

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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IN RE: CHIP AND A CHAIR MASSAGE THERAPY, LLC

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PUBLIC HEARING

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BEFORE: WILLIAM H. RYAN, JR., CHAIRMAN
Gregory C. Fajt, James B. Ginty,
Keith R. McCall, Anthony C. Moscato,
Gary A. Sojka, Kenneth I. Trujillo; Members
Christopher Craig, Representing Robert
McCord, State Treasurer
Robert Coyne, Representing Daniel P.
Meuser, Secretary of Revenue
Matthew Meals, Representing George Greig,
Secretary of Agriculture
HEARING: Thursday, October 13, 2011, 11:20 a.m.
LOCATION: Capitol East Wing, 8-A
Harrisburg, PA 17120
WITNESSES: Brian Buglio, Mark Miller

Reporter: Cynthia Piro Simpson

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CHAIRMAN:

Our final hearing today relates to Chip and a Chair Massage Therapy, LLC. The April 21st, 2011 Decision to not accept a gaming service provider application from this business. I see these parties have moved forward. Can I please ask anyone who will be participating and who is not an attorney, please stand and be sworn.

WITNESSES SWORN EN MASSE

CHAIRMAN:

And again, I would ask you before speaking to spell your last name for the court reporter. Chip and a Chair, you may begin.

ATTORNEY STEWART:

Good morning, Mr. Chairman and Commissioners. And may it please the Board, my name's Mark Stewart, that's S-T-E-W-A-R-T, with the law firm of Eckert Seamans here today before you on behalf of Chip and a Chair Massage Therapy, LLC. With me is Mr. Brandon Buglio, B-U-G-L-I-O, the owner of Chip and a Chair. And we very much appreciate the opportunity to

1 be before you today.

2 Quickly, a little procedural background.
3 Chip and a Chair filed an unsponsored vendor --- or
4 excuse me, gaming service provider application on
5 April 16, 2011. The Bureau of Licensing refused to
6 accept that application, determining that Chip and a
7 Chair did not qualify to apply for a GSP registration,
8 because its services are not provided into the slot
9 machine licensee. Rather, their services are provided
10 to a patron.

11 There are two narrow questions before you
12 today, the first being, should the Bureau accept Chip
13 and a Chair's application? We are not here before you
14 asking that that application be approved. Obviously,
15 that has to be investigated and found suitable. The
16 answer to that first question is largely determined by
17 the second question, which is does a business that
18 provides services directly to the patrons of a casino
19 qualify as a gaming service provider?

20 The summary answer is that Chip and a
21 Chair clearly falls within the expressed admonition of
22 a gaming service provider in the Gaming Act. And we
23 would submit that the Board has already interpreted
24 that definition to include companies like Chip and a
25 Chair which provide services directly to patrons. And

1 we explain in our presentation today that poker room
2 massage services have become common, are permitted in
3 numerous jurisdictions and are desired by Pennsylvania
4 casinos as a customer service oriented amenity.

5 One thing that I learned through this
6 process is that poker massage is actually a growing
7 trend. There's a couple quotes related to this trend
8 on your presentation. They emphasize how the massages
9 allow players to stay refreshed and alert, and they
10 also emphasize the growing nature of the business.

11 One, the businesses being in Las Vegas,
12 of course, started with 60 therapists in 2006 and has
13 grown to 250 therapists in 2009. I would note in
14 regard to both of these quotations that they are about
15 the World Series of Poker, which is obviously a very
16 large event and a very unique event. It is not our
17 intention to have 250 employees. Nor is it our
18 intention to have players at the table for six to
19 eight hours at a time. I would note, though, that the
20 next time I'm conducting lengthy Cross Examination
21 before the Board in a marathon hearing, I'd be happy
22 to talk to Mr. Buglio about arranging massage therapy
23 for all of you.

24 CHAIRMAN:

25 Thank you.

1 ATTORNEY STEWART:

2 This popularity has led to patron demand
3 for services of all types that enhance player comfort
4 and experience. Parx Casino submitted a letter at
5 this docket to the Board in support of the appeal and
6 noted that a substantial number of poker room patrons
7 have asked their dealers for these services in large
8 part because they are common and they're the types of
9 services that they have experienced in other
10 jurisdictions in established poker rooms.

