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CHAIRPERSON JAMES:

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Our agenda calls for a break at this point. I would love to keep moving along. But if we feel like we need one -- what's the pleasure of the Commission? Has everybody had their morning coffee? Why don't we see if we will get through the next agenda item and then maybe take a break there?

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COMMISSIONER LOESCHER: Madam Chairman,

I'd like to ask that our staff transcribe the Senator's comments and make them available to the Commission members.

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CHAIRPERSON JAMES: Absolutely.

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COMMISSIONER LOESCHER: Thank you.

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CHAIRPERSON JAMES: And let me say this; this is a good time to point that out. I would ask each of you to speak into the microphone. We do have someone who is over there, and she would very much appreciate that. It will make it far easier for her to hear and for staff to later transcribe these

1 remarks.

2 Dr. Dobson?

3 COMMISSIONER DOBSON: Madam Chair, could
4 Congressman Wolf's comments also be transcribed?

5 CHAIRPERSON JAMES: I would assume that
6 meant both, and we are happy to do that.

7 For the record, all of these proceedings
8 which are open, the transcripts will be available in
9 the Commission Office, and they're available to any
10 Commissioner at any time.

11 Having said that, I want to move to the
12 next agenda item. And I would ask to come forward at
13 this point the General Counsel's Office at GSA, which
14 provides legal services to the Commission. I
15 understand Jeff Hysen and Thedlus Thompson are here.

16 And, Mark, I'm going to ask you to go
17 ahead and join them at the table, and we'll do our
18 legal and administrative briefing at this point.

19 We need water. Can I have someone get
20 some water for this table right here?

21 Chuck, please, anyone who is here who
22 wants to present at this point, GSA has identified the

1 appropriate people from their staff to give us this
2 briefing.

3 While most federal appointees have high
4 ethical standards, the rules related to ethics and
5 financial disclosure and the operations of advisory
6 committees are extremely complicated. And I am
7 committed to ensuring that each member of this
8 Commission is provided all of the relevant information
9 regarding these rules and staff assistance to complete
10 all of the required information requests.

11 The Office of Management and Budget has
12 determined that this Commission is a legislative
13 branch commission. While that has little significance
14 in most instances, it does have implications related
15 to financial disclosure. As long as individual
16 Commissioners do not exceed 60 days of work, each
17 Commissioner will have to submit an abbreviated
18 financial disclosure form.

19 From GSA's General Counsel, we are
20 fortunate to have Jeff here today, who is the
21 Assistant Regional Counsel, and Thedlus, who is the
22 Assistant General Counsel, to discuss ethics and other

1 requirements. And I'd like to go ahead and open it up
2 to them, and I think you said --

3 MR. HYSEN: Chuck Howton.

4 CHAIRPERSON JAMES: -- Chuck Howton. And
5 I will let you all proceed.

6 And, Commissioners, if you have questions,
7 this is the time to ask them. And they are the
8 technical experts and are here to assist us.

9 MR. HYSEN: Thank you, Madam Chairman,
10 members of the Commission.

11 I sympathize with you. It's not easy
12 being in Washington in the summer. Washington is not
13 a great place to be in the summer. More, it's a
14 Friday, and you're in a windowless room. So again, I
15 sympathize with you. So toward that end, I will do my
16 best to be done in less than 15 minutes and make this
17 as painless as possible.

18 Again, my name is Jeff Hysen. I'm an
19 Assistant Regional Counsel with the National Capital
20 Region. I'm not here as an attorney or counsel to the
21 Commission. I'm here at Cal's request, because I have
22 some expertise in the field of government ethics.

1 At the conclusion of our talk, you're
2 going to receive a handout. I'm not giving it to you
3 now because I know from experience how tempting it is
4 to read it right away. It's an attractive document.
5 I know you'll want to take it back to your hotel or
6 read it on the plane, share it with your family.

7 But I don't want to give it to you now
8 because, again, I know from experience you'll look at
9 it now and won't pay attention to me. But you will
10 get a handout which contains almost every federal rule
11 on ethics. I'm not going to tell you every one of
12 them, but they are all in that handout.

13 The rules, in general, come from the
14 standards of conduct which are issued in the Federal
15 Registry, and they come from the Office of Government
16 Ethics. And criminal provisions are in the U.S. Code.
17 Most are inapplicable to you. When I give this talk
18 to government employees, it lasts 40 to 45 minutes and
19 I show a half-hour videotape. You're going to be
20 spared that because, again, most of the rules are
21 inapplicable.

