NYS Gaming Commission - Public Meeting Transcript
February 24, 2025 1:30 p.m.
655 3rd Avenue, 6th Floor Conference Room, New York, NY

Executive Director Robert Williams: New York State Racing, Pari-Mutuel Wagering and Breeding Law § 102 provides that the New York State Gaming Commission shall consist of seven members appointed by the Governor by and with the advice and consent of the Senate. Four members being confirmed by the New York State Senate are necessary to afford the Commission an ability to establish a quorum and undertake action.

This present meeting of the Commission is now called to order.

Ms. Secretary, will you please call the roll?

Acting Secretary Kristen Buckley (via video): John Crotty
Commissioner John Crotty: Here.

Kristen Buckley: Sylvia Hamer

Acting Secretary Kristen Buckley: Martin Mack
Commissioner Mack: Here

Acting Secretary Kristen Buckley: Peter Moschetti
Commissioner Moschetti: Here

Acting Secretary Kristen Buckley: Brian O'Dwyer
Chair Brian O'Dwyer: Here.

Kristen Buckley: Marissa Shorenstein

Kristen Buckley: Jerry Skurnik
Commissioner Jerry Skurnik: Here.

Robert Williams: Ms. Secretary, please have the record reflect the quorum of established members is present, thus enabling the transaction of business. I want to make a note for the record that both Commissioner Hamer and Shorenstein are ill today with a sudden onset. Mr. Chairman?

Chair O'Dwyer: Minutes of the Commission meeting conducted on January 27 2025 have been provided to the members in advance. At this time, I'd like to ask the members if there are any edits, corrections or amendments. Hearing none, Ms. Secretary, please let the record reflect the minutes were accepted.

The next item business a is the report of the executive director.

Executive Director Robert Williams: Williams today I'd like to touch upon a few items related to the upcoming problem gambling Awareness Month. While the chairman will later discuss a forthcoming meeting that has been scheduled with various gaming operators to discuss advertising regulations that fittingly falls within March we also have a variety of programs and initiatives that will extend through the month. The commission as a representative of the responsible play partnership will be encouraging all licensed gaming operators to partner with their Regional problem gambling Resource Center to conduct training and host staff onsite to provide information about their services.

We will be encouraging the use of existing marketing platforms including digital monitors and displays throughout Gaming facilities to promote the problem gambling Awareness Month, voluntary self-exclusion and the New York State Hope Line which is 18778 Hope and commission staff will also be participating at the New York Council on problem gamblings annual conference which is scheduled to be conducted March 11th through March 13 at the Albany Marriott the first keynote address is being delivered by Ashley Jordan who serves as OASAS Director of Research and program evaluation Dr. Jordan will be addressing the use of data to understand trends in problem gambling and informed decision-making a second keynote address will focus on something that this commission has previously discussed the recent explosion of online Sports betting in New York state and its impact with young adults and particularly college students.

This keynote is a panel discussion with participants that include the director and associate director of the Center for Behavioral Health promotion and applied research at the State University of New York at Albany a senior research associate and Senior research specialist at the Research Foundation of the state of New York and a counseling psychology doctoral student at U Albany as with previous conferences commission staff will have a partner resource table at which people may learn about the commission our role and available Statewide problem gambling resources.

Finally, I want to remind everybody regarding an item that I raised in January commission staff have both posted and circulated a request for pre-proposal comments as we consider asking you to propose an amendment to an aspect of our self- exclusion rule.

Specifically we are considering recommending that the commission's Statewide self-exclusion program be the only such program in New York and that licensees be prohibited from establishing or maintaining alternative self-exclusion program. Presently the current commission Statewide self-exclusion program provides that a person who elects to self-exclude is then prohibited from participating in gambling activity in New York broadly. For example, if a person joins our self-exclusion program at a Video Lottery Gaming facility they are prohibited from wagering at commercial

casinos with Mobile Sports wagering licenses, at horse tracks, and with the New York Lottery. Even if a licensee has a well-intentioned private self- exclusion program maintaining such a program may have the undesirable and unintended effect of diverting a person in need of problem gambling assistance from broader Statewide programming and enable their play it with other licensees. The request for the pre-proposal comment seeks responses by February 27. Thank you, Mr. Chairman.

Chair O'Dwyer: Thank you Mister Executive Director. Now we move on to the next item, which is the consideration of a Gaming Facility Location Board member.

