Massachusetts State Lottery Commission
Official Minutes of 12/27/2022 Meeting

Massachusetts State Lottery Commission

150 Mount Vernon Street, Suite 300
Dorchester, Massachusetts 02125
Tel: (781) 849-5555
Fax: (781) 849-5546
TTY: (781) 849-5678

Official Meeting Minutes

DATE: Tuesday, December 27, 2022

TIME: 10:30 a.m.

All Attendees Participated Remotely through Zoom Conferencing System

MEMBERS PRESENT: Deborah Goldberg, Treasurer and Receiver General
William J. McNamara, Comptroller
Arielle Mullaney, Assistant General Counsel, Executive Office of Public Safety and Security, designee of Secretary Terrence Reidy

MEMBERS ABSENT: Meghan Liddy, Commissioner

ALSO PRESENT: Mark William Bracken, Interim Executive Director, Lottery
Edward Farley, Chief Marketing Officer, Lottery
Gregory Polin, General Counsel, Lottery
Didier Bertola, Chief Financial Officer, Lottery
Christine Mountain, Chief Human Resources Officer, Lottery
John Rinkacs, Chief Technology Officer, Lottery
Steven Martins, Chief Revenue Officer, Lottery
Michael Lorden, Director of Sales and Regional Operations, Lottery
Thomas Cream, Director of IT, Lottery
Christian Teja, Director of Communications, Lottery
Delwin Dickinson, Director of Modernization, Innovation and Performance, Lottery
Elizabeth Pottier, Director of Internal Audit, Lottery
Liz Giffen, Director of Digital Operations, Lottery
Chanler Hospot, Assistant Director, Digital Operations, Lottery
Sheila Capone-Wulsin, Assistant Director, Stakeholder Engagement, Lottery
Michael Lanava, Regional Manager, Worcester/Springfield, Lottery
Steve Moore, Regional Manager, New Bedford, Lottery
Judy Moore, Executive Assistant, Lottery
Julie Goggin, Human Resources/Legal Business Partner, Lottery
Thomas Aiello, Manager, Product and Promotional Development, Instant Tickets, Lottery
Stacey Farrell, Manager, Product & Development, Monitor Games, Lottery
Shane Taylor, Manager, Product and Promotional Development Draw Games, Lottery
Jamie Martel, Marketing Specialist, Draw Games, Lottery

Patty Lyons, Customer Service Manager, Lottery

Sarah Kim, General Counsel, Treasury
Emily Kowtoniuk, Director of Policy and Legislative Affairs, Treasury
Lizandra Gomes, Deputy Chief of Staff, Treasury
Andrew Napolitano, Deputy Communications Director, Treasury
Kathleen McNamara, Internal Auditor, Treasury
Mary E. Wilkins, Executive Assistant of Communications, Treasury

Edmund L. Myers Esq. for Kimberly Dempsey and Dani Handrahan, Appellants
Chris Lisinski, State House News Service
Chelsea Turner, Director of Responsible Gambling, Massachusetts Council on Gaming and Health

I. Opening of Meeting

Treasurer Deborah Goldberg opened the Massachusetts State Lottery Commission ("Commission") meeting at 10:30 a.m.

Treasurer Goldberg extended season greetings to everyone and stated that this was an exciting time of year, and she was looking forward to hearing all of the great things happening at the Massachusetts State Lottery.

Treasurer Goldberg stated:

"Pursuant to the Commonwealth's Open Meeting Law, Massachusetts General Laws, Chapter 30A, section 20, as Chair of the Massachusetts State Lottery Commission, I would like to advise that any person may make a video or audio recording of this open meeting. However, I am obligated to inform attendees of any recording at the beginning of the meeting, so I ask that those who are making any recording identify themselves."

Judy Moore, Executive Assistant, Lottery, identified herself as making a recording. Chris Lisinski, State House News Service, also identified himself as making a recording.

Treasurer Goldberg then stated:

"Pursuant to the Massachusetts Open Meeting Law, Massachusetts General Laws, Chapter 30A, section 20, all of the Commissioners present today: Comptroller William J. McNamara, Assistant General Counsel Arielle Mullaney, and myself, Treasurer Deborah Goldberg will be participating remotely for this meeting because physical attendance is unreasonably difficult and pursuant to Chapter 107 of the Acts of 2022.

Commissioners, we are all participating by a conference call. Please let us know if you have any sort of difficulty. The Commissioners may participate in any votes scheduled to take place at today's meeting. All votes must be taken by roll call."

II. Approval of the Minutes from November 29, 2022

Treasurer Goldberg asked the Commission to accept the minutes from the meeting held on November 29, 2022.

Assistant General Counsel Arielle Mullaney made a motion to accept the minutes of the meeting and Comptroller William McNamara seconded the motion.

Treasurer Goldberg, recognizing there was no further discussion, moved the motion to a roll call vote. Comptroller William McNamara: yes; Assistant General Counsel Arielle Mullaney: yes; and Treasurer Goldberg: yes. The Motion carried.

