

PENNSYLVANIA GAMING CONTROL BOARD

PUBLIC HEARING
MOUNT AIRY #1, LLC

June 11, 2008, 10:17 a.m.

PENNSYLVANIA STATE MUSEUM
HARRISBURG, PENNSYLVANIA

BEFORE:

MARY DiGIACOMO COLINS, CHAIRMAN
RAYMOND ANGELI
JEFFREY COY
JAMES GINTY
KENNETH MCCABE
SANFORD RIVERS
GARY SOJKA

SHANNON MANDERBACH
REPORTER-NOTARY PUBLIC

CHAIRMAN COLINS: Good morning, everyone. Let's start our session today with the pledge of allegiance and then we will go into the hearing.

(Pledge of allegiance.)

CHAIRMAN COLINS: Good morning. I'm Mary Colins, Chairman of the Pennsylvania Gaming Control Board. My first announcement, as always, is please turn off your cell phones, your Blackberries and other electronic devices.

Before we begin our public meeting, the first matter that is before the Board today is the Mount Airy No. 1, LLC petition for approval to modify finance and project development. May I ask all those who intend to testify in this matter to please rise and accept an oath.

WITNESSES SWORN EN MASSE

CHAIRMAN COLINS: Very well. Would you like to proceed?

MR. SKLAR: Michael Sklar, counsel for Mount Airy No. 1, LLC. With me today I have Joe D'Amato, CEO of Mount Airy, and Peter Laughlin who is restructuring counsel for Mount Airy No. 1, LLC.

Today we seek approval of two things: No.

1, financial restructuring and, No. 2, modifications to Mount Airy's development plan. Both issues are principally driven by the current state of the credit markets. We believe that approval of this petition will put Mount Airy on stronger footing.

With that, I'm going to introduce Peter Laughlin from Graham Curtin who was retained, as I said, to represent Mount Airy in the restructuring. He's going to go through the existing financing and bring us up to where we are today.

MR. LAUGHLIN: Thank you, Michael, Chairman Collins, Members of the Board. My name is Peter Laughlin. I'm an attorney with the firm of Graham Curtin. My firm was retained in mid-April to assist Mount Airy with its efforts to restructure its current credit facility that was closed in August and those proceeds were used to construct the facility.

Everyone in this room is aware of the state of the current economy, the state of the credit markets. Those conditions and others led to challenges by Mount Airy and assertions by Mount Airy's lenders of certain defaults which brought all of the parties to the table to discuss a resolution of the issues and an amendment to the credit facility that would place Mount Airy in a position to move forward with the business of running their

business as envisioned.

I'm very happy that those negotiations were successful, leading to the petition that was filed seeking your approval of the terms of the amended facility.

I would like to briefly walk through those proposed terms for the amendment and then Mr. D'Amato can address some of the aspects of the facility, where we are and different aspects of that.

The amendment to the credit facility really falls under three different categories that are important for the Board's consideration. The first is the effect of a substantial deleveraging of the facility. The second is putting the facility in a position to direct excess cash flow to make some additional capital improvements. Then the third is resetting some of the basic financial terms of the loan facility to meet current market terms.

The substantial deleveraging is made possible really by a contribution by Mr. DeNaples of \$55 million to the lenders that will be applied by the lenders in payment of the principal of the outstanding loans. That will be booked as an equity contribution by Mount Airy. That will occur at the closing of the restructuring.

Following the closing of the restructuring, Mr. DeNaples has the opportunity, not the obligation, but

the opportunity to make a further contribution that would, again, be applied by the lenders to reduce the outstanding principal of the loan. If Mr. DeNaples chooses to not make that contribution, then he will be posting additional collateral for the benefit of the lenders.

Also, at the closing, the lenders have agreed to advance Mount Airy funding that, together with funds currently on hand in the construction accounts, will allow Mount Airy to complete payments to the contractors and subcontractors that built the facility.