11 Some of the jurisdictions where this
12 service has been approved and is offered are listed on
13 the screen. This is an inclusive and not exclusive
14 list. They include New Jersey, New York, New
15 Hampshire, Nevada, Florida, Indiana, Connecticut,
16 Delaware and Missouri.

17 And we have also included, by way of
18 example, facilities that offer these types of services
19 through independent contractors or otherwise at their
20 casinos. And again, this is not an exclusive list.
21 At this time I would like to turn the presentation
22 over to Mr. Buglio to discuss how he got into this
23 business and a little bit about Chip and a Chair.

24 MR. BUGLIO:

25 Thank you very much. My name's Brian

1 Buglio, B-U-G-L-I-O. For the last ten years, to give
2 you a brief history of what I've done, I've worked
3 with the Delaware Gaming Control Board doing
4 charitable fundraisers for the last decade. I've also
5 worked very closely with the Delaware Lottery to
6 establish my new business, which is, obviously,
7 massage services in a casino.

8 We are currently contracted with
9 Harrington Raceway and Casino. We are also working
10 with Delaware Park and Dover Downs Casino. The way
11 Delaware works is slightly different than here. All
12 the casinos ---. Because we do make on our threshold
13 \$400,000 a year, we are not restricted to the same
14 guidelines as all the other vendors. So, the casino
15 merely has to send in a vendor registration form,
16 which will allow us to work in the casinos.

17 Consequently, the Lottery Board also had
18 to do background checks, fingerprint background checks
19 on all our employees. They do have to be certified
20 with the State to perform chair massages and to give
21 the proper badges to work on a gaming floor. They
22 also have to have clean records in the past.

23 I have also been working very closely
24 over the last seven months with Parx Casino and
25 Harrah's Casino. They have expressed immediate

1 interest upon our approval to our --- perform these
2 services. I've currently built a team for both
3 locations. We have almost 25 to 30 current future
4 employees once we get everything moving forward.

5 These are our current uniforms. We use a
6 slightly more traditional uniform. We don't want our
7 employees to be seductive in any way. They do require
8 ---. We do require them to be very professional
9 looking. In this environment, we don't want to
10 perceive any sort of sexuality due to the fact that
11 the massage therapists are actually touching people,
12 so we want to provide a very upscale look to our
13 therapists.

14 We would usually only do massage services
15 on non-gaming --- non-banking games, so it would be
16 primarily --- or actually, only the poker room itself
17 for cash playing players or tournament players. This
18 is where the demand is. We don't really find demand,
19 or we haven't in Delaware yet found demand for having
20 it at the blackjack tables or anywhere else in the
21 casino. So, we only focus on one area.

22 All the therapists are trained. We do
23 orientations that teach the way we want to not only
24 sell the product, but to show what the product is and
25 have it in a very professional way.

1 Shown in this picture here is a very
2 useful form. The therapist definitely did not look at
3 what the player is doing card-wise, but they do have
4 to be very observant on what's going on, especially if
5 a player is in the hand. This picture shows a very
6 good illustration of how a player actually will cuff
7 their cards so that a therapist or anyone else at the
8 table has very little access to see the cards.

9 Also, where the player is currently in
10 the hand, we tell our therapists to work on areas not
11 affected. Basically, if they're right-hand players
12 and they're betting with the right hand, they would
13 not be, obviously, massaging the right side of the
14 body so their chips do not go into play and questions
15 don't come up to any sort of thing like that.

16 ATTORNEY STEWART:

17 The therapy examples you're seeing, these
18 are obviously not Chip and a Chair massage therapists.
19 This was photographs from out at the World Series of
20 Poker, just to clarify that.

21 As Mr. Buglio noted, all massage
22 therapists that would be working here in Pennsylvania
23 must be licensed by the Pennsylvania State Board of
24 Massage Therapy under the massage therapy law. Those
25 licenses must be renewed every two years, so there is

1 ongoing review of the therapists. The licensees must
2 meet educational requirements, 600 plus hours of
3 instruction at a university, college or Pennsylvania
4 privately licensed school, and they must pass
5 examinations.

