horse and depending on the
23 dose.

24 We want to say a horse is around a thousand
25 pounds, those -- that's about a three percent body

1 weight loss. So if I was going to go out and run¹⁵
2 a short race, and I suddenly found myself three
3 pound -- three percent lighter, that's not
4 insignificant. And that's an important point
5 we'll come back to later.

6 But studies have shown, and again, these are
7 studies that have been conducted in research
8 facilities, generally, on horses on the treadmill
9 but they give that to a horse that bleeds and they
10 do not allow the horse to replace that water, and
11 they measure the pulmonary pressures in those
12 horses, the pressures are lower. So we think it's
13 probably not quite as simple but for the most
14 part, it is this abrupt water loss that causes a
15 decrease in the pulmonary pressures and so the
16 horses bleed less. Horses generally won't -- even
17 if you allow access to water, most of them won't
18 drink a lot of water immediately after Lasix,
19 probably because they lose both water and
20 electrolytes and so they're body isn't telling
21 them that they're dehydrated.

22 Over the course of those four hours, before
23 the race and certainly during the race, you get a
24 lot of fluid shifts and so the horses do recognize
25 they're dehydrated and not to mention they lose,

1 generally, a lot of sweat during the exercise,
2 during the race, and so they come back into the
3 detention barn; they will drink a lot of water and
4 they will recognize that they're thirsty. But
5 it's important to know from a regulatory
6 standpoint, which I think we're concerned about,
7 is that Lasix will still be detectable in the
8 blood and urine of the horse post-race.

9 Also important the -- generally, the urine is
10 very concentrated. So one of the things that I've
11 heard mostly, like, people's talk about is
12 administering the diuretic to produce a dilute
13 urine that will mask the presence of other drugs
14 in the horse's system. That doesn't occur unless
15 there's been a Lasix violation. So if it's
16 administered four hours out and water is not
17 allowed to be administered to the horse during
18 that period or the horse doesn't drink, they will
19 produce a concentrated urine and that is something
20 that the laboratories monitor. They monitor the
21 specific gravity or the concentration of the urine
22 and they can measure the concentration of Lasix in
23 the bloodstream.

24 So the pros and cons, and again, this is
25 where a little bit of opinion comes in. But I try

1 to base my opinions very much on the facts, on the¹⁷
2 data that's presented, and the science as we know
3 it today. And I will say Lasix as a very, very
4 well-studied drug, probably more so than any other
5 drug that we use in horses. There is very good
6 evidence, and I think consensus, that it does
7 decrease the severity of body fluid in horses that
8 suffer this condition. It probably is most
9 effective in horses that have mild to moderate
10 bleeding. It doesn't prevent it and if you have a
11 horse that has severe bleeding, it probably is
12 still going to bleed.

13 It's also currently a level playing field, if
14 you will. So currently, if a trainer/veterinarian
15 feel like this horse would benefit from the use of
16 Lasix, given some issues around house rules, etc.,
17 in the state of Florida as far as our regulations
18 are concerned, it's not difficult for them to get
19 the horse to be very able to race on Lasix. It
20 must be controlled and it must be administered in
21 the manner that we described.

22 A little bit out of my wheelhouse but I'll
23 mention it just because others will and wanted to
24 be complete, is that for the last so many years
25 that the thoroughbred breeding industry has been

1 developed in a controlled Lasix environment. So
 2 horses have been allowed to be administered Lasix.
 3 If a stallion particularly benefitted from that
 4 administration, that's probably not something
 5 that's been factored into his breeding potential.
 6 That's in contrast to Europe where they don't use
 7 Lasix. So if a horse -- his performance suffers
 8 significantly from bleeding, that's probably going
 9 to be apparent and he probably won't be selected
 10 as highly as a stud. Again, I'm sure other people
 11 will speak more highly to that.

12 One issue is, it's also the devil we know.
 13 So we know horses have this condition, we know how
 14 to regulate it, we understand the pros and cons,
 15 and since we know that most horses, to some degree
 16 suffer from this, if we eliminate Lasix, what
 17 comes next?

18 We know people already understand how can I
 19 get my horse to bleed less? What other drugs do
 20 they go to? Do you have the ability on the
 21 backside and in the laboratories to control those
 22 next steps acutely? What are the cons to using
 23 Lasix?

24 Well, bit controversial, but it is a
 25 performance-enhancing drug, in my opinion. So

1 other studies have shown in horses that bleed very¹⁹
2 minimally, if you administer Lasix, and again,
3 don't replace that water loss, they will have an
4 improved athletic performance. Probably directly
5 related to losing that weight. But, again, a
6 little bit of a level playing field if we allow
7 all the horses to use it.

8 Are there animal welfare considerations?
9 Possibly. It does produce dehydration, that's
10 without a doubt. It's an acute dehydration. It's
11 replaced within hours, we don't see a lot of
12 adverse events associated with administration.
13 Now that's not to say that it isn't a stress on
14 the horse. Racing alone, intense exercise, is a
15 stress on the horse and then is an added metabolic
16 stress. We're making them drop weight, we're
17 making them lose electrolytes. So I don't want to
18 minimize but, certainly, it appears that many,
19 many horses who are administered Lasix recover
20 just fine afterwards.

21 Should we be allowing horses to race with
22 moderate to severe EIPH? We are one of the other
23 -- only countries in the world that allow that.
24 We certainly -- other countries certainly have
25 horses that bleed, but I think they feel it's a

1 selection pressure that if the horses bleed
2 significantly enough, maybe they need to find a
3 different career path. To me, which I'm sure you
4 guys understand, it's a -- it's a bit of a public
5 perception.

6 So one could look at it and say, gosh, 90
7 some-odd percent of horses that race have to have
8 a medication on race day in order to go out there
9 and compete. On the other hand, you could say,
10 there's a condition that is very, very common in
11 almost all racehorses and now we have a mechanism
12 that we can ameliorate some of those negative
13 consequences and allow the horse to compete to
14 their full potential.

15 So I'm happy to take questions and I also
16 provided, which I'm sure you all pulled down and
17 read, some recommended readings. There's a
18 plethora of information out there. I just really
19 provided these; these are a lot of the ones I
20 based some of my opinions on. But there is a lot
21 of data out there in order for you to form these
22 opinions.

23 CHAIR: Thank you, Dr. Cole.

24 Commissioners, questions? Commissioner
25 Brown? Okay.

1 COMMISSIONER BROWN: Thank you so much. And
2 thank you for your presentation and -- and the
3 work that you are doing for the Gaming Commission
4 and the industry as well.

5 So, just to understand, I'm familiar with
6 Lasix in humans, having family members that have
7 been on it. But horses, so they bleed less with
8 the Lasix? Does that mean that they, regardless
9 of administering the Lasix, they will be bleeding
10 during racing.

11 DR. COLE: Yes. I mean we think -- some
12 horses it's very mild. You actually have to put
13 an endoscope down and you may see this
14 mild-to-moderate presence of blood. Whether or
15 not those horses will not bleed at all, we don't
16 know. But I would say it does not prevent
17 bleeding, it makes it less severe.

18 COMMISSIONER BROWN: Does the condition cause
19 permanent damage or lessen the -- the life of the
20 horse?

21 DR. COLE: Certainly horses that suffer from
22 severe EIPH, I mean, some of them will rupture and
23 die. So it can cause lethality, without a doubt.
24 That's rare.

25 Most horses bleed mild-to-moderate extent and

1 go on to have very happy, healthy lives. That's
2 not a significant cause of euthanasia, I would
3 say, in the average racehorse.

4 COMMISSIONER BROWN: Before a horse enters a
5 race in Florida, do you have a report of their
6 history of this condition?

7 DR. COLE: Generally, they have to apply to
8 be on, so one would know if this horse was on the
9 bleeder list in another state.

10 COMMISSIONER BROWN: How many, percentage
11 wise, just a rough estimate, how many horses right
12 now, to your knowledge, rely on Lasix?

13 DR. COLE: So someone may be give better, but
14 my -- my impression and my understanding is it's
15 more than 90 percent of the horses, if they're
16 allowed to compete, we'll administer Lasix.

17 COMMISSIONER BROWN: Do you know how many
18 states, and maybe others in the industry any, but
19 how many other states or if the majority are
20 relying on Lasix to compete.

21 DR. COLE: Oh, currently?

22 COMMISSIONER BROWN: Yeah.

23 DR. COLE: Currently, Lasix is permitted in
24 every state and there are currently some tracks
25 that limit use of Lasix in certain races under

1 house rules. But I'm not aware of any state,
2 that's not my area of expertise, that has simply
3 eliminated the use of Lasix at this point in time.

4 COMMISSIONER BROWN: What are the other
5 countries using? You said that the United States
6 is the only one that permits it.

7 DR. COLE: There are no publications
8 demonstrating the efficacy of any other drug to
9 the reduce the severity of this. I'm pretty
10 comfortable that that's true. Other state --
11 other countries may use other approaches.

12 Maybe they withhold water for a day in order
13 to produce that same level of dehydration. There
14 may be other substances they try but there's
15 nothing in the literature that supports the use of
16 any or drug as effective against EIPH.

17 COMMISSIONER BROWN: Thank you so much.

18 CHAIR: Commissioner D'Aquila?

19 COMMISSIONER D'AQUILA: Dr. Cole, thank you
20 for a brilliant presentation. I haven't enjoyed
21 biology this much since college.

22 Stakes races, my understanding is, currently
23 do not allow Lasix.

24 DR. COLE: Correct.

25 COMMISSIONER D'AQUILA: Is -- is that true?

1 DR. COLE: Yes.

2 COMMISSIONER D'AQUILA: Have there been a
3 noticeable increase in horse injuries in stakes
4 races as -- in -- and, you know, I understand this
5 thought necessarily your area of expertise, but --

6 DR. COLE: I -- I have -- that has not been
7 brought to my attention nor anyone said we've had
8 more horses suffering from epistaxis or overt
9 bleeding through the nose since we eliminated
10 that.

11 COMMISSIONER D'AQUILA: Okay. Have there
12 been any horses that have -- had negative effects
13 from taking Lasix that caused anything to their
14 detriment health-wise or ended their racing?

15 DR. COLE: Noth -- nothing that is proved,
16 but I think we do certainly recognize that this
17 particularly, maybe, in South Florida, in the
18 summer, it's an added stress for the heat. And it
19 certainly can produce some electrolyte
20 abnormalities in these horses so does it
21 contribute to heat stroke sudden death. Nothing's
22 ever been shown but that's the -- that's the only
23 mechanism that I could say it's possible to.

24 You know, most of horses they come out of
25 these races, they are tired and you can tell that

1 for the next 24-72 hours. But the horsemen know
2 that as well so these horses are given that time
3 off and -- and basically given time to recover
4 from the race. How much is from the race and how
5 much from the Lasix? Very hard to parse.

6 COMMISSIONER D'AQUILA: Is the three percent
7 of body weight, is that an average? Are there
8 situations where certain horses, due to breed or
9 age may have an extreme weight loss that could
10 make -- raise the risk? Or is that, you know, is
11 it -- is the standard deviation?

12 Let me ask the question a different way,
13 somewhat --

14 DR. COLE: Yeah, it probably can be much
15 larger. That's an average and I think part of the
16 difficulty we have is most of that comes from
17 research horses where we try to control as much as
18 we can so we also give 250 milligrams or milligram
19 per kilo dosing, but most are going to give the
20 250-milligram dose. If it's a small horse,
21 700-800 --

22 COMMISSIONER D'AQUILA: Right.

23 DR. COLE: -- pounds, the effect is much
24 larger.

25 So you give that or maybe the larger dose of

1 500 milligrams, certainly you're going to have a
2 much larger effect. But I will say most
3 veterinarians, there -- there's an endpoint of
4 diminishing returns. So if you push them to that
5 end, they certainly won't race well and that's
6 typically not what the veterinarian or trainer are
7 trying to accomplish.

8 COMMISSIONER D'AQUILA: My last question.

9 The Lasix that we're using for the
10 thoroughbreds, is it the same Lasix we're using in
11 humans.

12 DR. COLE: Yes, in terms of, yeah, there is
13 no approved product. It is the human and Lasix --
14 I think it -- there's also a -- Salix is another
15 name and that -- but it's the intravenous
16 formulation. There're oral formulations approved
17 for use in humans that we could also but -- but
18 generally don't. It's -- it's always an IV
19 administration.

20 COMMISSIONER D'AQUILA: If I may ask one
21 more? Are there currently any products, either in
22 final test phase, or I should say drugs, or --
23 that are out there that are positioning themselves
24 as an alternative to Lasix that might be
25 contributing to this attention and so forth?

1 DR. COLE: Not that I'm aware of but the drug²⁷
2 companies can hold those pretty -- cards tight to
3 the chest.

4 COMMISSIONER D'AQUILA: Right.

5 DR. COLE: I will say there's been a number
6 of drugs that have been developed and not been
7 successful in proving efficacy but another company
8 -- a number of companies have tried to address it.
9 I think part of the limitation is, really, they
10 need to push it out to at least to 24 hours to be
11 successful; 48 being ideal, in trying to get a
12 drug that's effective and lasts that long has --
13 has been challenging.

14 COMMISSIONER D'AQUILA: Thank you very much.

15 CHAIR: Commissioner Drago?

16 COMMISSIONER DRAGO: Thank you.

17 Doctor, I have -- I'm kind of curious about a
18 couple of things and you might -- I might have
19 missed it in the presentation because I really
20 liked looking at all the diagrams of everything,
21 so --

22 DR. COLE: Good.

23 COMMISSIONER DRAGO: -- I might have missed
24 it.

25 If it -- does the bleeding condition occur

1 naturally in nature? In other words, a horse that
2 is not performing at this level, like in racing,
3 could a horse run himself so hard that he -- he,
4 in -- just in nature that he -- that he bleeds?

5 DR. COLE: So, I'm unaware of any studies
6 that have been done on mustangs, which would be
7 the equivalent, but it is probably less likely
8 given that they've been more selected for being
9 short, squat, and still fast. But I think it's
10 less likely, but it would not surprise me if it
11 still occurred to a mild extent.

12 But short of the -- the wild horse, any of
13 the other populations -- the only horses that I've
14 -- we've -- we've consistently -- don't bleed very
15 much are the ones that don't work very hard. So
16 the ones that really are like, yeah, no we're
17 fine.

18 COMMISSIONER DRAGO: So my giddy-up horse
19 that I have and that I ride, I've never seen him
20 bleed from the nose so it probably -- I'm not
21 probably pushing him.

22 DR. COLE: No, I know -- there -- yeah,
23 right. The trail riding even at the level that --
24 that I ride, I'm sure my guy isn't -- isn't
25 pushing it to the max.

1 COMMISSIONER DRAGO: And just one other
2 question. When it's recognized that a racehorse
3 needs Lasix, that is bleeding -- he bleeds from
4 the lungs, is that recognized when they're younger
5 in training and then, if so, do they start getting
6 the Lasix young, like, through their lifetime?

7 Do they have to be conditioned to this or are
8 they just give it to them when they're going to go
9 out and race?

10 DR. COLE: So there's probably others better
11 qualified, but it -- it generally is -- and again
12 with some areas we have house rules against
13 two-year-olds now racing on it, but most trainers
14 would probably wait to a certain point before they
15 start them on it. Three-year-old year would be
16 more common than two and -- but I think it's once
17 they start on it, most horses continue to race on
18 it.