At that juncture, Mount Airy's total debt will be approximately \$275 million on the term loan. Mount Airy will have completed the construction of its Phase I and all of the contractor, subcontractor payments will be closed out. Then they can really focus on business.

Part of the existing facility is a revolving line of credit. At the closing, we will be reducing that revolving line of credit. The reduction is aimed at helping the lenders reduce their total exposure.

From a business point of view, we are very confident that the original revolver term was a higher number than business operation would warrant and that the revised revolver will be more than sufficient to take care of the needs of Mount Airy on a go-forward basis.

Now, the other aspect of this restructuring that's important is we have negotiated with the lenders the ability of Mount Airy to direct excess cash flow to be able to invest in the property and make some noteworthy capital improvements.

Over the course of the summer, we can direct excess cash flow to enhance the property through some paving of some parking lots, an expansion of the E-games components on the casino floor and restructuring of a food outlet to a grab and go. Mr. D'Amato can explain that in more detail.

Coupled with that, we would then be directing excess cash flow to pay down the balance on the revolver and reduce the lenders' exposure to the revolver, both by paying borrowings and collateralizing any outstanding LCs.

Following that, Mount Airy then has the ability to further direct excess cash flow to a new construction account with a view that next summer, if they have been able to direct enough money based on business operations, they can then pursue some additional expansion opportunities.

One would be the completion of a swimming pool. That is an important part of the process. The second is to continue the refurbishment of the golf

course. Then the third would be some additional surface parking, should that need arise. If cash flow permits, those projects would be started next summer with a build-out time over the next several months.

The third aspect I mention then is also at the closing, we would be resetting some of the fundamental terms of the loan facility so that they comport with current market loans, resetting the interest rate, resetting the financial covenants so that those financial covenants comport with current projections of performance and, lastly, adding for the benefit of the lenders an exit fee that would be payable upon refinance payment of the loan facility, which is to the benefit of the lender and to allow them to reduce their exposure by enhancing their ability to syndicate the loan when the capital markets free up.

That's a good overview of the salient points of the restructuring and Mr. D'Amato can now address you.

MR. SKLAR: Before Joe starts, let me ask you two questions, Peter. Due to Mr. DeNaples' suspension and the appointment of Dr. Ceddia as trustee and some other technical issues related to the construction, JP Morgan and PNC alleged that there were certain defaults under the existing loan agreement. How are those, in

particular, being handled in connection with the restructuring?

MR. LAUGHLIN: At the closing, all asserted defaults are being waived by the lenders. So Mount Airy starts with a clean slate, clean bill of health moving forward. The restructuring really is designed to put them on the path to, as I said earlier, getting to the business of their business.

MR. SKLAR: If the Board approves this petition, when do you anticipate closing of the restructuring to take place?

MR. LAUGHLIN: We anticipate that we can close as early as next Tuesday.

MR. SKLAR: Thank you.

CHAIRMAN COLINS: Thank you.

MR. SKLAR: Moving on to the second part of the petition is the modifications to the development plans and, Joe, if could you discuss that aspect, please.

MR. D'AMATO: Good morning, Madam Chairman. Good morning, fellow Commissioners. It's a pleasure to be in front of you again. Hopefully, this will resolve certain matters that we have been having ongoing dialogue with the staff and our lenders.

To start with, Phase I of the project was completed in total on February 15th of 2008 and that

includes 2,500 slot machines, the 188 hotel rooms, the 4 restaurants, 3 retail outlets, our nightclub, our meeting and conference facilities and full-service spa and salon which also includes an exercise room for the hotel guests.

I know some of the Commissioners were up a couple months ago and was able to tour the facility. I think we have a beautiful facility. It's been well accepted by the public. I think that one of the things Mr. Laughlin said is it's time for us to really, from management's perspective, start operating, marketing this facility and getting the most out of it.

During the next few months, as was discussed, we're going to put some emphasis -- and we already have several designs in place for our grab and go and our E-game expansion which the grab and go deals with providing a missing element in our food offerings which is a very quick meal in a good setting.