6 Licensees under the massage therapy law
7 must be found to be of good moral character. Licenses
8 may be refused, suspended or revoked for a number of
9 reasons, three of which include convictions of crimes
10 of moral turpitude or a felony in any jurisdiction,
11 engaging in immoral or unprofessional conduct and
12 engaging in misconduct in the carrying out of the
13 practice of massage therapy.

14 In terms of the legal issue that's
15 presented before you by this appeal, it really boils
16 down to the definition of a gaming service provider,
17 which is before you on the presentation. Section
18 1103's definition basically includes a person not
19 required to be otherwise licensed that provides goods
20 or services at a licensed facility, looking at the
21 second paragraph.

22 Obviously, that's very broad language.
23 It's pretty much all-encompassing. A licensed
24 facility is also defined to include the gaming floor,
25 where slots are played and tables are played. And you

1 know, really, you cannot presume that a gaming service
2 provider only provides his goods and services to the
3 slot machine licensee. Otherwise, you would stop the
4 definition at paragraph one, and there would be no
5 need for paragraph two.

6 As I mentioned, I believe the Board has
7 already considered this or interpreted this definition
8 in a way that is favorable to our appeal. Proposed
9 rulemaking 125.91, before the table game amendment was
10 enacted, proposed to regulate something called onsite
11 shopkeepers. And onsite shopkeepers were defined as a
12 person not required to be licensed otherwise who
13 engages in, quote, any commercial activity at the
14 licensed facility.

15 Obviously, this language is very similar
16 to the language in paragraph two of the gaming service
17 provider definition. And in that proposed rulemaking,
18 the Board made clear that the term included businesses
19 selling goods or services directly to patrons by
20 citing to restaurants and retail establishments as
21 examples of the service --- or of the types of
22 shopkeepers they were talking about.

23 Ultimately, the Board did not include the
24 shopkeeper provisions in its final form rulemaking,
25 and it explained why in the quote that is before you.

1 Specifically, the Board found that the new provisions
2 in the table games amendment, Act One, relating to
3 gaming service providers, would encompass both vendors
4 and shopkeepers, so both people providing services to
5 the facility and those providing service directly to
6 the patrons.

7 Pennsylvania casinos' desire for the
8 flexibility and ability to offer this service to their
9 customers and the four facilities that have --- that
10 are on the screen, Mohegan Sun, Parx and Harrah's, as
11 well as Sands ---. Mohegan Sun, Parx and Harrah's
12 have filed letters at this docket in support of the
13 appeal.

14 Sands has authorized us to include them
15 in the presentation and indicated to me that they
16 would be filing a letter, as well. They haven't all
17 indicated that they'd like to do business, obviously,
18 with Chip and a Chair, but they all support this type
19 of service being allowed by a gaming service provider.

20 In conclusion, we respectfully ask the
21 Board to decide that Chip and a Chair qualify to apply
22 for registration as a gaming service provider, and we
23 ask that the Board make clear that it's eligible for
24 interim authority to do business, so long as it
25 satisfies the standard requirements in your

1 regulations, not --- and therefore, not being
2 precluded just based on the nature of this business.
3 And with that, we are available for any questions.

4 CHAIRMAN:

5 Thank you.

6 ATTORNEY STEWART:

7 Thank you.

8 CHAIRMAN:

9 Does the Office of Enforcement Counsel
10 (OEC) have any questions?

11 ATTORNEY ARMSTRONG:

12 Yes, Chairman. Good morning, Chairman,
13 Commissioners. James Armstrong, Assistant Enforcement
14 Counsel, OEC on behalf of the Bureau of Licensing. I
15 have a couple questions to Mr. Buglio?

16 MR. BUGLIO:

17 Yes.

18 ATTORNEY ARMSTRONG:

19 Mr. Buglio, can you explain to the Board
20 why you have not yet contracted with Parx or any other
21 Pennsylvania casino?

22 MR. BUGLIO:

23 They were waiting to hear the conclusion
24 of this meeting.

25 ATTORNEY ARMSTRONG:

1 They are, in fact, waiting to see whether
2 or not the Pennsylvania Gaming Control Board will in
3 fact register you as a gaming service provider?

