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STATE OF MICHIGAN
LIQUOR CONTROL COMMISSION
PUBLIC HEARING ON GENERAL RULE CHANGES

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Proceedings had in the above-entitled case before Chairman Andy Deloney and Commissioners Dennis Olshove and Teri Quimby, held at the Michigan Liquor Control Commission, 525 W. Allegan Street, Jacquelyn A. Stewart Hearing Room, Lansing, Michigan, on Tuesday, November 17, 2015.

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SPEAKER

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Edward O'Keefe, Jr., CEO, ePpour Technologies	17

IN ATTENDANCE:

- Sandi Cotter, Attorney, Dykema
- Scott Ellis, Executive Director, MLBA
- Nick Goebel, Gov't Relations Director, Great Lakes W & S
- John Llewellyn, Vice-President, MI Bankers Association
- Bret Marr, SpartanNash
- Mickey MacWilliams, MI Snowsports Industries Association
- Ileana McAlary, Attorney, Meijer
- Don Nunn, Meijer
- Jennifer Sparrow, Executive Ass't, MI Restaurant Association
- Justin Winslow, President & CEO, MI Restaurant Association
- Steve Yencich, MI Lodging & Tourism Association

STAFF IN ATTENDANCE:

- Lori DeClercq, Court Reporter
- Anita Fawcett, Secretary to Chairman
- Jason Geissler, AAG, Attorney General's Office
- Tom Hagan, Director, Enforcement Division
- Erika Hoppes, Financial Management Division
- Kerry Krone, Business Manager
- Sharon Martin, Director, Licensing Division
- Don McGehee, Division Chief, Attorney General's Office
- Cindy Schrader, Financial Management Division
- Julie Wendt, Director, Executive Services Division
- Gerald Whalen, First Assistant, Attorney General's Office
- Pam Hamilton, Deputy Director, Financial Management Division

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E X H I B I T S

M O R

None.

1 Lansing, Michigan

2 Tuesday, November 17, 2015 - 2:05 p.m.

3 CHAIRMAN DELONEY: I will call this public hearing
4 to order. I note that the time is 2:04 p.m. on November 17,
5 2015. We are at the Lansing office of the Michigan Liquor
6 Control Commission. I am Andy Deloney, Chairman of the
7 Commission. Also here are Commissioner Teri Quimby and
8 Commissioner Dennis Olshove.

9 This hearing is called in compliance with Sections
10 41 and 42 of Act No. 369 of the Public Acts of 1969, as
11 amended, and under the authority of Section 215 of Act No. 58
12 of the Public Acts of 1998, as amended, which authorizes the
13 Commission to adopt rules governing the carrying out of this
14 Act and the duties and responsibilities of licensees in the
15 proper conduct of their licensed businesses.

16 This is the second public hearing being held to
17 obtain the input and views of the general public and
18 interested parties concerning the proposed revisions to
19 Liquor Control Commission General Rules. The Commission
20 submitted the revisions made to the General Rules after the
21 first public hearing held on January 27, 2015 to the Office
22 of Regulatory Reinvention on September 25, 2015 and the
23 revisions to the General Rules were approved on October 18,
24 2015 by the ORR.

25 The Notice of this Public Hearing was published in

1 the Detroit News and Detroit Free Press, the Traverse City
2 Record Eagle and the Marquette Mining Journal on October 30
3 of 2015. The Notice was also published in the Michigan
4 Register on November 1, 2015. In addition, the Notice was
5 posted on the Commission website on November 5th of 2015.

6 If you wish to make comments at this public
7 hearing, please make sure you have signed in and have
8 indicated your willingness to speak. There is a court
9 reporter present today -- that is Lori DeClercq over there --
10 to make a record of the hearing. Therefore, please state
11 your name and your organization you represent, if any, before
12 giving your presentation. If you have any additional
13 comments to submit in writing, you may leave them with Julie
14 Wendt or submit them to the Commission no later than
15 5:00 p.m. today. Julie Wendt is in the back of the room.
16 Julie, raise your hand; for those of you that don't know
17 Julie. Thank you very much.

18 At this time, we will get right to the individuals
19 who have indicated the desire to speak at today's hearing.
20 We will start with Mr. Christopher Bernard with Bodman, PLC.