The E-game expansion just deals with the matter of the business. The E-games, the electronic blackjack and roulette games, are probably our highest winning units on the floor. On weekends when we are very busy, you can't get a machine and it just deals with expanding that area so that we can offer to the public what they want.

we also discussed about paving a surface

parking lot. That can be completed, once we get approval and sign-off, probably within two to three weeks after we get approval.

At some point, we have to talk a little bit about Phase I-A and what was proposed.

At this time, dealing with the elimination of the Phase I, we have to be cognizant of the current credit market and the conditions which almost brings us here today for what we're discussing.

Our current gaming market conditions do not warrant proceeding with Phase I-A at this time. General economy and gas prices all supplement that decision. I think at one time we talked about Phase I-A as adding an additional 500 slot machines, 204 additional hotel rooms, approximately an 1,100 space parking garage and a 31,000 square foot retail bridge.

I can tell the Commissioners that back in 2006, the approximate cost of that was estimated somewhere around \$70 million or \$80 million. In today's dollars, that's at least \$100 million to \$115 million.

Frankly, I had conversations prior to Mr. DeNaples' license suspension that talked to him about really redoing Phase I-A because, frankly, we did not need the additional gaming capacity. Our slot machines are more than adequate right now.

In addition to that, we have got expansions coming from Mohegan, a new property eventually from Beth works and perhaps a Category 3 in the area. Our room supply right now is adequate. We are currently running at about a 70 percent occupancy rate. It looks like, as we get into the third quarter starting in July, those rates will dramatically increase.

Part of what we have done is learn how to market this property. We need more time under our belts. For the last three months, our revenues and our operating results have improved. I think, frankly, we have been open about seven or eight months. We need to be open for the entire year and get that information behind us.

For example, we will market the property dramatically differently in the fourth quarter of this year than when we opened the property. We expect to, obviously, improve our results.

Part of this is getting the property to operate in a financial condition so that when we can restructure the loan, we're in a better position.

There is also some money available for us to continue the master plan development which would be more in line with the next step, probably a parking garage, which I think the property will eventually need. But the current financial markets will just not dictate

doing it. We have adequate parking but eventually we will have to enclose the parking and then add a parking garage.

MR. SKLAR: That's all we have.

CHAIRMAN COLINS: Very good. Thank you. Are there any questions from the Office of Enforcement Counsel at this time?

MR. DIEHL: Good morning. I am Thomas Diehl representing the Office of Enforcement Counsel and I do not have any questions of either Mr. Laughlin or Mr. D'Amato.

CHAIRMAN COLINS: Very good. Do you have any questions, sir?

MR. SMILES: No.

CHAIRMAN COLINS: Let me ask the Board at this point in time if there are any questions for the witnesses. Commissioner Ginty?

COMMISSIONER GINTY: No.

CHAIRMAN COLINS: Commissioner Sojka?

COMMISSIONER SOJKA: No.

CHAIRMAN COLINS: I have a question for Mr. Laughlin. We are going down the line and I'm next in line. So I will take that prerogative. If you could give us the primary reason, what was the primary reason that necessitated this restructuring? If you could sum it up, what would it be in your experience?

MR. LAUGHLIN: The primary reason that necessitated this restructuring was really the general economy's effect on the performance of the casino. This industry is a new industry in Pennsylvania. It's operating under new rules. It's a little bit of an experiment.

The credit market shrinkage and the tightening of the credit markets left the lenders in a position of being essentially overexposed on having to leave open the full facility for an expansion that really makes no sense. Given the general economy, given \$4 gas prices when, in '06, they were \$2 and something, given the housing market that has shrunk and people's disposable income has shrunk, given the general performance of the economy really brings us to the table with the lenders.

It's a little bit of a triple witching. The suspension of Mr. DeNaples' license certainly isn't helpful, but it's not the driver. It's really about the economy and it's really about this property needing to get time under its belt to learn what is their market, how to maximize the market and what are the proper amenities to be brought to the gaming public.

