

PENNSYLVANIA GAMING CONTROL BOARD

PUBLIC MEETING

TUESDAY, DECEMBER 2, 2008, 11:03 A.M.

NORTH OFFICE BUILDING
HEARING ROOM 1
HARRISBURG, PENNSYLVANIA

BEFORE:

MARY DiGIACOMO COLINS, CHAIRMAN
RAYMOND S. ANGELI
JEFFREY W. COY
JAMES B. GINTY
KENNETH McCABE
SANFORD RIVERS
GARY A. SOJKA

ALSO PRESENT:

KEITH WELKS, EX-OFFICIO REPRESENTATIVE

HILLARY M. HAZLETT, REPORTER
NOTARY PUBLIC

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1 CHAIRMAN DiGIACOMO COLINS: All right. Good
2 morning, everyone. We'll begin. I'm Mary Colins,
3 Chairman of the Pennsylvania Gaming Control Board.
4 Please turn off cell phones, BlackBerries and other
5 electronic devices.

6 Keith Welks is here, Stacy Amsler as well and
7 Mr. Welks is here on behalf of State Treasurer Robin
8 Wiessmann and Ms. Amsler is here on behalf of State
9 Treasurer Stephen Stetler.

10 Thank you all for joining us today. A quorum
11 of the Board is present. The meeting is called to
12 order. We'll begin with the pledge of allegiance.

13 (Pledge of Allegiance.)

14 CHAIRMAN DiGIACOMO COLINS: Thank you. By way
15 of announcements, the Board held an Executive Session on
16 December 1st in accordance with the Sunshine Act. The
17 purpose of the Executive Session was to discuss
18 personnel issues, privileged and confidential agency
19 business, and to consult with counsel and other
20 professional advisors to the Board concerning current
21 litigation.

22 Now, with respect to the first item on the
23 agenda, which is the minutes and the transcripts, may I
24 have a motion please?

25 COMMISSIONER McCABE: Madame Chair, I move that

1 the Board approve the minutes and transcript of the
2 October 23rd, 2008 meeting.

3 COMMISSIONER RIVERS: Second.

4 CHAIRMAN DiGIACOMO COLINS: Questions?

5 All in favor?

6 COMMISSIONERS: Aye.

7 CHAIRMAN DiGIACOMO COLINS: Opposed?

8 Motion carries.

9 To new business and the Executive Director's
10 report, Frank Donaghue.

11 MR. DONAGHUE: Good morning, Chairman Colins
12 and Board members. Joining me this morning is
13 the Director of Bureau of Investigations and Enforcement
14 (BIE), David Kwait.

15 I will report on a few items today beginning
16 with an update on revenue trends at Pennsylvania slot
17 casinos.

18 As you will recall, three weeks ago, I informed
19 you in the Executive Director's Report that I will
20 continue to provide revenue numbers on an ongoing basis
21 to the Board and to the public.

22 Of course, this information is also available
23 on our website. Let me start this report as I ended the
24 last one.

25 The Pennsylvania casino market is still

1 maturing; and because of that, I believe that it is too
2 early to draw any concrete conclusions from the figures
3 that I am about to report.

4 What I can say is that a number of factors may
5 affect revenue figures in Pennsylvania due to the unique
6 position as a start-up in the gaming industry, which
7 would not affect other jurisdictions.

8 Those factors are keeping Pennsylvania's
9 revenue figures today very steady and even growing
10 contrary to what is being reported in other more mature
11 jurisdictions.

12 The growth figures I am referring to is
13 comparing the facilities operating in November of 2007
14 to the same ones operating in November of 2008.

15 In this case, that would be six casinos. In
16 comparing November of last year and November of this
17 year, the gross terminal revenues from slot gaming
18 increased 12.9 percent or 101.6 million last year
19 compared to 114.7 million this year.

20 As I did also last month, I should add that
21 this year's number was produced with an average of
22 14,276 slot machines, about 1,500 more than were
23 operating in November of last year.

24 Another item I want to note is the creation and
25 public posting on our website of the Board's Vision and

1 Mission Statements.

2 These statements were created by reaching out
3 across our agency; and the outcome, in my opinion,
4 effectively provides the PGCB with high-level guidance
5 on where we are heading in our role of regulating
6 legalized gaming in Pennsylvania.

7 If you don't mind, I would like to read those
8 two statements to you.

9 The Vision Statement is as follows:

10 The goal of the Pennsylvania Gaming Control
11 Board is to be the premiere gaming regulator in the
12 United States, maintaining and enhancing public trust
13 with honesty, integrity, and credibility.

14 The Mission Statement is as follows:

15 The Pennsylvania Gaming Control Board, guided
16 by the Gaming Act and supported by a dedicated
17 professional staff, will protect the interests of the
18 public by ensuring the integrity of legalized gaming
19 through the strict enforcement of the law and
20 regulations, licensing the qualified individuals and
21 entities and fulfilling the objectives of limited gaming
22 in the Commonwealth to deliver a significant source of
23 revenue, assist the horse racing industry, provide broad
24 economic opportunities and enhance tourism.

25 And again, the Vision Statement and the Mission

1 Statement were shared among our employees, who gave us a
2 lot of feedback, as did the Board members. I think it
3 is a very important step with regard to the growth of
4 this agency.

5 I would like to thank the Director of our
6 Communications, Doug Harbach, for his work in this
7 regard.

8 Finally, I want to note that this is the last
9 meeting to be held during the tenure of our first
10 Director of the BIE, David Kwait.

11 David's last days will be this week; and before
12 entering a well-deserved retirement, I know that
13 Chairman Colins and the Board members would like to note
14 David's outstanding work today. I turn the rest of my
15 time over to you, Chairman Colins.

16 CHAIRMAN DiGIACOMO COLINS: Great. Thank you
17 very much.

18 It is with great sadness that we accept Dave's
19 retirement, have to face his retirement and see him
20 leave the Board. I have a resolution and something I
21 want to give him shortly.

22 I do want to offer to him our sincerest
23 gratitude because David has given us nothing less than
24 his full commitment and loyalty throughout his service
25 as the first Director of BIE and we are grateful for

1 that.

2 Before reading the resolution and giving him
3 our token of our appreciation, I would like to turn this
4 over to our other Board members for their thoughts
5 regarding this historic and sad day for us, which is
6 losing our first and very effective Director of BIE.

7 Commissioner McCabe.

8 COMMISSIONER McCABE: I would like to start it,
9 if you would, Madame Chair.

10 David, I want to publicly thank you. I was one
11 of your chief advocates for this position. Your honesty
12 and integrity is unquestionable, unrepachable.

13 I knew you were the right person for this job.
14 I knew that because when I was the head of the FBI and I
15 went to my first Chief's Association meeting, I saw the
16 way you were welcomed into the different chiefs' camps
17 throughout this state and how well respected you were by
18 all law enforcement throughout the state, not just one
19 region, the western region or eastern region, north or
20 south, the entire state.

21 I watched you move from one group to another,
22 be welcomed, the respect that all of these chiefs had.
23 Your leadership was invaluable in formulating a
24 brand-new agency and hiring people that are highly
25 competent and qualified for such an important position

1 to safeguard the integrity of gaming.

2 BIE under your leadership has done everything
3 right. They have worked hard, and they have done an
4 outstanding job.

5 Dave, I will miss you personally. As a friend,
6 your guidance and counsel has been invaluable to me. As
7 an organization, we're going to miss you.

8 You set us on the right path, and you are going
9 to be hard to replace. Publicly, I want to thank you
10 for such an outstanding job.