19 There are a few horses that you put them on
20 it and they don't race well, and so there's always
21 the horses that don't race. So I think the
22 trainers are pretty savvy to say, you know, did my
23 horse or I feel like it improved when he raced on
24 Lasix versus not? But, again, the majority of
25 them do administer Lasix.

1 COMMISSIONER D'AQUILA: Thank you, Doctor.

2 CHAIR: Mr. Vice Chair?

3 VICE CHAIR: Just sort of off Commissioner
4 Drago's question. How -- how exactly or roughly,
5 how prevalent is the use of this drug in horses in
6 -- outside of the racing industry?

7 So in work horses or would you find this on a
8 -- on a farm that utilizes horses to some capacity
9 or is it -- is it relatively unlikely?

10 DR. COLE: It would be unlikely. In most of
11 the very intense competitions like FEI, which is
12 the Olympics, it would not be permitted. And farm
13 horses or draft horses or horses in other
14 competitions, if they surmise that it happened,
15 and it was a permitted medication, I'm sure they
16 would use that. It's more a question of whether
17 or not the other regulatory agencies allow it to
18 be used.

19 VICE CHAIR: And then just to, and this may
20 be outside of your area of expertise, just it
21 sounds like in -- in Europe, for example, where
22 this drug is -- is not permitted, it sounds like
23 there -- there may be other -- other techniques
24 being used to -- to counter act this versus the
25 Europe breeders maybe trying to select against --

1 DR. COLE: I would say both.

2 VICE CHAIR: -- this? Both?

3 DR. COLE: I would say both. I would say
4 certainly there's a less tolerance that if the
5 horse bleeds and it's severely impacts or
6 significantly impacts the horse's performance, he
7 probably ends getting another job quicker than a
8 horse in the United States.

9 VICE CHAIR: Okay. Thank you.

10 CHAIR: I think my question is probably for
11 Ms. Stinson.

12 Ms. Stinson, without our request of a waiver,
13 the federal government, if I'm correct, will
14 prohibit the use of Lasix within 48 hours,
15 correct? Which is effectively just prohibiting
16 it's use with racing?

17 MS. STINSON: Yes.

18 So just to give a little bit of -- of
19 context. The exemption would be for the next
20 three years --

21 CHAIR: Mmm-hmm.

22 MS. STINSON: -- while the Horseracing
23 Integrity and Safety Authority studies the effect
24 of Lasix in racehorses.

25 CHAIR: And -- and the current Florida

1 Statutes on that subject, I think, is 550.2415,
2 Paragraph 8?

3 So if we do request this, then the status quo
4 we would be preserving, and correct me if I'm
5 wrong, would be furosemide is the only medication
6 that may be administered within 24 hours before
7 the officially scheduled post time of a race but
8 it may not be administrated within four hours
9 before the officially scheduled post time of a
10 race. That's is the present law?

11 MS. STINSON: Yes.

12 So that is the present law for horses that
13 are on the bleeder list. There was a legislative
14 push, actually, in I believe 2014 or 2015 that
15 specifically added that statute that you just read
16 and allowed horses that are on a bleeders list,
17 they are actually required to have Lasix in their
18 system, per Florida law, when they race.

19 CHAIR: So in 2014 or 2015, the legislature
20 considered this issue and they spoke on it?

21 MS. STINSON: Yes.

22 CHAIR: Okay. Commissioner Brown?

23 COMMISSIONER BROWN: Thank you.

24 Ms. Stinson, during the three-year study, how
25 are the states going to be involved with the

1 findings that come of it? And then, do -- because
2 with -- it may vary from state to state, and then
3 who, ultimately, will make the final
4 determination? HISA or the states based on the
5 evidence in each state?

6 MS. STINSON: Sure.

7 It is an independent study done, conducted by
8 HISA and they will be the ones evaluating the
9 results of the study and if the study -- if they
10 find that the study is -- indicates that Lasix is
11 a drug that can be used, they are authorized by
12 statute to then go and change the federal rules
13 regarding Lasix in horse races.

14 COMMISSIONER BROWN: Will -- will the state,
15 each state including Florida, will -- will we be
16 able to have access to the studies?

17 MS. STINSON: I believe we will have access
18 to the studies but I am not sure on that question
19 a hundred percent. But I do know that the racing
20 authority is required to conduct this study per
21 statute.

22 COMMISSIONER BROWN: And if the state
23 legislature determines that Lasix is permissible,
24 can they, during this three-year period take
25 action on their own?

1 MS. STINSON: So the -- on the application,
2 the request for exemption, the race -- the state
3 racing commission has to say what level they are
4 going to be setting their Lasix requirement at.
5 And we would be able to go back to our 2014-2015
6 rule that we have in place now and if we wanted to
7 change that, I believe we would be able to change
8 it. We just couldn't change any lower than what
9 was in effect December or September 1st of 2020.

10 CHAIR: Commissioner D'Aquila, go ahead.

11 With that, I think I'm going to move into
12 public comment. Give us a little bit more
13 information before we open it up to debate. Just
14 going to go in the order that I have with the
15 cards. I have Dr. Diane ben -- I'm sorry, Dionne
16 Benson.

17 DR. BENSON: Good morning, commissioners. My
18 name is Dr. Dionne Benson. I'm the chief
19 veterinary officer for the Stronach Group who
20 owns, among other properties, Gulfstream Park.
21 We're actually in support of this.

22 It may come as a little bit of a surprise to
23 the commission because we already have a
24 restriction on stakes races and two-year-old
25 races. And to be clear, I believe that the way

1 that the statute or the federal law works, is that
 2 January 1, 2023, even if you request the
 3 exemption, you can have no Lasix in two-year-old
 4 races or stakes races. Anything that has the word
 5 'stake' in it or 'two-year-old,' it will be
 6 prohibited by federal law.

7 I'm formally a lawyer, but I'm not, you know,
 8 I'm not going to tell you guys how the interaction
 9 of Florida and state law and federal law works.
 10 I'll let you -- you have that discussion with HISA
 11 and the regulatory authority. But, we believe and
 12 what we have seen in the last few years is,
 13 actually, you know, I believe one of the
 14 commissioners asked about number of fatalities,
 15 have we seen an increase?

16 This year to date, we have seen two
 17 fatalities associated with sudden death. Those
 18 aren't necessarily associated with bleeding. And
 19 that is with -- and neither, to my recollection
 20 neither of them are in -- were in a two-year-old
 21 race or a stakes race. But what we believe is
 22 it's very important to allow this time for not
 23 only HISA and the regulatory authorities to figure
 24 how to best proceed if Lasix is going to leave or
 25 if Lasix should stay, but also to allow the

1 horsemen to adjust.

2 There is a breeding component, potentially,
3 to this. Dr. Cole mentioned a famous horse who --
4 who, basically, started all this. And there was
5 another one, Northern Dancer, who was known to be
6 a bleeder and if you look at the pedigree of most
7 horses racing today, they have Northern Dancer in
8 them.

9 So there is going to -- it is going to take
10 some time for us to see how these two-year-olds
11 and stakes horses do across the country. See
12 which ones, potentially, have less likelihood to
13 bleed and allow us to potentially shift the
14 breeding towards those horses because they will
15 ultimately be more hardy and have longer careers
16 and have more successful careers without Lasix.

17 So I think there is some benefit to taking
18 this pause and this time and this opportunity to
19 study not only Lasix as an issue but the horses.
20 Like I said we've had some -- some very good
21 success in southern Florida. California has been
22 prohibiting two-year-old and stakes races for
23 almost three years now. And Maryland has also
24 prohibited in their two-year-olds and stakes
25 races. Ultimately, I think, if Lasix goes away,

1 we will figure out how to safely and successfully
2 race as they have in other countries.

3 You know, I -- I have a very good friend who
4 says around the globe we have figured out how to
5 safely and successfully race with or without
6 Lasix. The point is we're -- we're behind the
7 times. If we're going to do without Lasix because
8 for 50 years we have been doing it with Lasix and
9 we have a generation of trainers who have never
10 trained without Lasix, it will still be allowed in
11 training. It is used in training in Europe. That
12 just shows you how beneficial it is in -- and the
13 country.

14 And I believe the other question that was
15 asked by the commissioners is where in the world
16 is it used elsewhere? It is allowed in non-group
17 and that's their graded stakes races in many sub
18 South American countries. So they're just trying,
19 again, keep it out of the breeding stocks and so
20 this would be a very similar regulation to what
21 they use there.

22 I'm happy to answer any questions you have.
23 I -- before this I was executive director of the
24 racing medication consortium which helps set the
25 medication rules. So I'm very familiar with this

1 issue.

2 CHAIR: Commissioners, for any of public
3 speakers, I'll leave the floor open for questions,
4 so just speak up as -- as they occur to you.

5 COMMISSIONER D'AQUILA: What was the -- first
6 thank you for your presentation, Doctor;
7 brilliant.

8 What was the reasoning for preventing the
9 two-year-olds from receiving the drug?

10 And I might add -- expand that question to
11 the stakes. Was it just a matter of
12 competitiveness in the stakes race?

13 DR. BENSON: Yeah, I think our perception is
14 it -- it -- it really becomes a public perception
15 issue for the two-year-olds. And we wanted to see
16 what the two-year-olds would do without Lasix. As
17 a part of that, you know, to see which -- which
18 horses didn't bleed; how much they bled.

19 And as a part of that we did do an extensive
20 study in conjunction with the Florida horsemen as
21 well as several groups around the country where we
22 sampled of number of two-year-olds that were both
23 on Lasix in racing and off Lasix in racing. And
24 we sampled a number of stakes horses that were on
25 Lasix in racing and off Lasix in racing and that

1 study was done by a Professor Warwick Bayly, who's
2 out of Washington State and has done a lot of the
3 research in this area.

4 That race research was recently concluded and
5 we are expecting, I think, five or six different
6 papers that will come out. And that will be
7 available publicly. And it will also -- that will
8 help us kind of guide what we are going to do.
9 But what we've -- some of the things that they've
10 found are really very interesting.

11 I mean, for example, horses that bled -- the
12 way that bleeding in horses work is -- it's on a
13 scale, zero to five. Zero is nothing, five is
14 frank epistaxis, blood coming out of the nose.
15 Most horses don't have a five. We don't see very
16 many of those.

17 But, what they found and which was
18 surprising, is a horse might have a one -- level
19 one day, a three the next time they race and then
20 go back down to a one. We always assumed it was a
21 very progressive disease that once it happened it
22 was only going to get worse. But the horses that
23 we followed through a year were -- were very --
24 highly variable. And that kind of information you
25 can't get if you're -- if you don't actually take

1 a step to prohibit Lasix. And by doing that in
2 the two-year-olds we were really able to tie it
3 back and -- and control a lot of the breeding
4 information, so.

5 COMMISSIONER BROWN: By the way, superwoman.
6 Doctor and lawyer; that's pretty impressive.

7 DR. BENSON: Thank you, thank you.

8 COMMISSIONER BROWN: You found a much better
9 path than --

10 DR. BENSON: Yes, yes.

11 COMMISSIONER BROWN: -- than --

12 DR. BENSON: And I'm halfway through a
13 masters in animal welfare, so.

14 COMMISSIONER BROWN: Oh, my-goodness, you
15 just -- well, very impressive.

16 DR. BENSON: I like school.

17 COMMISSIONER BROWN: Something that you said
18 struck me was that Europe uses Lasix in training
19 and in Florida, you-all use Lasix in training as
20 well. So even if the exemption is -- is not
21 stopped, you would still continue using Lasix in
22 training?

23 DR. BENSON: Yes.

24 They could -- can still continue using Lasix
25 in training. And -- it just wouldn't give the

1 horsemen the opportunity to change how they're --
2 they're preparing for a race. Because you prepare
3 for a race much differently. And I think the
4 other thing I'm sure there are people who can
5 better speak to this, it would put Florida at a
6 huge economic disadvantage.

7 COMMISSIONER BROWN: Oh, I would like -- I
8 would be interested in hearing a little bit more
9 about that.

10 DR. BENSON: Yeah, well, I mean if you -- I
11 don't know of another state and I've -- I've
12 pulled several. Pennsylvania is applying for it,
13 Kentucky is applying for it. Minnesota is
14 applying for it. I believe Maryland and
15 California will likely apply for it. I'm -- I
16 can't imagine that Arkansas won't apply for it so
17 we will see a lot of our horses go to places where
18 they can race on Lasix because they know how to do
19 that.

20 COMMISSIONER BROWN: Absolutely. Thank you.
21 I appreciate that.

22 CHAIR: Thank you, Doctor.

23 DR. BENSON: Thank you.

24 CHAIR: To everybody who puts in a speaker
25 card, let me apologize in advance if I don't

1 pronounce your name, correctly and feel free to
2 correct me. I take no insult.

3 Mr. Mike Denny?

4 MR. DENNY: I'm here to -- for the Tampa Bay
5 horsemen and Lasix would really be a needed issue.
6 And as far as I've been training horses, I believe
7 that you just try to control it and when you don't
8 have Lasix, you're going to end up getting worse.
9 It's like a sore that just keeps getting bigger.

10 CHAIR: Commissioners?

11 Thank you, Mr. Denny, I appreciate it.

12 MR. DENNY: Okay.

13 CHAIR: Oh, of course.

14 COMMISSIONER DRAGO: So -- so without the
15 Lasix, then, what would you do? If you can't use
16 Lasix, then what would you do? What's the next
17 step.

18 MR. DENNY: You try the best you can with
19 medication earlier but, you know, most likely you
20 just have to get rid of the horse.

21 COMMISSIONER DRAGO: Right. Okay.

22 MR. DENNY: And I believe when you get into
23 older horses, you could lose 50 percent of the
24 population in the -- in that amount of time.

25 COMMISSIONER DRAGO: Oh, okay.

1 MR. DENNY: And I think, maybe, in Europe,
2 I'm not positive, but they don't train in big
3 cities like us. We're in the pollution zone where
4 they're out on a farm, out if the open the horses
5 easier than they do in the confined area in the
6 major cities that horses race in.

7 COMMISSIONER DRAGO: Thank you very much.

8 MR. DENNY: Thank you.

9 CHAIR: Mr. Andy Belfiore?
10 I apologize.

11 MS. BELFIORE: That's okay. It's a common
12 mistake.

13 Hi, I'm Andy Belfiore, I'm the executive
14 director of the Florida Thoroughbred Horsemen's
15 Association and we represent the 6,000 owners and
16 trainers who race at Gulfstream Park in South
17 Florida. And it's our job to protect the interest
18 of the horsemen but it's also very much our job to
19 protect the welfare of the -- and safety of the
20 horses themselves. And to that end, you know, we
21 -- we work side-by-side with regulators and with
22 the race tracks to develop protocols that are
23 going to increase safety for the horses.

24 You know, over the years we have better
25 technology for diagnosing injuries, we have

1 increased veterinary scrutiny to make sure the
2 horses are well cared for, race track maintenance
3 has really improved so that we know the safety of
4 the surface is really best for the horse, and the
5 medication regulations have increased and we have
6 stricter regulations particularly on medications.

7 And if you compare racing medication
8 regulations to other sports, you'll see that it's
9 much stricter in horseracing than it would be in
10 the Olympics or in pro or even college sports.
11 Those athletes, they can use pain killers, they
12 can use muscle relaxers, anti-inflammatories,
13 really right up to game day. But in horse racing,
14 everything except Lasix is strictly prohibited
15 within 24 hours of a race. And most medications
16 you have to push them much further out than that.