CHAIRMAN COLINS: Thank you very much.
Commissioner McCabe?

COMMISSIONER MCCABE: I have a couple. You

stated that Mr. DeNaples is going to be putting in \$55 million of equity. How much total has he put in now into this project?

MR. LAUGHLIN: It's 55, plus the original \$60,800,000.

MR. SKLAR: Roughly 115 million.

COMMISSIONER MCCABE: Where did this additional \$55 million come from?

MR. LAUGHLIN: In the original terms of the loan, Mr. DeNaples guaranteed the loan. This payment to the lenders is really in fulfillment of his obligations under that guarantee.

My understanding -- and I'm not Mr. DeNaples' counsel. But my understand is that's from his personal funds through the conduit of the guarantee that was approved as part of the original loan package last August.

COMMISSIONER MCCABE: Are we going to have our own people comment?

CHAIRMAN COLINS: Yes.

COMMISSIONER MCCABE: I was a little confused. I thought that you were going to do the parking garage now versus waiting a year. You're not going to do that now to get it ready for this next winter?

MR. D'AMATO: I would like to be able to do

it but, frankly, the market conditions and the financing arrangements that Mr. Laughlin described, the funds would not be available to do it. The lenders, as Mr. Laughlin indicated, with the current market conditions are not in that position.

I think, even if we could start today, you're probably at least 15 to 18 months out from opening it. It's not even designed at this point. That's why I indicated earlier, Mr. Commissioner, that part of this would be having the ability to spend some dollars to do some master planning and some design work and complete it so that when the markets are there, we're in a position to go forward.

COMMISSIONER MCCABE: One last thing. This is not only restructuring the debt. Isn't this paying down the debt?

MR. D'AMATO: Yes.

CHAIRMAN COLINS: Commissioner Coy?

COMMISSIONER COY: No questions.

CHAIRMAN COLINS: Commissioner Angeli?

COMMISSIONER ANGELI: Just a couple things. The line of credit reduction, I think it was originally \$20 million?

MR. LAUGHLIN: It was 25 originally.

COMMISSIONER ANGELI: So the line of credit

reduction goes to what?

MR. LAUGHLIN: Fifteen.

COMMISSIONER ANGELI: Has any of that been spent or is that a new allocation of line of credit dollars?

MR. LAUGHLIN: At the moment, there are \$6 million of borrowings under the line of credit. The line of credit also supports two LCs that the property has outstanding. The LCs are outstanding as security for construction obligations that are being concluded.

Perhaps even before the closing, one of the LCs that's outstanding in favor of Paradise Township will be dramatically reduced. The letters of credit are not drawn. They are standby letters of credit.

Those will be substantially reduced and then ultimately eliminated, leaving the full \$15 million available for operations. At the moment, there are six outstanding. We anticipate that that six will actually be paid off within several months.

COMMISSIONER ANGELI: You talk about the excess cash flow to be able to do the E-games, parking and I think food outlet or something was the third part of that. What is the time frame for that? Is that as it becomes available or do you have some kind of plan for that?

MR. D'AMATO: Yes, sir. Right now, we are in the final discussions with our architects about the design and the placement of both of those. I would anticipate that once you go out, we'll need some HVAC drawings and electrical and things like that to get completed.

we will probably start the project, my guess is, somewhere in the late July, August time frame. we will get biddable documents to be able to go out to contractors to start construction. I would estimate the end of July, beginning of August to start both of those.

COMMISSIONER ANGELI: When you talked about the revolver reduction, was that a reduction in the term loan of the \$275 million?

MR. LAUGHLIN: The \$275 million would just be the term loan that was used for construction. The revolver would be an additional 15 above that.

COMMISSIONER ANGELI: You're developing a master plan. How does that relate to Phase I-A?

MR. D'AMATO: I think it will include the elements of Phase I-A. we will probably have to come before the Gaming Board again to discuss that. But it would include the approximate 52 acres that we have for development.