11 MR. KWAIT: Thank you.

12 CHAIRMAN DiGIACOMO COLINS: Commissioner
13 Angeli?

14 COMMISSIONER ANGELI: Thank you, Chairman.

15 David, I'll just repeat a lot of the reasons
16 that are going to be said today. We're going to miss
17 you.

18 From a personal standpoint, I think you were
19 involved in creating an environment of professionalism
20 and dedication that served not only this agency but the
21 Commonwealth of Pennsylvania. You are to be proud of
22 what you accomplished here, and we are certainly going
23 to miss you. Good luck to you in whatever you do.

24 MR. KWAIT: Thank you, Commissioner.

25 CHAIRMAN DiGIACOMO COLINS: Commissioner Coy?

1 COMMISSIONER COY: Thank you, Madame Chair.

2 David, I'll see if I can reach back into my
3 English history and quote Kipling in his poem, if -- if
4 you remember that because I think of you when I think of
5 that first line. It is something like, if you can keep
6 your head when all of those around you are losing theirs
7 and blaming it on you -- and it goes on from there.

8 But I think there is no doubt that you did a
9 wonderful job for the Gaming Control Board and for the
10 Commonwealth during very difficult times and when there
11 were a lot of people losing their heads and blaming it
12 on you.

13 In the midst of all of that, I congratulate you
14 on a well-deserved retirement. Although, I've got to
15 think there is probably another chapter or two in this
16 career and just wish you good luck, Dave. Thanks for
17 your support.

18 MR. KWAIT: Thank you so much.

19 CHAIRMAN DiGIACOMO COLINS: Commissioner
20 Rivers?

21 COMMISSIONER RIVERS: Dave, I thought when Jeff
22 started talking about if and talking about losing one's
23 head, I thought he was going to mention your hair while
24 all others around you are losing their hair .

25 I think it is important that we take this

1 opportunity to thank you for the time, effort, and
2 energy that you put into the position. I know as a
3 Notre Dame lover, you wish the same thing would happen
4 with their football team.

5 As Jeff made reference to you're not finished,
6 I think Notre Dame might be wise in hiring you as their
7 football coach because if you could lead that football
8 team like you led us, it would be a successful career.
9 I do congratulate you and do wish you and your family
10 the best of luck.

11 MR. KWAIT: Thank you, Commissioner.

12 CHAIRMAN DiGIACOMO COLINS: Commissioner Sojka?

13 COMMISSIONER SOJKA: Unlike all of my
14 colleagues who have spoken to this point, I was not here
15 when you came onboard. I have no firsthand knowledge of
16 what you have contributed, though I have certainly heard
17 what have now become the legends.

18 But I did know what this agency was charged
19 with when I came onboard. It involved words like
20 integrity and trust.

21 I had some notion of what the Director of
22 Investigations and Enforcement might have in the way of
23 background. You can imagine the jaw-dropping shock when
24 I met you and found a Saint Meinrad Seminarian.

25 Not only do you understand what ethics are

1 about. I believe being a graduate of that place, you
2 could write the textbook on it. I think your mentors
3 and your classmates there would take pride in the way
4 you conducted yourself in this demanding position
5 because you have lived out the teachings of that place
6 and we're grateful for it. Thank you.

7 MR. KWAIT: Thank you, Commissioner.

8 CHAIRMAN DiGIACOMO COLINS: Commissioner Ginty?

9 COMMISSIONER GINTY: I would like to -- as a
10 Notre Dame alumnus, I would like to second Commissioner
11 Rivers' motion, David.

12 We didn't have much time together, and I'm
13 sorry for that. I know the work you have done. I know
14 the dedication that you brought to this job. I want to
15 thank you for your years of service, not just with the
16 Board but with the Attorney General and your service in
17 the FBI.

18 As a citizen, we are just very fortunate to
19 have people like you, David. So thank you very much,
20 and good luck in retirement.

21 MR. KWAIT: Thank you.

22 CHAIRMAN DiGIACOMO COLINS: Dave, I want to
23 read a resolution now.

24 Whereas, David Kwait was hired by the
25 Pennsylvania Gaming Control Board on July 11th, 2005 --

1 this is Gaming Board resolution PGCB 2008-6-BIE.

2 Whereas, David Kwait was hired as the Board's
3 first Director for the Bureau of Investigations and
4 Enforcement; and

5 Whereas, David Kwait built an investigative
6 protocol resulting in suitability investigations of
7 thousands of applicants; and

8 Whereas, David Kwait supervised 125 employees
9 in the Bureau of Investigations and Enforcement; and

10 Whereas, David Kwait supervised and directed
11 19,000 investigations of individuals and companies; and

12 Whereas, David Kwait was instrumental in the
13 opening to date of seven casinos in the Commonwealth of
14 Pennsylvania; and

15 Whereas, David Kwait focused his time and
16 attention to maintaining the integrity of gaming in the
17 Commonwealth of Pennsylvania while keeping the safety of
18 the citizens of the Commonwealth as his top priority; be
19 it

20 Resolved that the Pennsylvania Gaming Control
21 Board proudly recognizes David Kwait for his exemplary
22 record of service and leadership and congratulates David
23 Kwait on his retirement from the Pennsylvania Gaming
24 Control Board and wishes him the best in all of his
25 future endeavors.

1 Upon motion duly made and seconded, I will
2 declare his resolution adopted.

3 May I have a motion?

4 COMMISSIONER McCABE: So moved.

5 COMMISSIONER COY: Second.

6 CHAIRMAN DiGIACOMO COLINS: All in favor?

7 COMMISSIONERS: Aye.

8 CHAIRMAN DiGIACOMO COLINS: Opposed?

9 Motion carries.

10 And in addition to this Resolution, I'm going
11 to stand and show this to everyone, we want to offer to
12 David this token of our appreciation and our
13 acknowledgement of his outstanding and distinguished
14 leadership as the first Director of the Pennsylvania
15 Gaming Control Board's Bureau of Investigations and
16 Enforcement 2005 to 2008.

17 The Commonwealth of Pennsylvania will reap the
18 benefits of legalized gaming for years to come due to
19 your work, which has set the highest standards for the
20 integrity of gaming in Pennsylvania's newest industry.

21 Thank you very much.

22 (Applause.)

23 MR. KWAIT: Commissioners, I have been here
24 before but never so humbled before you. I truly am. I
25 think if you look at this PGCB & BIE in particular

1 objectively, you'll realize that my part in this was
2 miniscule compared to so many others.

3 First of all, you folks, you created an
4 environment to let this whole office happen; and I
5 certainly need to thank some of the earlier
6 Commissioners; Tad Decker, Chip Marshall, and Bill
7 Conaboy.

8 I think you and most of the people that have
9 been in the PGCB understand that when we walked in the
10 door in July of 2005 and saw a half-completed office,
11 desks with no more than a pen and a yellow sticky paper
12 on it and recognized a very ambitious schedule that the
13 Act and the state demanded to create PGCB and license,
14 you'll understand that those early people that came in
15 are the true heroes.

16 I have to mention those -- a lot of them are
17 here. Susan and others are here and I understand who
18 they are but we can't forget Mike Schwoyer, Mike Walsh,
19 and so many others that have left over the course of the
20 past three and a half years. They contributed so much
21 so early.

22 When you look at the task at the time that was
23 so daunting and yet we accomplished it and Frank just
24 read a Mission Statement that talked about an industry
25 in Pennsylvania that is maturing, well, God bless it,

1 when you look and talk to people like we do every day in
2 regulatory communities around the country, you know we
3 have matured and have come an awful long way and
4 Pennsylvania is now in a good position to become leaders
5 of this industry.