17 But we allow Lasix as, you know, Dr. Cole and
18 Dr. Benson both said, because we know that horses
19 do have this condition. It's very prevalent.
20 Studies have shown that, you know, the -- the
21 study we did in Florida looked at 296 horses who
22 raced without Lasix in stakes races. And of those
23 -- that group, 62 percent, 184 horses, had some
24 level of bleeding. And 14 percent, so 42 horses,
25 had the higher level of bleeding. Not necessarily

1 bleeding out of the nose, but, you know, a level
2 three or a level four. But we also know that
3 Lasix is pretty effective in preventing or at
4 least, mitigating bleeding.

5 In New York, for instance, Lasix wasn't
6 permitted until 1995. In most states, it started
7 in the 70s. But in New York it was 1995 and they
8 had kept very strict records on epistaxis,
9 bleeding from the nose, prior to allowing Lasix
10 and then after it was legalized in '95. And they
11 found in the year following the legalization of
12 Lasix, the evidence and incidents of epistaxis,
13 the bleeding from the nose, dropped 80 percent and
14 it stayed down. So the evidence in favor of -- of
15 using Lasix was there and they've used it ever
16 since.

17 So we, you know, we feel that this study is
18 going to be conducted and they're going to look
19 into Lasix and they're going to look into
20 alternative therapies to see if there is something
21 we can use otherwise, but in the meantime, we know
22 Lasix is effective, we know it helps the horses,
23 and so that's why the Florida Horsemen's
24 Association is very strongly in support of an
25 exemption so that we can continue to treat our

1 horses with the best care we can while this study
2 is conducted until we get the results. Thank you
3 very much.

4 CHAIR: Thank you. Dr. Orlando Paraliticci.
5 Tell me I got that one right?

6 DR. PARALITICCI: Dr. Paraliticci; you did.

7 CHAIR: All right.

8 DR. PARALITICCI: So good morning, my name is
9 Dr. Orlando Paraliticci. I'm a private
10 practitioner in Tampa Bay Downs with -- I work for
11 Mike Denny also. So he asked me to come to answer
12 any question or talk to you guys about side of it
13 which is the private side. We don't do the
14 regulatory veterinary which is the one that
15 delivered the Lasix to the horses on race days.
16 We do the pre-ones for training which you were
17 showed is milder and definitely it -- I recommend
18 continuing the use because my example would be of
19 these two-year-olds that have -- haven't been
20 having the Lasix we go and endoscope them after
21 races and in my part of the -- of my practice, I
22 would have to say, like, 70 or 75 of them have
23 some kind of trace of blood.

24 Which puts me to think if we try and do the
25 soundness through the animal, which is what we're

1 looking for, we're already starting a young career
 2 already with inflame problems. So if we can keep
 3 them from doing this, my example to the trainers
 4 is usually if you have a scab and you keep messing
 5 with it, you're going to keep bleeding it. If you
 6 leave it alone and if you put it in some kind of
 7 treatment, it would heal and you can continue and
 8 we could decrease the amount of the dosage of the
 9 Lasix which would help, even still having it but
 10 it would help in the own way. That's kind of what
 11 I wanted to say.

12 Any questions?

13 CHAIR: Thank you, Doctor.

14 DR. PARALITICCI: Thank you.

15 CHAIR: And Commissioners, that is all of our
 16 public speakers. I am going to open it up for
 17 debate and then as a matter of procedure, on the
 18 question of should we move forward on requesting
 19 the exemption, I'll take a roll-call vote and
 20 depending on the outcome of that roll-call vote,
 21 we can do a motion to effectuate it.

22 Commissioner Brown?

23 COMMISSIONER BROWN: Thank you. I -- I think
 24 the evidence is more than compelling that Lasix
 25 mitigates the effects of bleeding. It's clear

1 it's being conducted in practice, in training, not⁴⁸
2 just in the States but also in Europe. I think
3 I'm -- I would be very much in support of the
4 exemption and study during the three years.

5 CHAIR: Commissioners?

6 COMMISSIONER D'AQUILA: I concur with
7 Commissioner Brown.

8 CHAIR: Any further debate?

9 VICE CHAIR: I concur with Commissioner Brown
10 and Commissioner D'Aquila and -- and on the legal
11 reasoning, at least legal argument, I concur with
12 the chair as to -- as to where Florida -- Florida
13 should be postured.

14 I do have concerns long-term in -- in having
15 discussions with where HISA and HISA or HISA,
16 whatever the -- I've heard both, and other ways to
17 pronounce the name of the organization. But I do
18 have concerns about where -- about their process
19 for how this winds up when this three-year period
20 ends up.

21 I think it's something that the commission
22 should -- should monitor closely or with the
23 industry and others to make sure that if there is
24 some sort of change with the usage and allowance
25 of -- of this medication that it -- it is not

1 something that winds up harming the horses as well⁴⁹
2 as the industry.

3 So I think that the -- that the commission
4 should -- should be as active as possible, this
5 would be my preference in monitoring the on going
6 use of this which seems consistent with -- with
7 the view of Florida legislature and I think, based
8 on what I'm hearing today, the sentiment of all
9 the commissioners.

10 So, with that I -- I have nothing further.

11 COMMISSIONER DRAGO: I -- I, too, am in
12 support of the exemption. I think that there's
13 definitely a need for more definite research in
14 this area and determine if there are other options
15 to the Lasix or not. It seems to be working but
16 there may some or things when we can have some
17 more time to -- to look at it I think is
18 important.

19 So I'm in favor of the exemption.

20 CHAIR: And I will only clarify again, that I
21 don't think it's our role as a commission to make
22 the normative decision of whether we should or
23 should not. I simply think that it is our role to
24 effectuate the will as expressed through the state
25 legislature and that if we don't ask for the

1 exemption, and we allow the federal government to
2 preempt the state legislature, that we would be
3 abdicating our duty to effectuate Florida law.

4 And with that, I'll -- I'll take a vote on
5 the question of whether we should seek the waiver.

6 Commissioner D'Aquila?

7 COMMISSIONER D'AQUILA: Yes.

8 CHAIR: Commissioner Drago?

9 COMMISSIONER DRAGO: Yes.

10 CHAIR: Commissioner Brown?

11 COMMISSIONER BROWN: Yes.

12 CHAIR: Mr. Vice-chair?

13 VICE-CHAIR: Yes.

14 CHAIR: Show it unanimous.

15 And can we have a motion to direct staff to
16 prepare the request for the waiver and communicate
17 to the federal government?

18 VICE CHAIR: So moved.

19 COMMISSIONER BROWN: Second.

20 CHAIR: Any opposition?

21 Show the motion carries. Thank you.

22 All right. Item No. 1.

23 And so let us move on now to agenda Item No.

24 2. Mr. Trombetta?

25 MR. TROMBETTA: Thank you, Mr. Chair. And if

1 I may, there's -- if you'll entertain me, I think
2 we just have one -- one more item on Agenda 1.

3 Just to kind of clarify the -- the motion
4 that you-all just passed.

5 There's a form that we will have to fill out
6 to effectuate the motion. And on the form one of
7 the questions involves, the question says, it's
8 question No. 6: Please submit here with your
9 commission's proposed limitations of the use of
10 furosemide that would apply to your state under
11 the anti-doping and medication control program
12 during the exemption period.

13 If I may, and if you'll entertain me, would
14 we --

15 CHAIR: Commissioners, my understanding and
16 -- and forgive me if I felt that it was implicit,
17 but my understanding is that that section would be
18 filled out to reflect status quo, the current
19 statutes, and roles we have in place.

20 COMMISSIONER BROWN: Yes.

21 MR. TROMBETTA: Thank you, Mr. Chair.

22 CHAIR: Thank you.

23 Item No. 2?

24 MR. TROMBETTA: Item No. 2 is the discussion
25 of the breeders awards plan submitted by the

1 Florida Thoroughbred Breeders and Owners
2 Association. I think we have staff here that is
3 ready to present this if you desire.

4 CHAIR: Who is talking with us today?

5 MR. TROMBETTA: Ms. Kim Ferree.

6 CHAIR: And I will let everybody know I do
7 not have any speakers cards on this agenda item.
8 If anybody was inclined to speak when we get to
9 public comment, you probably want to let me know.

10 MS. FERREE: Good morning, commissioners.

11 CHAIR: Good morning.

12 MS. FERREE: I know you have got a lot on
13 your agenda today so I'm going to try to be as
14 quick as I can be. The first page, 102, is just
15 the summary for presentation that gives a little
16 background discussion on the law and -- and the
17 analysis and the recommendation. And then pages
18 103 through 141 is the actual submitted plan from
19 the Florida Thoroughbred Breeders and Owners
20 Association. And then pages 142 through 144 is a
21 worksheet that we've developed over the years to
22 review the plan and provide an objective analysis
23 of the filed plan, determine the plan's annual
24 compliance with statutory required compliance
25 elements, provide a fair and impartial

1 determination of the plan's approval or rejection
2 based upon compliance measures, and document the
3 annual plan document compliance criteria as
4 assessed. So it refers to what pages the criteria
5 was found.

6 This is the first of the beginning of a
7 process. They filed an annual plan that's
8 required by the statute every year. And
9 throughout the year then the permit holders that
10 hold the thoroughbred races will submit to the
11 association the awards and the placement of the
12 horses and transmit the money to the breeders'
13 association who in turn verify the eligibility of
14 the horses and pay out the payments.

15 We randomly pick those audits for audit and
16 we verify the expenditures all the way back to the
17 bank records. We verify the expenditures as well
18 as the ten percent administrative fee that's
19 allowed by law in their audited financial
20 statements and we also verify the horse records
21 independently as well. So the plan appears to be
22 in compliance with the requirements and we would
23 recommend that the plan be approved by the
24 commission.

25 CHAIR: And so the staff recommendation for

1 approval, was that recommendation made over the
2 objections of any party?

3 Did anyone -- did anyone oppose this
4 proposal?

5 MS. FERREE: No, I have not been informed of
6 any objections.

7 CHAIR: Commissioners? Questions? Any
8 debate? I see a question.

9 COMMISSIONER D'AQUILA: The only question I
10 had was the expenditures, the trend lines are
11 clearly exceeding the revenue. Could you explain
12 that?

13 I -- and I'm specifying -- I'm speaking
14 specifically with regard to projections on
15 revenues.

16 MS. FERREE: In -- in the past when we've had
17 the trend line going down, they were -- they were
18 affected by the pandemic and they had to reassess
19 the plan one year that was riskier for us so we
20 went ahead and put that in the audit plan and
21 performed the audits to verify that. I think
22 that's probably better addressed by a
23 representative of the Breeders' Association.

24 When we do ask them to validate those
25 numbers, they send up the support and some of

1 those trend lines, I think, really are just
2 looking at the net assets, not really expenditure
3 line, per se. I'd have to look at the financials
4 to --

5 COMMISSIONER D'AQUILA: And there was a
6 reference to the tri-party stakes program?

7 MS. FERREE: Right. That's -- that's an
8 agreement between the breeders' association and
9 their other contractors where they get in
10 agreements with -- with them --

11 COMMISSIONER D'AQUILA: Okay.

12 MS. FERREE: -- to pay the breeders' awards.

13 COMMISSIONER D'AQUILA: Okay. Thank you.

14 MS. FERREE: I didn't -- I wish I had more
15 information on that for you.

16 CHAIR: Let the record reflect that when the
17 CPA on the commission asks a question, the three
18 lawyers look at each other with sort of glazed
19 look in their eyes.

20 All right. Commissioners, any further
21 question or debate?

22 Seeing none, do I have a motion?

23 COMMISSIONER BROWN: Chairman, with the very
24 thorough industry promotion plan that is presented
25 before us to do, I move to approve the FTBOA 2023

1 plan.

2 CHAIR: Do I have a second?

3 VICE CHAIR: Second.

4 CHAIR: Okay. Any opposition?

5 Show that motion carries, thank you.

6 We are to Item No. 3, discussion of a renewal
7 application for Gulfstream.

8 MR. DILMORE: Thank you, Mr. Chair. I'm
9 ready for No. 3.

10 CHAIR: I have Mr. Joe Dilmore, the director
11 of the Division of Pari-Mutuel Wagering to
12 present.

13 MR. DILMORE: Good morning.

14 Before you, on this item, you have a renewal
15 for a slot machine license for Gulfstream Park,
16 staff and house, this has gone through all the
17 necessary requirements for the renewal and
18 reviewed the application, the internal control
19 submissions, and received the necessary payments.
20 And based on that, the staff has recommended for
21 the commission approve the slot machine renewal
22 license for Gulfstream Park for effective
23 October 10th, I believe for the subsequent
24 364 days.

25 CHAIR: And Joe, is there any reason,

1 grounded in health, safety, or welfare that we
2 would not approve it?

3 MR. DILMORE: Not to my knowledge, no, sir,
4 no.

5 CHAIR: Thank you.

6 Commissioners, any question or debate?

7 Seeing none, do I have a motion?

8 COMMISSIONER D'AQUILA: I'll make a motion.

9 CHAIR: And a second?

10 COMMISSIONER BROWN: Second.

11 CHAIR: Any opposition?

12 Show that motion carries.

13 Thank you, Mr. Dilmore.

14 Okay. Back to the agenda. We are to Item
15 No. 4 is a discussion of amended application for
16 card room license. I believe we have two.

17 MR. DILMORE: And if I -- if you prefer, I
18 can do these just together. It's simply two
19 permit holders who have amended their current card
20 room license to add additional tables. Their
21 previous card room application had already been
22 approved and reviewed.

23 These are simply, pretty much, notifying us
24 of the addition to tables where we can have them
25 on our record, have them on the license, and then

1 pay the additional table fees and then we go out
2 to make sure that they're in compliance before
3 they're in operation, so, and with that staff has
4 recommended that the two amended card room license
5 for the two permit holders in question be
6 approved.

7 CHAIR: Same baseline question for me: is
8 there any issue grounded in health, safety, and
9 welfare to the people of Florida that would
10 counsel us not to vote for this?

11 MR. DILMORE: No, sir.

12 CHAIR: Okay. Commissioners, any questions?
13 Debate?

14 Do I have a motion?

15 COMMISSIONER D'AQUILA: So moved.

16 CHAIR: And a second?

17 COMMISSIONER DRAGO: Second.

18 CHAIR: Any opposition?

19 Show that motion carries for items 4.1 and
20 4.2.

21 Item No. 5 is a discussion of amended
22 application for pari-mutuel operating license
23 Gulfstream Park Racing and Casino.

24 MR. TROMBETTA: Thank you, Mr. Chair. We
25 have Tracy Swain here to present the next two

1 items, I believe.

2 Ms. Swain, if you can come up, please?

3 MS. SWAIN: Good morning. I'm Tracy Swain --

4 CHAIR: Good morning.

5 MS. SWAIN: How are you?

6 This -- there are two actual tax credits

7 transfers, one is Melbourne --

8 CHAIR: I think we might be jumping ahead to

9 Item No. 6. We're still on Item No. 5.

10 MR. DILMORE: I apologize.

11 Yeah, so Item No. 6 by Gulfstream Park, it's
12 to amend their racing calendar for racing dates.
13 They have submitted their application to amend the
14 racing dates on their current license which has
15 already been approved and this was, essentially I
16 think, dropping five performances and adding six
17 for a net gain of one. They're still -- met the
18 other requirements of this is -- would be
19 considered a minor adjustment by rule and
20 otherwise all other conditions have been met and
21 the staff's recommendation is to approve the date
22 exchange for Gulfstream pari-mutuel dates
23 operating license.