22 Rules pertaining to a federal employee

1 when he applies for a job at the private sector, or
2 rules about federal employees when they want to give a
3 gift to their supervisor, or accept a gift from a
4 lower paid employee -- those don't apply to you, but
5 some of them do.

6 One thing that applies to all federal
7 employees are the 14 principles of ethical conduct.
8 These are general rules, general guidelines, sort of a
9 top 10 list of federal ethics, and they contain such
10 rules as, "Federal employees shall not hold financial
11 interests that conflict with their public duties.
12 Federal employees shall not use public office for
13 private gain. Federal employees shall act impartially
14 and not give preferential treatment."

15 But there is one rule that is the most
16 important. Many of the questions I get in legal
17 cannot be resolved by reading the rules, because it
18 falls between the cracks. But it can be resolved by
19 looking at this one principle. "Federal employees
20 shall avoid even the appearance of wrongdoing." Even
21 the appearance of wrongdoing is enough to violate
22 federal rules on ethics.

1 And if you take one thing away from my
2 talk, I hope it's that. "Federal employees shall
3 avoid even the appearance of wrongdoing."

4 Now, a federal employee cannot participate
5 in any action where he has a personal conflict. Now,
6 what do I mean by a personal conflict? An employee
7 may not participate in any matter which will have an
8 effect on his or her personal financial interest. And
9 I say his or her financial interest -- let's expand
10 that.

11 You are responsible for the financial
12 interest of your spouse, your minor children, and the
13 companies or organizations you work for. So if a
14 matter comes before the committee and could affect the
15 financial interests of your spouse, your minor
16 children, or the companies that you work for, you must
17 not be involved in it because you have a conflicting
18 financial interest.

19 This includes the financial interests of
20 not only companies that you work for but organizations
21 or entities where the employee serves as an officer,
22 director, trustee, or general partner.

1 Let's go even further, as if that's not
2 enough. You cannot even participate in a matter if it
3 will give the appearance of a conflict between your
4 duties on the Commission and your private financial
5 interests. So even the appearance of a conflict
6 between your private sector duties and your duties to
7 the Commission is enough to violate the rules.

8 You may also have a financial conflict
9 with a company with which you have an arrangement for
10 future employment. So, again, you cannot participate
11 in any matter where you have a conflicting financial
12 interest.

13 You cannot participate in a matter if
14 persons with knowledge of the relevant facts would
15 question your impartiality in the matter. So keep
16 that in mind as you go through the business of the
17 Commission.

18 CHAIRPERSON JAMES: Excuse me. I just
19 have one question at that point. If a Commissioner
20 perceives that they have a financial conflict of
21 interest, what would be the appropriate course of
22 action?

1 MR. HYSEN: To recuse himself -- that is,
2 step away from that particular matter. You would have
3 to get clearance. I understand that there is still
4 discussions about where these questions would go, but
5 I would say go to an attorney, probably the General
6 Counsel's Office, and advise them of this conflict and
7 recuse yourself from the vote.

8 A federal employee cannot accept a gift
9 from a prohibited source. What is a prohibited
10 source? It's someone who seeks action by the
11 government. It's someone who does business or seeks
12 to do business with the government or has activities
13 regulated by the government. With an exception that
14 I'm going to tell you in a moment, you cannot accept
15 a gift from a prohibited source.

16 Also, you cannot disclose any proprietary
17 information, as it was stated before.

18 Those are a lot of negatives, a lot of
19 can't do's. Now, some of what you can do.

20 The rules on gifts say what you cannot
21 accept. Again, you can't accept a gift from a party
22 which is doing business with the government, or wants

1 to do business with the government. However, nothing
2 in the rules requires you to decline everything
3 offered to you during these occasions.

4 And the next part of what I'm going to say
5 may seem obvious, but a few years ago a federal
6 employee could accept nothing. I recall an instance
7 where some colleagues were looking at various sites
8 for a possible building, and it was 100 degrees. It
9 was another lovely Washington summer. It was 100
10 degrees, and the landowners were offering them soda
11 because these people were sweltering. And they could
12 not accept even a soda because at that time a federal
13 employee could not accept anything from the private
14 sector. The rules have opened up to some extent.

15 If you're asked to speak at a public
16 function, or to meet with the private sector in order
17 to discuss in the course of the business of this
18 Commission, you might be offered an item having some
19 monetary value. During a meeting, you are allowed to
20 accept coffee, soda, or other small food items.
21 Again, that is new to us.

22 You may take a small item such as a

1 greeting card, or a ceremonial item, such as a plaque.

2 In the old days, you couldn't do that.

3 If someone offers you something that is
4 available to all federal employees, it may be
5 accepted. A discount to all federal employees may be
6 accepted, because it is to a large class of people.