Executive Director Robert Williams: By N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 109-a, the Commission is required to select five individuals to serve as members of the Gaming Facility Location Board for the Additional Licensing Process. Recently the commission received a resignation letter from Carlos Naudon creating a vacancy the commission's staff's search for qualified unconflicted individuals to serve has led to the identification of a replacement whose name biography and conflicts review has been circulated to members in advance of today's consideration

The Commission staff's search for qualified, unconflicted individuals to serve has led to the identification of a replacement whose name, biography, and conflicts review has been circulated to members in advance of today's consideration.
Mr. Chairman?

Chair O'Dwyer: First of all I'd like to thank Mr. Naudon for his work so far and I appreciate the amount of time he has put into this and wish him well in any future endeavors.

I'd like to state that I appreciate the potential candidate's desire to accept this task. It is truly a public service. Members serve without compensation; in a limited license situation, some people will be pleased at the conclusion of the process, many will not, and with so many constituencies and so much media interest, decisions will inevitably be questioned. This is a monumental task.

That said, few tasks have the opportunity to transform. The casino licensing process has that possibility. With capital investment, direct and construction employment, and the driving of incremental tax revenue – many, many, many lives will be transformed. These projects will offer the possibility of tangible change to their host locations. And the number of jobs, good, union well-paying jobs for the people that are going to be involved in them. I am impressed by Miss Brown and her qualifications and capability. I think we are all extremely lucky that she has consented to take on are all extremely important valuable service to the people of the state of New York.

I know that commissioner Mack has worked with her in the past I have many people around this table in her various occupations prior to being with Pace University's General counsel.

May I have a motion to accept the appointment of Terryl Brown of Valley Stream to the Gaming Facilities Location Board? Motion approved.

N.Y.S. Racing, Pari-Mutuel Wagering and Breeding Law § 104.19 authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibilities. To that regard, the Commission will from time-to-time promulgate rules and rule amendments pursuant to the State Administrative Procedure Act.

Today we have one rule for adoption consideration.

Mr. Williams will outline the item.

Executive Director Robert Williams: For Commission consideration is adoption of amendments to mobile sports wagering rules to facilitate data collection on demographics and usage. N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(6) requires the Commission, in conjunction with the N.Y. State Office of Addiction Services and Supports, to submit annually a report to the Governor and the Legislature "on the impact of mobile sports wagering on problem gamblers in New York, including, to the extent practicable, an analysis of demographics which are disproportionately impacted by … problem gambling."

In the first few years of compliance, Staff have been hampered by a lack of uniformity in the scope and manner by which licensees have reported data, thus we believe requiring uniform reporting across all mobile sports wagering platforms would assist the Commission in receiving useful information for the statutorily required report.

The proposal was published in the December 18, 2024 State Register, meaning the public comment period expired on February 18, 2025. The Commission received ten comments, from mobile sports wagering operators Bally's Interactive, BetMGM, Draft Kings, Fan Duel, Penn Entertainment (ESPNBet) and Rush Street Interactive, the Sports Betting Alliance, which purports to represent several major licensed operators offering legal online and retail sports betting to customers in New York, including DraftKings, FanDuel, and Fanatics Sportsbook, independent testing laboratory GLI, and interested parties the New York State Office of Addiction Supports and Service and the New York Council on Problem Gambling.

While many comments were thoughtful, resulting in slight language modifications, none accepted were substantial, which would have necessitated a rule re-proposal. All comments and staff response, and staff suggested revisions to in response to comments, as considered appropriate, have been included in the record before you.

Staff recommends that the Commission adopt this rulemaking, with the revisions suggested.

Chair O'Dwyer: Commissioners, any questions on the adoption of a rule regarding Mobile Sports Wagering Data Collection? Motion passes. The next item of scheduled business regards adjudications. Today, we have three matters. Mr. Williams?

Executive Director Robert Williams: On July 22, 2019, the judges at Yonkers Raceway disqualified the horse Albergo Hanover from a first-place finish and placed the horse eighth, concluding that the horse was taken back quickly, causing the field to slow down excessively, thus causing confusion and interference to trailing horses. The horse's owner, Gestion JY Blais Inc., contested the disqualification by timely filing an appeal.

This case has experienced an exhaustive route in getting to consideration.

After a variety of procedural impediments, an owner's opportunity to be heard before Yonkers judges was provided on June 18, 2021. The judges, by a vote of 2-1, reaffirmed their ruling. The Commission then designated Member Peter Moschetti to hear and determine the appeal of the judges' ruling. Commissioner Moschetti issued the Commission's decision on the appeal on March 30, 2022, affirming the judges' decision.