6 You are talking about giants when you talk
7 about Nevada and you talk about New Jersey. We can
8 probably take our place among them and the results speak
9 for themselves. No one can question that.

10 So I give you all my heart-felt thanks. Dave,
11 the sound man; and Hillary, thank you very much. You
12 have been a part of us from the beginning, too.

13 To everyone and my BIE staff in particular,
14 thank you very much for the support and the confidence.

15 CHAIRMAN DiGIACOMO COLINS: Thank you.

16 MR. DONAGHUE: Okay. And that concludes my
17 report. Thank you.

18 CHAIRMAN DiGIACOMO COLINS: Thank you very
19 much.

20 Our Chief Financial Officer now, Eileen
21 McNulty.

22 MS. McNULTY: Thank you, Chairman Colins.

23 The first order of business is proposed agency
24 hires. I have four hires. The first is Luke Rogers,
25 Casino Compliance Representative at Mohegan Sun.

1 Luke is a graduate of the University of
2 Scranton with a degree in criminal justice, as well as a
3 graduate of Lackawanna College with an associate's of
4 science in criminal justice.

5 Since September of 2005, he has been employed
6 with the Wayne County Probation Office as an
7 institutional probation officer.

8 He has completed the Gaming Control Board's
9 interview process and drug testing and is recommended
10 for hire by the Director of Casino Compliance, Tom
11 Sturgeon.

12 The second is Michael Roland for the position
13 of Assistant Chief Enforcement Counsel. Michael is a
14 graduate of Kings College with a degree in psychology
15 and he received his juris doctorate from Widener
16 University.

17 He is admitted to the Pennsylvania Bar and has
18 worked as both an Assistant Deputy Prosecutor and Senior
19 Deputy Prosecutor for the York County District
20 Attorney's Office.

21 Currently, he is an Assistant Counsel with the
22 Liquor Control Board. He has also completed the Gaming
23 Control Board's interview process and drug testing and
24 is recommended for hire by Chief Counsel, Cyrus Pitre.

25 The next is Vicki Shriner, Clerical Support

1 Messenger in the Harrisburg office. Vicki comes to us
2 from an administrative position with Rodachuck Farm and
3 Market and Gift Shop.

4 She also formally worked for the Pennsylvania
5 Department of Revenue. She has completed our interview
6 process and drug testing and background check and is
7 recommended for hire.

8 And finally, Linda Shramm, Administrative
9 Assistant in the Western Region BIE Office. She comes
10 to PGCB from the Allegheny County Police, where she
11 served as an administrative assistant to the Office of
12 Superintendent and brings over 16 years of experience to
13 the PGCB.

14 She also completed the interview process and
15 drug testing and background check and is recommended for
16 hire.

17 CHAIRMAN DiGIACOMO COLINS: Thank you.

18 May I have a motion, please?

19 COMMISSIONER RIVERS: Yes. Madame Chairman,
20 based on the recommendation of our Chief Financial
21 Officer, I move that we hire the following staff, and
22 they have passed their background and drug testing
23 program.

24 COMMISSIONER SOJKA: Second.

25 CHAIRMAN DiGIACOMO COLINS: All in favor?

1 COMMISSIONERS: Aye.

2 CHAIRMAN DiGIACOMO COLINS: Opposed?

3 Motion carries.

4 MS. McNULTY: Thank you.

5 The second item on the agenda today is Local
6 Law Enforcement Grants. We have before you today a
7 Local Law Enforcement Grant for \$250,000. The applicant
8 is the Philadelphia District Attorney's Office. They
9 are proposing to set up an illegal slot machine task
10 force. The grant they have requested is \$250,000.

11 It would be the 30th application granted by the
12 Board; and if approved, the total of all grants would be
13 \$3,497,891.

14 CHAIRMAN DiGIACOMO COLINS: May I have a
15 motion?

16 COMMISSIONER RIVERS: Yes. Madame Chairman, I
17 move that the Board approve the Local Law Enforcement
18 Grant as described by the CFO.

19 COMMISSIONER SOJKA: Second.

20 CHAIRMAN DiGIACOMO COLINS: All in favor?

21 COMMISSIONERS: Aye.

22 CHAIRMAN DiGIACOMO COLINS: Opposed?

23 Motion carries.

24 MS. McNULTY: Thank you. That completes my
25 report.

1 CHAIRMAN DiGIACOMO COLINS: Okay. Thank you
2 very much.

3 Office of Chief Counsel (OCC), now,
4 Mr. Sherman.

5 MR. SHERMAN: Good morning, Chairman Colins,
6 members of the Board. Our first agenda item relates to
7 the Final-form Regulations, which the Director of
8 Regulatory Review, Richard Sandusky, will address.

9 MR. SANDUSKY: Good morning. The one
10 Regulation we have for you today is the Final-form
11 Regulation. It is Regulation 125-86.

12 This Regulation adds two new provisions to our
13 procedures for conducting hearings for slot machine
14 licenses.

15 The first provision that was added states that
16 any information that has been obtained by BIE during the
17 course of the investigation from public sources will be
18 presented at the licensing hearing.

19 All other information must be treated as
20 confidential information as required by Section 1206(f)
21 of the Act.

22 The second change that is included in this
23 rulemaking is a procedure for handling questions related
24 to confidential information that may arise at a
25 licensing hearing.

1 In essence, the applicant will have the option
2 of responding to the question, waiving their
3 confidentiality protections at the public hearing, or
4 requesting that the matter be heard in Executive Session
5 as is permitted by the law.

6 We had received comments on this proposed
7 rulemaking from the Sands Casino Resort in Bethlehem and
8 from the Independent Regulatory Review Commission.

9 In response to those comments, we have made
10 some slight language provisions to the Final-form
11 Regulation, which I think clarify the intent of the
12 Board.

13 If there are any questions from the
14 Commissioners or Chairman, I would be happy to answer
15 them. Otherwise, we would ask for a motion for adoption
16 of this Final-form Regulation.

17 CHAIRMAN DiGIACOMO COLINS: Very good.

18 May I have a motion?

19 COMMISSIONER SOJKA: Yes. Madame Chairman, I
20 move that we adopt the Final-form Regulation No. 125-86
21 amending Chapter 441a and that the Final-form Regulation
22 be posted on the Board's website.

23 COMMISSIONER ANGELI: Second.

24 COMMISSIONER SOJKA: Could we -- just to make
25 sure that impact of this is fully understood, the point

1 of this clearly is to try to make that aspect of our
2 function as transparent as possible within the law; is
3 that correct?

4 MR. SANDUSKY: That is correct.

5 COMMISSIONER SOJKA: Good. I didn't want that
6 point to be missed.

7 CHAIRMAN DiGIACOMO COLINS: Very good. We have
8 a vote.

9 All in favor?

10 COMMISSIONERS: Aye.

11 CHAIRMAN DiGIACOMO COLINS: Opposed?

12 Motion carries.

13 Thank you, Richard.

14 MR. SHERMAN: Next on the agenda is a Petition
15 relating to Tishman Construction Corporation. That is
16 the Petition to withdraw -- the Petition to Withdraw
17 Tishman's Application for Vendor Certification.

18 The Board has been provided with the Petition,
19 the Response of Pleading of Enforcement Counsel, a
20 Consent Agreement reached between the Petitioner and the
21 OEC, as well as all supported evidentiary materials.

22 In addition, representatives of the Tishman
23 Construction Corporation and OEC are present to address
24 the Board as appropriate.