7 Also, you may accept something if you pay
8 market value for the item, because it's not a gift.
9 You're paying market value.

10 In the course of your dealings, and in the
11 handout I'll give you, you may hear something about
12 the \$20 rule. I said before you cannot take a gift
13 from a prohibited source, but there is a \$20 exception
14 to that which I'd like to tell you about. And as
15 convoluted as this may seem, this is the rule that
16 federal employees have to abide by.

17 A federal employee may accept an
18 unsolicited gift of up to \$20 in value, not to exceed
19 over \$50 in the course of the calendar year, from any
20 one source. Up to \$20 at one time, not to exceed \$50
21 over the course of the calendar year, from any one
22 source.

1 If it costs \$30, can you pay the
2 difference? Well, we have a \$20 rule. Can I pay \$10
3 and we're square? No, you can't. You have to either
4 decline the gift because it's worth more than \$20, or
5 pay the entire amount.

6 None of these rules prevent you from
7 accepting gifts which are given because of a personal
8 relationship instead of your position with the
9 Commission. When determining whether or not a
10 personal relationship is motivating the gift and not
11 your official position, we look at the history of your
12 relationship and whether the family member or friend
13 personally paid for the gift.

14 So if someone who seeks to do business or
15 has an interest with the Commission is also a personal
16 friend, we look to see if the friendship or personal
17 relationship is motivating the gift and not their
18 interest in you because of your job here.

19 Let me add a brief note of caution. As
20 you are aware, federal employees must try to avoid
21 even the appearance of impropriety. Toward that end,
22 I suggest that if a party wishes to discuss the

1 business of the Commission with you, a meeting on this
2 topic take place with other officials present. This
3 can avoid the appearance of wrongdoing.

4 CHAIRPERSON JAMES: Could you explain
5 that one just --

6 MR. HYSEN: Well, I would say private
7 meetings between someone who has an interest in the
8 Commission could look bad. If someone wants to meet
9 with you and it's not out in the open, if it's dealt
10 with in a private capacity, questions could be raised.
11 So I always suggest that it be dealt with in public or
12 with other officials present.

13 You have a duty to report a violation of
14 any of these rules. Please keep that in mind. And if
15 you have any questions about anything, please tell the
16 counsel to the Commission, the head of the Commission.
17 Don't keep it to yourself. I'd rather that you ask
18 and find out that what you want to do is right than
19 find out later you didn't ask and we find out you did
20 something wrong.

21 So I hope that helps you. Thank you very
22 much for this opportunity.

1 CHAIRPERSON JAMES: Are there any
2 questions on any of these issues? Yes, Mr. McCarthy?

3 COMMISSIONER McCARTHY: On the last
4 issue, and I'm not sure I understood clearly what you
5 were saying about any separate meetings, if people
6 would want to meet with me, I'd say, "Fine, but I want
7 you to summarize in writing what you're talking about,
8 so I can share that with the other members of the
9 Commission." Now, does that handle the situation
10 you're talking about?

11 If they want to talk about -- it's giving
12 information from their point of view. We're not at
13 the point where there's any discussion on any
14 recommendations before the Commission itself, so
15 usually it's attempting to familiarize you with
16 whatever activity they're engaged in.

17 MR. HYSEN: So you say a written record,
18 something that you'd share. I think that's fine. To
19 me, that's fine. I'm not speaking as the counsel to
20 the Committee, but I would think that's acceptable
21 because you're sharing it with others.

22 COMMISSIONER McCARTHY: Okay. Thank you.

1 CHAIRPERSON JAMES: There is some
2 question, and I am asking GSA to look at that,
3 particularly on the financial disclosure piece for
4 potential conflict of interest. When I served in
5 Federal Government, it was always rather embarrassing
6 for me on conflict of interest because every page just
7 said, did not apply, did not apply, did not apply, had
8 no interest.

9 But I realize that that can be
10 complicated, and I think we should address that at the
11 front end of this rather than before we get in and
12 have someone in a perceived conflict of interest
13 position. So we need to take a look at that.

14 Who is going to be providing those
15 financial disclosure forms to the Commission? Where
16 do they come from?

17 MR. SNOWDEN: My office will provide you
18 those. We'll give them to Mark, and Mark will provide
19 those to the Commissioners.

20 You will not be filing the public
21 financial disclosure form. You will be filing a short
22 form. Because you will not meet more than 60 calendar

1 days, you don't have to file the most onerous form,
2 which is that 15-page financial disclosure form. It's
3 a short form. And it will be kept in the office of
4 the Commission and is not available to the public.