21 MR. BERNARD: Thank you, Mr. Chairman. Good
22 afternoon Members of the Commission. Thank you for the
23 opportunity to speak. I would like to just say that it is a
24 pretty well known principle that too much regulation is
25 considered oppressive; not enough can be confusing in today's

1 environment and I am here today representing the interests of
2 secured lenders, in particular, bankers and financial
3 institutions, members of the Michigan Bankers Association. I
4 am here with Mr. John Llewellyn who is representing that
5 industry group, here; also the Financial Institution
6 Compliance Cooperative, a bunch of regional local Michigan
7 bankers, credit unions throughout the State who would
8 appreciate some clarity on procedures regarding registration
9 and the ability of secured creditors, people who have a
10 security interest in a license, to be able to maintain that
11 property and maintain that very important asset in the
12 lending arena. Obviously, most businesses -- most of your
13 licensees -- are able to run because they have working
14 capital, working funds from loan arrangements and those loans
15 and that ability to provide credit is greatly based upon the
16 ability to secure that credit with the assets of the debtor,
17 of the person borrowing the funds. Liquor licenses are,
18 clearly, a very big part of that in this State as part of our
19 economy. What we ask is a revision to what the Commission
20 has proposed as Rule 436.1048. This is a brand new rule and
21 the last time we were here we were glad to see that the
22 Commission was paying attention and wanted to codify -- put
23 in writing -- some of its basic practices with respect to
24 renewals. Hadn't been done before. I was a little bit
25 surprised after the first meeting to see that one rule that

1 was concerning the mailing of renewals, has been deleted from
2 the current rule set. We think that that should stay. We
3 are curious as to why that may be and if the Commission or
4 staff can illuminate us on that, I would appreciate it.

5 What we have done is we have proposed today, sort
6 of, a very pared-down version of what we tried last time and
7 we simply ask for a couple of provisions. One which simply
8 allows, in writing, a secured party to renew on behalf of its
9 borrower the liquor license that is its collateral upon
10 presentation of very basic documentation showing that that
11 security interest is valid and recognized by the State of
12 Michigan.

13 Secondly, we ask that in the event that a license
14 has been canceled without notice to the secured creditor and
15 they find out about it, that they be able to have the
16 opportunity to be heard and to present a request before the
17 Commission to reinstate that license and put it back into the
18 stream of commerce.

19 Those are our two points. We have presented, by
20 e-mail, a copy. I can leave another copy with Julie on the
21 way out. We think that these types of things, again, provide
22 some stability and some clarity in the way that the
23 Commission does business. We think, now, today the
24 Commission would do both. At least as far as paying the
25 renewal, a secured creditor could come in and find a way to

1 make that happen with today's Commission and today's staff.
2 And that's great. What I think is important for businesses
3 and for the economy going forward is to have some clarity
4 that that will be the case after this Commission, after this
5 staff, after some turnover. So we just ask that we put into
6 place, and in writing, in the regulations, that provide
7 clarity for business owners and for lenders and for
8 licensees. We ask that that be put in the regulations in
9 order to have a basis to proceed with knowledge of this is
10 how it is going to be done. And we think that these are not
11 overly taxing, not overly costly to the Commission and staff
12 and would provide a benefit in the form of just simply basic
13 recognition of property rights and some equitable due process
14 for an important segment of the economy.

15 So I leave it to the Commission to -- if you don't
16 mind -- that is my presentation. I have provided the copy of
17 our proposed rule change. But if there was anything that
18 would, perhaps, illuminate why the rule, as submitted in
19 October -- one, why the renewal issue is no longer there and
20 then, perhaps, some concerns that the Commission may have
21 with respect to what we are asking for in terms of some sort
22 of clarity for secured creditors. Thank you.

23 CHAIRMAN DELONEY: Thank you, Chris. And you did
24 submit your language prior to this hearing. It is part of
25 the record.

1 MR. BERNARD: Thank you.

2 CHAIRMAN DELONEY: Commissioner Quimby?

3 COMMISSIONER QUIMBY: Thank you, Mr. Chairman. In
4 regards to the question that you are raising of the
5 Commission, I think I need to make a clarification point, at
6 this time. There was a particular rule set language for the
7 rule set for the January hearing. There is a slightly
8 different rule set, again, for the rule set that we have
9 before us today. But Mr. Chairman, do you think it is a fair
10 assessment and characterization to say that the changes that
11 have been made reflect the Chairman's decisions on this?