4 MR. BUGLIO:

5 Right.

6 ATTORNEY ARMSTRONG:

7 Then they had no interest in sponsoring
8 you in your application to become a gaming service
9 provider?

10 MR. BUGLIO:

11 Not at this time.

12 ATTORNEY STEWART:

13 May I add to that? Procedurally, because
14 Chip and a Chair filed a non-sponsor registration,
15 which was then refused by the Bureau, I think it put a
16 little bit of a chill on the licensee's interest in
17 just going forward and entering into a contract before
18 the Board said, okay.

19 ATTORNEY ARMSTRONG:

20 If you, in fact, enter into a contract
21 with one of our casinos, the description of the
22 service you intend to offer our casino patrons, would
23 that, in fact, be incorporated in any contract that
24 you might reach with the Pennsylvania casino?

25 ATTORNEY STEWART:

1 Yes.

2 ATTORNEY ARMSTRONG:

3 Thank you. And if, in fact, the Board
4 rules in your favor today and grants your appeal and
5 permits your application to be received by the Bureau
6 of Licensing, as far as you know today, it will be
7 filed again with an unsponsored gaming service
8 provider?

9 ATTORNEY STEWART:

10 Correct.

11 ATTORNEY ARMSTRONG:

12 Thank you. I have nothing further,
13 Chairman.

14 CHAIRMAN:

15 Does the Board have any questions of Chip
16 and a Chair?

17 MR. SOJKA:

18 My first question would be to you, Mr.
19 Chairman, because my question would not deal with
20 issues in the jurisdiction, but would deal with
21 matters of substance about the service being offered.
22 Is that appropriate?

23 CHAIRMAN:

24 I think it is.

25 MR. SOJKA:

1 All right. So, I just have one quick
2 question for Mr. Buglio. And seeing that this was
3 forthcoming, I did a little research and was quite
4 surprised to see the sophistication that exists in the
5 world of massage therapy. And there seems to be quite
6 a bit of description about different kinds of
7 approach.

8 A number of Asian names are used. You
9 also have Swedish massage, deep tissue massage, sports
10 massage, Rolfing and then all kinds of ancillary
11 services that can include reflexology, even
12 acupuncture. Is there an emerging subset within the
13 world of massage therapy that we might call poker
14 massage or gaming massage that's a part of these
15 things, or can a patron ask for truncated versions of
16 some of these other things?

17 MR. BUGLIO:

18 There are many techniques of massage, but
19 we'll be just performing chair massages, which is a
20 very common --- just very --- above the clothes.
21 There's no, you know, acupuncture and all those other
22 types of massage involved.

23 MR. SOJKA:

24 You don't touch their feet or anything?

25 MR. BUGLIO:

1 Yeah, they won't actually leave the
2 gaming table itself. They actually use the chair that
3 the player's actually sitting on as you saw on the
4 illustration. They rotate the chair around so they
5 only perform a chair massage, focus on the neck,
6 shoulders, lower back area.

7 MR. SOJKA:

8 Arms?

9 MR. BUGLIO:

10 Arms.

11 MR. SOJKA:

12 Arms and hands?

13 MR. BULGIO:

14 Arms and hands. Obviously, not during
15 play, but ---.

16 MR. SOJKA:

17 So, this, you think, will become a sort
18 of well-established and understood method or technique
19 of massage that we someday would be able to call poker
20 massage and we would know exactly what that entails?

21 MR. BUGLIO:

22 I would hope so.

23 MR. SOJKA:

24 Good. Thank you.

25 CHAIRMAN:

1 Ken?

2 MR. TRUJILLO:

3 Thank you, Mr. Chairman. Mr. Stewart, I
4 think this applies to you. As I understand, we have a
5 fairly limited legal issue, that you're asking us to
6 allow, based on this appeal, the application.

7 And I just want to understand from you
8 ---. As I read the statute, we have a gaming service
9 provider being defined as a person not required to be
10 licensed as a manufacturer, supplier, management
11 company or gaming junket enterprise and provides goods
12 and services to a slot machine licensee or an
13 applicant for a slot machine license for use in the
14 operation of a licensed facility or provides goods or
15 services at a licensed facility. So, that's, as I
16 understand, the statutory provisions you're relying on
17 for the proposition that Chip and a Chair is eligible
18 to submit an application; is that ---?