5 CHAIRPERSON JAMES: It's only available
6 to --

7 MR. SNOWDEN: The Chair of the Commission.

8 CHAIRPERSON JAMES: That's it.

9 COMMISSIONER WILHELM: Is that 60 days in
10 total or per year?

11 MR. SNOWDEN: Per year. Per year.

12 CHAIRPERSON JAMES: I think as later we
13 discuss our workplan and how often we meet, it's good
14 to have that information.

15 COMMISSIONER LANNI: Madam Chair?

16 CHAIRPERSON JAMES: Yes?

17 COMMISSIONER LANNI: I have a question.
18 Jeff had mentioned in his presentation that there was
19 some question about who the General Counsel would be
20 if there would be a General Counsel for the
21 Commission. What is the status of that?

22 MR. SNOWDEN: The General Services

1 Administration will be providing general counsel
2 services, legal services on administrative law issues.
3 Thedlus Thompson will be your General Counsel in that
4 area.

5 There is a question about the standards
6 of conduct, since we are asking that you adopt the
7 executive branch standards of conduct to operate on,
8 since it is difficult to get the House or Senate
9 office that's responsible for the matters to step
10 forward. So Thedlus will be advising you on the
11 standards of conduct, as Jeff has outlined.

12 COMMISSIONER LANNI: And we'll be provided
13 with her telephone numbers and --

14 CHAIRPERSON JAMES: Oh, absolutely.

15 MR. SNOWDEN: Certainly. You will have
16 all of the pertinent telephone numbers.

17 COMMISSIONER LANNI: Thank you.

18 COMMISSIONER DOBSON: Madam Chair?

19 CHAIRPERSON JAMES: Yes?

20 COMMISSIONER DOBSON: I'd like a
21 clarification of the point that you made about
22 conflict of interest. Obviously, there are members of

1 this Commission who are very closely affiliated with
2 the gambling interests, financially and otherwise.
3 You talk about recusing yourself on a particular vote,
4 but the entire Commission in its mandate deals with
5 that. What are the limits of that kind of conflict?

6 MR. HYSEN: The copout answer is to say
7 we'll decide that on a case-by-case basis. But I
8 think every issue -- if there is a vote that comes up
9 here which, again, I'm not as familiar with the
10 business of this Commission as others, but I could see
11 a possible instance where there could be a vote that
12 arises where somebody might find that their financial
13 interest, their private sector job, their company,
14 their personal financial interest could be impacted,
15 and they have to decide that on their own.

16 But they should be aware that if that
17 does come up and their duties to this Commission could
18 conflict with that financial interest, they should not
19 participate in the vote. It's hard to answer.

20 COMMISSIONER DOBSON: In the vote, or in
21 the Commission? I mean, it's not a particular issue.
22 It's the theme of the whole Commission to examine the

1 impact of gambling.

2 CHAIRPERSON JAMES: I recognize Mr.
3 Snowden.

4 MR. SNOWDEN: Let me address that.
5 Congress, in its infinite wisdom when it brought
6 together this body, realized that it was bringing
7 together, as it is in other commissions, people of
8 different interests and perspectives. And understand
9 that these rules, these rules of conflict of interest,
10 do apply, but allow you some leeway in your
11 deliberations upon this Board.

12 Clearly, it is understood that your
13 membership, if you represent a particular perspective,
14 needs to be heard on this Board. So it was envisioned
15 when this Commission was created, as in other
16 commissions, that there would be these areas of
17 conflict. As long as we openly acknowledge that these
18 exist, we can conduct the business of the Commission.

19 So there are certain areas where if you
20 really feel that you are in jeopardy, ask us and we
21 will give you a ruling. But in no way would you be
22 limited from participation in the deliberations of

1 this Board.

2 COMMISSIONER DOBSON: In other words,
3 Congress superseded the usual regulations that we were
4 just hearing.

5 MR. SNOWDEN: Gives us some flexibility.

6 CHAIRPERSON JAMES: Well --

7 MS. THOMPSON: If I could just add also
8 that our office is aware of this issue, and we are in
9 the process of resolving and looking at this. So we
10 will be back with you as quickly as possible.

11 COMMISSIONER DOBSON: So it's an open
12 question, then.

13 MS. THOMPSON: We're still reviewing it
14 right now.

15 COMMISSIONER BIBLE: Do you make a
16 distinction between a study committee and a rulemaking
17 body?

18 MS. THOMPSON: Yes. This particular
19 Commission is advisory, and it is within the
20 legislative history in terms of the diversity of
21 membership. We are looking at that particular issue,
22 and we will be getting back to you in terms of

1 resolution.