12 CHAIRMAN DELONEY: No --

13 COMMISSIONER QUIMBY: Because I don't -- I haven't
14 been any part of an open meeting. I want to make sure
15 everyone here knows we we don't have any violations like
16 that. We have not deliberated, at this point, on changes in
17 the rules, at this time. At least, I have not been a part of
18 any, although I may have missed a meeting.

19 CHAIRMAN DELONEY: That would be fair to reflect,
20 and to do so outside of an open meeting would violate the
21 Open Meetings Act.

22 COMMISSIONER QUIMBY: Thank you.

23 CHAIRMAN DELONEY: Next, we have Mike Brown with
24 Carlin Edwards Brown.

25 MR. BROWN: Good afternoon, Commissioners. Thank

1 you for the opportunity to speak with regard to these
2 proposed rule changes. As you know from our several
3 conversations we have had over the years, I am a big
4 proponent of reducing the amount of regulations that
5 licensees have to face in trying to conduct their very
6 difficult business, here, in the State of Michigan and also I
7 am a big proponent of clarifying and streamlining these rules
8 whenever possible because of so many of the issues that come
9 up, particularly, in violation hearings or during the
10 licensing process and so forth. So I applaud your efforts to
11 continue that effort these days for the streamlining and
12 further clarification of these rules. I do think it is very
13 important and I am glad to see the Commission is continuing
14 down that road.

15 With that in mind, I have just a couple of comments
16 with respect to this particular set of rules that are at
17 issue or up for discussion today. I will say that I hope
18 that there are going to be further changes beyond what is
19 proposed for discussion today that I do think there are
20 several other rules of the Commission that are right for a
21 discussion and possible revision, but since they are not part
22 of today's rules, I will save those comments for additional
23 -- some other day during a business meeting or perhaps, if
24 there are actual rule changes proposed in another set later
25 on.

1 The first one I would ask you to look at and to
2 bring your attention to is under the proposed Rule 436.1003,
3 having to do with the licensee shall not use a license at a
4 licensed premises unless a certificate of occupancy has been
5 issued. I would simply ask that, perhaps, to clarify that by
6 indicating could be either a temporary or permanent
7 Certificate of Occupancy because I could see that becoming an
8 issue when so often, when a new business is being opened,
9 they are doing so under a temporary C of O because the final
10 will have to await some further action on the building itself
11 or something like that, but in those situations, normally the
12 local jurisdiction has authorized the business to actually
13 open but it is under a temporary. But I fear without the
14 word temporary actually in the rule, there will be some
15 confusion in the field or some possibility of somebody may
16 not be able to open when, in fact, it was the intention of
17 the local jurisdiction to allow them to open. So I think
18 adding the word temporary somewhere in there will help with
19 that clarification.

20 The second item I would bring to your attention is
21 under -- just further down that page, under Rule 436.1011,
22 under (6), it indicates that the licensee, clerk, servant,
23 agent or employee of the licensee shall not do any of the
24 following and then there are sub parts (a), (b), (c), (d) and
25 (e). And this goes back to, again, the discussion that we

1 have had over the years about the word allow in this
2 subsection of the rules. In my opinion, creates a lot of
3 uncertainty for licensees and causes a lot of violations to
4 be issued where I believe they should not be. And although I
5 appreciate the Commission's efforts to address that by, in
6 fact, modifying this language in some way, to put in the
7 proposed rule change language of saying that those are not
8 considered to have been allowed where they take prompt,
9 effective action to prevent or stop whatever is happening, my
10 fear is that that phrase itself does not really get us very
11 far because now we have simply substituted one vague phrase
12 -- the word allow -- for another vague phrase, which is:
13 What is prompt, effective action? And so although I don't
14 necessarily disagree with using that as the basis for further
15 defining the action, here, I think we need to go a step
16 further in terms of defining what prompt, effective action
17 would mean. Although, I would argue that I still think that
18 it is not as effective of a guideline to licensees as simply
19 inserting the word knowingly before the word allow in those
20 sub parts so that there is some proof that the licensee
21 actually knew and understood that this activity was occurring
22 on its licensed premises. But again, if we are going to use
23 the phrase prompt, effective action, does prompt mean within
24 five seconds? Does it mean within 30 seconds? Does prompt
25 mean within two minutes? Does prompt mean different things

1 depending on the circumstances? In other words, how prompt
2 do you have to be in stopping a fight versus how prompt do
3 you have to be in stopping somebody from using crack cocaine
4 in your bathroom? And yet we have the same phrase being
5 used, effectively, for both sets of rules.