19 ATTORNEY STEWART:

20 Correct.

21 MR. TRUJILLO:

22 Okay. And when the statute refers to a
23 licensed facility, I take it, then, that you agree
24 that a --- that the service can be provided ---?
25 Perhaps if it's not restricted to a poker room, it's

1 not restricted to a gaming floor. That service, much
2 like some of the other vendors or shopkeepers that you
3 referred to in terms of --- maybe, will end up being
4 provided in different parts of a licensed facility;
5 correct?

6 ATTORNEY STEWART:

7 Correct. The literal definition of a
8 licensed facility is where they are allowed to --- the
9 facility is allowed to operate and place slot machines
10 or conduct table games, so I think it's been applied
11 in a way that, obviously, includes, you know, the
12 establishment surrounding the floor, but it clearly
13 also includes the floor.

14 MR. TRUJILLO:

15 Well, I mean licensed facility may be
16 ---. There's much more than the gaming floor, much
17 more than a poker room ---

18 ATTORNEY STEWART:

19 Correct.

20 MR. TRUJILLO:

21 --- that ---. A licensed facility is
22 much more than just a poker room and a gaming floor.
23 And you'd agree with that; right?

24 ATTORNEY STEWART:

25 Yes. It also, obviously, includes areas

1 of the licensed racetrack, or approved in our
2 facilities or temporary facilities, areas of a hotel
3 where the Pennsylvania Gaming Control Board determines
4 it's suitable to conduct table games.

5 MR. TRUJILLO:

6 Okay. And you'll agree, as well, that
7 the Board, in construing an application, can define
8 where in the licensed facility particular activity, be
9 it for the gaming service provider or otherwise, may
10 be provided?

11 ATTORNEY STEWART:

12 This was briefed, this question, to the
13 extent we're going to ---. You know, could the Board
14 preclude it from being on the floor? We obviously,
15 you know, briefed our argument on that. I think it's
16 envisioned in multiple places that ---. And gaming
17 service providers are entitled to provide their
18 services on the floor. At the same time, you
19 obviously are charged with protecting the integrity of
20 gaming operations.

21 So, to the extent that the Board
22 determines that some sort of vendor or gaming service
23 provider activity would interfere with that integrity,
24 clearly, I think you would be able to then say, could
25 not happen on the floor. I would say that's not an

1 issue that could be decided in this proceeding, would
2 require an evidentiary record if it was specific to an
3 individual gaming service provider in order to become
4 an adjudication. Or if you were making a blanket rule
5 for a category of gaming service providers, you'd have
6 to do it through a rulemaking.

7 MR. TRUJILLO:

8 That's all I have, Mr. Chairman. Thank
9 you.

10 MR. MCCALL:

11 Thank you, Mr. Chairman. My question
12 will go to OEC. It's just one quick question. Has
13 OEC solicited any feedback from the other
14 jurisdictions that currently provide this service as
15 to either the success and/or problems that may have
16 arisen in those jurisdictions? Do you have any
17 feedback on those?

18 ATTORNEY PITRE:

19 Yes, we have, Commissioner McCall. Cyrus
20 Pitre, Director of the OEC. We did reach out to New
21 Jersey. The demand there is not that high, but they
22 do offer massages. Some of the blackjack tables, some
23 at --- in the poker rooms. There have not been any
24 instances that have been reported where there was any
25 collusion or integrity of the games were compromised.

1 In Las Vegas --- I did contact someone in
2 Las Vegas. It's fairly popular there and it's been
3 popular there for a few years now. They have not run
4 into any problems with regard to any of the games
5 being compromised. However, if the Board should
6 decide to accept the application, I would ask that the
7 Board tread slowly and allow this to first take shape.
8 Possibly, we could place some conditions --- put some
9 conditions in place. And then if it --- after
10 everyone feels comfortable with it, then maybe release
11 some of those conditions.