The minutes were approved at 10:33 a.m.

III. Executive Director's Report

Lottery Sales Update – November

Interim Executive Director Mark William Bracken updated the Commission on Lottery figures for November 2022. He reported that the overall unadjusted sales for November 2022 were up $40.7 million as compared to November 2021. The estimated November 2022 net profit and prize payout figures do not include accruals for prizes won that have not yet been paid. Interim Executive Director Bracken reported that due in part to a $48.9 million increase in Powerball sales for the month, $33.2 million in multistate game prize settlements, and a $10.8 million purchase of STRIPS investments to fund a $16.4 million Megabucks Doubler jackpot prize claimed as an annuity, the estimated net profit for November 2022 was $120.5 million as compared to $126.5 million in November 2021, resulting in an estimated $6 million decrease in net profit. The estimated prize payout for November 2022 was 73.10 percent as compared to 70.63 percent in November 2021.

The estimated FY23 year-to-date net profit and prize payout figures both include accruals for prizes won that have not yet been paid. Due in part to a combined $93.6 million increase in Mega Millions and Powerball sales, an $87.6 million decrease in instant ticket sales, and a $10.2 million decrease in prizes paid out in the first five months of FY23, the estimated year-to-date net profit for the first five months of FY23 is $501.9 million as compared to $505.7 million for the first five months of FY22. After adding a 1-day average net profit figure of $3.2 million due to a shift in the calendar, the adjusted year-over-year change for the first five months of FY23 versus the first five months of FY22 is an estimated $0.6 million decrease in net profit. The estimated year-to-date prize payout for the first five months of FY23 is 72.73 percent as compared to 72.81 percent for the first five months of FY22.

Interim Executive Director Mark William Bracken provided a November 2022 sales breakdown. He reported that Powerball sales were up $48.9 million (high jackpot of $2 billion as compared to $253 million in November 2021), Mega Millions sales were up $4.3 million (high jackpot of $305 million as compared to $102 million in November 2021), Keno sales were up $1.3 million, and Lucky for Life sales were up $39,404.

Compared to November of 2021, Instant Ticket sales were down $11.2 million, The Numbers Game sales were down $2.2 million, Megabucks Doubler sales were down $269,143 (high jackpot of $1.7 million as compared to $5.6 million in November 2021), Mass Cash sales were down $149,865, and All or Nothing sales were down $67,974.

Five Year Comparison Chart

Interim Executive Director Bracken presented a five-year prize payout comparison chart. He reported that the prize payout as a percentage of the Lottery's sales as compared to the last five fiscal years was currently hovering at 72.7 percent. He stated that this is the fourth lowest prize payout over the last five fiscal years.

Gross Sales Results – November Sales

Interim Executive Director Bracken discussed the Gross Sales Results for November FY23 versus November FY22 Unadjusted Non-Fiscal Year. He indicated that the games with red sales figures showed a decrease in sales, the games with black sales figures showed an increase in sales. He reported Instant Tickets sales were down $11.2 million, there were decreased sales in Mass Cash, All or Nothing, The Numbers Game, and Megabucks Doubler. He reported good news with Mega Millions, Powerball, Keno, and Lucky for Life, all up slightly showing a total $40.7 million increase in month-over-month sales as compared to November 2021.

Reporting on year-to-date FY23 versus FY22 sales through November Unadjusted Non-Fiscal Year, Interim Executive Director Bracken reported overall total sales were down $11.6 million. Instant Ticket sales were down $87.6 million, Keno sales were down $7.7 million, Mass Cash sales were down $1.2 million, All or Nothing sales were down $200 thousand, and The Numbers Game sales were down $10.8 million. He described Mega Millions and Powerball as the saving grace, each up $45.5 million and $48.1 million respectively. Lucky for Life sales were up slightly over $1 million, and Megabucks Doubler sales were up $1.9 million.

West Springfield Office

Interim Executive Director Bracken asked Assistant Executive Director of Communications Christian Teja to update the Commission on the Lottery's regional offices' seasonal décor.

Assistant Executive Director of Communications Teja reported that each holiday season, the Lottery creates festive displays throughout all Lottery office locations. He commented specifically on the West Springfield office and stated that Regional Manager Michael Lanava goes above and beyond in creating a positive holiday atmosphere. He brought the Commission's attention to images in the meeting materials showing an assortment of decorations set up throughout the customer service area at the West Springfield office. He mentioned that many of the decorations were produced in-house by the Lottery's Graphic Design team and extended kudos to all of the regional managers who do an amazing job in creating a positive atmosphere in each office around the holidays.

Holiday Toy Drive

Assistant Executive Director of Communications Teja provided an update on the Lottery's Annual Holiday Toy Drive. He described it as very successful and thanked the regional managers at the Lottery claim centers where locations were set up for both employees and customers to participate in. He extended special thanks to Assistant Director of Employee Programs & Engagement Darnelle Bosquet-Fleurival and Assistant Director of Stakeholder Engagement Sheila Capone-Wulsin for organizing and making multiple trips to deliver the toys. He described it as a great effort all around.