24 CHAIR: The statute allows for this. This is
25 a minor change and there would be no detriment to

1 health, safety, or welfare?

2 MR. DILMORE: Yes.

3 CHAIR: Commissioners, any questions?

4 COMMISSIONER BROWN: Move to approve the
5 amended application for Gulfstream.

6 VICE CHAIR: I just have a quick question. I
7 apologize.

8 Have -- have we properly messaged the
9 industry just -- just for their -- that they're --
10 with this new process in place under the
11 commission, there may be an extended time line for
12 approval of these mine or changes is?

13 MR. DILMORE: Yes. In fact we've done that
14 on several. They're amended for all licenses
15 prior to the -- where the timeline might have been
16 a little shorter so with the commission dates that
17 are being set up, they're trying to get them to us
18 in advance so we can get them on the agenda well
19 in advance of the next meeting, so yes.

20 VICE CHAIR: Okay. Thank you.

21 CHAIR: I think you may have already answered
22 my follow-up question.

23 Have we bent over backwards and done
24 everything we possibly can to make sure that that
25 delay is minimized?

1 MR. DILMORE: Yes, sir.

2 CHAIR: Any further question or debate?

3 Mr. -- or Commissioner D'Aquila?

4 COMMISSIONER D'AQUILA: I don't.

5 CHAIR: I believe we have a motion?

6 COMMISSIONER BROWN: Yes, sir.

7 COMMISSIONER D'AQUILA: I'll do the second.

8 CHAIR: Any opposition?

9 Show that motion carries.

10 And now we are on to Item No. 6.

11 MS. SWAIN: This is a related to greyhound
12 permit holders authorized to transfer tax credits
13 for their exemptions. The first one is for
14 Melbourne Park to transfer \$360,000 of their tax
15 credit exemption to Daytona. All the requirements
16 of 550.0951, Florida Statutes have been met. The
17 staff's recommendation is for that tax credit to
18 be -- transfer to be approved.

19 The other is Penn Sanford to transfer
20 \$360,000 of their tax credit exemption to Daytona
21 Beach Kennel Club also. Under -- all the
22 requirements have been met also for -- under
23 550.0951 and the staff's recommendation is to also
24 approve that tax credit transfer.

25 CHAIR: So, in -- in past commission meetings

1 when -- when these credits have come up, my
2 impression has been, well, this certainly is not
3 an administerial function, we have the discretion
4 to deny these. It's the closest thing that we
5 have to administerial function in that there
6 really isn't a lot of policy consideration behind
7 our approval or disapproval of these. Am I
8 correct there?

9 MS. SWAIN: That would be correct. As long
10 as they meet all the requirements of the statute,
11 it is an approved function.

12 CHAIR: Okay. Commissioners, any questions
13 or debate?

14 Seeing none, do I have a motion?

15 COMMISSIONER D'AQUILA: I'll make a motion.

16 CHAIR: And a second?

17 COMMISSIONER DRAGO: Second.

18 CHAIR: Any opposition? I show that motion
19 carries.

20 MS. SWAIN: Thank you.

21 CHAIR: Thank you. And that was for item 6.1
22 and 6.2.

23 MS. SWAIN: Correct.

24 CHAIR: Discussion of default and final
25 orders is Item No. 7.

1 MS. ALVARADO: Good morning, this is Emily
2 Alvarado.

3 CHAIR: Ms. Alvarado, I think it might be
4 appropriate for these. You can continue to
5 present them. I'm going to leave the floor open
6 for questions by commissioners for anything that
7 strikes their fancy to want to ask about. But I
8 don't think that we need to stop for each -- each
9 separated line item.

10 MS. ALVARADO: Okay.

11 CHAIR: We may be able to take a full vote on
12 all of these unless any commissioner wants to pull
13 any one out of the packet.

14 MS. ALVARADO: Okay.

15 CHAIR: And with that, commissioners, the
16 floor is open for questions as we go through.

17 MS. ALVARADO: So with that I'll kind of
18 combine the first three because they're relatively
19 similar anyways.

20 FGCC versus Keith Sean Pruitt, which is Case
21 No. 2022-015682.

22 FGCC versus Claudia Sanabria-Gelabert, which
23 is 2022-024932.

24 And FGCC versus Ronny Jerome Williams in case
25 No. 2022-028128.

1 All three of these were respondents that were
2 -- received administrative complaints that they
3 were excluded from either Casino Miami or Magic
4 City Casino and then they're, therefore, subject
5 to exclusion from all our facilities and the slot
6 machine facilities.

7 CHAIR: I actually did want to say one thing
8 about this particular subset of administrative
9 complaints.

10 Commissioners, I'm going to admit it gives me
11 a little bit of pause that the discretion to issue
12 or not issue an administrative complaint happens
13 without coming before us first, however, I am not
14 advocating that we change that. And, kind of,
15 counter-intuitively, I think that if we were to
16 have those administrative complaints, especially
17 the ones of this nature that are an exclusion come
18 before us, it would slow the process for the
19 people in the industry who are trying to move
20 forward with their lives.

21 And there is a stopgap that it does have to
22 come before us after the administrative complaint
23 has been issued. So I don't think we should
24 change that. But I think that we should be
25 conscious of the fact that on the front end we are

1 telling staff that it's okay to issue the
2 administrative complaints provided we're hearing
3 about them before any actual State action is taken
4 on them. Thank you for indulging.

5 Any questions?

6 Thank you, Ms. Alvarado, continue.

7 MS. ALVARADO: No worries.

8 So in your packets you would see the USPS
9 certified tracking number as well as the confirmed
10 delivery. They're given 21 days to respond. They
11 didn't respond so I'm going to actually group
12 these three together, if I can, and ask the
13 Commission to enter an order finding that the
14 respondent was served the administrative
15 complaint, failed to respond within 21 days, that
16 the factual allegations in the administrative
17 complaint are accepted as a finding of facts in
18 this case, and concluding that all three
19 respondents be permanently excluded from all
20 pari-mutuel facilities and all slot machine
21 facilities.

22 CHAIR: Okay. We're going to -- we'll go
23 ahead and continue on through. I think we can
24 combine them all into one motion unless anyone
25 pulls something out.

1 MS. ALVARADO: Okay.

2 Item 7.4 is FGCC versus Ryan W Thurber, II,
3 which is a Case No. 2022-028874. This case, the
4 respondent was provided an administrative
5 complaint alleging that he failed to clear his
6 hands on -- as he's working as a dealer -- he
7 failed to clear his hands one shift's or cash or
8 tokens were exchanged with players at the table.
9 He has no prior violations of this. He failed to
10 respond within 21 days. You will see the USPS
11 tracking as well as the tracking confirmed
12 delivery.

13 So we have the authority here to impose a
14 fine of a \$1,000 for this violation and we were
15 just asking for a fine of \$50, as this is his
16 first violation.

17 CHAIR: Okay.

18 MS. ALVARADO: The next one is item 7.5,
19 which is FGCC versus Wallson Joseph in Case No.
20 2022-030917. This as a two-count administrative
21 complaint. Respondent was convicted, he's a
22 licensee, and he was convicted while he had his
23 license of a felony. He failed to inform us of --
24 of this within 48 hours which is a violation of
25 550.105(5)(b) and 550.105(10)(d).

1 You also see in there the USPS tracking and
2 confirmed delivery. He did not respond within
3 21 days. So here we are asking that the
4 Commission enter an order revoking his -- his
5 license.

6 COMMISSIONER BROWN: I have a question.

7 In order to, like, the Florida bar, you --
8 when you we have people doing education classes,
9 so we're very aware if you are convicted crime you
10 have to notify the Florida bar. How are the --
11 how is this individual, this licensee, notify --
12 made aware that they have the onus to notify the
13 Gaming Commission when they've been arrested of a
14 felony?

15 MS. ALVARADO: My understanding is that when
16 they're issued the license, they're told of all --
17 that they much continue to notify us of
18 convictions. They're required to notify us when
19 they're filling out the application in-- in the
20 first place, I believe they're notified as well
21 after that once they get their license.

22 COMMISSIONER BROWN: Is there any additional
23 requirement that they have, like, continuing
24 education once they get a license to remind them?

25 Some of these people have been license

1 holders for decades --

2 MS. ALVARADO: Right.

3 COMMISSIONER BROWN: -- since these licenses
4 are in perpetuity.

5 MS. ALVARADO: Not to my knowledge, no.

6 COMMISSIONER BROWN: I mean, it -- you know,
7 it -- I just had a hard time with this one because
8 I -- I mean I don't know the facts behind this
9 individual.

10 If they were aware that they have the duty --
11 I know that they did not respond, right?

12 Is this one of the ones that they did not
13 respond?

14 MS. ALVARADO: Right.

15 COMMISSIONER BROWN: So that gives me more
16 comfort and then they have -- there's additional
17 recourse action after we enter this default final
18 order that the Respondent, he can -- he can take,
19 correct?

20 MS. ALVARADO: Right. He can appeal it
21 after, yes.

22 COMMISSIONER BROWN: Okay. Thank you.

23 CHAIR: For clarification was that 7.4 or
24 7.5?

25 MS. ALVARADO: That was 7.5.

1 CHAIR: Okay.

2 MS. ALVARADO: And 7.6 is, actually, exactly
3 the same as 7.5. It's FGCC versus Antonio Donaco
4 Beasley in Case No. 2022-037880. He was also
5 issued an administrative complaint that was two
6 counts that he was convicted of a felony, didn't
7 inform us of the conviction within 48 hours.

8 He did not respond to the administrative
9 complaint within 21 days and therefore we're
10 asking that his license be revoked as well.

11 CHAIR: Okay. Commissioners, in -- in
12 seeking a motion for an all of the points, I want
13 to be clear that it's just for the sake of
14 efficiency and it is not for the sake of log
15 rolling. So if you want any particular line item
16 pulled out of a -- a bulk motion, please, just let
17 me know ahead of time and we'll consider that
18 separately.

19 With that said, I would entertain a motion to
20 approve this staff recommendations for all items
21 or for any number of the items?

22 COMMISSIONER BROWN: Mr. Chairman, before we
23 -- you do that, can I open the floor for 7.2 for a
24 question?

25 CHAIR: Of course.

1 COMMISSIONER BROWN: Regarding this
2 particular case, I can't pronounce the last name,
3 Claudia Sanabria-Gelabert why did Casino Miami
4 have the Miami police come to the facilities?

5 All of these other Miami -- Miami -- could
6 the first one the police came, the second one is
7 Magic City, the police came.

8 Do you have any knowledge about that in the
9 record?

10 MS. ALVARADO: I don't, no. Everything that
11 you had in the case file is the only thing that
12 I've been able to review and I don't see anything
13 in there either.

14 COMMISSIONER BROWN: Is it typical, though,
15 to permanently exclude individuals when there is
16 an actual arrest made on the premises?

17 MS. ALVARADO: Yes, that's very typical.

18 COMMISSIONER BROWN: But the commission --
19 the precedent prior to that can go ahead and
20 permanently exclude even if there is a not a
21 police record?

22 MS. ALVARADO: Right. There's a lot of
23 reasons they -- they permanently exclude. But if
24 there's a criminal arrest, it's pretty typical
25 that you'll see them permanently exclude as -- as

1 well.

2 COMMISSIONER BROWN: This one, just for the
3 public is that Respondent was seen pretending to
4 be a jackpot winner in the past.

5 What does it mean by the past?

6 MS. ALVARADO: So she, actually, in this
7 present case, she was doing it. I think she had
8 multiple violations and this is time they decided
9 to take action on it. It doesn't actual say how
10 many times she did it in the past. It's very
11 broad but this particular case she did try to cash
12 out a jackpot winning that she was not the actual
13 winner for.

14 COMMISSIONER BROWN: Is that a violation of
15 any state or local law?

16 MS. ALVARADO: That I'm not sure about.

17 COMMISSIONER BROWN: Thank you.

18 CHAIR: Commissioners, do we want to consider
19 7.2 or 7.5 separately?

20 Okay. Then I will entertain a motion.

21 VICE CHAIR: Could I just -- could I -- when
22 you -- when you indicated that she did these
23 things during the event, we're basing that
24 entirely off of the depiction provided to us by
25 the facility, right?

1 MS. ALVARADO: Right. They give us
2 investigative, like, files based on their
3 surveillance and what the employees observed as
4 well.

5 VICE CHAIR: And I know, I understand there's
6 a broad law that puts us all in process we're in
7 now which seems to just -- which seems to take the
8 credit for, give the -- give the -- give the
9 facility the presumption that what they're
10 (indiscernible) is true.

11 But when they are presenting this information
12 so are they required affirm that it is accurate
13 and correct?

14 MS. ALVARADO: Right. I believe the
15 investigators review the surveillance as well.
16 They --

17 VICE CHAIR: They do?

18 MS. ALVARADO: They go through -- yes. So --

19 VICE CHAIR: Okay. Should you --

20 MS. ALVARADO: -- I don't actually have the
21 surveillance on -- on me, obviously, here but they
22 reviewed the -- the -- the surveillance footage
23 for anything that's recorded.

24 VICE CHAIR: Okay. So it's not necessarily
25 entirely on the --

1 MS. ALVARADO: Right.

2 VICE CHAIR: -- on the affirmation by the --
3 by the facility? There is a staff that is looking
4 at these to --

5 MS. ALVARADO: Right.

6 VICE CHAIR: Test the veracity -- is that --
7 is that every time? I don't --

8 CHAIR: Well, in the respondent, they would
9 have the opportunity to respond within those
10 21 days as well?

11 VICE CHAIR: They do.

12 MS. ALVARADO: Right.

13 VICE CHAIR: They do?

14 I just want to make sure I understand what it
15 is we're basing on -- this off of.

16 MR. TAUPIER: I may be able to clarify a
17 little bit. A lot of times when these cases
18 actually come through investigations, it's not
19 from a report from the actual facility, it's our
20 investigators who go to the facility to do their
21 audits and things like that that actually go
22 through everything and see that someone was
23 excluded and they do sort of the back work.
24 Although there are reports done by the facilities,
25 our investigators go through the surveillance, ask

1 for those reports, gather it and make their own
2 independent decision on whether or not there would
3 probable cause to refer to legal is.

4 VICE CHAIR: Okay. Thank you.

5 CHAIR: Commissioner Brown?

6 COMMISSIONER BROWN: So, just one more
7 question.

8 When an individual is permanently excluded
9 from the facility, is there a master list of
10 exclusions for all of our licensees?

11 MS. ALVARADO: Yes, it's on our -- our state
12 website. It's a list of everybody and what
13 facility they're excluded and the term -- that
14 time because you don't have to be necessarily
15 permanently excluded. You can just decide to make
16 it a shorter period of time. So it says all that
17 information on there. And each facility's
18 provided the master list once it's update.

19 COMMISSIONER BROWN: So does the investigator
20 that reviews this each investigation evaluate
21 whether they should be permanently excluded or
22 excluded for a specific period of time. Do they
23 have the authority to do that.

24 MS. ALVARADO: Typically they'll send it to
25 legal and then we would kind of make the

1 recommendation for you guys to ultimately make the
2 decision on.

3 COMMISSIONER BROWN: Has the commissioner or
4 the PMW previously provided for anything other
5 than permanent exclusion.