12 CHAIRMAN:

13 Anyone else?

14 MR. GINTY:

15 I just want to follow up on Cyrus's ---
16 his point there. And please understand, this is no
17 reflection on you and on --- or your people, but you
18 know, I look at these pictures and it just seems to me
19 distracting. I know if I was sitting next to somebody
20 in a poker game where he had a wad of money on the
21 table and that person was interacting with another
22 person, that would be distracting to me and
23 potentially disrupting.

24 If we decide to grant you a license, you
25 know, we're going to be able to control you and

1 regulate you. What we're not going to be able to do
2 is control and regulate the patrons of the game.

3 So in your application and the
4 application process, and this is Cyrus's point, you
5 know, I would be in favor of granting the application
6 with limits at this stage. But I think you --- as you
7 go forward in the application, you, at least to me,
8 have to convince me that it is not distracting and
9 disrupting to the gaming process.

10 ATTORNEY STEWART:

11 Absolutely, Commissioner. We fully
12 understand that. We're prepared to do that. I think
13 certainly if it was a distraction, there wouldn't be a
14 demand for the service. To me, personally, you look
15 at a picture like that, there's about a million
16 distractions in that room. It's not really conducive
17 to concentration, but I also am not a poker player.

18 I think that the letter which was handed
19 up to you that Mr. Bill Downey filed on behalf of
20 Harrah's yesterday nicely addresses this point. On
21 the second page in paragraph four, they hope that the
22 most common concerns regarding the provision of such
23 services on the gaming floor, i.e. the physical
24 touching of patrons and the creation of a distraction,
25 are generally allayed by consideration of the highly

1 surveilled areas in which such services are offered.
2 The services are limited to open areas of the gaming
3 floor and, as such, are highly scrutinized.

4 Harrah's Chester submits that there is
5 very little opportunity for impropriety in the degree
6 of such services. And the history of the Caesar's
7 affiliates offering such services supports this
8 proposition.

9 MR. GINTY:

10 Look, I read that and to me, that goes to
11 the process of the game, cheating and so forth. My
12 point is, is it disrupting to other players? And let
13 me just ---. I hope you will address this in the
14 application, but what if one who plays at the table
15 objects to another player availing himself, herself,
16 of these services? What is the practice there?

17 ATTORNEY STEWART:

18 Are you talking about another player
19 objecting to another player getting a massage or ---?

20 MR. GINTY:

21 Yeah, yes.

22 ATTORNEY STEWART:

23 Hopefully, there wouldn't really be that
24 type of issue come up. I'm sure we can establish some
25 way to comfort ---.

1 MR. GINTY:

2 I'll just go back. I got a lot of money
3 on that --- riding on that table.

4 ATTORNEY STEWART:

5 Ultimately, that's a decision I would
6 submit for each facility. They will build into their
7 procedures and rules as to what can be done at their
8 tables. And if a player objects, my belief would be,
9 and we will address this in the application
10 specifically, that the facility would have that dealer
11 --- would have certain instructions for what they
12 should do in that situation, that the decision is that
13 the message can't be, you know, permitted at that
14 table, then that's the decision.

15 MR. GINTY:

16 I'm not sure I agree with you that that's
17 a casino by casino ---

18 ATTORNEY STEWART:

19 Well ---.

20 MR. GINTY:

21 --- decision. I think that could be ---.

22 ATTORNEY STEWART:

23 It could be a Board decision, as well,
24 absolutely, but I guess what I'm saying is Chip and a
25 Chair has the ---. Sorry.

1 OFF RECORD DISCUSSION

2 ATTORNEY STEWART:

3 The only point I was trying to make is
4 that Chip and a Chair is the service provider. No
5 one's going to want his services if there's not patron
6 demand or if it causes disruptions, and that can
7 ultimately be governed by the rules of this Board or
8 that their, potentially, employers/contractors set out
9 for them.

10 MR. GINTY:

11 As a matter of curiosity ---. I
12 understand where the chair comes from. Where does
13 chip come from?

14 ATTORNEY STEWART:

15 It's a poker term, Chip and a Chair.

16 MR. MOSCATO:

17 Thank you, Mr. Chairman. I'm curious as
18 to the rate charged and how the payment is made. Say
19 Fred Mugs (phonetic) buys into a tournament and
20 decides that he would like to avail himself of this
21 service. Is that part of his buy-in or is he paying
22 extra?