Social Media

The Lottery continues to be aggressive in utilizing social media to connect with players. Assistant Executive Director of Communications Teja presented examples of recent strategies employed on Twitter, Facebook, and Instagram.

Assistant Executive Director of Communications Teja stated that this month's social media efforts focused on such initiatives as jackpot awareness and a collaborative effort with the Massachusetts Department of Public Health's Office of Problem Gambling Services in promoting "Give Joy, Not Risk".

Assistant Executive Director of Communications Teja reported that social media was also used to highlight winner awareness and commented on a particular post of a winner of six $25,000 a year for life prizes in the multi-state Lucky for Life game after matching the first five numbers on six tickets he purchased. He chose to receive five of them as cash options which amounted to almost $2 million and one as an annuity. This winner's story was also picked up in news stories across the country such as CNN, People Magazine, and the Miami Herald. He stated that the traffic generated by these types of posts prove to be very popular and also direct people back to the stories on the Lottery website. He concluded that people love to read the winning stories.

Holiday Word$ Contest Recap

Draw Games Project Manager Shane Taylor provided a summary of the Holiday Word$ Contest that began on November 23rd and ran through December 13th. He explained that through this three-week promotion, all draw and monitor game tickets had a holiday keyword printed on them. Players then entered those keywords through a portal on the website and were eligible for a drawing to win $7,500. Customers could enter up to seven eligible keywords per week and there were three drawings with a chance to win $7,500.

Holiday Word$ Live Recap

Draw Games Project Manager Taylor presented a recap of the Holiday Word$ Live promotion and explained that there were three live Facebook events where the winners of the $7,500 prizes were drawn and those who tuned into the promotion had the opportunity to win up to $500. He reported that there were 195,848 total entries, which was comparable with the number of entries for the same promotion in 2021. In addition, there was an increase of 24,000 new email addresses added to the database in just three weeks that Draw Games Project Manager Taylor described as outstanding. He added that this information will be increasingly valuable as the Lottery, hopefully, will be able to move into a future where players will be able to monetize on-line.

Draw Games Project Manager Taylor further reported that the live program reached 99,322 people with the posts of the Facebook Live shows, a 182% increase from the promotion in 2021. The live program also received over 10,000 comments on the live shows, a 58% increase from last year and there was a 2% increase in the number of Likes on the Lottery's Facebook page.

Draw Games Project Manager Taylor directed the Commission to the photos in the meeting materials showing the production of the live shows. He stated that Production Content Manager Keith Macri and Assistant Drawing Studio Manager Geoff Filleti hosted the events as well as Assistant Executive Director of Communications Teja who hosted one night. He credited Design

Center Supervisor Susie Chin for her incredible log cabin design that was used as the set and backdrop to the event. He also gave special thanks to Draw Games Marketing Specialist Jamie Martel, Instant Ticket Specialist Kerri Coyne, and Assistant Director of Stakeholder Engagement Sheila Capone-Wulsin who all helped to decorate the cabin to give it a rustic look. Draw Games Project Manager Taylor described the event as successful, was fun to do, and was enjoyed by the players.

Interim Executive Director Bracken congratulated the Lottery team and added that the photos don't do the promotion justice. He stated that they all did an amazing job and described the enormous amount of decorations and add-ons in making the cash cabin. He extended special thanks to Draw Games Marketing Specialist Martel who portrayed a penguin in the event as well as Draw Games Project Manager Taylor as a gingerbread man, and Monitor Games Product Manager Stacey Farrell as a snowman.

Interim Executive Director Bracken relayed that he recently attended a holiday celebration held in the West Springfield regional office where a winner of the Holiday Word$ $7,500 came into the office to claim her prize. He described her joy in receiving the money, telling him it was "cool" to win. She said that she was a daily player, and she was excited to see that it was someone who was from the western side of the state who had won.

Interim Executive Director Bracken gave special recognition to Drawing Studio and Production Content Manager Macri and Assistant Drawing Studio Manager Filleti for their roles as hosts in this event. He reiterated the significance of the 195,848 total entries and 99,322 people reached and encouraged the Commission to go onto the Lottery's YouTube page to view these videos.

The Wheel of Luck – January 19 Launch

Monitor Games Product Manager Farrell reported on the January 19th launch of The Wheel of Luck and shared some of the details of the deployment of the material to support the launch. She stated that the Lottery has been gearing retailers up with supplies and reported on an informational how-to palm card as well as sharing a sample of some of the digital advertising that she described as super fun and exciting. Other materials included pencils, bet slips, signage, banners, and promotional items that were being sent out to raise awareness. She added that the Lottery team has uploaded a how-to video for the sales team and agents addressing how to place a bet and extended kudos to Assistant Director of Stakeholder Engagement Capone-Wulsin for putting that video together.

Monitor Games Product Manager Farrell also reported on the paid advertising that finalizes all of the details for the January 19th launch and shared the spot for the Commission.