One of the key things we wanted to do was

the original design had certain facilities across Woodland Road and we would have to bridge over. The preliminary design we have gotten for a new master plan puts everything right on the site so that no one would have to cross over and we wouldn't have to bridge Woodland. We would be able to put everything compact on the site.

Included in that would be the first garage which I think will be when we can get the financing and we can get ourselves operationally ready which is a major priority for us.

COMMISSIONER ANGELI: Based on the last several months since we really started operating now, when you talk about the excess cash flow, are you pretty optimistic that you will have a certain amount of excess cash flow to do the changes that you said in the first thing?

MR. D'AMATO: I am very confident on the E-game expansion, the surface parking lot paving and the grab and go. Those things we're going to move forward rather quickly on.

I'm confident that when we get through a summer and we get through this fourth quarter where we will improve our operating results, that we will start to generate the excess cash flows necessary to start to do some of these other projects as well.

COMMISSIONER ANGELI: Is this -- you have to excuse me. I didn't follow this exactly. But when you talk about the term loan, the \$275 million, what's your anticipation? Are you anticipating at a certain point of time of going back out and having that refinanced?

MR. LAUGHLIN: Yes. Typical with the casino industry, typical with most industries, that \$275 million represents an appropriate amount of leverage for this facility, given the size now of the equity in this.

As the performance of the property warrants and as the capital markets become a little more free with lending, we will always be taking a look at the opportunities available to this property. Joe mentioned that was part of the master plan. There is substantial undeveloped acreage that I think is being attributed very little value in terms of this overall package of collateral.

with the proper master plan, with a year of operations, there really should be good opportunities for this facility, prior to the term of this loan facility, to look at the markets and to engage in refinancing.

COMMISSIONER ANGELI: Thank you.

CHAIRMAN COLINS: Mr. D'Amato, you mentioned revenues were up. Could you talk to us a bit about the revenues of this month as opposed to

historically how revenues have been at the property and also compare the revenues now to what your original projections were? Give us a revenue story.

MR. D'AMATO: I think if we go backwards and start looking from the time period of January of 2008 and going forward, our revenues from January of 2008 were \$178 million. For the month of May 2008, we were at \$225 million.

Part of that is we have grown our win per unit from about \$168 per day to \$228 per day. That's still not near where we want to be. I think the original projections that we were talking about were in the higher 200 range.

My opinion on June is that, from the gaming aspects, we will probably not be as good as May. May is historically a better month than June and then you kick into the summer season from July through Labor Day.

I anticipate the story will continue to be improving as we get into July, August and September. Part of the problem in the winter was, frankly, we lost at least ten gaming days due to the weather and a couple of those were on weekend days. That's made the matter even more difficult because of the bulk of our revenues and our gaming guests come in Friday through Sunday.

In addition to that, we're starting to

learn how to use the hotel for not only gaming purposes, but also the cash business. As I indicated in earlier testimony, we approximated 70 percent occupancy in the month of May. The forecast for June is around in the 70s as well. We think July, August and parts of September will be extremely strong.

We are also learning this market, too. I know there is a lot of talk about the race weekend up in the Pocono area that occurred this past weekend. From our perspective, I think it was very successful for the region and the area as part of tourism.

But from the gaming viewpoint, what we saw -- and I also talked to some other hotel operators and restaurateurs in the area -- is that their business slacks off a little bit there because most of the normal guests may not want to fight the traffic. We are learning the market very well right now.

I think that is going to be part, as you see, of our changing marketing strategy. You can see it in some of the billboards, some of the promotions we're doing that we're getting much more aggressive.

I think from a revenue viewpoint, I'm extremely confident as we get into the summer that, one, the summer will be better for us but I'm also confident that the winter -- we know a lot more about the property

and how to market to our guests during the winter months as well.

CHAIRMAN COLINS: Thank you. Very good. As you know, we have a Board-appointed trustee, Dr. Ceddia, who the Board has directed by order to be involved and to participate in these matters. I would like to ask him to come up and give us his viewpoint and his insights regarding this.