23 ATTORNEY STEWART:

24 He's paying additional.

25 MR. BUGLIO:

1 He's paying an additional charge.

2 MR. MOSCATO:

3 Directly to the --- your employee?

4 MR. BUGLIO:

5 Correct.

6 MR. MOSCATO:

7 And what would the charge be on average?

8 MR. BUGLIO:

9 On average anywhere between \$1 and \$2 a
10 minute.

11 MR. MOSCATO:

12 Okay. And the length of this could go on
13 as long as the --- Mr. Mugs wanted this to go on?

14 MR. BUGLIO:

15 It does. We usually do ---. As part of
16 our sales is a 15-minute massage for \$20 and then a
17 half-hour for \$40. Any additional minute after that
18 is \$1 a minute. So, they give discounts as per longer
19 service.

20 MR. MOSCATO:

21 Okay. Thank you.

22 CHAIRMAN:

23 Mr. Coyne?

24 MR. COYNE:

25 Thank you. I don't get to ask too many

1 questions, but Mark, I notice you state here that the
2 service will be licensed by the Department of
3 State ---

4 ATTORNEY STEWART:

5 Correct.

6 MR. COYNE:

7 --- Licensing Bureau? In your enabling
8 legislation, do they have to do a tax clearance? Do
9 you recall?

10 ATTORNEY STEWART:

11 And I don't recall specifically if that
12 is one of the lists, one of the items listed in their
13 application. Just scanning it presently in front of
14 you, it does not appear to be one of the required
15 elements.

16 MR. COYNE:

17 Thank you.

18 CHAIRMAN:

19 Mr. Meals?

20 MR. MEALS:

21 No, thank you, Chairman.

22 CHAIRMAN:

23 And Mr. Craig?

24 MR. CRAIG:

25 No, thank you.

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CHAIRMAN:

Does the OEC have any presentation?

ATTORNEY ARMSTRONG:

Yes, it does, Chairman. We would like to present the testimony of Mark --- Mr. Mark Miller. He's the unit manager, Bureau of Licensing and gaming service provider.

MARK MILLER, HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS FOLLOWS:

ATTORNEY ARMSTRONG:

Mr. Miller, with who are you employed?

MR. MILLER:

With the Pennsylvania Gaming Control Board.

ATTORNEY ARMSTRONG:

And how long have you been employed by that agency?

MR. MILLER:

Five years.

ATTORNEY ARMSTRONG:

And what capacity?

MR. MILLER:

The Manager of the Gaming Service

1 Provider Unit.

2 ATTORNEY ARMSTRONG:

3 Can you describe your duties and
4 responsibilities in that position?

5 MR. MILLER:

6 My duties and responsibilities are to
7 receive and process gaming service provider
8 applications from the licensed facility. I'm sorry.
9 And making sure that the applications are complete and
10 correct and then transmit them to the Bureau of
11 Investigation and Enforcement (BIE) for investigation.

12 ATTORNEY ARMSTRONG:

13 Now, in April of this year, did you have
14 an occasion to review an application filed by Chip and
15 a Chair Massage Therapy?

16 MR. MILLER:

17 I did.

18 ATTORNEY ARMSTRONG:

19 And what did you glean from your
20 examination of their application and consultation with
21 your colleagues?

22 MR. MILLER:

23 Well, in looking at the application and
24 in discussing it with my colleagues in the Bureau of
25 Licensing, we simply looked at the application and

1 determined that --- to not accept it due to the fact
2 that it didn't seem to clearly fit into the gaming
3 service provider regulations due to the fact that the
4 individuals were providing personal services to gaming
5 patrons, live interaction, if you will, during a live
6 poker game. And it was something that we had never
7 seen before and never come across as far as live
8 interaction.

9 ATTORNEY ARMSTRONG:

10 Now, did part of that have to do with the
11 fact that Chip and a Chair Massage Therapy was an
12 unsponsored gaming service provider?