"Give it a Spin" Promotion

Interim Executive Director Bracken asked Instant Ticket Product Manager Tom Aiello to share the details of the "Give it a Spin" promotion.

Instant Ticket Product Manager Tom Aiello reported that for the month of January, and through to the middle of February, the Marketing team is running a "Give it a Spin" promotion at twelve retailer locations. The goal of the promotion is to raise awareness and engage players to purchase The Price is Right instant tickets. A player who purchases $20 worth of The Price is Right Instant Tickets at one of these events will get the opportunity to spin the BIG WHEEL to win Lottery

merchandise prizes. He stated that currently, Assistant Director of Stakeholder Engagement Capone-Wulsin has been conducting site visits at retailer locations to look at their space ahead of time. These promotions will not only raise awareness and stimulate sales for Lottery products, but it's also an avenue for the Lottery to professionally represent itself in the field. He thanked Assistant Director of Stakeholder Engagement Capone-Wulsin for doing a fabulous job and he was excited to see the results. This promotion will be supported on the Lottery promotion's page and will use player email, along with social media, to drive traffic to the retail locations.

January 10 Instant Ticket Launch

Instant Ticket Product Manager Aiello introduced the January 10th instant ticket launch featuring four new games. He first unveiled a $2 price point game – $100,000 Win It All, with a top prize of $100,000. He stated that this ticket has a very simple play style and tested well in focus groups. He then revealed the Hit $500 game, with a $5 price point, a top prize of $1 million and loaded with $500 prizes. Also included in the January launch is a $10 price point game – $4,000,000 Platinum Jackpot. He stated that this specific ticket is printed on foil, has a top prize of $4 million, and all winning tickets total $20 or more. This ticket has a purple and silver color theme that appeals to players and showcases three bonus spots that gives players something extra to play for. Product Manager Aiello also reported on the $10,000,000 Lucky Bucks, a new $20 instant ticket. He stated that normally the Lottery doesn't launch a $20 ticket in January and currently the Lottery has just 3 orderable $20.00 games in the warehouse, not including the $20 Cash Word game, making it the perfect time to launch this ticket. This new ticket is printed on foil, has a top prize of $10,000,000, thirteen top prizes ranging from $1,000,000 to $10,000,000, and a St. Patrick's theme featuring a horseshoe and four-leaf clover symbols. Instant Ticket Product Manager Aiello added that the January launch will be supported by a two-week paid social advertising campaign.

Introducing the $50 Price Point – Billion Dollar Extravaganza

Interim Executive Director Bracken announced that beginning February 7th, the Massachusetts State Lottery will be introducing its very first instant ticket with a price point of $50 – Billion Dollar Extravaganza. This ticket is loaded with over $1 billion in prizes and has a ticket print quantity of 30,240,000. In addition, this ticket boasts an 82 percent payout, which is the highest payout in the history of any Massachusetts Instant Ticket, with three top prizes of $25,000,000, five $2 million grand prizes, and fifteen $1,000,000 grand prizes. This ticket features the best chance to win $500 and $1,000 in the history of the Massachusetts State Lottery and has three fan favorite bonus spots for an additional chance to win $100, $500, or $1,000.

Interim Executive Director Bracken revealed that an important feature of this ticket is that all winning tickets total $100 or more, so there is no break even. In addition, each time the Lottery sells ten percent of the ticket's stock, there will be a second chance drawing, totaling ten, throughout the life of the ticket. These drawings will have multiple winners with the chance to win up to $50,000. The mechanics of the game include the very popular multipliers featuring 5X, 10X, 20X, 50X, 100X, and 500X.

Interim Executive Director Bracken described the ticket as gorgeous. The size of this ticket is 4 inches by 10 inches, with holographic golden dollar symbols that make the ticket pop with different colors. To support the launch, there will be a paid campaign to advertise this ticket on radio, internet, and television. He added that the Lottery is extremely excited about this launch and excited to be joining the many other states that already have a $50 price point ticket out in the market.

Interim Executive Director Bracken reported that this $50 ticket has been something that has been asked for time and again by Lottery players, within focus groups, and by Lottery agents. He revealed that up until now, the Lottery didn't believe it was the right time and said that it's a coincidence that it's launching during the 50th anniversary. He stated that this ticket has been tested extensively in focus groups to get it to where it needs to be, and the Lottery sensed that now is the right time for this launch. This ticket is being done by Scientific Games and he extended his thanks to Chief Marketing Officer Ed Farley, Instant Ticket Product Manager Tom Aiello, Marketing Consultant Lauren Luttrell, and their teams for doing a lot of work associated with this launch. Interim Executive Director Bracken concluded that he would be sharing additional information during the next Commission meeting in January.

Chief Marketing Officer Farley added that this ticket has been turned upside down by the Lottery team and when a ticket of this magnitude is being launched, it's gone through with a fine-toothed comb. He extended his gratitude to the entire marketing department for doing such an amazing job in the launching of this ticket.