DR. CEDDIA: Madam Chair, Members of the Board, good morning. I would like to read into the record a recommendation of the trustee and then I would certainly welcome questions from any of the Commissioners.

Honorable Members of the Pennsylvania Gaming Board, I have been asked to provide the Board with my recommendation regarding the petition of Mount Airy No. 1, LLC for the approval of modifications to its financing and its project development plan in my capacity as the trustee appointed by the Board in this matter.

I will do so but, first, I want to make three preliminary points. First, neither I nor my advisors have conducted an audit, review or compilation of the operations of Mount Airy, nor was it our role to do so.

Second, neither I nor my advisors drafted any of the financial restructuring documents. Our role

was limited to facilitating the negotiation process and providing certain thoughts, comments and suggestions as the restructuring and documentation process moved forward.

Third, my recommendation is provided for the Board's exclusive use solely in connection with evaluating the proposed restructuring.

As to my position, I recommend that the Board approve this petition. Substantial time, effort and analysis have gone into the restructuring efforts which have ultimately resulted in the filing by Mount Airy of this petition for approval. I applaud the efforts of all parties in this regard.

Given recent difficulties in the financial markets, the economic slow down and restricted credit availability, I believe that the restructuring package as detailed in the petition for approval is reasonable under the circumstances.

It will allow Mount Airy to move forward and concentrate on running its business with access to funds from its credit facility and without ongoing distractions of its lenders asserting various alleged events of default.

It will also allow Mount Airy to eliminate, for the present time, those portions of its project development plan which are no longer necessary or feasible

in the current economic climate. All events of default will be eliminated pursuant to the restructuring and Mount Airy will be going forward with a clean slate.

Accordingly and pursuant to the paragraphs on 10-E and 12 of the Board's order dated February 5, 2008, I recommend that the Pennsylvania Gaming Control Board, one, approve the petition for approval both as to the proposed financing structure and as to the modified project scope; two, authorize a prompt closing to occur relative to this restructuring; three, authorize me as the trustee to execute and ratify the documents necessary for this closing to be completed.

Thank you. I would be glad to answer any questions regarding my recommendation.

CHAIRMAN COLINS: Thank you. Commissioner Ginty?

COMMISSIONER GINTY: No questions.

CHAIRMAN COLINS: Commissioner Sojka?

COMMISSIONER SOJKA: If I may, Dr. Ceddia. We heard just a moment ago excess cash flow, improved marketing plans. But the issue of EBIDA continues to be a concern for me. Would you also independently comment on what will be needed in the way of performance and compare that with performance that has already occurred?

DR. CEDDIA: Mr. Commissioner, I think Joe

D'Amato had done an excellent job of giving you a brief history of the productivity of the facility since it opened.

If you look back at the historical documents in the '07 original financing, you will note, as many of us did, that the original projections for EBIDA, which were in the vicinity of \$92 million, were, to understate, overstated.

We believe that the new financial covenants and the new ratios created, particularly the EBIDA projection, which is in the vicinity of \$46 million, is much more realistic for this facility than was originally planned.

I think Mr. D'Amato and the executive team at Mount Airy deserve a great deal of credit because, quite honestly, they demonstrated what I consider to be a key ingredient and effective leadership and management: They readjusted their course.

As he expressed to you earlier, the marketing originally planned for this facility was not perhaps on point. Yet, they were willing and I think smart enough to make the adjustment, hire a new marketing firm and I believe they are on the right track.

The evidence in terms of May's productivity is there. June has been clearly a challenge because of

the transition in terms of vacationing up there. But the analysis that Joe has laid out for July and August and September is realistic and clearly quite achievable.

The other thing I would add in closing in responding to your question is simply this: The fact that this management team has been consumed the last two months by virtually nothing else than this restructuring project has taken them somewhat off the task at hand.

They have worked tirelessly and extensive hours to get this refinancing package completed. I am very much amazed that they have been able to do what they have been able to do just running the facility in spite of that.