13 MR. MILLER:

14 No, it did not.

15 ATTORNEY ARMSTRONG:

16 Did it have anything to do with Chip and
17 a Chair not having any contract with any of our
18 casinos at the time?

19 MR. MILLER:

20 It had to do with, basically,
21 conversations between our licensing attorneys and Chip
22 and a Chair. And in fact with no contract available
23 to review to determine exactly what kind of services
24 they were going to provide or what kind of payment
25 they were going to provide, we were unable to make a

1 determination on exactly how to handle this particular
2 contract --- or this particular application as far
3 as ---.

4 The main point it came down to is the
5 integrity of gaming. You know, we knew that they were
6 going to be performing massages on the gaming floor
7 during live gaming events, and we didn't feel
8 comfortable, of course, with that particular practice
9 without having a definite, defined contract on exactly
10 what they were going to do.

11 ATTORNEY ARMSTRONG:

12 And had they had that contract that
13 would've provided you with a basis for an analysis to
14 determine how to regulate that, would you then have
15 accepted the application?

16 MR. MILLER:

17 The contract? No, I can't say that we
18 would've, because we still would've been looking to
19 the Board for guidance on how to proceed or to
20 determine that this particular service was something
21 that would be allowable.

22 ATTORNEY ARMSTRONG:

23 Has the letter of intent from the Parx
24 Casino or these letters from Counsel for other casinos
25 here in Pennsylvania --- has that changed the Bureau

1 of Licensing's position in any way in regard to Chip
2 and a Chair's application?

3 MR. MILLER:

4 No, it has not.

5 ATTORNEY ARMSTRONG:

6 I have nothing further, Chairman.

7 CHAIRMAN:

8 Does Chip and a Chair have any questions
9 of OEC?

10 ATTORNEY STEWART:

11 Mr. Miller, just one question. Did you
12 ever inquire of Mr. Buglio what the specific services
13 were or what the payment terms were for the services?

14 MR. MILLER:

15 I personally did not. However, he did
16 have a conversation with our licensing attorney. And
17 from what I understand, that was discussed. The
18 services that were being provided were discussed with
19 that attorney.

20 ATTORNEY STEWART:

21 Okay. Thank you. No further questions.

22 CHAIRMAN:

23 Does the Board have any additional
24 questions of either of the parties?

25 MR. GINTY:

1 I guess I have a comment. When you come
2 back to us, I would hope that there would be a pretty
3 thorough review on the experience in other
4 jurisdictions with these services.

5 ATTORNEY PITRE:

6 Should the Board decide that it's ---
7 should you decide to accept the application, we'll do
8 a thorough review of the services and make any
9 recommended conditions that we think are necessary.

10 CHAIRMAN:

11 Anything else, Jim? Okay. Thank you.
12 This matter is now closed.

13 ATTORNEY STEWART:

14 Mr. Chairman, we would just move the
15 admission of our PowerPoint presentation, please.

16 CHAIRMAN:

17 So moved. Anything else?

18 ATTORNEY ARMSTRONG:

19 Just in closing, Chairman, Commissioners,
20 the OEC and the Bureau of Licensing would like to ask
21 that if in fact the Applicant --- that you would grant
22 them --- if we are to accept the application filed by
23 Chip and a Chair, that the Bureau of Licensing
24 reserves the right with regard to internal
25 authorization that we complete a thorough

1 investigation before any interim authorization be
2 permitted in regard to Chip and a Chair and in
3 providing the services to casino patrons. Thank you.

4 CHAIRMAN:

5 Take that into consideration. Okay. We
6 will now recess and consider the matters just heard in
7 Executive Session. We should be back --- let's say
8 12:30, a few minutes before and then we should be able
9 to return to the bench by 12:30. Thank you all.

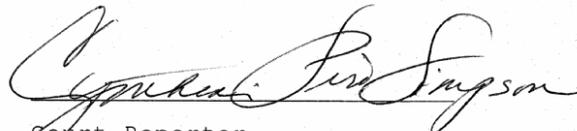
10 * * * * *

11 HEARING CONCLUDED AT 12:00 P.M.

12 * * * * *

13
14 CERTIFICATE

15 I hereby certify that the foregoing
16 proceedings, hearing held before Chairman Ryan, was
17 reported by me on 10/13/2011 and that I Cynthia Piro
18 Simpson read this transcript and that I attest that
19 this transcript is a true and accurate record of the
20 proceeding.

21 
22 Court Reporter
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