6 MS. ALVARADO: We have, yes. We've done a
7 year, three years, it really just depends on the
8 specific situation once the case file has been
9 reviewed.

10 CHAIR: And to be clear, someone who has a
11 permanent exclusion, could petition the commission
12 to be removed from the list at any point in
13 time --

14 MS. ALVARADO: Yes.

15 CHAIR: -- correct? Okay. Thank you.
16 Any further question or debate?

17 Do I have a motion to accept staff
18 recommendations for items 7.1 through 7.6?

19 COMMISSIONER DRAGO: So moved.

20 CHAIR: A second?

21 VICE CHAIR: Second.

22 CHAIR: Any opposition?

23 Show that motion carries.

24 We are on to Item No. 8. A discussion of
25 consent orders or a recommended consent orders.

1 MS. ALVARADO: Okay.

2 The first consent order is FGCC versus Steven
3 G. Cogen in Case No. 2021-003221. And in this
4 case file you were provided the administrative
5 complaint which alleged the respondent, who was a
6 dealer at the time, stole an amount of \$795 of
7 chips from St. Petersburg Kennel Club, which is a
8 violation of 61D11.0054.

9 You were provided the settlement and consent
10 order when was notarized and signed by the
11 respondent and which would revoke Respondent's
12 card room license. This is Respondent's first
13 violation and the Division would ask here that we
14 would incorporate the consent order in this case.

15 CHAIR: Any questions or debate,
16 Commissioners?

17 Do I have a motion?

18 COMMISSIONER D'AQUILA: I make a motion.

19 CHAIR: And a second?

20 COMMISSIONER BROWN: I second.

21 CHAIR: Do I see any opposition?

22 Seeing none, show that motion carries. For
23 clarification the motion was to accept the staff
24 recommendation.

25 MS. ALVARADO: Thank you.

1 CHAIR: Item 8.2?

2 MS. ALVARADO: Okay. 8.2 is FGCC versus St.
3 Petersburg Kennel Club in Case No. 2022-020796.

4 In this case file you were provided the
5 administrative complaint which alleged that
6 Respondent failed to have the most current list of
7 the cashier cage access list in their surveillance
8 room, which basically would limit who was allowed
9 to access this room. This as a violation of
10 61D11.0128.

11 You were also provided the signed and
12 notarized consent order which had an
13 administrative fine of \$250 and they also -- we
14 also have received the check already from the
15 facility. They have one prior violation of this
16 from 2021, which resulted in a written warning, so
17 here the Division asks that the commission adopt
18 the consent order in this case.

19 CHAIR: Commissioners, any questions?

20 COMMISSIONER BROWN: Move to approve.

21 CHAIR: A second?

22 COMMISSIONER D'AQUILA: Second.

23 CHAIR: Do I see any opposition?

24 Seeing none, show that motion carries, thank
25 you.

1 Item 8.3?

2 MS. ALVARADO: This is FGCC versus Tampa Bay
3 Downs in Case 2022-020935. In this case
4 Respondent failed to insure that the drop box
5 number corresponded to the table number which the
6 drop box was assigned. And they also failed to
7 record the monitoring of a surveillance situation
8 involving a patron. These are violations of
9 61D11.0201A and 61D11.02517B.

10 You were also provided the settlement and
11 consent order which had a fine of \$750. We've
12 already received the check, as well, from them.
13 Respondent has no prior violations of either of
14 these rules in Florida, so we'd ask that you adopt
15 the consent order in this case, as well.

16 CHAIR: And remind me one more time, the
17 consent order was for what penalty?

18 MS. ALVARADO: \$750 administrative fine.

19 CHAIR: Commissioners, any questions?
20 Debate? A motion?

21 COMMISSIONER D'AQUILA: Motion.

22 COMMISSIONER BROWN: Second.

23 CHAIR: Any opposition?

24 Show that motion carries.

25 Item 8.4, please?

1 MS. ALVARADO: This is FGCC versus Peter
2 James Murphy in Case No. 2022-027787. In this
3 case the respondent failed to wear his photo ID
4 while on duty at Tampa Bay Downs. It's a
5 violation of 61D-11.0098. He has no prior
6 violations so here we ask that the Commission
7 adopt the consent order which had an
8 administrative fine of \$50 in this case.

9 CHAIR: Commissioners, any questions?
10 Debate?

11 I think I've pretty typically seen the \$50 as
12 the -- the agreed to penalty when someone forgets
13 to wear their name tag. I just want to make sure
14 we're not falling into a mechanical function of
15 doing that in that we think that that \$50 is
16 necessary to get compliance.

17 When I hear you say that he doesn't have any
18 prior violations, it makes we wonder if a warning
19 from the Commission would actually suffice to do
20 -- to -- to do exactly that. I am comfortable
21 with issuing the fine. I am also comfortable if
22 the Commission wants to deny this motion and say
23 that, you know, as a first offense for forgetting
24 to wear your name tag, maybe we can give them the
25 fear of what's to come if they don't follow the

1 rules. But, again, I'm -- I'm open to any input
2 for that. Commissioners?

3 COMMISSIONER DRAGO: Just one question.
4 This -- this was a settlement, right?

5 MS. ALVARADO: Yes.

6 COMMISSIONER DRAGO: So that he had -- the --
7 Mr. Murphy has agreed to the \$50?

8 MS. ALVARADO: He did. He already sent in
9 the check for the \$50 as well.

10 COMMISSIONER DRAGO: Thank you.

11 CHAIR: I'll entertain a motion either way.

12 COMMISSIONER D'AQUILA: Motion to accept.

13 COMMISSIONER BROWN: Second.

14 CHAIR: Any opposition?

15 So that motion carries. That was a motion to
16 accept your recommendation.

17 MS. ALVARADO: Okay.

18 CHAIR: Item 8.5.

19 MS. ALVARADO: This is FGCC versus Brian
20 Christopher Cuzino in Case No. 2022-028760. In
21 this case the respondent failed to clear his hand
22 which cash, chips, or tokens were exchanged or
23 provided to a player. That is a violation of
24 61D11.0048A. He has no prior violations of this.

25 You will also see the settlement and consent

1 order which had an administrative fine of \$50 on
2 here. So we had ask the Commission accept this
3 consent order.

4 CHAIR: Commissioners, questions? Or debate.
5 Do I have a motion.

6 COMMISSIONER BROWN: Move to approve the
7 consent order.

8 CHAIR: And a second?
9 Any opposition? Show the motion carries.
10 8.6?

11 MS. ALVARADO: This is FGCC versus Sarasota
12 Kennel Club, Inc., 2022-028913. In this case the
13 respondent failed to insure that the but-in was
14 moved around -- clockwise around the table to
15 provide an equal opportunity for each player.
16 This as a violation of 61D11.0034.

17 You were also provided the signed consent
18 order which had a \$250 administrative fine. He
19 has -- they have no violations of this rule and
20 the Division would ask that the Commission accept
21 this consent order.

22 CHAIR: Actually, question.

23 I think this, Mr. Trombetta, because this is
24 a, forgive the poorly worded pun, a hot-button
25 issue, especially with designated player, the

1 failing to pass the button.

2 Can you talk to the Commission a little bit
3 about how serious a violation that can be?

4 MR. TROMBETTA: Yes. Thank you, Mr. Chair.

5 So the button is used in -- in card games to
6 signify the dealer. So if you think,
7 traditionally, if you're sitting around the dinner
8 table with your family, you would take turns
9 dealing, passing the deck, from one person to
10 another. In a more formal setting, a button,
11 which is a little plastic thing, bigger than a
12 chip, is used to signify who the dealer is.

13 It circles around the table to give people
14 the opportunity to act last, which is generally an
15 advantage in card games. There's a rule in our
16 card room rules that requires the card rooms to
17 offer that button around the table so that people
18 have a fair opportunity to act as the designated
19 player. So this violation is essentially a
20 finding by our investigative staff that that did
21 not happen.

22 CHAIR: And correct me, but the danger that
23 exists here is that, if you're not moving the
24 button around, you're having, instead of a
25 designated player as the dealer, you're having an

1 actual dealer in the game and now we're straying
2 out of the realm of pari-mutuel wagering?

3 Am I --

4 MR. TROMBETTA: Thank you, Mr. Chair. I -- I
5 wouldn't call the dealer -- so the dealer's going
6 exist in this game no matter what. But the --

7 CHAIR: Okay.

8 MR. TROMBETTA: -- but the fear is that
9 you're not providing an equal opportunity to the
10 other players to act as the designated player in
11 the game.

12 CHAIR: Okay.

13 Commissioners, any further question or
14 debate?

15 Do I have a motion?

16 COMMISSIONER DRAGO: Move.

17 COMMISSIONER BROWN: Second.

18 CHAIR: Any opposition?

19 Show the motion carries.

20 I think we are moving to 8.7.

21 MS. ALVARADO: This is FGCC versus Gretna
22 Racing in Case No. 2022-029670. In this case the
23 respondent failed to insure that the table number
24 was written on a damaged card envelope which is a
25 violation of 61D11.0144B2. You also see the

1 settlement and consent order which had an
2 administrative fine of \$250.

3 There's no prior violations of this rule so
4 the Division would ask that the Commission adopt
5 this consent order in this case.

6 CHAIR: Commissioner, any questions or
7 debate?

8 Is there a motion?

9 COMMISSIONER D'AQUILA: I'll make a motion.

10 CHAIR: And a second?

11 Any opposition? Show that motion carries.

12 8.8?

13 MS. ALVARADO: This is FGCC versus Jason
14 Emlep in Case No. 2022-030489. In this case the
15 respondent failed to wear their photo
16 identification card as well. You also see the
17 settlement and consent order which had an
18 administrative fine of \$50. They had no prior
19 violations of this rule and the Division would ask
20 that the Commission accept this consent order as
21 well.

22 CHAIR: Ms. Alvarado, the negotiations for
23 settlement that would be you conducting the
24 negotiations for settlement, correct?

25 MS. ALVARADO: Right.

1 CHAIR: Okay. Just -- I want to reflect the
2 confidence that we have in our staff to make sure
3 that they are effectuating our desire as expressed
4 in prior meetings to make sure that we're not
5 being overly heavy-handed but that the guideline
6 for the penalties that are put in place is just
7 compliance rather than being punitive.

8 With that said, any questions or debate?

9 COMMISSIONER BROWN: In that vein, in that
10 regarding, too, I -- I like the messaging here
11 too. Knowing, and I think when the investigation
12 occurs to find -- when you see somebody who
13 doesn't have a prior violation if it was over, you
14 know, just inadvertently left off and maybe it was
15 misplaced; I would ask just a more permissive
16 approach to that rather than being punitive.

17 And also look looking at the history and the
18 length of employment as a licensee at the -- I
19 think that would factor into whether there were --
20 there should be an administrative fine. So with
21 that I don't have a problem with the consent order
22 but I do appreciate the sentiment, Mr. Chair.

23 And I move to approve.

24 CHAIR: Do I have a second?

25 VICE CHAIR: Second.

1 CHAIR: Any opposition?

2 Seeing none, show that motion carries.

3 8.9?

4 MS. ALVARADO: This is FGCC versus Tampa Bay
5 Downs in Case No. 2022-033589. In this case the
6 respondent allowed a massage therapist to work on
7 the card room floor without a current occupational
8 license. Her license had expired for seven days
9 and she'd been working for those seven days. They
10 do have one prior violation of this rule which
11 resulted in a \$500 fine.

12 In that case the employee worked as a cashier
13 for five months. So in this case we sent a
14 settlement and consent order with a \$250 fine.
15 The respondent agreed and sent the check already
16 so we'd ask that the Division -- I mean the
17 Commission accept this consent order.

18 CHAIR: Commissioners, any questions?

19 COMMISSIONER D'AQUILA: I -- I have a
20 question.

21 It's a repeat offense, right?

22 MS. ALVARADO: Right.

23 COMMISSIONER D'AQUILA: And why is the
24 penalty going down?

25 MS. ALVARADO: I think we took into account

1 the time. The -- the first one was a five-month
2 violation; they had the employee working for five
3 months as a cashier. This one was a -- the
4 person's license just expired and she-- they
5 didn't realize it had expired in that week period.
6 And once they did, they renewed the license in
7 that next week period. That person has a current
8 occupational license with us now, but it had
9 expired while they were working.

10 COMMISSIONER D'AQUILA: So the expiration
11 occurred while they were working?

12 MS. ALVARADO: Right.

13 COMMISSIONER D'AQUILA: They had it when they
14 were hired?

15 MS. ALVARADO: Yes.

16 COMMISSIONER D'AQUILA: But they did not
17 renew it in time while they were working?

18 MS. ALVARADO: Right.

19 COMMISSIONER D'AQUILA: It's not as though
20 Tampa Bay Downs, in this particular case, is
21 hiring people without licenses?

22 MS. ALVARADO: Right.

23 COMMISSIONER D'AQUILA: Right? Okay.

24 MS. ALVARADO: And to clarify she -- she does
25 have a massage license. It was that she didn't

1 have a card room occupational license to work on
2 the floor.

3 COMMISSIONER D'AQUILA: Right.

4 And in her case she'd have to have two
5 licenses, correct?

6 MS. ALVARADO: Right.

7 COMMISSIONER D'AQUILA: Okay.

8 CHAIR: And Ms. Alvarado, just to clarify
9 this is an administrative complaint against the
10 facility not against the person who didn't have
11 their license?

12 MS. ALVARADO: Right.

13 CHAIR: Okay. Any further questions,
14 commissioners?

15 COMMISSIONER DRAGO: If I could, yeah. I'm
16 just stuck on the repeat offenses and the lesser
17 amount in the second offense. I'm not sure how --
18 how that's sending the right message to somebody
19 when it's -- especially since it's basically the
20 same offense.

21 MS. ALVARADO: Right.

22 COMMISSIONER DRAGO: And it's just a matter
23 of how long it took to get caught and -- and
24 because they got caught sooner than the first
25 time, they get a less -- lesser fine at this time.

1 So I'm -- I'm not -- maybe you can explain to me
2 the -- the thinking behind that or the rationale
3 the -- that I'm missing.

4 MS. ALVARADO: Right.

5 I think -- I think well, the rationale is
6 kind of what I just explained. Really, that was
7 the whole thought behind it was that they let a
8 cashier to work for five months. This person,
9 they hired with a current license. They weren't
10 aware that her license expired until they were --
11 until they realized that she was working that week
12 with an expired license and they were proactive
13 and -- and got her license immediately following
14 that.

15 VICE CHAIR: But -- but is it -- is there a
16 scenario where they were -- they were hired with a
17 license was valid but about, like, about to
18 expire? Is that -- is that correct?

19 MS. ALVARADO: No, I think this person has
20 been an employee for a while with the facility.
21 Her license expired as she was an employee. It
22 wasn't a new hire, it was somebody who had been
23 there and it expired while she was an employee.

24 VICE CHAIR: But they had fore- -- they had
25 foreknowledge that it was expiring, I mean, at

1 some point when they had them?

2 MS. ALVARADO: I'm sure they had records,
3 yes, of when their -- their licensees expire. So
4 they missed -- they missed the mark on that one.

5 COMMISSIONER D'AQUILA: Can I have one more?

6 Ms. Alvarado, I think we're at -- we're --
7 where I'm going the question is I'm more concerned
8 about the prior violation. This is a fairly large
9 organization, State of Florida, I would expect
10 that they keep track of their employees licenses,
11 right?