Given this restructuring and the Board's approval today, I think they are going to be able to have much more time to focus on getting about the business of running the casino and make it even more profitable than it is.

COMMISSIONER SOJKA: Thank you very much.

CHAIRMAN COLINS: Commissioner?

COMMISSIONER RIVERS: No.

CHAIRMAN COLINS: I have a question, Dr. Ceddia. Could you explain for us the input and the role of Mark Gleason of Mark Gleason and Associates with respect to your tasks and your review of this project?

DR. CEDDIA: Yes. We've had excellent expertise from all members of the trustee's team. Gleason and Associates, Mark Gleason who is the principal of his forensic accounting group, he and his team have been very instrumental in helping me in my role as trustee to monitor and to assess, from time to time, the cash flow analysis of the casino.

They were very much involved in reviewing the original loan documents signed in '07 and they also played a key role in reviewing and assessing for me the new term sheet as it was developed during the negotiations to make sure that the Commonwealth's interests were protected and, in addition, that the LLC was moving in the right direction in terms of its financial restructuring.

I was ably assisted along the way by Post & Schell, Ron Levine, the lead attorney, and Brian Bisignani who has a particular expertise in business restructuring. They, too, also contributed, Madam Chair, to the advice and counsel that they gave me.

CHAIRMAN COLINS: Thank you.

COMMISSIONER MCCABE: First, I would like to thank you and your team for the outstanding job you have been doing. I know we have relied heavily on you.

DR. CEDDIA: Thank you.

COMMISSIONER MCCABE: You know my

background in the FBI. One of my concerns is where the cash has come from. Has Gleason and Associates looked at where the cash influx is coming from at all?

DR. CEDDIA: We have been involved in conversations with Mr. Robert Rossi and Mr. Joseph Rossi, the key accountants for Mr. DeNaples. We are aware of where the cash contribution came from.

As it's been submitted under seal, that information has been available for review by the Commission. It has also been reviewed by the investigation unit and supported by an affidavit filed by Mr. DeNaples.

I have a high level of confidence that the information provided and the reviews that have taken place present an accurate assessment of the fact that the resources provided by Mr. DeNaples were part of his original personal guarantee when the loan was signed in '07 and that personal guarantee was based upon the assets that he possessed at the time in various LLCs that he owns and operates. I believe the support for this pay down by him came from those sources.

COMMISSIONER MCCABE: Thank you.

CHAIRMAN COLINS: Commissioner Coy?

COMMISSIONER COY: No questions.

CHAIRMAN COLINS: Commissioner Angeli?

COMMISSIONER ANGELI: No questions.

CHAIRMAN COLINS: Thank you very much, Dr. Ceddia.

DR. CEDDIA: Thank you.

CHAIRMAN COLINS: Now I will turn it over to the Gaming Board staff, Office of Enforcement Counsel.

MR. DIEHL: The Office of Enforcement Counsel intends to present one witness and that would be Mr. Smiles who is sitting at my left and who has been sworn in. May I proceed?

CHAIRMAN COLINS: Yes.

MR. DIEHL: Sir, could you state your name and address for the record?

MR. SMILES: R. Nelson Smiles, 409 Lackawanna Avenue, Scranton, Pennsylvania.

MR. DIEHL: Sir, how are you employed?

MR. SMILES: I am an employee of the Pennsylvania Gaming Control Board within the Bureau of Investigation and Enforcement.

MR. DIEHL: Could you briefly state your title and some of your duties?

MR. SMILES: My title is forensic accountant within the financial investigation unit. As part of my duties, I am involved in the financial review and analysis of companies and individuals with regard to

gaming regulations.

MR. DIEHL: As part of those duties that you just described, were you assigned to review Mount Airy's petition to modify its financing and its project development plan?

MR. SMILES: Yes, I was.

MR. DIEHL: Did you get a chance to review all the documents submitted by Mount Airy?

MR. SMILES: Yes, I did.