Gestion then brought an Article 78 special proceeding in Supreme Court, Schenectady County, challenging the Commission's decision. The Supreme Court annulled and vacated the Commission's decision, remanding the matter to the Commission "for an adjudicatory hearing to be conducted pursuant to 9 NYCRR 4450 et seq. on the appeal from the Harness Racing Judges determination."

As the disqualification matter is not an adjudicatory proceeding within the meaning of 9 NYCRR § 4550.2(b), the Supreme Court Decision and Order was inconsistent with the Commission's regulations. The parties, however, agreed to establish a procedure to which the Commission would decide the matter, notwithstanding anything to the contrary in the Supreme Court's Decision and Order. The procedure agreed upon was to present the matter to Commission Members for decision with an agreed-upon record and two rounds of written briefing by the parties: first, initial briefs due January 17, 2025, followed by response briefs due January 31, 2025.

The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1.

Chair O'Dwyer: The commission duly deliberated and considered this matter and determined by a vote of 5 to nothing to affirm the decision of the hearing officer in this matter.

Executive Director Williams: You mean the judges.

Chair O'Dwyer: Well we did have the hearing officer you want to say the judges. All right. Well I misspoke to we will we will affirm the ruling of the judges as set forth there.

Executive Director Williams: On April 15, 2024, the judges at Saratoga Gaming & Raceway issued a violation notice to trainer Lisa M. Zabielski, suspending her for 75 days and fining her $2,500 for being the trainer responsible for an overage of total carbon dioxide found in the horse Mr Dunnigans from a sample taken before the fourth race on March 9, 2024, in violation of Commission Rules 4120.13(a) and 4120.4.

The judges' penalty was based on the minimum penalties for a second violation, as set forth in Commission Rule 4120.13(d)(2), as Zabielski had been sanctioned in Massachusetts for TCO2 overages in three horses she trained that raced at Plainridge Park on April 25, 2023, which the judges treated as a first predicate violation.

Zabielski requested a hearing, which was conducted on September 26, 2024. The Hearing Officer submitted a report dated January 20, 2025, recommending that Zabielski's license be suspended for one year, that she be fined $5,000, and that she be referred to the Commission for further action based on the minimum penalties for violations beyond a second violation, as set forth in Commission Rule 4120.13(d)(3), and the Hearing Officer's conclusion that there had been three prior violations in Massachusetts before the violation at Saratoga.

Chair O'Dwyer: The Commission duly deliberated and considered this matter and determined, upon a 5-0 vote, to sustain the Hearing Officer's Report and Recommendations.

Executive Director Williams: The final adjudication for today regards GGS Food Mart.

On August 22, 2024, the Bureau of Licensing issued a Notice of License Revocation to GGS Food Mart Inc., doing business at 1336 Route 9 in Wappingers Falls. The notice informed GGS of a license revocation for engaging in conduct that constitutes a fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the state lottery; violations of Commission regulations; lack of experience, character and general fitness as a lottery sales agent; and violation of the terms of the New York Lottery Retailer License Agreement. Specifically, the notice stated that the action was taken because multiple illegal gambling devices were observed on the licensed premises.

GGS requested a hearing, which was conducted December 17, 2024. The Hearing Officer submitted a report dated January 27, 2025, recommending that GGS's license be revoked.

Chair O'Dwyer: The Commission duly deliberated and considered this matter and determined, upon a 5-0 vote, to sustain the Hearing Officer's Report and Recommendations.

Moving on to old and business. As we have previously discussed practical information challenges and meeting the requirements of the commission advertising regulations have been raised. Anyone watching sporting events can be seen there is a blurring between pre-event discussion and sports betting promotion. There's also a blurring of what can be reasonably considered news information and is what is practically sports wagering title enticement.

This is particularly worrisome to this Commission in that the explosion of mobile sports wagering has raised a number of issues involving the question of part problem gambling that this commission is acutely aware of and is looking at with great interest. The state legislature has provided clear direction the law requires that each advertisement shall clearly and conspicuously state problem gambling hotline number. The law draws the definition of an advertisement very broadly paraphrase an advertisement is any notice or communication to the public or any information concerning the gaming related business of a mobile

Sports wagering licensing through broadcasting publication or other means of dissemination including electronic promotional activities are specifically considered advertisements.

In January I called for the staff to organize an educational listening session with the mobile Sports wagering operators and other licenses the New York State Office of Addiction Support and Services in New York Council on Problem Gambling to identify and resolve difficulties with achieving compliance with this law. As I have stated before the explosion of sports gambling has inured greatly to the coffers of New York State and at the same time it has possibly made the problem of problem gambling even more difficult to deal with. It is important that we as a commission as well as the as the industry forthrightly and discuss these issues and face them and make sure that people in the are not hurt by this explosion of for gambling.