25 On April 4th, 2007, Tishman entered into a

1 letter of intent with the Sands Corporation to provide
2 construction management and related services in the
3 development and construction of the Sands BethWorks
4 project in Bethlehem, Pennsylvania.

5 Due to the scope of the work and the dollar
6 value of the work projected to be conducted with Sands,
7 Tishman was required to submit a Vendor Certification
8 Application. They did file that appropriate application
9 in May of 2007.

10 However, by June of 2007, Sands had advised
11 Tishman that it was no longer in need of the services.
12 Thereafter, the parties agreed to a contractual
13 resolution by that work that had been contemplated.

14 On August 18th, 2008, Tishman filed a Petition
15 to Withdraw the Application for Vendor Certification.
16 The OEC originally filed objection; but subsequently,
17 the OEC and Tishman entered into a Consent Agreement,
18 which is now before the Board for approval.

19 The Consent Agreement would allow Tishman to
20 withdrawal the Vendor Application without prejudice.
21 However, Tishman agrees they cannot do business in
22 Pennsylvania with a slot machine licensee for a period
23 of three years.

24 Based upon the documentary record presented, it
25 would now be appropriate for the Board to consider the

1 motion to approve the Consent Agreement to resolve the
2 matter.

3 CHAIRMAN DiGIACOMO COLINS: Sir, would you like
4 to state your name for the record, please?

5 MR. FIKRY: Yes. Thank you, Madame Chairman.
6 Eric Fikry.

7 CHAIRMAN DiGIACOMO COLINS: You can sit down,
8 sir.

9 MR. FIKRY: Thank you. Eric Fikry, F-i-k-r-y,
10 with the law firm of Blank Rome representing Tishman
11 Construction.

12 CHAIRMAN DiGIACOMO COLINS: All right. And you
13 agree to the terms of the Consent Agreement, sir?

14 MR. FIKRY: Yes.

15 CHAIRMAN DiGIACOMO COLINS: Do you have
16 anything you would like to say or add?

17 MR. FIKRY: Only in response to any questions
18 that you or the Board members may have.

19 CHAIRMAN DiGIACOMO COLINS: All right. Are
20 there any questions?

21 Very well. Hearing none, may we have a motion,
22 please.

23 COMMISSIONER ANGELI: Madame Chairman, I move
24 that the Board approve the Petition submitted by Tishman
25 Construction Corporation of Pennsylvania as described by

1 the OCC.

2 COMMISSIONER COY: Second.

3 CHAIRMAN DiGIACOMO COLINS: All in favor?

4 COMMISSIONERS: Aye.

5 CHAIRMAN DiGIACOMO COLINS: Opposed?

6 The motion carries.

7 Thank you very much.

8 MR. SHERMAN: Madame Chairman, in connection
9 with the Consent Agreement, Tishman had also filed a
10 motion for the issuance of a Protective Order to
11 safeguard the confidentiality of certain exhibits that
12 were attached to its Petition.

13 Those exhibits include the original letter of
14 intent between Tishman and Sands, as well as documents
15 pertaining to Tishman's withdrawal from the project.

16 The OEC has filed its answer to the motion and
17 has not objected. I would state that the documents
18 largely contained proprietary information, including fee
19 schedules, cost schedules, and the like disclosing the
20 processes of Tishman in entering into the agreement with
21 Sands.

22 The OHA issued an Interim Order on September
23 15th granting the relief until the Board had the
24 opportunity to consider the motion for the Protective
25 Order.

1 The motion -- the matter of the Tishman motion
2 for issuance of Protective Order is now fully ripe for
3 the Board to consider for final order.

4 CHAIRMAN DiGIACOMO COLINS: Thank you.

5 May I have a motion?

6 COMMISSIONER ANGELI: Madame Chairman, I also
7 move that the Board approve the motion of Tishman
8 Construction Corporation of Pennsylvania seeking a
9 Protective Order as described by the OCC.

10 COMMISSIONER COY: Second.

11 CHAIRMAN DiGIACOMO COLINS: All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN DiGIACOMO COLINS: Opposed?

14 Motion carries.

15 Thank you.

16 MR. SHERMAN: Next on the agenda are
17 Withdrawals of Principals and Key Employees presented by
18 Deputy Chief Counsel, Steve Cook.

19 MR. COOK: Good morning, Madame Chairman and
20 members of the Board.

21 The Board has received nine unopposed Petitions
22 to Withdraw Applications, which include six Key Employee
23 Applications, one Principal Waiver Application and two
24 Principal Renewal Applications.

25 The OEC has no objections to these withdrawals.

1 Therefore, these petitions would all be granted without
2 prejudice.

3 The nine petitions are for the following
4 individuals: Miguel Aferez, Michael Cibroski, Edward
5 Ellson, Bryan Strawser, John Troi, Brandon Yetter. All
6 of those individuals are Key Employees.

7 The Principal Waiver is for Patricia Irvin.

8 And Principal Renewal is for Carol Molmstedt
9 and Shigeo Niwa.

10 The OCC submits these nine Petitions to the
11 Board for consideration of a motion to grant the
12 petitions without prejudice.

13 CHAIRMAN DiGIACOMO COLINS: Mr. Pitre?

14 MR. PITRE: I have no objection.

15 CHAIRMAN DiGIACOMO COLINS: Thank you.

16 May I have a motion?

17 COMMISSIONER COY: Madame Chair, I move that
18 the Board issue Orders to approve the withdrawal of
19 applications without prejudice as described by the OCC.

20 CHAIRMAN DiGIACOMO COLINS: May I have a
21 second?

22 COMMISSIONER GINTY: Second.

23 CHAIRMAN DiGIACOMO COLINS: Thank you.

24 All in favor?

25 COMMISSIONERS: Aye.

1 CHAIRMAN DiGIACOMO COLINS: Opposed?

2 Motion carries.

3 MR. COOK: Next, before the Board for
4 consideration are three Reports and Recommendations
5 received from the Office of Hearings and Appeals (OHA)
6 relative to applications for three Non-gaming
7 Registrations.

8 These Report and Recommendations along with the
9 evidentiary record for each hearing have been provided
10 to the Board in advance of this meeting.

11 Additionally, in this each case, the applicant
12 has been notified that the Board is considering his or
13 her Report and Recommendation today and that he or she
14 has the right to be present to address the Board.

15 If any of the individuals are present today,
16 they should come forward when their name is announced.

17 The first Report and Recommendation refers to
18 Jason Canty. Mr. Canty applied for a Non-gaming
19 Registration as an EVS attendant at Mohegan Sun. EVS
20 attendants perform janitorial and custodial service
21 around the Mohegan facility.

22 During the BIE background investigation it was
23 discovered that Mr. Canty did not disclose his entire
24 criminal record.

25 However, when requested, Mr. Canty did amend

1 his application in July of 2008 reporting all but one of
2 his arrests, the details of which he stated he could not
3 remember.

4 The Criminal History Report showed and the
5 Report and Recommendation found that Mr. Canty had been
6 arrested 6 times on 14 individual charges from July of
7 2002 through October of 2006.

8 All six arrests led to guilty pleas. All but 2
9 of the 14 charges were for the possession of illegal
10 drugs and the two charges that were not drug-related
11 offenses were ultimately dropped.

12 As a result of Mr. Canty's alleged failure to
13 disclose his entire criminal history, as well as the
14 nature of his criminal history, the OEC notified the
15 applicant of its recommendation that he be denied the
16 Non-gaming Registration.