MR. DIEHL: Did you have an opportunity to discuss this matter with representatives of Mount Airy?

MR. SMILES: Yes, I did discuss the documents provided with representatives of Mount Airy and also requested additional supporting data from them.

MR. DIEHL: Did you also discuss this matter with Mount Airy's trustee, Dr. Ceddia, and/or his staff?

MR. SMILES: Yes, I did. I attended several meetings where this particular petition was discussed.

MR. DIEHL: Following your review of the documents and discussion with the parties, did you issue a report?

MR. SMILES: Yes, I did.

MR. DIEHL: I have a copy of that report

here and am I presenting it to you?

MR. SMILES: Yes.

MR. DIEHL: It is entitled Mount Airy amended loan facility summary?

MR. SMILES: That's correct.

MR. DIEHL: Based upon your review of the documents both submitted and prepared as well as the discussions that you had with the trustee and the staff and Mount Airy's management, in your opinion, will this transition assist in the continued financial viability of the licensee, Mount Airy No. 1, LLC?

MR. SMILES: In my opinion, it will.

MR. DIEHL: Again, based upon your review and discussions, in your opinion, will this transaction assist Mount Airy No. 1, LLC in maintaining a steady level of growth of revenue to the Commonwealth?

MR. SMILES: It's my opinion, with this transaction affected, it certainly will allow Mount Airy management to be more focused on productive activities within the casino.

MR. DIEHL: Now, sir, a question has been raised by Commissioner McCabe that I would like to briefly address with respect to the funds provided recently by Mr. DeNaples. Could you please respond as best you are able?

MR. SMILES: Yes. We did analyze all the

funds that were required at the closing of this document. One component which I believe was already referred to was a \$25 million guarantee account that already existed within JP Morgan as part of the August '07 financing. That's part of the funds that are being referred to within this document.

The second component of the funds in the amount of \$30 million, once again, to be put in as a capital contribution and pay down of the loan came from Mr. DeNaples' personal funds. As Dr. Ceddia had mentioned previously, the holdings of Mr. DeNaples include a large number of closely-held corporations.

we, in the financial investigation unit, as late as Monday pursued the source documents, namely, bank accounts, loan agreements of that nature to identify this particular \$30 million.

At this point, we are certainly here to testify that we are satisfied with the reasonable source of this particular \$30 million. The only caveat that we would have is that as part of the Bureau of Investigation and Enforcement, our review of these circumstances is certainly an ongoing matter.

MR. DIEHL: Thank you, sir. I have no further questions.

CHAIRMAN COLINS: Very good. Do any of the

Commissioners have any questions?

COMMISSIONER MCCABE: You feel these are legitimate funds?

MR. SMILES: Yes.

COMMISSIONER SOJKA: In the question about your opinion as to whether this restructured loan would improve tax revenues to the Commonwealth, I thought I noticed a carefully crafted non-answer to that question. Is that because you feel it's out of your area of expertise?

MR. SMILES: I think, for one thing, all accountants, when you're referring to projections -- and there is all sorts of assumptions out there. In terms of answering this particular question, which is a segment of the law, and the reason that I was asked about it -- you know, at that point, I had to kind of focus on what was realistic and observable.

Clearly, once again, as Dr. Ceddia indicated, a tremendous amount of time, management time, has been spent with the financing, the legal aspects. Clearly, in my opinion -- and it was stated as my opinion -- the focus back on revenue generation activities clearly is going to be beneficial.

COMMISSIONER SOJKA: That's helpful. Thank you.

CHAIRMAN COLINS: I think the underlying assumptions of this deal appear to be reasonable to you; is that correct?

MR. SMILES: Yes.

CHAIRMAN COLINS: Thank you. Any further questions?

(No response.)

CHAIRMAN COLINS: Very good. Thank you very much. We are going to continue with our agenda and then we will take a break later on before we vote on this matter and have an executive session to deliberate and discuss this. Thank you very much.

(Hearing concluded at 11:05 a.m.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

Shannon L. Manderbach
Notary Public