6 So and then, furthermore, with respect to (e),
7 there is, apparently, no change being made to the provision
8 of allowing narcotics paraphernalia to be used, stored,
9 exchanged or sold on the licensed premises and I would argue
10 that, again, we have a situation where a licensee, if that
11 language is left in tact, could be subject to violations for
12 things that the licensee has no idea is occurring and no
13 reasonable licensee, perhaps, would know it is occurring
14 because, again, most people, I would argue, if they are going
15 to use, store, exchange or sell narcotics paraphernalia on
16 the licensed premises, are going to try and do it in a covert
17 way of not being caught, not being seen. And so this rule or
18 this sub part, almost more than any of the other rules, is
19 the one that is going to be least likely for the licensee to
20 have any knowledge of or ability to stop. Because again, in
21 my experience, the vast majority of these that get written up
22 are not for things that were so open and obvious that almost
23 anybody would have been aware of it. Most of these are for
24 things that come along because they just happen to get
25 discovered in some happenstance way. And in the vast

1 majority, the licensee has no idea that that is, in fact,
2 what is going on. So I do think that the other changes or
3 the further clarification of that rule should certainly be
4 extended to (e) there, as well.

5 And then my last comment is with respect to the
6 proposed new Rule 436.1012, which has to do with dissolved
7 business entities. Again, I have no particular quarrel with
8 the direction the Commission is going with respect to this
9 particular proposed rule addition. I do think it makes sense
10 in many ways to do this. The only thing I would add, as I
11 think was my comment back in January, is a clarification of
12 whether or not it would be considered a violation -- or I
13 should say -- a separate violation for each day that the
14 licensee sells, offers to sell, furnishes or allows
15 consumption on the licensed premises without being in good
16 standing. So in other words, if the licensee is no longer in
17 good standing as of November 17 and then continues to sell
18 alcohol on November 18th, November 19th and November 20th and
19 then finally realizes on the 21st that oh, I have to go renew
20 my -- or file my annual statement to get it in good standing,
21 has that licensee committed one violation or three
22 violations? And I think that is important before these
23 matters start to progress through your Hearings and Appeals
24 process that that be clarified as to whether or not that is a
25 separate violation for each day. And I guess I would also

1 ask for clarification as to whether or not that is going to
2 be considered a violation at all in the sense that when I
3 further read that paragraph or that new rule, the apparent
4 way of dealing with that is going to be to automatically
5 suspend the license as of the day that it is discovered that
6 the licensee does not have a Certificate of Good Standing.
7 So are we hitting the licensee with both a, sort of,
8 immediate suspension of the license, which again, I am not
9 necessarily quarreling with, but on top of that is there
10 going to be a violation that they have to deal with? And if
11 the license is suspended, is that a separate violation, then,
12 for operating while there is a suspended license? So again,
13 I think the concept, here, is not necessarily a bad one, but
14 I think some of those issues need to be further fleshed out
15 before these issues start to go through your Hearings and
16 Appeals process. Other than that, unless you have any
17 questions, those are my remarks on these rules. Thank you.

18 CHAIRMAN DELONEY: Thank you, Mr. Brown. Next is
19 Brett Visner, Michigan Beer & Wine Wholesalers Association.

20 MR. VISNER: Mr. Chairman and Commissioners, thanks
21 for the opportunity. I just wanted to say thank you for your
22 work on the rule set. Specifically, for working and
23 addressing some of the concerns we had raised with regard to
24 the alcohol dispensing machines. I want to say thank you
25 very much for your efforts in that regard.

1 And also, too, wanted to bring attention to one
2 issue that was prompted by questions from our members not so
3 much for the Commission or many of the folks in the room
4 today that follow the process, but one of the questions that
5 we received was the elimination of the aid and assistance
6 rule. They wondered if that meant aid and assistance
7 prohibition was no longer, which obviously, is not the case.
8 It is still in the statute. But we just wanted to point out
9 that that was one of the questions we received and just
10 wanted to say thank you again for all your work and working
11 with us on all of our concerns.