17 Mr. Canty thereafter requested a hearing, which
18 he appeared at pro se on October 7th, 2008. At the
19 hearing, Mr. Canty submitted three letters of
20 recommendation from three management or supervisory
21 personnel employees at Mohegan Sun, as well as a recent
22 job performance appraisal .

23 After Mr. Canty's hearing, the Hearing Officer
24 issued a Report and Recommendation recommending that
25 based upon all of the evidence presented that Mr. Canty

1 be granted a Non-gaming Employee Registration.

2 This Report and Recommendation is now before
3 the Board for consideration.

4 CHAIRMAN DiGIACOMO COLINS: OEC?

5 MS. HIGGINS: Madame Chair, members of the
6 Board, Katie Higgins for the OEC.

7 While the OEC understands the Hearing Officer's
8 reasoning in this matter, we believe that in view of
9 Mr. Canty's extensive criminal record, which includes
10 six drug convictions from July of 2002 through October
11 of 2006 enough time has not elapsed to determine whether
12 or not Mr. Canty has been fully rehabilitated.

13 Therefore, the OEC recommends that the Board
14 find Mr. Canty to be not suitable at this time and to
15 deny his application for a Non-gaming Registration.

16 CHAIRMAN DiGIACOMO COLINS: All right. Thank
17 you.

18 May I have a motion?

19 COMMISSIONER GINTY: Madame Chairman, I move
20 that the Board issue an Order rejecting the Report and
21 Recommendation of the OHA and deny the Non-gaming
22 Employee Registration of Jason Canty.

23 CHAIRMAN DiGIACOMO COLINS: May I have a
24 second, please?

25 COMMISSIONER McCABE: Second.

1 CHAIRMAN DiGIACOMO COLINS: All in favor?

2 COMMISSIONERS: Aye.

3 CHAIRMAN DiGIACOMO COLINS: Opposed?

4 Motion carries.

5 MR. COOK: The next Report and Recommendation
6 before the Board is that of Allen Gartei, who was
7 employed as a Steward at Harrah's Chester Casino and
8 Racetrack.

9 Mr. Gartei was originally issued his Non-gaming
10 Employee Registration on January 1st, 2007. However, on
11 July 8th, 2008, the BIE was notified by the Pennsylvania
12 State Police that Mr. Gartei had been arrested and
13 charged with eight felony and four misdemeanor offenses.

14 An Emergency Suspension Order was issued by the
15 Acting Executive Director on July 17th, 2008.

16 Subsequent thereto, the Board ordered this matter be
17 forwarded to the OHA to conduct a hearing and submit a
18 Report and Recommendation on the validity of the
19 Emergency Suspension Order.

20 The OHA convened the hearing on September 10th,
21 2008. However, because of difficulty in locating an
22 interpreter for Mr. Gartei, his participation in the
23 hearing was limited.

24 Subsequently, the hearing was continued until
25 an interpreter for Mr. Gartei could be located. On

1 October 9th, 2008, the hearing was reconvened after
2 notice was given to Mr. Gartei with an interpreter
3 present.

4 Despite having received notice, Mr. Gartei
5 failed to attend the continued hearing. The OHA has now
6 issued a Report and Recommendation on the matter that
7 the Emergency Suspension be continued until such time as
8 the criminal charges pending against Mr. Gartei are
9 disposed of.

10 It would now be appropriate for the Board to
11 consider a motion relating to the Report and
12 Recommendation of the OHA.

13 CHAIRMAN DiGIACOMO COLINS: Mr. Pitre?

14 MR. DUSTIN MILLER: Madame Chair, Dustin Miller
15 on behalf of the OEC and we concur with the Report and
16 Recommendation of the OHA.

17 CHAIRMAN DiGIACOMO COLINS: Thank you.

18 May I have a motion?

19 COMMISSIONER McCABE: Yes. Madame Chair, I
20 move that the Board issue an Order to adopt the Report
21 and Recommendation of the OHA to continue the Order of
22 Emergency Suspension of Non-gaming Employee Registration
23 for Allen Gartei as described by the OCC.

24 CHAIRMAN DiGIACOMO COLINS: Second, please?

25 COMMISSIONER RIVERS: Second.

1 CHAIRMAN DiGIACOMO COLINS: All in favor?

2 COMMISSIONERS: Aye.

3 CHAIRMAN DiGIACOMO COLINS: Opposed?

4 Motion carries.

5 MR. COOK: The last Report and Recommendation
6 before the Board is that of Debra London. Miss London
7 submitted a Non-gaming Employee Registration on December
8 22, 2006 to work as a Steward at Harrah's Chester Casino
9 and Racetrack.

10 During the BIE background and investigation, it
11 was discovered that although Miss London did disclose
12 two arrests on her application, she failed to disclose
13 several other arrests and convictions between 1986 and
14 2004 including convictions for retail theft, certain
15 drug crimes, and driving under the influence.

16 Miss London requested a hearing in the matter,
17 which was held on October 8th, 2008. Miss London did
18 not appear for the hearing; and therefore, the hearing
19 was held in absentia.

20 Subsequently thereto, the Hearing Officer
21 issued a Report and Recommendation recommending denial
22 of Miss London's Non-gaming Employee Registration.

23 It would now be appropriate for the Board to
24 consider a motion relating to the Report and
25 Recommendation of the OHA.

1 MR. DUSTIN MILLER: The OEC concurs with the
2 recommendation of OHA.

3 CHAIRMAN DiGIACOMO COLINS: May I have a
4 motion?

5 COMMISSIONER SOJKA: Yes. Madame Chairman, I
6 move that the Board issue an Order to adopt the Report
7 and Recommendation from the OHA to deny the Non-gaming
8 Employee Registration of Debra London as described by
9 the OCC.

10 CHAIRMAN DiGIACOMO COLINS: May I have a
11 second?

12 COMMISSIONER RIVERS: Second.

13 CHAIRMAN DiGIACOMO COLINS: All in favor?

14 COMMISSIONERS: Aye.

15 CHAIRMAN DiGIACOMO COLINS: Opposed?
16 Motion carries.

17 MR. SHERMAN: And that concludes the report of
18 the OCC.

19 CHAIRMAN DiGIACOMO COLINS: Thank you.
20 Susan Hensel, please.

21 MS. HENSEL: Thank you, Chairman Colins and
22 members of the Board.

23 Before I address more routine licensing
24 matters, I would like to introduce Sean Hannon, Manager
25 of the Enterprise Licensing Unit and Paul Mauro, Deputy

1 Director of BIE.

2 They are here with me today to discuss a
3 planned modification and clarification to the
4 individuals we capture as Key Employees, as well as how
5 these individuals are investigated.

6 These revisions, which will add some additional
7 Key Employees and eliminate others, come as the result
8 of discussions within the agency and with other
9 jurisdictions. Sean will describe for us the
10 modification and clarification.

11 MR. HANNON: Good morning, Chairman Colins and
12 members of the Board.

13 Based on our discussions with Gaming
14 Operations, the Bureau of Licensing will begin requiring
15 individuals with the ability to make point adjustments
16 to a patron's accounts, Key Employees.

17 In addition, consistent with practices in other
18 jurisdictions, we are also clarifying that shift
19 supervisors and slot operations, surveillance, security,
20 cage operations, count room, and marketing are required
21 to be Key Employees. This standardizes the licensing
22 requirement for shift supervisors.

23 Finally, we will be changing the requirement
24 for food and beverage and facility management directors
25 to make them Gaming Employees instead of Key Employees.

1 We anticipate that these modifications may
2 result in a net increase in the number of Key Employees
3 per facility by an average of three to five individuals.