Mobile Cashing Update

Interim Executive Director Bracken asked Assistant Executive Director of Digital Operations, Liz Giffen, to update the Commission on the Lottery's Mobile Cashing App. Assistant Executive Director of Digital Operations Giffen reported on a record-breaking month during November for the Lottery's Mobile Cashing app. She was pleased to share a big milestone during the first week of December, surpassing the $50 million mark in total mobile claims cashed through the mobile app since the September 2021 launch.

Assistant Executive Director of Digital Operations Giffen reported that in November, the Lottery had nearly 12,000 new account registrations, an all-time high and bringing the total registrations to 145,000 accounts. Also, during November, and thanks primarily to the large Mega Millions jackpot during the first week, the app experienced an all-time high in ticket scanning activity with over 3.8 million tickets scanned. In addition, last month, the percent of account holders who have ever scanned a ticket increased to 89 percent.

Assistant Executive Director of Digital Operations Giffen concluded that the mobile app has been averaging between 18 to 20 percent of total claims within the claimable range of $601 to $5,000 since the September 2021 launch.

IV. Matters Requiring Approval of the Massachusetts State Lottery Commission

VOTE (1): For the reasons set forth in the attached memorandum dated December 9, 2022, the Executive Director is authorized to exercise the first of two one-year extension options of the Massachusetts State Lottery Commission's contract for acrylic dispensers and displays with:

LD Plastics and Displays
1130 Pearl Street
Brockton, MA 02301

This original award was made pursuant to a competitive bid process (RFR LOT #2005).

The maximum aggregate obligation for the term of the first one-year contract extension term shall not exceed six hundred thousand dollars ($600,000.00).

Comptroller William McNamara made a motion to exercise the first of two one-year extension options and Assistant General Counsel Arielle Mullaney seconded the motion.

Interim Executive Director Bracken reported that this vote is for $600,000 for the first one-year extension. He stated that these acrylics are the clear cases that go on agent countertops, as well as the back walls at agent locations that hold the instant tickets.

Treasurer Goldberg, recognizing there was no further discussion, moved the motion to a roll call vote. Comptroller William McNamara: yes; Assistant General Counsel Arielle Mullaney: yes; and Treasurer Goldberg: yes. The Motion carried.

VOTE (2): For the reasons set forth in the attached memorandum dated December 16, 2022, the Executive Director is authorized to enter into a contract with the below vendor, qualified pursuant to RFQ LOT # 2204, to purchase Lottery player self-service vending systems:

IGT Global Solutions Corporation
10 Memorial Boulevard
Providence, RI 02903

This award is made pursuant to a competitive bid process (RFQ LOT # 2204 – Bid # 23-5-1).

The aggregate maximum obligation for this contract shall not exceed six million, six hundred thousand dollars ($6,600,000.00).

Assistant General Counsel Arielle Mullaney made a motion to authorize the Executive Director to enter into the contract and Comptroller William McNamara seconded the motion.

Interim Executive Director Bracken reported that this vote is to purchase the vending machines that sell Lottery Instant Tickets and draw games at agent locations. The money will come directly from the capital funding bond bill that Governor Baker and the Legislature set forth over the summer through which the Lottery received approximately $75 million, with $26 million of that set aside for these vending machines. This is for the initial purchase of this fiscal year with subsequent purchases for the following two to three fiscal years as well.

Interim Executive Director Bracken reported that there are three vendors that were able to provide these machines: Intralot, IGT Global Solutions, and Scientific Games. He stated that while all three vendors offered great machines, IGT presented the best value in light of price, software development, ease of implementation, as well as integration with the current system. He added that the Lottery currently has these machines in-house from its last purchase and these are updated versions with software changes. Players, agents, and Lottery service technicians are all very familiar with these machines and they come debit ready for whenever that time comes.

Comptroller McNamara asked Interim Executive Director Bracken to clarify whether these machines will replace the existing machines or be delivered to new locations. Interim Executive Director Bracken explained that the Lottery has three different models out in the field. He then named the original full metal, push button Instant Ticket Vending Machine (ITVM), the Player Activated Terminal (PAT) machine that is able to choose Quic Pics on Mass Cash and Powerball, and

the Game Touch 28 (GT28) that the Lottery has started to roll out at the beginning of the year. These GT28s were purchased right before the pandemic and therefore not able to be rolled out at that time. He then described the integration of these machines to a bounce down approach where the Lottery will take the ITVMs out of market and replace them with refurbished PAT machines and replace anyone with a PAT machine with a GT28.

Interim Executive Director Bracken concluded that a great feature of the GT28 is that they're totally touch screen where players are offered the full suite of games and can physically pick their numbers to play any draw game, as well as Keno-to-Go.

Commissioner McNamara asked about the reliability of the new machines. Interim Executive Director Bracken explained that the reliability has been great and added that the reliability of all three vending machines has been great. He described the ITVMs as a workhorse in that they don't have many features, only serve sixteen tickets, and with parts running sparse and low, it's time to update.

Treasurer Goldberg, recognizing there was no further discussion, moved the motion to a roll call vote. Comptroller William McNamara: yes; Assistant General Counsel Arielle Mullaney: yes; and Treasurer Goldberg: yes. The Motion carried.