2 CHAIRPERSON JAMES: I'm sorry. The Chair
3 recognizes Mr. Wilhelm.

4 COMMISSIONER WILHELM: Thank you.

5 When you formulate that advisory opinion,
6 I hope that you'll be taking into account not simply,
7 for example, someone who is an executive of a gambling
8 company, but also the diverse theoretical potential
9 for conflict on the part of lots of us.

10 I represent a union whose members work in
11 part in the gambling industry. Dr. Dobson sells radio
12 shows that, in part, deal with gambling issues. And
13 I'm just using examples. There may be many of us who
14 are not executives with gambling companies. So I hope
15 you will consider all of that in the course of your
16 advisory opinion, because obviously we all want to
17 know what the rules are.

18 MS. THOMPSON: Right. We are, and we're
19 looking right now at just the procedures necessary to
20 resolve this.

21 COMMISSIONER WILHELM: Thank you.

22 CHAIRPERSON JAMES: I think what's

1 important is when you look at the legislation, we are
2 tasked with looking at the financial and the social
3 impact of gambling. What is most important, I think
4 -- and I am no attorney and wait with great
5 anticipation to see whatever it is, and we will abide
6 by whatever General Services tells us is the correct
7 thing to do.

8 The question that is of most concern in
9 my mind is the financial conflict of interest. As an
10 example, you heard Senator Simon say a little earlier
11 today that perhaps he wanted us to look at a tax on
12 casinos. What are the implications of a vote on a
13 recommendation on taxing a casino, if you have a
14 financial interest in a casino? Is that not a
15 conflict of interest? Is it a perceived conflict of
16 interest?

17 I don't know the answer to that question.
18 But I know that every Commissioner here is anxious to
19 do the right thing. And I think we can have -- once
20 we get some information back and we can have some
21 discussions, we will do whatever is the right thing.

22 Dr. Dobson?

1 COMMISSIONER DOBSON: Madam Chair, I just
2 want to correct what was just said by Mr. Wilhelm. I
3 don't sell radio shows. Focus on the Family is a
4 nonprofit 501(c)(3) organization from which I take no
5 salary, so I have no financial stake whatsoever in
6 Focus on the Family or anything else related to this
7 subject.

8 CHAIRPERSON JAMES: Thank you.

9 COMMISSIONER LANNI: Madam Chair, on
10 Senator Simon's remarks, I think when the transcript
11 is provided, it may have been intended, but I don't
12 think he explicitly stated where the per capita grants
13 would be forthcoming. So I think the record should be
14 corrected there.

15 Secondly, I'd like to add a point on the
16 agreement that was entered into and signed by Madam
17 Chair with GSA. I'd like to correct one aspect under
18 Roman Numeral number II, Legal Authority, and it
19 pertains to the earlier comments. It says that "GSA
20 and the National Gambling Impact Policy Commission
21 enter into," and it should be "Study Commission." And
22 I'd like to have that contract corrected, with Madam

1 Chair's approval.

2 CHAIRPERSON JAMES: That's fine.

3 COMMISSIONER LOESCHER: Madam Chairman?

4 CHAIRPERSON JAMES: Mr. Loescher?

5 COMMISSIONER LOESCHER: Madam Chairman,
6 I'd like to reserve later in the agenda the discussion
7 about general counsel to this Commission, and the role
8 of attorneys. I'd really like to have a discussion of
9 that later.

10 CHAIRPERSON JAMES: That's fine, at your
11 pleasure. We can either hold that discussion now, or
12 we can postpone it until later. If you would prefer
13 later, that's fine.

14 COMMISSIONER LANNI: Madam Chair, one
15 other question on a procedural matter. I notice that
16 we have appointment affidavits. Do we need to
17 complete these now, or at what point?

18 MR. SNOWDEN: Yes, we need -- Mark is
19 going to speak to that, but we'll need to have you
20 sign them before the conclusion of this meeting, and
21 we'll pick them up.

22 CHAIRPERSON JAMES: Thank you.

1 Who is next? Chuck?

2 MR. HOWTON: Good morning, Madam Chair,
3 members of the Commission, ladies and gentlemen. I am
4 Charles Howton. I'm a Committee Management Specialist
5 from the General Services Administration's Office of
6 Government-wide Policy, specifically a statutory unit
7 known as the Committee Management Secretariat.

8 And it's my purpose this morning to
9 provide you with a brief, and very brief I might add,
10 overview of the Federal Advisory Committee Act of
11 1972, for which my office is responsible, and to
12 discuss that in the context of a small orange
13 brochure, which you've already been provided, which I
14 might add probably will do that much more eloquently
15 and in greater detail than I'll do this morning.