4 Paul will now discuss with you the distinction
5 from an investigative standpoint in how Key Employees
6 are investigated versus Principal Employees.

7 MR. MAURO: Good morning. To date, BIE has
8 conducted over 21,000 investigations. This number
9 includes over 700 Key Employee investigations and over
10 1,500 Principal investigations.

11 BIE currently investigates Principals and Key
12 Employees in the same manner. These investigations
13 include a review of the applicant's criminal history.

14 Applicants are fingerprinted and criminal
15 history and wanted person checks are conducted. Agents
16 check with local law enforcement agencies and local
17 courthouses for additional criminal history information
18 and civil litigation.

19 Letters requesting additional law enforcement
20 information are sent to the Pennsylvania State Police
21 and the Pennsylvania Attorney General.

22 Database searches are performed. These searches
23 include ChoicePoint, LexisNexis, and Accurant and Pacer
24 Databases.

25 A comprehensive interview of the applicant is

1 conducted. Gaming and regulatory history is checked.
2 References and neighbors are interviewed. Current and
3 previous employers are interviewed.

4 Education history is verified, military service
5 records are verified. Political contributions are
6 checked. Other professional licenses are reviewed.

7 Pennsylvania Department of Revenue records are
8 checked. Civil litigation is evaluated. BIE also
9 investigates the applicant's finances. A credit report
10 is obtained. Bankruptcies are investigated.

11 Lien and judgment records are reviewed. Tax
12 records are examined. A net worth analysis is
13 conducted. This net worth analysis examines the assets
14 and liabilities.

15 The agents verify the existence of all assets,
16 such as personal property, pensions, investments, and
17 insurance and all liabilities, such as mortgages,
18 personal loans, and credit card debt.

19 From this date forward, BIE is going to make a
20 distinction between Principal investigations and Key
21 Employee investigations.

22 This is consistent with many other gaming
23 regulatory agencies. In addition to the current level
24 of investigation conducted on Principals, they will now
25 be required to submit a Freedom of Information Act

1 request to the FBI, which will disclose information
2 contained in the FBI's files to BIE.

3 Also, to enhance BIE's investigation into the
4 financial background and suitability of Principals, BIE
5 will implement a cash flow analysis in addition to the
6 current policy of conducting net worth analysis.

7 Key Employee investigations will remain the
8 same with one exception, BIE currently conducts a net
9 worth analysis to determine the Key Employee's financial
10 suitability.

11 From this point forward, BIE will conduct a
12 cash flow analysis to determine the Key Employee's
13 liquidity. A net worth analysis will be conducted when
14 circumstances dictate. This concludes my remarks.

15 MS. HENSEL: We are available for any
16 questions.

17 CHAIRMAN DiGIACOMO COLINS: Any questions?

18 COMMISSIONER GINTY: Paul, will you issue a
19 Freedom of Information Act request for Key Employees as
20 well.

21 MR. MAURO: No. We are just going to be doing
22 that for the Principals.

23 COMMISSIONER GINTY: And is there an average
24 time for one of those requests to be responded to?

25 MR. MAURO: I believe the average time for that

1 is going to be somewhere from nine months on up.

2 Probably nine months to a year.

3 COMMISSIONER SOJKA: Just a couple of quick
4 questions, if I could.

5 Both of you mentioned that this change would
6 bring us more in line with other gaming jurisdictions
7 around the nation. Could you just give us an idea of
8 which those are? There are many of them now.

9 MR. MAURO: Yes. We checked with New Jersey,
10 Louisiana, Nevada, and Missouri.

11 COMMISSIONER SOJKA: And we would now be more
12 like them than we are now.

13 MR. MAURO: We would be more like New Jersey,
14 Nevada, and Louisiana who all investigate and separate
15 their investigations from their Principals and their
16 Keys.

17 Missouri licenses their employees in different
18 ways so that their circumstances don't apply to what we
19 are doing now in Pennsylvania.

20 COMMISSIONER SOJKA: Okay. That is fine.

21 COMMISSIONER McCABE: Will any of these changes
22 affect the integrity of gaming in Pennsylvania?

23 MR. MAURO: I believe that we will be doing a
24 better job because we are enhancing our investigation of
25 the Principals.

1 We are adding another financial piece, which
2 will give you more information and better information
3 and also we are going out and getting the Freedom of
4 Information Act request, which we haven't done
5 previously.

6 COMMISSIONER McCABE: So you are saying it will
7 affect it for the better?

8 MR. MAURO: Absolutely.

9 COMMISSIONER McCABE: Thank you.

10 CHAIRMAN DiGIACOMO COLINS: The time lapse
11 between the making of the Freedom of Information Act
12 request, that nine months to a year before we get
13 responses, does that mean we don't license for nine
14 months to a year? Is that built in, a year delay in
15 licensing now.

16 Susan, how do we deal with that?

17 MR. MAURO: No, we will go ahead and license
18 them because the suitability is ongoing. If we get
19 derogatory information back, we will consider it at that
20 time.

21 CHAIRMAN DiGIACOMO COLINS: Is there anything
22 you can do to accelerate that nine months to a year?

23 MR. MAURO: No.

24 CHAIRMAN DiGIACOMO COLINS: Okay. Next
25 question, three changes, are they permitted by

1 Regulation or do we have to to have new Regulations to
2 do this? Is there discretionary language in the regs
3 that allows us to add this or do we have to go forward
4 with rulemaking?

5 MR. MAURO: I think we are fine with the regs
6 but we will double check on that. This is just a matter
7 of internal BIE policies.

8 CHAIRMAN DiGIACOMO COLINS: All right. I think
9 that should be reviewed.

10 Okay. Any other questions?

11 Thank you very much.

12 MS. HENSEL: I will now move on to other
13 licensing matters. The first matter for your
14 consideration is Key Employee Licenses.

15 Prior to this meeting, the Bureau of Licensing
16 provided you with a proposed Order for 36 Key Employees
17 Licenses. I ask that the Board consider the Order
18 granting these Licenses.

19 CHAIRMAN DiGIACOMO COLINS: May I have a
20 motion?

21 COMMISSIONER SOJKA: Yes. Madame Chairman, I
22 move that the Board issue an Order to approve the
23 issuance of Principal and Key Employee Licenses as
24 described by the Bureau of Licensing.

25 CHAIRMAN DiGIACOMO COLINS: Is there a second?

1 COMMISSIONER ANGELI: Second.

2 CHAIRMAN DiGIACOMO COLINS: All in favor?

3 COMMISSIONERS: Aye.

4 CHAIRMAN DiGIACOMO COLINS: Opposed?

5 Motion carries.

6 MS. HENSEL: Next, the Bureau of Licensing
7 provided you with an Order regarding the issuance of
8 Temporary Key Employee Licenses to 153 individuals. I
9 ask that the Board consider the Order approving these
10 Licenses.

11 CHAIRMAN DiGIACOMO COLINS: May I have a
12 motion?

13 COMMISSIONER ANGELI: Madame Chairman, I move
14 that the Board issue an Order to approve the issuance of
15 Temporary Key Employee licenses as described by the
16 Bureau of Licensing.

17 COMMISSIONER COY: Second.

18 CHAIRMAN DiGIACOMO COLINS: All in favor?

19 COMMISSIONERS: Aye.

20 CHAIRMAN DiGIACOMO COLINS: Opposed?

21 Motion carries.

22 MS. HENSEL: Finally, the Bureau of Licensing
23 provided you with 14 Orders, the approval of which would
24 result in the following vendors being added to the
25 Prohibited Vendors List:

1 Color World, Fossil Partners, LP, Harbor Sales
2 Corporation, Innovative Hospitality Concepts, Intellick
3 Technologies Corporation, Lawrence Metal Products,
4 Luxury Limousine Services, LVI Environmental Services,
5 Inc., Michael's Finer Meats, Inc., Monroe Service, Inc.,
6 The Innovation Group, Washington and Dowling Company,
7 Inc., WB Mason, Inc., and Expadex.