12 CHAIRMAN DELONEY: Thank you, Mr. Visner. Next, we
13 have Auday Arabo, Associated Food & Petroleum Dealers.

14 MR. ARABO: Good afternoon, Mr. Chairman, Members
15 of the Commission. The AFPD would like to thank you for the
16 rule set and everything else; especially thank you for the
17 neighborhood shopping center change on that. I really didn't
18 have much to say about the rules, but I do have a request of
19 the Commission. Earlier last year, the Commission stopped
20 issuing the liquor book and our members have made an issue of
21 it. We have actually started publishing the book for our
22 members, which is great. The only request I have from them
23 is: Can you get the numbers to us a little earlier?
24 Currently, they are coming out two weeks before the change of
25 pricing -- the pricing changes. That is not enough time by

1 the time we print it and get it out to them. So love the
2 process; love what you are doing; just have that little minor
3 request. We have talked to some suppliers and we understand
4 they have more flexibility now but if we could find a nice
5 little medium there, we would appreciate it. Thank you very
6 much.

7 CHAIRMAN DELONEY: Thank you for your comments.
8 And the last card we have that indicated a wish to speak --
9 we have several from folks who did not indicate a desire to
10 speak -- is Edward O'Keefe, Jr.

11 MR. O'KEEFE, JR.: Good afternoon, Gentlemen,
12 Ladies and good afternoon, people. I represent a company
13 called ePour Technologies. I have -- a lot of you remember
14 me as the person that started the European grape wine
15 industry in Michigan and messed up Traverse City because it
16 is so over populated with people trying to buy things up
17 there, that we can't get around anymore.

18 I am actually looking at what your description of a
19 vending or what you call a dispensing machine. Okay? My
20 understanding of the rules, here, that we had a problem with
21 MGM, which had a fountain-type situation and it was found to
22 be illegal as far as the Liquor Control Commission was
23 concerned and as a result, they came back in and did the
24 right thing, I guess, by going before the Commission and
25 getting an okay on it. Now, in getting this okay, as I

1 understand it, is that you are defining what a vending
2 machine is or a dispensing machine. I think when they wrote
3 the description of that a hundred years ago or 50 years ago,
4 it is not today's technology and it's not what happens today.
5 At that time, if you wanted a candy bar, you put a nickel in,
6 you got a candy bar back and that was a vending machine.
7 Dispensing machines have taken on a whole different situation
8 and you will soon see that. My company right now is in two
9 controlled states. We are in Maryland and Colorado. Both of
10 them are in control states, where ours is a partially
11 controlled state and I am concerned about this because I look
12 at your description, here, and it says -- which includes that
13 a dispensing machine must be located at a patron's table and
14 can only dispense beer and wine. The proposed rules are also
15 an increase in the number of days -- put it this way: I will
16 stop right there. I want to present to you what we have
17 right now. I should bring out to your attention that we have
18 five patents on this machine right now and we are approved
19 for the Euro situation. We are registered there. We are UL
20 approved and we have MET approval, which is the highest UL
21 approval. We are NASD and we do a lot of things and I would
22 like to show you what a dispensing machine can do and not be
23 limited to the way you have written this thing. You have not
24 taken into consideration the expansion of dispensing
25 machines. I do have some more written material I didn't

1 give, but I will bring out here. Bear with me and I will
2 show you what I think will be interesting to the industry.

3 CHAIRMAN DELONEY: Not to interrupt you because I
4 want to make sure you say what you have to say, but you did
5 submit those?

6 MR. O'KEEFE, JR.: Five minutes, yeah.

7 CHAIRMAN DELONEY: Do you have those in the file?

8 MR. O'KEEFE, JR.: I have some more; that is why I
9 am saying this.

10 CHAIRMAN DELONEY: All right.

11 MR. O'KEEFE: I submitted them outside and I also
12 mailed them in, yeah.

13 Little more explanation. For example, what does a
14 dispensing machine do with us, for example? It is a patented
15 wine dispensing system and includes UL MET approval. Bags
16 have an EVOH lining, which means it is an oxygen inhibited
17 bag. For example, if your wine is in that bag, and it is
18 good for up to a year; we guarantee freshness in a year. I
19 am the inventor of these things. I am really involved in a
20 lot of crazy stuff in the wine industry, here, but this is
21 one of them which I think is pretty good. I can't mention
22 the company that is doing this for us right now, but I only
23 tell you that it is going to be Robert Mondavi and all those
24 type of wines that are in it, at this time. This is a
25 particular one, for one particular person, which I am not

1 allowed to mention right now so that is number one.