VOTE (3): That the Massachusetts State Lottery Commission hereby ratifies and adopts the Findings and Recommendation of Sarah Kim, Esq. (hearing officer sitting by designation) in re: Appeal of Kimberly Dempsey and Dani Handrahan.

Assistant General Counsel Arielle Mullaney made a motion to ratify and adopt the Findings and Recommendation of Sarah Kim, Esq. and Comptroller William McNamara seconded the motion.

Interim Executive Director Bracken asked Treasury General Counsel Sarah Kim to discuss her decision and recommendation in the appeal of Kimberly Dempsey and Dani Handrahan.

Before beginning her summary, General Counsel Kim stated that this case involves a lot of numbers. To make things easier, she wanted to flag the key numbers and she provided an outline for the Commission's convenience.

General Counsel Kim explained that the Claimants, Ms. Dempsey and Ms. Handrahan, appealed the Executive Director's denial of their claims for $2,000,000 for Keno games numbered 2250239 and 2250243. The main issue in the appeal was, when awarding a prize for the two games, which numbers control? Those contained in the Lottery's mainframe computer system or those displayed on a Lottery agent's terminal.

General Counsel Kim provided a summary of background facts and first gave a brief description of Keno. Keno is a Lottery game in which a player attempts to match numbers selected by the Lottery for each Keno draw game. The player decides whether they want to play 1 to 12 spots and then selects numbers from a field of 1 through 80 that correspond to the selected number of spots. Players place their bets by telling the Lottery sales agent their selected numbers or by submitting a completed betting slip. The agent enters the numbers into their Keno computer. The computer prints a ticket showing different items, including the numbers selected, the number of draws to be played, and the specific game number(s) for which the bet is eligible. The ticket is given to the player.

General Counsel Kim stated that Keno draw games begin at 5:00 a.m. and continue all day and into the evening until 1 a.m. every single day of the year. For each game, the Lottery selects 20

different numbers from the field of 1 through 80 at four-minute intervals. The Lottery has two random number generators that alternate selecting the Keno numbers. The random number generator then sends the selected numbers to the Lottery's mainframe computers, which sends the Keno game number and the 20 numbers to the Lottery agent computers and the Lottery's website.

General Counsel Kim explained that depending on how many of a player's numbers match the Lottery's drawn numbers, the player may win a prize. For example, for a 12-spot game where a $1.00 is bet, where a player's twelve selected numbers match twelve of the twenty drawn numbers, the player is eligible for a $1,000,000 prize. As a player matches fewer of the drawn numbers, they are eligible for smaller prize amounts. A player is not eligible for any prize if they match only 1, 2, 3, or 4 numbers. But, if a player matches none of the numbers, they are eligible for a $4.00 prize.

General Counsel Kim stated that the evening of June 22, 2020, the claimants, Ms. Dempsey and Ms. Handrahan, were working at Harry's Bar & Grille in Middleborough. Harry's is a licensed Lottery agent. It has a Keno computer system, which includes a video monitor that shows the drawn Keno numbers. Ms. Handrahan was working as the closing manager and Ms. Dempsey was working as a server. After Harry's closed at around 9 p.m., Ms. Dempsey and Ms. Handrahan and some of their colleagues began playing Keno, including the games at issue in this appeal. The Claimants purchased ten Keno games numbered 2250235 through 2250244, selecting the numbers 1 through 12 to play. They purchased ten additional Keno games numbered 2250236 through 2250245, selecting the numbers 1 through 12 to play. General Counsel Kim reiterated that the two games at issue are games numbered 2250239 and 2250243.

When the numbers for game 2250239 appeared on Harry's Keno video monitor, the Claimants say that the numbers were: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 30, 31, and 66. Ms. Dempsey took a picture of video monitor, and this was attached to General Counsel Kim's findings and recommendation as Exhibit 1.

Some minutes later, for a different Keno draw, the numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 46, and 78 appeared on the video monitor. Again, the 20 numbers included all 12 of the numbers that the Claimants selected. Ms. Dempsey took a picture of the video monitor, which was Exhibit 2 to General Counsel Kim's findings and recommendation. Ms. Dempsey's picture shows that the game number was 2254243, which was not a game that the claimants had purchased. Also, the phrase "last game" appeared in the left-hand corner of the screen although it was not the last game of the evening. The Claimants did not notice the game number discrepancy and believed that the numbers were for game number 2250243, one of the games they had purchased.

The next day, Ms. Handrahan checked the Lottery's website for the winning numbers and saw that the winning numbers for games 2250239 and 2250243 were not the same as what appeared the night before on the video monitor.

Ms. Dempsey and Ms. Handrahan submitted their claims for games 2250239 and 2250243 to the Lottery a few days later. They believed that their 12 numbers matched 12 of the numbers drawn for the two games. With the $2.00 wager, they believed that they were each entitled to $2,000,000 on each game. Put another way, $4,000,000 in total to each.