8 These vendors have done business with the Slot
9 Machine Operator Licensee or applicant but have failed
10 to complete their applications.

11 Once on the Prohibited Vendor List, no Slot
12 Machine Licensee or applicant may do business with the
13 vendor. I ask that the Board consider the Orders adding
14 the named vendors to the Prohibited Vendor List.

15 CHAIRMAN DiGIACOMO COLINS: May I have a
16 motion?

17 COMMISSIONER COY: Madame Chair, I move that
18 the Board issue an Order to approve the addition of
19 vendors to the Prohibited Vendor List as described by
20 the Director of the Bureau of Licensing.

21 CHAIRMAN DiGIACOMO COLINS: May I have a
22 second?

23 COMMISSIONER GINTY: Second.

24 CHAIRMAN DiGIACOMO COLINS: How does one get
25 off of the Prohibited Vendor List? How do you cure that

1 problem?

2 MS. HENSEL: A vendor can Petition the Board to
3 be removed from the list, but one of the requirements
4 for the Bureau of Licensing not to object to that
5 Petition would be their completion of an application and
6 cooperation with the Bureau of Licensing to move them
7 forward to the certification or registration.

8 CHAIRMAN DiGIACOMO COLINS: And then we publish
9 that Prohibited Vendor List on our website?

10 MS. HENSEL: On our website, and we also reach
11 out to the facilities to contact them with the specific
12 names of the individuals on that list.

13 COMMISSIONER RIVERS: Question.

14 Susan, to get on this list means that they have
15 done work and did not submit an application?

16 MS. HENSEL: Well, it means that they have
17 either done the work and not submitted an application or
18 they have done the work and they have submitted an
19 application but they failed to complete that
20 application.

21 I believe in each of these circumstances today
22 we are talking about failure to complete an application.
23 We work with the vendors and we give them ample
24 opportunity to cure deficiencies.

25 We have a process that we use that gives them

1 multiple notifications over a period of time so they
2 know what is missing from their applications and what
3 they need to do in order to make it complete. In this
4 case and in these cases, these vendors have failed to
5 complete that process.

6 COMMISSIONER RIVERS: In the absence of not
7 completing the application process and if they were to
8 reappear, is there any punitive action taken against
9 them, the second time around?

10 MS. HENSEL: Well, if they are on the
11 Prohibited Vendors List, they would not be able to be a
12 vendor in Pennsylvania.

13 COMMISSIONER RIVERS: For how long?

14 MS. HENSEL: As long as they are on the list.
15 So the only --

16 COMMISSIONER RIVERS: But I'm saying if they
17 submitted the application to get off of the list --

18 MS. HENSEL: Yes, then they would have to
19 submit the application and Petition the Board and that
20 Petition would come before you as a panel to make a
21 determination as to whether or not they were entitled to
22 get off of the list.

23 COMMISSIONER SOJKA: I was struck by the
24 significant number of additions to the list. Is this
25 the result of some sort of periodic sweep in which you

1 go over all of these things? This is not a normal
2 monthly or bimonthly --

3 MS. HENSEL: Right. The reason that you are
4 seeing so many additional vendors being brought forward
5 to you for addition to the list, we earlier this year
6 streamlined our process for adding vendors to the
7 Prohibited Vendors List.

8 We worked with the OCC to put in place the
9 procedure for adding vendors to the list. That was
10 vetted by the OCC. It was then implemented by the
11 Vendor Certification Unit.

12 It involved a series of letters going out to
13 these vendors. It has taken some time for us to work
14 this procedure through.

15 Now, what we are bringing to you are the
16 fruits of the results of that procedure being
17 implemented.

18 CHAIRMAN DiGIACOMO COLINS: You are more
19 efficient in determining who these uncooperative vendors
20 are?

21 MS. HENSEL: That is correct. And we will be
22 bringing you additional vendors at future meetings I
23 anticipate, at least in the near future, in considerable
24 numbers.

25 COMMISSIONER RIVERS: So if I wanted to skirt

1 the requirement of being registered but work for a
2 casino, I could begin the process, start working for the
3 casino, and string you along, then at some point -- and
4 being paid and at some point say I refuse to complete
5 the application process? Does that not defeat what we
6 are trying to prohibit?

7 MS. HENSEL: That is what we are trying to
8 prohibit. That is why we put in place a procedure. As
9 Chairman Colins stated, that makes us much more
10 efficient in identifying the vendors and getting them on
11 the list and hopefully in a timely matter.

12 We also -- once it becomes apparent to us a
13 vendor is not cooperating and is most likely headed for
14 the Prohibited Vendors List, we will contact the
15 facility and tell them that they are no longer
16 authorized to work with that vendor.

17 COMMISSIONER RIVERS: To date, have we followed
18 through on that process with any casino?

19 MS. HENSEL: Certainly. We certainly have
20 spoken with casinos of who they can and cannot work
21 with.

22 COMMISSIONER RIVERS: Have they actually went
23 to someone and said you are not following the process
24 and we need to stop utilizing your services.

25 MS. HENSEL: Yes. That would have happened in

1 each of these cases. The facility would have been
2 contacted to say, you're no longer able to work with
3 these vendors.

4 COMMISSIONER McCABE: I have a follow-up
5 question with what Commissioner Rivers just asked. Can
6 we prohibit or stop the licensee from paying that
7 individual -- that entity that has not completed their
8 paperwork?

9 MS. HENSEL: Yes, I believe that our procedure
10 calls for any additional payments to be put into an
11 escrow account until the matter is resolved.

12 As we saw with the case of Sprung Structures at
13 a recent meeting, the payments to that company were cut
14 off once it became apparent that the company was no
15 longer cooperating with us.

16 COMMISSIONER McCABE: Okay.

17 MS. HENSEL: That concludes my presentation.

18 CHAIRMAN DiGIACOMO COLINS: Thank you.

19 Did you get a motion on that?

20 MS. HENSEL: It would be helpful if I could get
21 a motion.

22 CHAIRMAN DiGIACOMO COLINS: We had the motion
23 but we haven't voted yet. So before you go, we will
24 vote.

25 MS. HENSEL: Thank you.

1 CHAIRMAN DiGIACOMO COLINS: All in favor?

2 COMMISSIONERS: Aye.

3 CHAIRMAN DiGIACOMO COLINS: Opposed?

4 Okay. Motion carries.

5 Thank you very much.

6 MS. HENSEL: Thank you.

7 CHAIRMAN DiGIACOMO COLINS: OEC, Mr. Pitre?

8 MR. PITRE: We have two Consent Agreements for
9 your consideration today. The first is with Greenwood
10 Gaming and Entertainment, Inc.

11 Mr. Tom Bonner is here on behalf of Greenwood
12 Gaming. Dale Miller will be here on behalf of the OEC.

13 MR. DALE MILLER: Good afternoon, Chairman
14 Colins and members of the Board. Dale Miller, Deputy
15 Chief Enforcement Counsel from the OEC.

16 We come before you today with a proposed
17 Consent Agreement with Greenwood Gaming and
18 Entertainment, Incorporated, to resolve a complaint
19 filed against them for violation of their internal
20 controls.