16 But in any case, let me speak to the
17 Federal Advisory Committee Act itself. This is a
18 relatively new piece of legislation, albeit 25 years
19 old, but a government commission certainly is not.
20 There were many commissions, obviously, operating in
21 the government long before FACA, as we call it, was
22 enacted. GSA itself owes its existence to the

1 recommendations of a very well known commission. In
2 fact, there were two of them -- the Hoover
3 Commissions, in the '40s and early '50s.

4 It's also interesting to note that over
5 the years such well-known commissions in the minds of
6 the public -- Three Mile Island comes to mind, Space
7 Shuttle Challenger investigation, commissions like
8 this that make front-page news -- are well known to
9 members of the American public. These commissions
10 have operated in the post-1972 era under the Federal
11 Advisory Committee Act.

12 This Act is basically a procedural
13 statute enacted along with a series of legislation, if
14 you look back on it that way, starting in 1967 with
15 the Freedom of Information Act. In fact, FACA itself
16 incorporates provisions of FOIA in terms of the
17 availability of the Commission's documents to the
18 public. Although predating it by a few years, FACA
19 also incorporates the provisions of the government in
20 the Sunshine Act, which provides for the open meeting
21 that we're conducting today, and also for any closed
22 portions that may be required based on the exemptions

1 contained in that Act.

2 Examples of those exemptions are the
3 discussion of Class V defense information, proprietary
4 information, information of a personal privacy nature.
5 This will be happening later on this morning, in terms
6 of the Commission's discussion of personnel matters
7 and the hiring of staff positions. And several other
8 laws popularly known as access laws.

9 They are found in Title V of the United
10 States Code, and they work basically in tandem with
11 each other, the central focus of which is to provide
12 for public access to federal documents, information,
13 and, in the case of FACA, as we speak this morning,
14 contemporaneous access to the deliberations of federal
15 boards and commissions.

16 It reflected Congress's concern at that
17 time -- and, of course, that is still evident -- of
18 the number and costs of such bodies as this.
19 Management controls are contained in the Federal
20 Advisory Committee Act, in terms of how commissions
21 should operate.

22 Ultimately, there are certain reporting

1 requirements that come to the General Services
2 Administration, as well as the Office of Management
3 and Budget, the most visible one being the preparation
4 by the President of the United States of an annual
5 report of the various boards and commissions of the
6 Federal Government. Our office prepares that report
7 for consideration of the Administrator and the
8 President prior to its transmittal to the Congress.

9 This function on our end comes under
10 committees of jurisdiction like everybody else. Those
11 would be the Senate Committee on Governmental Affairs
12 and has been for many years under the sponsorship of
13 Senator Glenn, and the House Committee on Government
14 Operations.

15 Let me just speak to some of the things
16 that we've already done to get to the point of this
17 meeting today. Again, this is a procedural law. Lots
18 of staff work is done. One of the requirements that
19 provide for the openness and the public accountability
20 is the Commission's charter.

21 This document, in essence, for a
22 Commission such as this where the statute itself has

1 set the charge, and the parameters, the charter
2 incorporates those provisions, and has been filed with
3 the General Services Administration and will be
4 provided to the Library of Congress and congressional
5 committees of jurisdiction in the House and Senate for
6 this particular piece of legislation under which you
7 are operating.

8 That also is a document that serves as a
9 public notice, along with the legislation itself that
10 such a Commission has been formed. There are other
11 procedural requirements in FACA. Federal Register
12 notices must be published in advance of meetings such
13 as this, and these were. Meetings must be held in the
14 open, unless closed under the Sunshine Act. This
15 meeting is partially closed, and that determination
16 has been made by the General Services Administration,
17 Office of General Counsel, and issued appropriately
18 before this meeting.

19 I speak to all of these in-box items, if
20 you will so that you are aware of them, but also to
21 let you know that I represent just one of a number of
22 offices in GSA that will be working with your Chair

1 and your staff over the course of your two years to,
2 if you will, handle those kinds of things.

3 This Commission is not unique -- earlier
4 today we were speaking to previous commissions -- but
5 it is one of the smaller subsets of this type of
6 federal advisory committee. If you read through our
7 brochure, you'll see that a lot of this is directed to
8 federal agencies.

9 Federal agencies themselves operate the
10 bulk of these commissions. We like to say, and are
11 very close in that count, that there are about a
12 thousand of these commissions operating on any given
13 day in the Federal Government. The bulk of these
14 commissions are lodged, of course, in the line
15 departments and agencies. Many of them would not be
16 well known by name. They may be well known by
17 function.