12 MS. ALVARADO: Right.

13 COMMISSIONER D'AQUILA: In this era of low
14 unemployment, per se, and so forth, it's almost as
15 if the penalty is minuscule compared to the loss
16 of service. So I'm wondering if we should take a,
17 you know, going forward here, take a look at the
18 severity of these penalties --

19 MS. ALVARADO: Okay.

20 COMMISSIONER D'AQUILA: -- on this. Just,
21 you know, food for thought. I -- I think five
22 months without a, you know, letting someone work
23 for five months with a license, that I mean -- I'm
24 surprised.

25 MS. ALVARADO: Right.

1 CHAIR: Just to maybe give us some context
2 and this doesn't have to be an exact number, but
3 give me a hipshot on how many licensees work at
4 Tampa Bay Downs?

5 MS. ALVARADO: I'd have to refer to the
6 Executive Director for that one.

7 MR. TROMBETTA: Thank you, Mr. Chair. And I
8 -- I'm not going to pretend to know that answer.
9 I can answer the question, generally, though.
10 There's a lot.

11 CHAIR: Okay.

12 MR. TROMBETTA: And I think just the context
13 here, not to excuse the context -- I can't -- I
14 apologize, I can't get the mike right. It was a
15 long period of time but I think the repeat of
16 maybe -- just let me turn this one off. Well, I
17 -- it's a -- five months as a long period of time
18 but in terms of the looking at the repeats, these
19 facilities --

20 CHAIR: Right, I think I can go from here.

21 So, technology advances, they should be able
22 to track their license. This does not seem to be
23 a purposeful violation from the facts before us.
24 Their prior violation was more egregious. It was
25 a cashier who has access to money. That was a

1 five-month period; they were penalized for it.

2 This is a massage therapist on the floor and
3 as soon as they found out that there was a
4 violation, they corrected it immediately. That
5 gives me comfort in the lower penalty. Of course,
6 I think the message does need to be sent and I
7 think it probably is by this penalty as well that
8 avail yourselves of whatever recordkeeping and
9 processes and technology you need to ensure that
10 you know when your licensees licenses are
11 expiring. And I think Tampa Bay Downs can get
12 that message.

13 COMMISSIONER DRAGO: Just one other comment
14 if I could. And that -- to go back to what the
15 chairman said earlier about we're looking for
16 compliance not discipline or punishment or
17 anything. When we gave that first fine, we are
18 looking for compliance. They didn't comply.

19 So now we got a second fine and we said well,
20 you didn't comply the first time so we're going to
21 give you lesser fine this time. So I think we're
22 missing the point if we're trying to get
23 compliance and we don't get it, they shouldn't be
24 rewarding for not complying. They should be --
25 there should be some further penalty for failure

1 to comply again.

2 So, that's my concern is that the message
3 we're sending it's -- we want compliance but we
4 don't really want it that bad so if you don't
5 comply we're not going to hit you that hard. I
6 think that the point is if we felt it was that
7 serious the first time, and I realize it's a
8 difference in time and that should be considered,
9 but to cut the -- the fine in half, because in my
10 mind, it's the lack of compliance more so than --
11 then the time or the -- or the position.

12 So I think if we are seeking compliance,
13 excuse me, if we're just looking to discipline,
14 then we can do whatever we want because we're just
15 going to whack them for whatever they did and move
16 on. But we -- we are trying to create a process
17 of compliance and to be consistent I think it's
18 important that we don't reward them when they
19 don't comply.

20 That we're -- we're not out to get anybody
21 and we're not to hurt anybody but we are out to
22 get compliance. And we have a system we are -- we
23 hope is working to get that compliance and if it's
24 not, then we need to be doing something else
25 rather than rewarding them. So that -- that's

1 just how I feel about it. And I -- I think that
2 compliance, and the chairman's mentioned this a
3 couple of times, the idea of compliance is what
4 we're trying to achieve is very important here and
5 consistency is important.

6 CHAIR: So, if I can agree wholeheartedly and
7 put a slight gloss on that. I think the message
8 you should be hearing is that when you're having
9 settlement discussions, if you start to get the
10 feeling that the person you're having settlement
11 discussions is looking at this as the cost of
12 doing business, then maybe it's time to assess a
13 little bit of a heavier fine or suggest a little
14 bit of a heavier fine. We'll do the assessing.

15 Any further questions or debate,
16 Commissioners?

17 COMMISSIONER BROWN: Thank you.

18 I agree with all of the comments that my
19 colleagues here have made today. We're going to
20 have another one that's even more egregious right
21 after this one, so I would be interested in
22 seeing, obviously, it's a settlement agreement
23 that's been negotiated, but I do think that we
24 need to be consistent and when there are multiple
25 offenses, the next one, it will be their sixth

1 offense and the fine is the lowest amount that
2 they've received.

3 I think we have to just kind of establish a
4 procedure and precedent here if we're going to do
5 something this would -- this particular item
6 before we get to the next one would be the one to
7 do it.

8 MR. TAUPIER: Marc Taupier, for the record,
9 as Ms. Alvarado's supervisor, I do approve the
10 settlement negotiation and I kind of wanted to
11 give a little bit background on the thought
12 process behind that because compliance is
13 something that we are looking for. In the five
14 months, we saw months of no compliance. So to
15 have a week of no compliance, there is some
16 improvement.

17 We -- if we saw one day, I don't want to
18 start an establishing that your mitigation doesn't
19 matter because now it's a number game. Third
20 violation you're getting it regardless of what
21 mitigation you've taken. So in the settlement
22 negotiations for Tampa Bay Downs, is there full
23 compliance? There was a week where someone was
24 not working with a license but the compliance
25 timeline from where we were before to now is

1 clearly seen that they have done something, right?⁹⁶

2 From five months to the one week and I think
3 that to not put that forth in good faith in a
4 settlement negotiation to say you have tried in
5 the past to rectify, you're not there yet but it
6 -- is it worth what we gave them in the past? No,
7 because it -- it's very specific to what the
8 violation is.

9 So we don't have guidelines and we don't have
10 any type of rule establishing third offense means
11 this will be the penalty. So that was the
12 reasoning behind why I approved her to offer that
13 settlement.

14 CHAIR: Mr. Vice-chair.

15 VICE-CHAIR: I -- I -- I hear that. I -- I
16 also am -- I'm -- I'm kind of carrying this
17 sentiment of -- of my commissioners, my fellow
18 commissioners, I -- I -- it -- it's, to the extent
19 the timely -- how long it was that there wasn't
20 compliance, I think is a factor but also at the
21 end of the day you're -- this is a -- this is
22 really an on/off switch.

23 You're -- you're either -- you're either in
24 compliance with the law in being licensed or
25 you're not. They've had two instances where they

1 were not and I don't know if I -- if I had maybe
2 -- maybe during the course of your work, you've
3 uncovered information related to the -- the
4 enhancements of -- of ensuring compliance and that
5 this was on -- on day eight before anyone noticed,
6 that were -- they -- they were going to have this
7 person re-up their license and be in compliance
8 but I'm not -- I'm not necessarily hearing that.

9 So I don't know if we, have at least, the
10 Commission, I don't know that we have information
11 that they have improved their process to the point
12 where five months would have become seven days
13 versus we just noticed on five -- on seven days
14 instead of five months. Is -- is that a thing?
15 Is that -- is there a factor there that we've
16 uncovered.

17 MR. TAUPIER: There's no factor on that and
18 I'm very wary to go down a road of speculation
19 means through numbers out there. So based off of
20 what we did know at that time, it was a week, it
21 got fixed and that's kind of where we went with
22 it.

23 VICE CHAIR: So there is -- there is no
24 information -- when anything presented at any
25 point in time where they indicated that have

1 improved or changed their process to im -- to
2 mitigate the amount of time that someone could
3 potentially go without a license.

4 MR. TAUPIER: I'm not aware of anything that
5 they've submitted. I believe within the packet,
6 they do talk to the employee and they go back to
7 their internal controls to make sure it's either
8 updated or if they need to change the internal
9 controls. We trust through their internal
10 controls that they're doing that but they haven't
11 submitted something saying we went back, we
12 changed it or this is how we improved. So I don't
13 have that information for you.

14 CHAIR: So let me just ask this as a sort of
15 a broad, generally, and I'm only looking for a
16 hipshot answer to this question.

17 But we have a highly regulated industry, we
18 have actors and licensees within that industry who
19 we expect are probably trying to comply with our
20 rules, it's just smarter doing business that way,
21 what do we perceive as our effectiveness in
22 rooting out violations?

23 Do we think that we are actually capturing
24 the -- the -- the majority of violations that are
25 actually happening or are we getting a sampling?

1 When we get one violation with an
2 administrative complaint, is that the one of 500
3 that happened that we actually managed to catch or
4 are we actually seeing most of what happens?

5 MR. TROMBETTA: Mr. Chair, if I may try to
6 respond. I'm trying to fix my mike, I'm really
7 having an issue, sorry. It's basically the
8 computer or the cell phone, I'm just going to move
9 everything.

10 All right. That sounds a little better.
11 Just a background on the process and just to help
12 provide a little bit more context. So you do not
13 see every case of our investigators finding
14 something and bringing it up. That gets resolved
15 right away. You also don't get every warnings.

16 Our -- our people in the field are authorized
17 to, you know, if they find something they can
18 bring it up, talk with permit holders, talk with
19 people operating the facilities and say hey can
20 you fix that. And if it gets fixed regularly,
21 we're not going to necessarily file an AC every
22 single time.

23 What you're getting are generally, like,
24 stuff that would be elevated beyond that. And we
25 purposefully kind of allow our investigative team

1 to have some discretion in doing that. We don't
2 write up every single thing that they find. It
3 doesn't make it to legal, to you. Then there's a
4 second check once it gets to legal.

5 So legal does the essential, the probable --
6 the probable cause review and they make sure that
7 -- that there is sufficient evidence to go forward
8 with the violation. And then when -- when we're
9 now at the consent order phase, again we -- we do
10 an initial sort of negotiation with the permit
11 holder. We operate in good faith to try to get a
12 resolution on the issue.

13 But ultimately it is, you know, this new
14 process here in front of you, I think everything
15 you're identifying here today is valid for
16 consideration. I'm -- I know my team gets a lot
17 from these meetings just based on this feedback.
18 But, ultimately, too, you guys can at this point
19 say, you know, we're not comfortable with this,
20 we're not binding the agency to this agreement.
21 So there -- there is that check as well. And --
22 and I think the other thing to keep in mind that
23 these facilities, particularly for the -- for the
24 violation for having an employee with an expired
25 license, there's lots of employees that work at --

1 at these places. Hundreds, thousands, some of
2 them and they've existed for a long period of time
3 so you're going to have repeat violation if you
4 look back.

5 I mean it's just -- and it's not necessarily
6 cost of doing business, but, you know, just -- if
7 you're operating 60 years with hundreds or
8 thousands or employees, you know, it's tough;
9 things happen. So I just want that also to be on
10 your mind. I think if everything -- you have
11 provided has been helpful, but.

12 CHAIR: My general question was what
13 percentage of our suspected violations do we think
14 we're actually capturing as an agency.

15 MR. TROMBETTA: I wouldn't be comfortable
16 kind of guessing at it. I can work on trying to
17 get a better example or answer for you for the,
18 you know, the next meeting or --

19 CHAIR: I mean, really just looking for a
20 confidence level. Do we think that we're catching
21 most of the -- the lack of compliance that's
22 happening in the industry through our
23 investigative and -- and complaint process?

24 Or, do we think we're seeing -- we're --
25 we're seeing a -- a -- a smattering of the ones of

1 who we just catch?

2 I mean is this -- is this -- I -- I don't
3 have good examples of -- of -- of comparators but
4 we're not, like, in the drug war where we're
5 catching one thing and, like, there's actually
6 thousands of violations out there is what I'm
7 trying to get at.

8 MR. TROMBETTA: Got you, no, Mr. Chair. And
9 thank you. I think you -- you are seeing, again,
10 you -- and when you say we do you mean -- here are
11 the agency and--

12 CHAIR: I mean -- I mean the entire agency.

13 MR. TROMBETTA: Okay. We're -- we're
14 catching a lot. And essentially what's happening
15 is that the industry is very good with getting
16 immediate compliance on sort of the lower things.
17 So if -- if, you know, for example, we're walking
18 through a card room and we see a table has the
19 wrong number on the table. There's a rule that
20 says the card tables have to have a number on
21 them. If -- a investigator may bring it up and
22 say hey, you know, can you fix that? And if they
23 fix it right away, it's done. It doesn't come to
24 anybody but I would include that in stuff that we
25 are catching and we're getting compliance.

1 I think the -- the directive to our
2 investigative team and to -- to Joe's team, is get
3 compliance exactly how -- how you've, you know,
4 described today. It's -- it's areas where we're
5 -- we don't get it right away or there's more risk
6 associated or where the investigator essentially
7 just feels like hey, this needs to be elevated.
8 Then it comes through that other process but I --
9 I'm very confident in my team that we are finding
10 a lot of the potential violations.

11 And, again, the industry in a whole, wants to
12 comply. They want to follow the rules. It's --
13 it's, you know, things happen and -- and we try
14 to, you know, not be, you know, not -- not just
15 punish them for the purpose of punishing. We
16 really are seeking compliance.

17 CHAIR: And I am comfortable deferring to the
18 good judgment of our staff when we're sending the
19 correct guidance and message, which I think we're
20 sending today which is where you start to feel
21 like the actions we're taking are viewed as the
22 cost of doing business, that's when it's time
23 start upping --

24 COMMISSIONER D'AQUILA: Mr. Chairman, just to
25 add to your point, there was something said

1 earlier that I think is very key. You used the
2 term 'internal control,' and that's -- I think
3 that says it all. I think this could -- if I can
4 speak on behalf of my commissioners, we would
5 expect these organizations to have a system of
6 internal control.

7 In this day and age something as simple as
8 having a report from your HR database of what all
9 your expiration dates of your current employee
10 licenses are and to check three times a week, even
11 in Excel or whatever it may be. The existence of
12 a system of internal control will prevent
13 situations like this and the incredible cost of
14 assessing \$50 and \$250 assessments and it just
15 makes gambling safer or gaming safer and so forth.

16 And -- and that's where I was going with my
17 original point. And if -- if I -- if I haven't
18 made it, I mean if from an accounting perspective,
19 we would not begin to audit the books of a company
20 or an SEC company, you know, public-traded company
21 wouldn't even -- the accountant wouldn't -- the
22 accountant will not walk in the door and do that
23 audit unless there is a system of internal
24 accounting control, so I think to play -- to be in
25 gaming, I would expect the organization to have

1 such.

2 It's the -- in a recurring sets a -- sends a
3 signal that there's something inherently wrong in
4 the organization's leadership or there is a breach
5 in internal control. That's my point, sorry.

6 COMMISSIONER DRAGO: One quick question and

7 --

8 CHAIR: Commissioner Drago, please.

9 COMMISSIONER DRAGO: -- a quick comment,
10 thank you.

11 Mr. Trombetta, you said that our folks find
12 violations a they say hey, fix that and they fix
13 it and so forth and they don't make formal
14 complaints, which I agree with wholeheartedly.
15 But do they note them in any way?

16 Is there a note to file? Is there a warning
17 they put in their own little file?

18 Or is something that gives them some sense of
19 -- so they know this person or this group is done
20 -- done this eight times now and we've told --
21 I've told them, you know, over and over again?