2 Number two, we have bag in the box machine so we
3 have been using them and let's just understand what these do.
4 Wine container allows free flow of wines, not just -- every
5 ounce we are accurate to 4/100ths of an ounce on the pour --
6 accuracy to 4/100ths of an ounce. Every person who makes a
7 pour, if they make a mistake, it is there. It reads the SKU.
8 You can do daily inventory. You can sit at home and see your
9 entire operation. If a person makes a mistake, it is there.
10 There are no over pours; especially if you get into alcohol,
11 the bartenders make their money by their favorite customers
12 by pouring a little bit more. We showed where -- I don't
13 have that in front of me -- but the statistic says that in
14 six months they would save \$14,000 with our machine because
15 there would have been no more over pours. It has got daily
16 time inventory. You know exactly what your inventory would
17 be. It is a high resolution, touch screen. It is -- it is
18 -- I am glad to give these things because there is about a
19 hundred things. Everything in there is brand new and is
20 good. I am just concerned that it has to sit on the table
21 and that is what you call a dispensing machine. I would
22 suggest you look at this because I think I have been before a
23 lot of courts, including the Supreme Court, even though I
24 don't practice law, I was in your Granholm case. I was in
25 your interstate shipping and wine situation. I was the guy

1 that got wine by the glass. I have done a lot of things in
2 the wine industry and I know for a fact that we are growing
3 and more things have to be done. This machine is a miracle
4 machine as far as I am concerned and I just want to submit to
5 the Board so they can read this or anybody else who wants to
6 know it, I can certainly give you the information. I am just
7 trying to set the record clear. I object to the fact that
8 you have designed a machine that sits on the table and that
9 is about it. The industry has changed and so has dispensing,
10 so that is why I am here. Thank you very much. I appreciate
11 it. Any questions?

12 CHAIRMAN DELONEY: Did you indicate that you had
13 additional materials that you had?

14 MR. O'KEEFE, JR.: Yes.

15 CHAIRMAN DELONEY: Could you hand those to Anita
16 Fawcett who is sitting over there? We want to make sure that
17 becomes part of the record.

18 MR. O'KEEFE: There you go, Anita. Thank you.
19 This is also part of this. This is my -- all my patents and
20 the European patents.

21 CHAIRMAN DELONEY: Thank you very much. And I
22 should clarify something. I do recall the MGM situation. It
23 was three or four years ago so if my memory is faulty, please
24 forgive me. I remember meeting with people who said they
25 represented MGM -- again, going back about three or four

1 years ago -- on something they wanted to install in their
2 on-premises facility that they were going to call Tap and
3 they asked me, as well as Tom Hagan, who is the Director of
4 our Enforcement Division, if what they wished to do would be
5 allowed under the Code or Rules. Based on what they told us
6 and presented to us, it was pretty clear and unambiguous that
7 the devices they wanted to install would not be allowed under
8 the current rule prohibiting vending machines. Not long
9 after that, if I remember correctly, we were the subject of a
10 lawsuit that was brought. That lawsuit was then dismissed.
11 We were asked for the Declaratory Ruling as to whether or not
12 their device would be allowed. We accepted the request for a
13 Declaratory Ruling and the Commission subsequently issued a
14 Declaratory Ruling, indicating that what MGM wanted to do was
15 clear and unambiguous; that the rule prohibited that. I do
16 not recall in any way, shape or form saying to MGM, that what
17 they wanted to do with anything was good in regard to any
18 kind of device. So if MGM or any other entity is currently
19 operating what we currently define as a vending machine in
20 the State of Michigan, they are doing so in violation. But
21 again, I do not recall, certainly myself, ever indicating to
22 MGM that any kind of device they wanted to use would be
23 allowed under the Code or the Rules.