General Counsel Kim stated that Ms. Dempsey and Ms. Handrahan said that the Lottery employee who took their claim promised an investigation would be conducted. Later, in July 2020, they each received checks for $8.00. When they contacted the Lottery again, they say that the Lottery promised to investigate.

IT Consultant Guy Calabrese, a Lottery employee for over 40 years, was asked in December 2020 to look at certain Keno draw transactions, including Harry's Keno PC, to see if there were widespread problems. IT Consultant Calabrese testified to the different tasks he performed, including checking the mainframe computer system, records for the winning numbers for the games at issue, and transactions related to the tickets. IT Consultant Calabrese testified that Lottery's data records showed what numbers were selected for the two games.

IT Consultant Calabrese testified that Lottery records showed that on July 25, 2020, the serial numbers for Ms. Handrahan's ticket were entered into the Lottery's computer, the computer confirmed the ticket was a winning one. After the user confirmed that they wished to continue, they entered Ms. Handrahan's contact information into the computer, and it issued payment for an $8.00 prize. The prize was because Ms. Handrahan did not match any numbers on one of her other games.

The Lottery data also showed that, on July 30, 2020, the serial numbers for Ms. Dempsey's ticket were entered in the Lottery's computer, the computer confirmed it was a winning one and the prize amount. After the user confirmed they wished to continue and entered Ms. Dempsey's contact information, the Lottery's computer issued a $8.00 prize.

IT Consultant Calabrese admittedly did not inspect the Keno computer that had been at Harry's. As part of his inquiry, IT Consultant Calabrese identified two other individuals who played the same 1 – 12 numbers on games that included 2250239 and 2250243 on the same night. Lottery data shows that it did not award either player any winnings for matching 12 numbers on those two games.

General Counsel Kim stated her findings and recommendation. The Lottery's position is that it properly denied the claims based upon 961 CMR 2.33. The regulation states that "winners are determined by the numbers drawn and not the numbers reported. The Lottery shall not be responsible for numbers reported in error." Lottery says that it's records, not Ms. Dempsey's pictures, show what numbers were drawn for games 2250239 and 2250243. For the two games at issue, General Counsel Kim found that the Lottery drew the numbers contained in its computer system, not those shown in Ms. Dempsey's pictures. General Counsel Kim stated that because the Claimants' claims are not based on numbers drawn by the Lottery, she further finds that the claims denials were appropriate.

General Counsel Kim stated that in support of their claims, Ms. Dempsey and Ms. Handrahan made a number of arguments. First, they argued that the Lottery failed to submit substantial evidence to support denying the claims. However, the Lottery presented data from its computer system showing what numbers it drew for games 2250239 and 2250243. The Lottery also presented circumstantial evidence that it did not award a prize for matching 12 numbers to two other Keno players who made the same bet on the same games the same night. Ms. Dempsey's pictures do not detract from the conclusion that the Lottery's records correctly depict the numbers drawn for games 2250239 and 2250243. For example, the picture meant to show they matched 12 numbers for game 2250243 shows the wrong game number and the phrase "Last Game" when it was not the last game of the evening.

Second, the claimants also make a number of arguments that collectively, contend that there is no evidence that Harry's Keno computer was malfunctioning the evening of June 22, 2020. General Counsel Kim stated that she outlined those arguments in her written findings and recommendation however, those arguments are not relevant. The crux of the case is what are the numbers that the Lottery drew for the two games at issue. Numbers are not drawn by an agent's Keno computer, but by the Lottery's random number generators.

Third, the claimants contend that 961 CMR 2.33 does not apply to Keno. General Counsel Kim explained that there is no basis to adopt that contention but many reasons to reject it. For example, Keno is plainly a draw game and to treat it differently than other draw games, creates legal and regulatory ambiguity. Further, awarding prizes based upon pictures or images risks the Lottery's mandate to return money to cities and towns. A finding in the claimant's favor will open the Lottery to liability to the two other players who made the same bets on June 22.

Finally, the claimants argue that the Lottery failed comply with its own validation and verification requirements contained in 961 CMR 2.38 and failed to conduct a promised investigation. On the first argument, as General Counsel Kim explained more fully in her written findings and recommendation, IT Consultant Calabrese testified that Lottery data showed that the tickets' serial numbers were entered into the Lottery's computer, which confirmed that they were winning ones. The computer also confirmed the associated prize amounts and the computer requested confirmation before issuing a prize payment. General Counsel Kim found that the process and confirmations satisfy the validation and verification requirements contained in 961 CMR 2.38.

On the second argument, General Counsel Kim found that the Claimants did not establish that the Lottery promised to investigate their claims when they first submitted them. However, arguably, the Claimants showed the Lottery promised to investigate after they complained about the $8.00 awards. IT Consultant Calabrese testified that he conducted an inquiry into certain Keno games, including those that Ms. Dempsey and Ms. Handrahan bet on. General Counsel Kim stated that she found that the inquiry was the promised investigation.

