

1 CHAIRMAN JAMES: Mr. Bowen.

2 MR. BOWEN: Good morning, Madame Chair,
3 Commissioners. I'm Stuart Bowen, deputy general counsel for
4 litigation to Governor Bush, and I bring you warm greetings from
5 him and thanks for giving me the opportunity to give you an
6 update on the situation with respect to gambling in Texas.

7 My brief presentation will address three issues:
8 first, the history of Texas' general public policy against
9 gambling and how it's eroded somewhat over the last 20 years;
10 second, a report on the Governor's Task Force on Illegal Gambling
11 which he formed a year ago and it has met four times, addressing
12 the growth of illegal gambling in Texas; and third, how Texas
13 manages the inevitable attention that ensues when the state is
14 simultaneously restricting and regulating gambling.

15 First, as to the history of gambling in Texas, for
16 most of the century, really the first 80 years, most forms of
17 gambling were illegal in Texas. The primary issue that arose in
18 the legislature on a regular basis during that time was
19 parimutuel gambling, and racetrack betting would be passed, and
20 then a outcry would rise up against it, and then it would be
21 reversed, and that happened three times in the course of the
22 first 80 years of the 20th Century.

23 And then in the last 20, the people of Texas have
24 seen fit to vote and permit four types of gambling, doing so by
25 amending the constitutional prohibition against lotteries. First
26 came bingo, and it was presented and passed as a way to accrue
27 money for charities, and it has achieved that, and it is
28 regulated by the Texas Lottery Commission.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 Thereafter came pari-mutuel wagering and there are a
2 number of dog and horse racetracks operating in Texas, again
3 presented under the guise of the argument of presenting an
4 economic boon to the state, and it's been less successful in
5 achieving that for Texas.

6 Third, charitable raffles were authorized in 1989,
7 and then in 1991 Texas voted to adopt and run a state lottery
8 which is now providing substantial funding for education, and in
9 the last session that money has now been directed to be used for
10 that, as it was initially promised.

11 With the advent of increased legalized gambling in
12 Texas over the last 20 years has come also a growth in illegal
13 forms of gambling, and in particular, sports betting and illegal
14 gambling device use have grown substantially in the last ten
15 years in Texas, and particularly in the last three years with
16 respect to illegal slot machine use.

17 And that prompted an effort during the last
18 legislative session in 1997 to crack down on this issue, and
19 Governor Bush proposed and legislation was introduced to try and
20 stop the influx of what are known as eight-liners, or sometimes
21 cherry masters, into our state, and they had been coming in in
22 droves after the passage of a 1995 amendment to the gambling
23 device definition that made the definition ambiguous.

24 That effort was hard fought and resulted in the
25 bill's death on the senate floor; at midnight on the last day of
26 the session, it was filibustered to death. But that was not the
27 end but merely the beginning of the battle of the issue, and it
28 was joined substantially by the governor when he ordered, a year

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 ago, the formation of the Governor's Task Force on Illegal
2 Gambling.

3 And indeed, that task force has focused its
4 examination of this gambling device issue -- particularly eight-
5 liners -- and has succeeded in accumulating a body of information
6 that exposed the problem, and in persuading the state agencies
7 with jurisdiction over the matter to pursue law enforcement, and
8 it's resulted in, just this year, the seizure of well over a
9 thousand machines, a number of successful prosecutions are
10 underway, substantial sums of money have been taken in connection
11 with these seizures by the Department of Public Safety, and also
12 the attorney general of Texas has weighed in declaring the
13 exception that broached this problem back in 1995 to be
14 unconstitutional.

15 So it's good news from Texas with respect to the
16 focus on this problem of illegal gambling devices, and that is
17 that thanks to the governor's initiative, this task force,
18 composed of prosecutors, state agency members with jurisdiction,
19 and persons familiar with the problem gambling that these
20 machines have created in Texas have resulted in a turning back of
21 the tide when it looked as if the dam had broken at the end of
22 the last session.

23 And thus, we're looking forward to the next session
24 which begins in January with fixing legislatively this issue and
25 hopefully closing the door on this particular form of illegal
26 gambling in Texas. And I think it will provide us a model on how
27 we can successfully address other forms of illegal gambling in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 Texas, particularly sports betting which is our fastest growing
2 form of problem gambling.

3 There are five state agencies in Texas with
4 jurisdiction over gambling issues: the Department of Public
5 Safety, the Texas Lottery Commission, Texas Alcohol and Beverage
6 Commission, the Texas Commission on Alcohol and Drug Abuse, and
7 the Texas Attorney General. While they all have a piece of the
8 pie of supervising gambling, some are more involved in
9 restricting it, like the TABC and the Office of the Attorney
10 General, others are involved in promoting it, like the Texas
11 Lottery Commission because it's a substantial source of revenue,
12 the state lottery, for, in particular, education.

13 That has been a difficult path to walk, in particular
14 with respect to the two casinos we do have in Texas, and those
15 are on Indian lands in Eagle Pass and El Paso. The argument
16 coming from the tribes is that we don't have a public policy
17 against gambling in Texas, you allow these forms of gambling, and
18 therefore, our casinos are legal.

19 And indeed, the eight-liner problem and the
20 initiative to substantiate our public policy against gambling
21 arose from the legal arguments made by the tribes with respect to
22 how Texas is addressing this issue. And that continues to be a
23 problem for the state in that there's continuing litigation with
24 respect to the Indian gaming issue and the Attorney General's
25 Office is addressing that.

26 In sum, I think Texas, through its Task Force on
27 Illegal Gambling and through the efforts of the governor and the
28 lieutenant governor and the majority of the legislature to stem

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 the growth of gambling in Texas and stop any further
2 legalization, has re-invigorated what has been a long-standing
3 policy against gambling with, now, four exceptions in our
4 constitution. Thank you.

5 CHAIRMAN JAMES: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com