24 That was the last card from an individual
25 indicating a desire to speak. We also have several others

1 from individuals indicating -- not wishing a desire to speak.
2 I will just list those, here. Don Nunn with Meijer; Ileana
3 McAlary, also with Meijer; Bret Marr, representing
4 SpartanNash, indicates support for the rule changes. Steve
5 Yencich, Michigan Lodging and Tourism Association, not
6 wishing to speak, but supporting the changes; Mickey
7 MacWilliams, Michigan Snowsports Industries Association, not
8 wishing to speak, supporting the rule changes. Scott Ellis,
9 Michigan Licensed Beverage Association, not wishing to speak,
10 supporting the rule changes; Sandi Cotter with Dykema, not
11 wishing to speak; Jennifer Sparrow, Michigan Restaurant
12 Association, not wishing to speak; Justin Winslow, Michigan
13 Restaurant Association, not wishing to speak; John Llewellyn,
14 Michigan Bankers Association, not wishing to speak and Nick
15 Goebel, Great Lakes Wine & Spirits, not wishing to speak.
16 Those are all the cards that we have. Are there any further
17 cards from anybody out there that wishes to be on the record
18 about this before we conclude the hearing?

19 Any other comments from any other Commissioners?
20 Commissioner Quimby?

21 COMMISSIONER QUIMBY: Thank you, Mr. Chairman.
22 Nobody usually has a problem hearing me, except in this room.
23 I have two comments, at this point in time, in regard to
24 Rule 436.1023(2)(c), just a comment that I would like to make
25 sure that the language in here is going to be as intended.

1 As I read it right now, I believe that it leaves a lot open
2 that would not fall under Commission approval.

3 "Redefine the licensed premises to add
4 space to the licensed premises if the space
5 being added is not connected to the
6 existing physical structure."

7 And then I have to flip it in terms of, well, what
8 if it is connected? And then unless all of the following
9 conditions are met, again, are they falling within the
10 parameter of Commission approval or not?

11 Secondly, I would be remiss today if I do not
12 offer, myself, another possible rule change for consideration
13 or review by the Commission. In light of my recent written
14 dissenting opinion in the case of Brang, Inc., d/b/a 5
15 Corners Party Store, Complaint No. 3-160822, the following
16 ideas are being submitted for the Commission's consideration
17 during the review process for the General Rules. One
18 particular rule in this set pertains to the Brang case and
19 was the focus of my dissent. While the dissent points out
20 the problems with this rule, from my perspective, I today
21 offer a possible solution to this problem that I raised. And
22 I will submit this in writing by 5:00, pursuant to the Public
23 Notice.

24 One would be to include a definition of drug
25 narcotics paraphernalia in the definition section and some

1 possible language for consideration there.

2 Secondly, in Rule 436.1011(6)(e), to include any
3 exclusions of the definition that were included for licensed
4 premises, such as pharmacies or like that. It would have
5 provisions for hypodermic needles as something that were to
6 be on the included definition list, as well as, perhaps, some
7 type of a notice provision, before a violation is pursued,
8 similar to what is in the Public Health Code under
9 MCL 333.7453 and MCL 333.7459. Again, in light of my
10 dissent, it was also partly based on a recent Supreme Court
11 decision, People v Mazur. My perspective is a little bit
12 more language needs to be added to that rule. Again, just
13 for the consideration of the Commission for any future
14 deliberations. Thank you.

15 CHAIRMAN DELONEY: Thank you, Commissioner Quimby.
16 Any other comments from other Commissioners? That is all the
17 cards we have from folks indicating a willingness to speak or
18 indicating their presence today. If there is no further
19 business to come before the Commission, I will entertain a
20 Motion to Adjourn.

21 COMMISSIONER OLSHOVE: Support.

22 CHAIRMAN DELONEY: You have to make a Motion to
23 Adjourn.

24 COMMISSIONER OLSHOVE: Motion to Adjourn.

25 CHAIRMAN DELONEY: Is there a second on the motion?

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COMMISSIONER QUIMBY: Seconded.

CHAIRMAN DELONEY: Seconded by Commissioner Quimby.
Any discussion on the Motion? Hearing none, all in favor
will indicate by saying aye.

COMMISSIONER OLSHOVE: Aye.

COMMISSIONER QUIMBY: Aye.

CHAIRMAN DELONEY: Aye. The ayes have it. We are
adjourned.

(Hearing concluded at about 2:41 p.m.)

* * *

I HEREBY CERTIFY that I reported stenographically,
the foregoing testimony and proceedings on the date and place
hereinbefore set forth; that the same was later reduced to
typewritten form, and that the foregoing is a true, full and
correct transcript of my stenographic notes so taken.

Lori K. DeClercq, CSR-3053
Dated: November 20, 2015