18 There are quite a few in the scientific
19 and medical areas, certainly to say the larger
20 agencies have many committees. There are committees,
21 though, that cover more than 60 agencies of the
22 Federal Government.

1 The subset to which I referred here is the
2 fact that this Commission is not operating under the
3 sponsorship of a line federal agency. This is what we
4 have defined in our GSA regulations as an independent
5 presidential federal advisory committee. The
6 presidential aspect comes from the provision in your
7 organic legislation where in addition to the Congress
8 and the governors and tribes and other recipients, the
9 provision of advice from this Commission will also go
10 to the President of the United States.

11 So taking FACA as both a procedural
12 statute and an access or openness statute, in addition
13 to the plain language of FACA itself, GSA has issued a
14 regulation found in the CFR which provides guidance to
15 federal agencies and chairpersons of independent
16 commissions on how to operate under the procedures and
17 requirements of FACA.

18 We will be doing this hand in glove with
19 Mark Bogdan -- we've done that already with Cal
20 Snowden's office and with our general counsel folks --
21 to ensure that those matters are handled on a daily
22 basis, if you will, and are not those things that

1 would impede the substantive work that this Commission
2 has to do.

3 From my perspective, the Commission staff
4 and its offices is another temporary federal agency
5 that we provide service and support to from GSA's end.
6 Your staff will be in very good company. We will ask
7 them to participate in a number of sessions with
8 federal agency committee management officers who do
9 this on a full-time basis. That is one of the roles
10 in the Federal Advisory Committee Act that's required.
11 We fully intend to have Mark become the Commission's
12 committee management officer.

13 There is another role in the Advisory
14 Committee Act -- the designated federal officer. Mark
15 is acting in that role today until such time as the
16 Commission hires additional staff.

17 We will handle the paperwork, if you will,
18 with them. You may or may not see that. You may not
19 have to see that. But certainly, if you have any
20 questions on this, please direct them to Mark or your
21 Executive Director, and we'll be happy to answer those
22 questions as fast as we can.

1 Let me close by saying that the intent of
2 FACA is not to restrict in any way the operations of
3 the Commission. Although FACA requires advance notice
4 of public meetings, the provision of meetings in
5 places that are accessible to the public, all of the
6 federal recordkeeping provisions -- and, of course, we
7 defer to the Archives people on that -- apply.

8 But that is not to say that the
9 Commission's business cannot be conducted the way it
10 needs to do that. As I spoke earlier, there are
11 provisions in the government in the Sunshine Act for
12 executive sessions if you will, to use the popular
13 term. We would defer to the Commission's decision on
14 when they need to do that.

15 There are, in the GSA regulations -- I
16 might invite you if you get a chance to take a look at
17 one of those particular sections. We call it 1004(k),
18 and I can identify that. In fact, we've already
19 provided this to Mark.

20 GSA, over the 20-some years that it has
21 had responsibility for this Act, has provided a set of
22 exclusions from the openness of fact within its

1 regulation based on judicial precedence. Some of
2 these are fairly obvious. There is no preclusion --
3 there is no requirement, for instance, to have an open
4 meeting for a one-on-one discussion.

5 There are also provisions in there where,
6 in GSA's opinion, the Commission may engage in fact
7 finding and exchanges of information that are not
8 otherwise subject to the openness of the plenary
9 session here.

10 Again, these are pat statements. They
11 are situationally determined. We would like the
12 opportunity to stay abreast of the Commission's
13 agenda, and review those needs with you, and also
14 enable you to do what it is you need to do.

15 I can answer questions if you would like.
16 Otherwise, you'll have our office's phone number as
17 well.

18 Thank you very much.

19 CHAIRPERSON JAMES: Any questions from
20 the Commissioners on that particular presentation?

21 COMMISSIONER McCARTHY: I will have a
22 question later, Madam Chair, as to what the cost of

1 GSA's services, in whatever form they might take, will
2 be, so that we can try to figure out how we spend out
3 budget.

4 I'll really want to know how much money
5 we will have to do outside contracting. If Mr. Lanni
6 suggests that we should hire Mr. Goodman from the
7 University of Massachusetts to do some serious
8 research, I want to make sure that we have the money
9 to please Mr. Lanni in his endeavor to do that.

10 But we want to make sure that we have a
11 lot of choices as to where we can go to get a very
12 broad perspective on the nature of the growth of
13 gambling in the United States, and its social and
14 economic consequences. So I'm trying to figure out in
15 my mind how much of our budget will be to GSA and any
16 other federal agency, and how much we're really going
17 to have to spend outside to do research. We don't
18 have to get into that in any length now, but I really
19 would appreciate some thought on that when we get to
20 discussing our budget.