I'm pleased to report that the session will be conducted on March 20th 2025 which is during the national Problem Gambling month the session will be hosted in our Schenectady offices with digital participations from those who cannot be there in person. For the public the session will be streamed and then archived on our website. I invite all to attend either digitally or in person.

In new business: I have been informed that the Commission has never recognized the retirement of an individual from a vendor, but I believe today we are justified to break that tradition.

By title, Paul Stelmaszyk is an IGT Senior Director, Account Development Management. By practice, he has meant so much more to the New York Lottery.

Paul’s lottery industry knowledge is the result of more than three decades of experience, with the majority of his career serving the New York Lottery. In New York, he directed lottery technology operations and facilitated the launch of new games and

promotions. Additionally, Paul has always been on the cutting edge of the instant ticket side of the business and helped ensure delivery of millions of instant lottery tickets to retailers each year. Among Paul's many admirable attributes, his steadfast commitment to integrity stands out among the rest. We are grateful for Paul's many contributions in helping the New York Lottery to maintain its position as the largest and most profitable lottery in North America and wish him the best in his retirement.

Before we go I'd like to ask just make a few comments as to some things that have happened in the last year. I've noted with great interest Senator Addabbo's concern as we have read today from his statements about certain gambling or possibly gambling activities that involved in certain games that are being published and out outstandingly on television we see today. The commission has already expressed, I think I did last time, certain concerns about those activities. We are very cognizant and join with Senator Addabbo in those concerns and what he brings to the forefront and I thank him for his work on this regard was that because they are unregulated among other things it is getting around the question of the age qualifications to engage in gambling activities and we are very cognizant of the fact that there's possible that there very possible that this is being used as a go around to allow underage gamblers to participate in activities which are not suitable for them at all.

The commission has noted in their discussions um that there has been a real problem that has come up and subject of an awful lot of publicity on the Texas Lottery. Lottery and all the problems that are inherent in in the cornering of that market. The commission is again um cognizant to that we've had discussions with our staff and we look forward to real review of that and let's see we want to make sure that that never happens in New York.

Finally as I have expressed beforehand. The commission after the gaming facility location board finishes his work is required to certify the suitability of the of the Gaming Commission's findings to for licensing of the up to three casinos that they will that they will find as appropriate for licensure. We are required by the legislature once that is done to review that not to the question of the placement or where they are but there are nine different considerations that we need to certify before we issue those licenses.

I want everybody to know that we take that matter very seriously and in the future I'll be working with staff to ensure that we can timely fulfill our obligations under the law to certify the suitability of those licenses within the time with within the very, very strict time limits that are that are set upon us. We have our work cut out for us we understand that, and I think it we will be coming up with I will be coming up with staff back to the Commissioners hopefully by next meeting certainly we thereafter to figure out a way that we can do this efficiently um but at the same time fulfilling what is a very profound obligation on this commission um but we have it. We are also very cognizant of the time limits that have been imposed upon us certainly as we will as I have indicated we will fulfill those time limits also cognizant of the fact that

there are each one there are many of the people who have potential people that are potentially going to bid on these licenses they have a separate issue we have a separate issue that is beyond the gaming commission location board which assure that they are suitable for licensure and that is something that we will take very seriously. I know that there have at least a number of them that have been found in violations various adjudicatory bodies in the last few years. I will taking that very, very seriously.

With that is there any other issues before the commission?

Commissioner John Crotty: Commissioner I would like to expound on the Chairman's point about the Texas Lottery. We've tasked staff with thinking through a number of issues relating to who has access to our terminals, what does that access look like. I've expressed reservations in the past about our courier services, their access to our system and the implications for the lottery here in New York.

Fairness uh is a very big part of our Cornerstone and offering these games and making sure that everyone is on the same playing field with that. I have some serious questions about what that looks like today based on what happened in Texas uh it is unclear that uh it's unclear on a number of factors not the least of which is they haven't been here already and operated the same type of plan that they did in Texas. I've been assured that that's not possible but we've asked staff to take a look at that and make sure that's the case and there's a broader question of couriers generally their access to the system and implication and fairness to our existing vendor network and the players themselves. So hopefully we'll see some of those answers in the near future and determine what would be in everyone's best interest.

Chair O'Dwyer: I've have said scheduled the at our next meeting additional time for us to go over that I think it's a very important issue that you bring up commissioner.

Anyone else? Hearing none I'll take a motion to adjourn.