22 MR. TROMBETTA: Yes. Commissioner, so there
23 -- they -- both from our -- our audit -- so and it
24 happens in a few ways. Our investigators and our
25 auditors they -- they do when they're out in the

1 field prepare reports and investigative findings
2 and they do document things.

3 COMMISSIONER DRAGO: Okay. And just to -- a
4 comment on something you said before. That there
5 -- violations with occur and of course, they will.
6 We're all human and people are going to make
7 mistakes and people are going to forget over
8 whatever it may be. That's why we're here to make
9 sure that doesn't too often.

10 But I think what concerns me in this
11 particular case is that when this settlement for
12 the first time was -- was formulated, whoever --
13 whoever did it, felt it was pretty serious and
14 then a length of time, I hear was -- was probably
15 one -- one of the main reasons. So it wasn't a
16 situation of well, a -- violations will occur and,
17 you know, it's not a big deal.

18 They felt it was a big deal so they hit them
19 with a pretty good fine of \$500, but then the
20 second time it got reduced and I think that's --
21 that's my issue and my concern that the compliance
22 message doesn't get out that way but I -- I
23 appreciate all the background information on it
24 and I understand the -- the thought process and
25 everything and the -- the way you explained it

1 also helps so thank you.

2 CHAIR: Two questions.

3 What's the maximum amount of the fine for
4 this violation again?

5 MS. ALVARADO: \$1,000.

6 CHAIR: And I don't expect you to delve into
7 the minds of the corporation that is known as
8 Tampa Bay Downs, but does Tampa Bay Downs perceive
9 a difference between 250 and \$500?

10 MS. ALVARADO: I don't know. I don't have a
11 good for that.

12 CHAIR: Other than -- other than just the
13 message that is being sent from the Commission
14 about how serious we take this?

15 MS. ALVARADO: Right.

16 I think typically, they know that if I'm
17 going closer to a thousand, they can feel that
18 it's going to be more serious, they'll usual
19 contact me to figure out why I'm going so high on
20 a settlement agreement. I actually was the
21 attorney for that prior case as well, and my
22 reasoning for the 500 was the length of time.

23 CHAIR: Okay. Thank you.

24 Commissioners, I'm not sure in which
25 direction we are taking a motion. I will

1 entertain a motion from any of the body if you
2 want to accept the -- the settlement, I'm
3 comfortable moving forward there. If anyone wants
4 to oppose that, I'll entertain that motion as
5 well.

6 COMMISSIONER DRAGO: I'm inclined not to
7 accept. I -- I -- I don't know whether or that's
8 something we should do at this point or perhaps
9 our discussion has -- has gotten the message out
10 to where -- to what we think and how we feel as a
11 commission, or if it's necessary to -- to not
12 accept. But I think -- I think will make a motion
13 not to accept --

14 COMMISSIONER BROWN: Second.

15 COMMISSIONER DRAGO: -- this settlement.

16 CHAIR: Any opposition?

17 Show that motion carries in that we have not
18 accepted the negotiated settlement.

19 Do we have direction for our staff to go
20 back?

21 Do we want to -- do I have a motion to -- so
22 we would -- I'm trying to think procedurally of
23 where we would go from here. We would go back to
24 the administrative complaint and you can continue
25 to negotiate settlement with the maximum penalty;

1 is that correct?

2 And if that's not accepted, then we will go
3 forward with the administrative process from
4 there.

5 MS. ALVARADO: Okay.

6 CHAIR: And that, I believe, brings us to
7 8.10.

8 MS. ALVARADO: Okay. This is FGCC versus
9 Washington County Kennel Club in Case
10 No. 2022-034237. In this case the respondent
11 failed to include a brief description of the
12 activity being monitored on their surveillance
13 activity log. That's a violation of 61D11.02517.

14 They were sent a settlement agreement which
15 had a \$200 -- \$250 fine. They do have five prior
16 violations and I'll just discuss those now, since
17 you'll have questions. Three of them were not
18 even sent to legal. They were dealt with with the
19 investigators. They got written verbal warnings
20 that they need to be more thorough in filling out
21 their -- their forms.

22 The two that were sent to us, one was 2016 --

23 CHAIR: Ms. Alvarado?

24 MS. ALVARADO: Yes?

25 CHAIR: I think it would be helpful for the

1 commission if we knew two things.

2 One, if they have any prior violations and
3 then two, if they have any specifically prior
4 violation of this rule?

5 MS. ALVARADO: So these -- those are all of
6 this rule.

7 CHAIR: Okay.

8 MS. ALVARADO: Yes.

9 So the two that were sent to legal, one was
10 from 2016 and one was in 2021. They both had \$500
11 fines. The reason that I did \$250 for this one is
12 in those two cases, neither of them actually even
13 had any log record. This one had a record; they
14 just didn't put a brief description of what
15 activity happened.

16 They did have the time of the incident, who
17 was monitoring it, you know, all -- the video
18 camera that was in use at the time. They just
19 didn't write any details of what was being
20 monitored in those two situations. There was
21 nothing written and so -- in the surveillance log,
22 so that's the reason I went to \$250 because they
23 have complied but not fully complied with the
24 rule.

25 CHAIR: Do we know if it's -- I assume they

1 have multiple people who serve in the role of
2 filling out that log.

3 Do we know if it's the same employee? Do we
4 -- do we have that level of detail?

5 MS. ALVARADO: That I don't know. I don't
6 have the case files from either of the prior.

7 CHAIR: And again, this is -- this is an
8 administrative complaint against the facility not
9 against the employees who were failing to do the
10 logging?

11 MS. ALVARADO: Right.

12 CHAIR: We're -- we're telling the facility
13 that they need to do better about monitoring their
14 folks?

15 MS. ALVARADO: Right.

16 CHAIR: Okay. Any further questions?

17 Yes.

18 COMMISSIONER BROWN: So this one gave me a
19 lot of pause. It -- well, it just jumped out at
20 me. I feel that the harm in this particular --
21 for this rule is -- it is -- is pretty steep that
22 they could do to the public and the integrity of
23 gaming. And even the -- the range of the
24 penalties of the priors gave me some pause just
25 because that I think that this as a very serious

1 rule.

2 There's a reason for having the log, there's
3 a reason to have the brief description of the
4 activity being surveilled and monitored. I did
5 not think that the administrative fine of the
6 lower end of \$250, although you said that they
7 made a little bit of improvements from not having
8 a log at all --

9 MS. ALVARADO: Right.

10 COMMISSIONER BROWN: -- to having a brief
11 description.

12 I think this is sending the wrong message to
13 this license holder. And I -- I -- I don't think
14 \$250 is warranted, I would go as high as the
15 maximum would allow. It's on the six other
16 examples of violated rule in such a condensed time
17 period too.

18 CHAIR: Mr. Vice chair?

19 VICE-CHAIR: I agree with Commissioner Brown,
20 I -- I think that there is -- and I'll echo
21 earlier sentiments by Commissioner D'Aquila and
22 Commissioner Drago, but Commissioner D'Aquila,
23 specifically, there -- there's probably a --
24 potentially a challenge here with internal
25 controls that exist at this facility to allow this

1 to keep happening over and over again. And I -- I¹¹³
2 agree, I don't think the current fine proposal is
3 adequate to address that.

4 CHAIR: Any further discussion?

5 COMMISSIONER DRAGO: Just put on the record
6 that I concur with those comments and same
7 comments I made the last time without boring
8 everybody to death, same -- same issue.

9 CHAIR: All right. You see -- you see -- you
10 see where we're going.

11 Do I have a motion?

12 COMMISSIONER BROWN: Move to reject consent
13 order.

14 COMMISSIONER D'AQUILA: Second.

15 CHAIR: And do I see any opposition?

16 Ms. Alvarado, I believe you're going to back
17 to the drawing board on negotiating a settlement
18 for this case.

19 MS. ALVARADO: Sounds good.

20 CHAIR: Thank you.

21 Mr. Vice-chair, would you take the chair for
22 Item No. 9.1?

23 VICE-CHAIR: Yes, Mr. Chair.

24 Item 9.1.

25 MR. TAUPIER: I believe that's going to be

1 Mr. Marshman (phonetic), Yvette Campos.

2 MR. MARSHMAN: Good morning. This commission
3 has already considered Ms. Campos's previous
4 request for a waiver and the executive directors
5 denial of the waiver. It is now before the
6 Commission to decide whether or not to issue a
7 final order approving her application for a
8 license or to direct staff to issue a notice of
9 intent to deny, which would formally signal this
10 Commission's intent to ultimately deny her license
11 application.

12 If you were to do the latter course, she
13 would still have an avenue to contest the
14 Commission's decision. However, if you were to
15 approve her application, we would issue a final
16 order, later, granting her application and issuing
17 a license shortly thereafter. And I'm available
18 to answer any other questions you may have about
19 this particular application.

20 VICE-CHAIR: Okay. We have, just for -- just
21 for clarity, we have two speaker cards currently
22 in on this item. And I'd like to go ahead and
23 have them come forward. Just to be clear, Mr.
24 Spicola, you did not indicate if you were here for
25 9.1 or generally, to speak on this.

1 MR. SPICOLA: I did not speak on this.

2 VICE-CHAIR: Okay. We will -- we will
3 disregard this -- this -- this speaker card that
4 appears to be a joke of some kind.

5 So we do have Mr. Zackum (phonetic) -- and
6 you are here to --

7 MR. ZACKUM: Mine's for the end of public
8 comments.

9 VICE-CHAIR: Public comments, okay. Thank
10 you. Sorry, apologize. Okay.

11 Okay. Is all any other discussion from staff
12 from on any -- proceeding since our last meeting
13 on this.

14 MR. MARSHMAN: As you'll see in the meeting
15 materials, Ms. Campos did submit a letter
16 regarding her application, regarding her history
17 and she also submitted a previous accolade she
18 received at her former job just to, I assume,
19 demonstrate her worthiness for the application in
20 this certain case.

21 VICE-CHAIR: Okay. Commissioners, any
22 discussion?

23 Mr. Chair?

24 CHAIR: So, commissioners, as -- as you know
25 from the last meeting this case gave me a

1 particular amount of pause. And I didn't question¹¹⁶
2 the lack of a granting by the waiver of the
3 executive director. And I -- and I don't in this
4 case either.

5 However, we did ask them to go back and give
6 her an opportunity to make her case. We've all
7 seen the letter that she provided in the meeting
8 materials and I will say that the letter that she
9 provided and then the general indicia of
10 mitigation that exists in her case sways me to
11 think that it wouldn't -- it would not be in the
12 best of the State for us to deny this license.
13 And that's where I stand on the issue.

14 VICE-CHAIR: Okay. Thank you, Mr. Chair.
15 Other --

16 COMMISSIONER BROWN: Thank you. I -- I think
17 Ms. Campos' additional information, her character
18 witness, her letter to us, the evidence in the
19 record, the -- the amount of the crime that was
20 committed when she was so young, I -- I think to
21 deny her a license would -- would go against what
22 we are trying to do in our state and I think this
23 character -- I think Ms. Campos had provided
24 enough evidence to show that her character in
25 question is not reminiscent of the early crime

1 that she committed and I would support granting
2 her a license.

3 VICE-CHAIR: Okay. Thank you, commissioner.
4 Any other comments?

5 CHAIR: Just one final.

6 In reviewing this I also took a look at our
7 own statutes and the prerequisites to serve as a
8 commissioner on the Florida Gaming and Control
9 Commission, and I will point out that her record
10 would not prohibit her from serving in one our
11 chairs.

12 VICE-CHAIR: Okay. And --

13 CHAIR: The fact that she's a licensee would
14 but her background would not.

15 VICE-CHAIR: Thank you, Chair.

16 Any other comments?

17 COMMISSIONER DRAGO: I just think I would --
18 and we've talked about this quite a bit between
19 last meeting and this meeting that there has to be
20 some room for rehabilitation, I think, for people
21 and, especially, when so many years have passed
22 and, especially, when the crime is so minor and,
23 especially, when the crime was committed so long
24 ago. That I think that's certainly something that
25 should be considered by this commission and I do

1 think it benefits the state and the people of the
2 state of Florida to -- to allow people to have a
3 chance when it's warranted. And there's going to
4 be times where I will not believe in giving
5 somebody a second chance based on their history,
6 but I don't think this is -- this is one of them.

7 VICE-CHAIR: Okay. With -- I think with
8 discussion exhausted, I -- I have a sense since
9 the -- the chair was handed it off to me, do we
10 have a motion?

11 CHAIR: I move that we reject the
12 recommendation to issue a letter or a notice of
13 intent to deny and that we move forward with the
14 issuance of her license.

15 COMMISSIONER BROWN: Second.

16 VICE-CHAIR: The chair's motion has been
17 seconded. Any opposed?

18 Seeing none, show that the staff
19 recommendation is rejected.

20 And I will now, I believe, hand it back over
21 to our good chair.

22 CHAIR: Thank you, Mr. Vice Chairman.

23 And we are on to Item No. 9.2.

24 MR. MARSHMAN: Mr. Chair? If I may? Just
25 before we move to 9.2, just so that staff

1 understands the ultimate vote on 9.1; we are
2 rejecting the staff recommendation and instead
3 issuing a final order granting her an application
4 for a license, correct?

5 CHAIR: Correct.

6 VICE-CHAIR: Yes.

7 MR. MARSHMAN: Thank you.

8 CHAIR: 9.2?

9 MR. TAUPIER: 9.2 is Roy William Bennett,
10 Case No. 2022-033244. Mr. Bennett applied for a
11 pari-mutuel wagering general occupational license.
12 Upon review of the application it appears that the
13 applicant was convicted of a crime, possession of
14 cocaine in the year of 2010.

15 A waiver interview was conducted with the
16 applicant and the executive director, after
17 reviewing the file and that waiver interview,
18 declined to waive the felony conviction. Based
19 off of that, the recommendation from the Division
20 of Pari-mutuel Wagering is to deny the applicant's
21 or allow and authorize the notice of intent to
22 deny to go out based off of the potential
23 disqualifying criminal conviction that was not
24 waived.

25 CHAIR: Remind me again, the date of the

1 conviction?

2 MR. TAUPIER: 2010.

3 CHAIR: And the -- so -- so with that, he has
4 a disqualifying -- he has a disqualifying charge
5 or disqualifying conviction, it then becomes
6 incumbent upon him to post that -- that
7 disqualifying conviction and make a showing of
8 good moral character.

9 What has his record been since?

10 MR. TAUPIER: Since then, I don't believe he
11 has any other convictions. During the waiver
12 interview the investigator did note that he was
13 very curt and didn't give a lot of information
14 regarding the conviction. So based off of the
15 burden that he had to prove his good moral
16 character, there was a not a lot of information
17 given to the interviewer which, apparently, there
18 wasn't much information at all given to the
19 executive director to even consider whether or not
20 he met that burden.

21 CHAIR: Commissioners, further questions?
22 Any debate?

23 Do I have a motion?

24 And a second?

25 COMMISSIONER BROWN: Second.

1 CHAIR: Any objection?

2 Show the motion carries.

3 MR. TAUPIER: Next item, 9.3, Regina Pierce,
4 Case No. 2022-034152. Ms. Pierce applied for a
5 card room employee occupational license. Upon
6 review of that application, it appears that the
7 applicant was convicted of theft in the year of
8 2007. The executive director reviewed the waiver
9 interview notes as well as the entire application
10 file and declined to waive the felony conviction.
11 Therefore the recommendation from the Division is
12 that you authorize the issuance of a notice of
13 intent to deny based off of the potential
14 disqualifying criminal conviction.