21 CHAIRPERSON JAMES: Well, first of all,
22 I'd say that in terms of legal services from General

1 Services Administration, they are probably the best
2 bargain in town. If you look at the memorandum of
3 understanding -- I'm not sure if the figures are
4 actually in there -- but it's \$100.

5 (Laughter.)

6 COMMISSIONER McCARTHY: That's for a full
7 year's services?

8 CHAIRPERSON JAMES: To the end of the
9 fiscal year.

10 COMMISSIONER McCARTHY: To the end of the
11 fiscal year? That's very reasonable.

12 MR. SNOWDEN: You can't beat that
13 anywhere.

14 MR. HOWTON: That's our motto, "You Can't
15 Beat GSA."

16 MR. SNOWDEN: You can't beat GSA. In
17 fact, that is our motto, "You Can't Beat GSA."

18 CHAIRPERSON JAMES: I've asked Mr. Snowden
19 if he would address, just in brief terms, where we are
20 in the budgetary process, just to give you that. And
21 this Commission is going to spend, I would suspect, an
22 enormous amount of time on budget and looking at it.

1 But there are some preliminary things that necessarily
2 need to be done.

3 MR. SNOWDEN: Thank you, Madam Chair.

4 We have entered into a memorandum of
5 agreement for all of these experts that have come
6 before you today. For the next three months, it will
7 only cost you roughly \$12,000, and you can't beat GSA.

8 We also are working with -- you have been
9 appropriated \$4 million. We're in the process of
10 working with the staff to look at your budget and give
11 you some guidance in terms of how to structure that
12 budget. And you have the maximum flexibility possible
13 in your budgeting.

14 The only requirement that you have and
15 that Congress has placed upon you is that you not
16 exceed your allotment of \$4 million. I understand
17 that there's a possibility that there might be the
18 availability of an additional million dollars, and we
19 are in the process of talking with OMB to find out
20 where that is, if that's going to happen. So you
21 might have \$5 million, but it's clear you have the
22 maximum flexibility possible.

1 And next year we will be entering into
2 another memorandum of agreement, but you can be
3 assured that you can't beat GSA.

4 (Laughter.)

5 CHAIRPERSON JAMES: Mr. Bible?

6 COMMISSIONER BIBLE: Do those come through
7 the mandatory contract?

8 MR. SNOWDEN: No. Do you mean does the
9 \$4 million --

10 COMMISSIONER BIBLE: The \$4 million.

11 MR. SNOWDEN: Yes, does anticipate the
12 mandatory contract.

13 COMMISSIONER BIBLE: So there will be a
14 payment for services for those two contracts from the
15 \$4 million?

16 MR. SNOWDEN: There will be contracts let
17 from that \$4 million, yes.

18 CHAIRPERSON JAMES: And I know that there
19 is a great deal of interest in that subject, and I
20 also know that we have some expertise on the
21 Commission in that area. And it is certainly the
22 Chair's desire that those Commissioners who have that

1 interest be fully involved in the process, and perhaps
2 we'll even form a subcommittee to work on that, so
3 that we can present a budget to this Commission and
4 work through those issues together.

5 Mr. Leone?

6 COMMISSIONER LEONE: I just was going to
7 raise the same point that you just made, Kay, which is
8 I think that -- and I think this is what Leo McCarthy
9 was getting at -- that the process by which we develop
10 the budget is one of the crucial sets of decisions we
11 have to make, and I hope that it's a process that
12 involves the membership.

13 If we, in fact, get out into the country,
14 and if we, in fact, commission original research, this
15 is not -- not everybody operates at GSA rates or at
16 GSA efficiency. And so I think it's important that we
17 actually structure a process where members can
18 participate in how we allocate the scarce resources
19 that we have.

20 CHAIRPERSON JAMES: Well, Mr. Leone,
21 \$4 million or \$5 million is certainly a trust that the
22 American people and Congress has put in us, and I do

1 believe that we have to handle those resources in a
2 responsible way. And we do have a great deal of
3 expertise on this Commission, and several of you have
4 already expressed an interest in that.

5 What I would suggest is that we let the
6 staff do the initial work, not -- you know, the
7 decisions will be made. It is a staff function, not
8 a policy discussion. The policy discussions of how
9 the money will be spent will be made by this
10 Commission, and we can talk a little bit later about
11 exactly how we go through that process.

12 Ms. Thompson, did you have some comments
13 for us?

14 MS. THOMPSON: No. I was going to defer
15 to Mark. I believe he --

16 CHAIRPERSON JAMES: Okay. Thank you.