General Counsel Kim recommended that the Massachusetts State Lottery Commission affirm the denial of Ms. Dempsey's $2,000,000 claims pertaining to game 2250239 and to game 2250243 and Ms. Handrahan's $2,000,000 claims pertaining to the same two games.

General Counsel Greg Polin thanked General Counsel Kim and pointed out that Ms. Dempsey and Ms. Handrahan were being represented by Attorney Edmund Meyers and who was in attendance on the call. Treasurer Goldberg granted permission for Attorney Meyers to address the Commission.

Attorney Meyers commended the professionalism in which the case was conducted and gave special thanks to General Counsel Polin, Lottery Associate General Counsel Candace Hodge, as well as to General Counsel Kim for making the process a positive one despite the results read by General Counsel Kim.

Attorney Meyers pointed out that the photos taken by Ms. Dempsey that evening were of the numbers broadcasted, not by Harry's computer system, but by the Lottery itself. He stated that the Lottery owns 100 percent of the system. He made the argument that these numbers were not reported, they were broadcasted by the Lottery. A report would indicate a third-party intervener or perhaps a news broadcast that read the numbers, but that's not what happened. He explained that the Lottery projected these numbers and Ms. Dempsey was fortunate enough to have her camera and was able to take the photos that were broadcasted by the Lottery. He added that in order to come to her conclusion, General Counsel Kim relied on IT Consultant Calabrese's testimony.

Attorney Meyers stated that admittedly, IT Consultant Calabrese did not view any of the equipment at Harry's to determine if it was malfunctioning. Attorney Meyers argued that it was speculation. In addition, when asked about the mainframe computer system sending accurate information to Harry's computer, IT Consultant Calabrese was unable to testify how he arrived at that conclusion. Although it can be assumed that the computers were sending appropriate information,

there was no evidence to support that assumption. It is a speculation that it occurred since the Lottery owns 100 percent of this equipment.

Attorney Meyers stated that in regard to the investigation, it's significant to note that it was important to examine all of the equipment as soon as possible, but that is not what happened. Although IT Consultant Calabrese investigated the equipment, it was over four or five months after Ms. Dempsey and Ms. Handrahan had submitted their tickets. The opportunity to examine the equipment at Harry's was lost.

Attorney Meyers stated that the way the statute reads and quoted by General Counsel Kim, under 961 CMR 2.38, a winning ticket has been presented for payment, a claim form has been properly completed, and the ticket has been validated by the Lottery's computer gaming system and verified by a Lottery internal validation requirement at the office of the director. Attorney Meyers questioned if this ever happened because there isn't any evidence that it did. IT Consultant Calabrese's investigation in December when the ticket was initially submitted in late June, doesn't seem to meet those requirements. Because of the delay, IT Consultant Calabrese was unable to commit a complete investigation which is what seems to be relied on by the Lottery. Ms. Dempsey and Ms. Handrahan testified that when they initially presented the ticket in early July, they presented the anomaly between what they saw at Harry's and the numbers that were presented. The promise to investigate would have occurred prior to the ultimate evaluation of the tickets which is set out in the hearing officer's findings, which appeared to be July 25th.

Attorney Meyers indicated that the monitors are under the control of the Lottery Commission and are relied upon and designed to draw the attention of consumers. However, the monitors are simply responding to whatever data is given to them. In this particular case there is no explanation as to how or why these numbers appeared as they did. To that end, to assume that it must've been Harry's without looking at the equipment, there is no information indicating where this could've happened. Attorney Meyers argued that it could've happened in the mainframe. He stated that IT Consultant Calabrese did not provide any indication of what his conclusions are based on other than his conjecture that the system was working properly. Attorney Meyers concluded that on behalf of his clients, he urged that the recommendation to not be adopted.

General Counsel Polin thanked Attorney Meyers and stated that from the Lottery's perspective, the Lottery finds the hearing officer's decision to be well-written and well-reasoned. The Lottery agrees with the findings and recommendation and asked the Commission to ratify and adopt it.

Treasurer Goldberg stated that the rules and regulations that govern this situation are straightforward and General Counsel Kim provided a lot of detail.

Treasurer Goldberg, recognizing there was no further discussion, moved the motion to a roll call vote. Comptroller William McNamara: yes; Assistant General Counsel Arielle Mullaney: yes; and Treasurer Goldberg: yes. The Motion carried.

V. Other Business – Reserved for matters the Chair did not reasonably anticipate at the time of posting

After asking if there was any other business to discuss, Treasurer Goldberg sought a motion to adjourn the meeting. Assistant General Counsel Arielle Mullaney moved to adjourn and Comptroller William McNamara seconded the motion.

Treasurer Goldberg, recognizing there was no further discussion, moved the motion to a roll call vote. Comptroller William McNamara: yes; Assistant General Counsel Arielle Mullaney: yes; and Treasurer Goldberg: yes. The Motion carried.

The Commission meeting adjourned at 11:31 a.m.

List of Documents and Exhibits Used:

- MSLC December 2022 Commission Meeting Book
- MSLC Meeting Executive Director's Report, December 2022