15 CHAIR: So, commissioners, and I'm sure you
16 all have done your own review, when I've done my
17 review of these cases, I'm thinking -- I'm looking
18 at a lot of things that I think you all are
19 looking at as well, the egregiousness of the crime
20 that was the disqualifying event, their history
21 since then. The -- the proximity to present day
22 of the crime, their age when they committed the
23 crime, and the level of maturity they are supposed
24 to have at that point in their life, follow-up
25 arrests, follow-up convictions, especially if

1 there's any later convictions or withholds of
2 adjudication are all things that have counseled me
3 that someone fails to meet their burden of good
4 moral character after having a disqualifying
5 event.

6 I just wanted to put that on the record,
7 generally, without getting into the specific
8 details and in -- in each of these cases of -- of
9 -- of what it is that -- that does or does not
10 counsel me towards thinking they've met that
11 burden then, I think we're all look at some of the
12 same things and -- and I just wanted the general
13 public to know that those are the things that we
14 are considering as we look at these.

15 Any further question, comment, debate, or
16 discussion?

17 Do I have a motion?

18 COMMISSIONER BROWN: Move to accept staff
19 recommendation.

20 CHAIR: And a second?

21 UNKNOWN SPEAKER: Second.

22 CHAIR: Without objection, show that motion
23 carries.

24 MS. ALVARADO: Item No. 9.4 is Reginaldo
25 Anacreon, which is Case No. 2022-036000. The

1 applicant submitted an application for a slot
2 machine/card room/pari-mutuel combo license.

3 His record indicated that he had one felony
4 conviction for driving while his license was
5 suspended; a habitual offender. Since then he's
6 been charged with multiple traffic violations, the
7 most recently he was charged with September 2021,
8 of driving with his license suspended as well as
9 DUI. So the commission -- or the Division would
10 ask that the commission would authorize the
11 issuance of a notice of intent to deny in this
12 case.

13 CHAIR: Any questions? Commissioner?

14 COMMISSIONER BROWN: The DUI is a
15 misdemeanor, correct? It wasn't a felony?

16 MS. ALVARADO: Yes, it's not a felony. It
17 also hasn't been -- that case hasn't been closed
18 yet. It's still open.

19 COMMISSIONER BROWN: What is the harm of
20 preventing a or granting or license for somebody
21 who violate -- drives, habitually, drives without
22 a license while it's suspended.

23 MS. ALVARADO: I think that the record since
24 2016 showing that he continues to break laws would
25 give me concern that he would may -- he may do

1 that inside of the facility as well. Break --
2 violate rules. He doesn't feel that he needs to
3 follow rules is kind of what it seems from his
4 criminal history.

5 COMMISSIONER BROWN: How many -- how many
6 would you define habitual again?

7 MR. TAUPIER: To be habitualized, you have to
8 have three convictions.

9 COMMISSIONER BROWN: Okay.

10 MR. TAUPIER: And he's been habitualized, I
11 believe, twice and he's going on his third.

12 COMMISSIONER BROWN: The third being the DUI?

13 MR. TAUPIER: The third and he has a pending
14 driving with knowledge with a suspended license.
15 So those two might habitualize him again.

16 COMMISSIONER BROWN: There is Uber. Okay,
17 thank you.

18 CHAIR: And for clarification, the
19 disqualifying event is a felony or a misdemeanor
20 related to the -- the gaming industry. The burden
21 on the then disqualified applicant can be any
22 number of things showing or not showing good moral
23 character. So an unrelated misdemeanor may be
24 indicia of failing to mitigate their -- their
25 prior bad acts.

1 COMMISSIONER BROWN: Right.

2 CHAIR: Okay. Any further discussion or
3 debate?

4 Seeing none, do we have a motion?

5 COMMISSIONER D'AQUILA: Make a motion.

6 CHAIR: And a second?

7 VICE-CHAIR: Second.

8 CHAIR: Any opposition?

9 Seeing none, show the motion carries. For
10 clarification, that motion of course, is to accept
11 the staff recommendation. I apologize for the
12 continued shorthand.

13 MR. TAUPIER: Amos Jefferson Ealy, Jr., Mr.
14 Ealy applied for a card room employee occupational
15 license. Upon review of the completed application
16 it is found that he was convicted of two felonies.

17 The first, possession of cocaine in 2000 and
18 the second was criminal mischief in 2009. The
19 applicant did apply for a waiver of the felony
20 convictions and an interview was a conducted.
21 Based off of the interview and the full
22 application filed, the executive director declined
23 to waive the felony convictions. Based off of
24 that the Division is recommending that the
25 commission authorize the issuance of a notice of

1 intent to deny based off of those two potentially
2 disqualifying criminal convictions.

3 CHAIR: Did I perceive that part of the
4 consideration of this case was the applicant's
5 candor during the waiver interview that the facts
6 described by the applicant were wildly different
7 than the police report about the incident?

8 MR. TAUPIER: That is correct. The facts
9 that the applicant described was very tame
10 compared what the police report laid out. The
11 police report had much more than just a mag light
12 being involved. The restitution amount is almost
13 \$5,000, so the inconsistencies that the
14 interviewer and investigator pointed out is very
15 clearly seen by a mag light not causing \$4,000
16 worth of damage.

17 CHAIR: Commissioners, any further question
18 or debate?

19 I'll entertain a motion.

20 COMMISSIONER BROWN: Move to approve the
21 staff recommendation.

22 CHAIR: And a second?

23 COMMISSIONER D'AQUILA: Second.

24 CHAIR: Any opposition? Seeing none, that
25 motion carries.

1 MR. TAUPIER: Item 9.6, Shaun Fergus, Case
2 No. 2022-040989. Mr. Fergus applied for a slot
3 card room pari-mutuel combination occupational
4 license.

5 Upon review of the completed application it
6 appears that Mr. Fergus has the following
7 convictions:

8 Possession of cocaine with intent to deliver
9 or sell, four counts stemming from 1986, 1993, and
10 1995.

11 Possession of cocaine, three counts stemming
12 from 1995, 2004, and 2011.

13 Driving with license suspended habitual
14 traffic offender, four counts stemming from 1998,
15 2006, 2007, and 2013.

16 Driving while license suspended, which as a
17 third or subsequent in 2006.

18 And tampering with physical evidence in 2004.

19 There is no provision that the legislature
20 has in statute that allows the executive director
21 to waive any criminal convictions when it comes to
22 slot licensing, therefore a waiver interview was
23 not conducted and because there are disqualifying
24 or potentially disqualifying criminal convictions,
25 the recommendation from the Division is to

1 authorize the notice of intent to deny.

2 CHAIR: So, I would, if this were not a slot
3 application; if this were an application for
4 something where there were a waiver interview, I
5 would be curious about the information that would
6 have come from that interview only because these
7 are very egregious crimes. They are disqualifying
8 crimes. They, on their face, say this as a person
9 who does not need to have a license in this
10 industry.

11 And they are approaching 20 years old, so I
12 would want to know if that person could point to
13 an actual point in their life that turned around.
14 Since we don't have the benefit of that, I would
15 suggest, commissioners, that we do follow the
16 staff recommendation and issue the notice of
17 intent to deny bearing in mind that that does
18 still avail this person of an administrative
19 process and they would have their ability to make
20 that case in either an informal or formal hearing
21 after the fact.

22 With that said, any further discussion or
23 debate?

24 VICE-CHAIR: I'll -- I'll move the chair's
25 recommendation.

1 CHAIR: And a second?

2 COMMISSIONER BROWN: Second.

3 CHAIR: I'll show that motion -- oh, any
4 opposition?

5 Seeing none, show the motion carries.

6 MR. TAUPIER: Item 9.7, Leondra Parazza Viso,
7 Case No. 2022-041897. Mr. Viso applied for a slot
8 card room and pari-mutuel combination occupational
9 license as well. Upon review of his application
10 it appears that he has a possession of controlled
11 substances conviction stemming from 2022. Again,
12 the waiver statute is not applicable for these
13 slot machine licensees, therefore a waiver
14 interview was not conducted and the recommendation
15 from the conviction is that the commission
16 authorize a notice of intent to deny the license.

17 I will add that this arrest happened in
18 October of 2022 or 2019. He was given the
19 opportunity to go through a diversion program, he
20 was arrested on a felony second degree, it was
21 pled down to possession of synthetic cannabinoids,
22 so that was the drug that was part of the plea
23 deal. In 2022, he did get ultimately get
24 re-rejected from the pretrial diversion program
25 and he did plea out.

1 CHAIR: Any questions or debate,
2 commissioners?

3 Do we have a motion?

4 Make a motion.

5 CHAIR: And a second?

6 COMMISSIONER DRAGO: Second.

7 CHAIR: And any opposition to accepting the
8 staff recommendation?

9 Seeing none, show the motion carries.

10 Last item that I have is 9.8, Caroline
11 Selesten, Case No. 2022-041915. Ms. Selesten did
12 apply for a slot machine/card room/pari-mutuel
13 combination occupational license as well. Upon
14 review of her completed application it appears
15 that she was convicted of possession of cocaine
16 with intent to sell or deliver in 1999, possession
17 of cocaine in 1999, and attempted purchase of
18 cocaine in 2010.

19 The waiver provision is not available for
20 slot machine licensing therefore waiver interview
21 was not conducted and the Division's
22 recommendation based off of all of this
23 information is for the Commission to authorize the
24 issuance of a notice of intent to deny license.

25 CHAIR: And again, commissioners, I think in

1 a case like this, it is incumbent upon the person
2 to avail themselves of the administrative process
3 if they think they can show good moral character
4 post a disqualifying event so I -- I would think
5 that we will move forward with the staff's
6 recommendation.

7 Any questions or debate?

8 Seeing none, is there a motion?

9 VICE CHAIR: Move the chair's recommendation.

10 CHAIR: And a second?

11 UNKNOWN SPEAKER: Second.

12 CHAIR: Without opposition, show that motion
13 carries.

14 And we, I believe, are getting closer to the
15 end and I have to apologize, commissioners,
16 because with all the excitement today, I have not
17 checked in anybody to see if anyone needed a
18 break.

19 A five or ten-minute for a -- okay. Seeing
20 no need for that we will push on, then, to, where
21 are we? Item No. 10, executive director's update.

22 MR. TROMBETTA: Thank you, Mr. Chair. I have
23 essentially three updates. The first one has to
24 do with the legislative budget requests.

25 So at the previous meeting I was asked to

1 take a second look at our LBR based on the
2 feedback that was provided from the commissioners.
3 Staff and I did that. I provided an updated LBR
4 to you all in an e-mail on Tuesday. It was
5 supposed to be included in the meeting materials
6 today but due technical issues it didn't make it
7 in. It is part of the record.

8 But I would ask the chair if you -- I can't
9 really ask for a motion but if you guys had any
10 feedback on that LBR please provide it now. And
11 if not, we'd be happy to take that version and --
12 and move it towards submission.

13 CHAIR: Commissioners, any discussion or
14 debate?

15 Do I have a mo -- oh, sorry. Do I have a
16 motion to accept the staff's recommended LBR.

17 COMMISSIONER BROWN: So moved.

18 CHAIR: And a second?

19 VICE CHAIR: Second.

20 Any objection?

21 So the motion carries.

22 MR. TROMBETTA: Thank you.

23 Similarly, the -- the LRPP, long range
24 program plan, was we -- the same thing. We kind
25 of we took the feedback that you provided to me

1 and to my staff at the last meeting, we
2 incorporated a lot of what you provided into LRPP
3 and submitted on time. So really, you don't have
4 to move that one, it -- we did it based on the
5 feedback you-all provided and -- and we're able to
6 meet the deadline so I appreciate you working with
7 me and my staff on that.

8 And then, finally, just kind of a
9 housekeeping order, there's a statutory provision
10 that provides that the -- the commission has to
11 provide a distribution to counties and
12 municipalities based on card room revenue
13 annually. So the -- that, the payments are due
14 October 1st. The payments were made as required
15 and it's -- it's a -- it's not a discretionary
16 item so we just took a liberty of doing it so the
17 -- so I think it was provided to 19 municipalities
18 or counties, about \$2.4 million total was provided
19 and those counties have received that money.

20 With that, those were my three main updates
21 but I'm obviously available for any other
22 questions if you have them.

23 CHAIR: On the last item, I think, in the
24 future years our preference would be to see it
25 ahead of time but because it is administerial act,

1 I think that it's perfectly appropriate that the
2 agency acted in its administrative way.

3 MR. TROMBETTA: Yes, sir.

4 CHAIR: Commissioners, any questions or
5 discussion? Thank you, Mr. Trombetta.

6 And that reaches us to Item No. 11 on the
7 agenda, is public comment. I believe we only have
8 one speaker, Mr. Zackum.

9 M. ZACKUM: I'll be brief and actually I only
10 have two comments. The first one was inspired by
11 the conversation today. Commissioner Drago, you
12 were good enough to make the statement that the
13 goal was to get compliance with many of these
14 actions that are happening and with the discussion
15 you all had, I'm not going to rehash any -- any of
16 issues there, but internal controls are submitted
17 to the agency for review to answer some of the
18 questions that you all had pertaining to the
19 internal controls themselves. And most of the
20 investigators that you end up having that go to
21 these facilities that might work with a facility
22 and say here's a problem or an issue, they're
23 constantly with the same facility and they
24 communicate to other investigators.

25 So if there is an aggravation that might

1 occur there, they're all aware of it, the
2 investigators usually are. They have good
3 communication and the internal controls you all
4 discussed, if there are modifications or needs to
5 modify them from camera angles to process to any
6 of the things that you all were talking about,
7 they -- the facilities communicate to -- to staff
8 and work with them.

9 That being said, an observation that I have
10 and I'm clearly not asking for you-all to make any
11 comment on it, but if your real goal pertains to
12 compliance, which I'm sure that it is, there is
13 some confusion over when the facility is
14 responsible and when the individual licensee is
15 responsible for an action.

16 There's some challenges with understanding
17 where that is. You can have the best internal
18 controls in the entire world and put them in
19 place, but an individual licensee doesn't do what
20 they're supposed to and a facility being
21 responsible for those creates a lot of confusion.

22 So, most of the time they don't until after
23 the events occurred. And they try and take
24 corrective action there. But that's just a
25 thought that I wanted to put forward to you-all.

1 And the second thing that I had that I was
2 going to also mention is that some facilities are
3 -- are requesting or I should say asking when
4 there might be rule making that would go into
5 effect to perhaps create some clarifications in
6 these areas. Everyone knows you have a lot on
7 your plates, but it's just something to, kind of,
8 work through your minds as far as an agenda for
9 down the road whether that be a few months or
10 whatever it might be. But those are the two
11 comments that I had.

12 Okay. Thank you all.

13 CHAIR: Points well taken. Thank you,
14 Mr. Zackum.

15 Commissioners, anything else for the good of
16 the order?

17 All right. Seeing none, Do I have a motion
18 that we rise?

19 VICE CHAIR: So moved.

20 CHAIR: And a second?

21 COMMISSIONER BROWN: Second.

22 CHAIR: Show us adjourned.

23 (Whereupon, the proceedings concluded at
24 12:00 p.m.)

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CERTIFICATE OF REPORTER

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I, JESSICA RENCHEN, Registered Professional Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 6th day of October, 2022.

JESSICA RENCHEN, Court Reporter