21 The initial complaint was filed on June 6th,
22 2008 and an amended complaint was filed on September
23 23rd, 2008.

24 Greenwood Gaming's internal controls require
25 them to have a minimum number of security officers on

1 duty at Philadelphia Park pursuant to a minimum security
2 staffing submission that each casino is required to have
3 approved by the Board as part of the internal controls.

4 In addition to having a minimum number of
5 security officers on duty, those that are on duty must
6 remain at their posts during the time that they are on
7 duty.

8 On four separate occasions, Greenwood failed to
9 have the minimum number of security officers on duty
10 during the midnight shift at Philadelphia Park Casino
11 and Racetrack. On each occasion, they were short one
12 officer.

13 On four occasions, security posts were
14 unattended at Philadelphia Park for brief periods.
15 Periods running from, I believe, five minutes to ten
16 minutes. Those were important posts and were required
17 to be manned at all times.

18 On the basis of the alleged violations, the
19 OEC, as I said, filed a complaint against Greenwood
20 Gaming.

21 This Consent Agreement, if approved by you,
22 will approve all of the issues in the complaint and, in
23 addition, it will require us to remove Count 3 of the
24 complaint, which we will do.

25 The agreement calls for a fine of \$15,000

1 action against the employees involved and affirmative
2 efforts by Greenwood Gaming to ensure that this doesn't
3 happen again in Philadelphia Park Casino.

4 We believe the amount of the fine is fair and
5 consistent with a fine assessed against another casino
6 recently for similar-type violations.

7 CHAIRMAN DiGIACOMO COLINS: Mr. Bonner, would
8 you like to discuss this or would you like to address
9 this, sir?

10 MR. BONNER: Certainly, Madame Chairman.
11 Mr. Miller has accurately stated the underlying
12 circumstances for the complaint that is before you and
13 the Consent Agreement that proposes to settle it.

14 We agree to the terms of the settlement.
15 Obviously, I have signed the document which incorporates
16 the civil fine that Mr. Miller indicated.

17 I think it is important for the Board to
18 understand that probably before the initial complaint
19 was filed in this matter and certainly before the
20 amended complaint was filed, which added some additional
21 counts, we had already undertaken measures to improve
22 compliance and to lessen the chances that events like
23 this would occur in the future.

24 The understaffing that Mr. Miller mentioned was
25 for a two-hour period from midnight to 2:00 a.m. when a

1 higher number of officers are required until the bars
2 close and then were permitted by our approved submission
3 to decrease the number of officers.

4 On several occasions, officers called off at
5 the last minute, one had a car accident, and one had an
6 illness in the family. We were unable to get staffing
7 to come in and fill in.

8 Since then, we have put procedures in place,
9 which pretty well assure that if persons have to stay
10 over and work an extra overtime shift, they will do so.

11 Similarly with the unmanned posts, they were
12 for short durations but they are mandatory posts
13 required to be manned 24/7. We have implemented
14 procedures to reinforce the need to ensure that
15 replacements are on post before individuals leave the
16 post.

17 So, I think we have made the improvements that
18 I think this Board would want to see made. More so than
19 get a civil fine, you want to know that we have
20 procedures that will comply with the Regulations.

21 We believe that they are in place and we would
22 ask that you consider this consent with that
23 understanding. I will be happy to address any issues
24 that you may have.

25 COMMISSIONER RIVERS: Yes. Mr. Bonner, the

1 fact that an employee leaves his or her post when
2 probably given direct orders not to, does this imply a
3 lack of training and continued training on the part of
4 the establishment?

5 MR. BONNER: I don't know whether it -- it
6 could, Commissioner. We take every opportunity of
7 noncompliance as an opportunity to retrain and reinforce
8 procedures, which I indicated we did in this case.

9 Individuals who were involved in all of these
10 incidents were subjected to discipline, some of which
11 included termination from their employment. So whether
12 or not it indicates a need for retraining, we always
13 take these as opportunities to reinforce the training
14 requirements.

15 COMMISSIONER RIVERS: And talk about what you
16 have in place now that you think will prohibit this from
17 happening in the future.

18 MR. BONNER: Through retraining and
19 reinforcement, we have made it clear that if someone
20 leaves a post before replacement arrives, that
21 individual is subject to discipline, which most likely
22 would be termination from employment.

23 We have implemented a procedure whereby persons
24 working the swing shift from 4:00 to midnight are
25 required to stay if, in fact, we are short the midnight

1 to 2:00 a.m. shift, it is a job requirement that we have
2 put into place. So we think those two things get to the
3 core of what is in the complaint before you.

4 COMMISSIONER RIVERS: Thank you.

5 CHAIRMAN DiGIACOMO COLINS: I thought that the
6 amount of the fine -- I think the amount of the fine is
7 hefty. Could you tell me how you got to \$15,000? I
8 thought it was a steep fine. How did you get to that
9 number?

10 MR. DALE MILLER: Chairman, we had a --
11 actually, every time we come to you with a fine, it is
12 based upon our research from other jurisdictions.

13 We have looked at New Jersey, Louisiana, and
14 those states to see what kind of fines they have for
15 same or similar incidents. So initially, that is what
16 it is based upon.

17 This particular fine is very similar to one
18 that was assessed by you against Harrah's several months
19 ago for very similar violations where employees left
20 their post.

21 In that case, it was \$10,000. In this case, it
22 is \$15,000. In addition to leaving their posts, they
23 were short on a midnight shift. So it is a little more
24 involved.

25 CHAIRMAN DiGIACOMO COLINS: Okay.

1 MR. DALE MILLER: In addition to that, there
2 were previous warnings to Philadelphia Park. I believe
3 we had a compliance conference for this situation.

4 CHAIRMAN DiGIACOMO COLINS: All right. But
5 everyone is satisfied that there are things in place to
6 mitigate the problem; is that correct?

7 MR. BONNER: We think that is correct; and of
8 course, the Board could impose a lesser fine, if you so
9 desire.

10 COMMISSIONER GINTY: Maybe some of us don't
11 think it is high enough.

12 CHAIRMAN DiGIACOMO COLINS: You know, frankly,
13 at first blush, it seemed high to me. I wanted a
14 justification on the record because I think there should
15 be a reason for the amount placed on the record.

16 MR. BONNER: We engaged in extensive
17 discussions with the OEC. I would not have signed the
18 document unless we were satisfied.

19 MR. DALE MILLER: This was a compromise, Judge.

20 CHAIRMAN DiGIACOMO COLINS: All right.

21 COMMISSIONER RIVERS: Madame Chairman --

22 CHAIRMAN DiGIACOMO COLINS: Yes.

23 COMMISSIONER RIVERS: -- I have a question.

24 How are these situations discovered?

25 MR. DALE MILLER: We have our CCRs, our

1 representatives at the casinos. They specifically walk
2 around the casinos at all times to make sure that people
3 are at their post. They know exactly what post is a
4 mandatory post. They checked them out and found these
5 posts to be unmanned.

6 As to the persons who were not available for
7 the midnight shift, I believe in each case, the casino
8 did notify the CCRs that the shift would be short and to
9 their credit that they did that, that then became the
10 subject of a report from our representatives.

11 COMMISSIONER RIVERS: Thank you.

12 COMMISSIONER GINTY: I would only point out
13 when we talk about that, that is a violation of General
14 Order No. 2 -- is it -- leaving your post before
15 relieved. That is a Court Marshall offense in the
16 service.

17 I mean, I do think -- I don't know what the
18 quality of your people are; but for some of us, it is
19 hard to comprehend.

20 MR. BONNER: We made it clear that that is a
21 serious infraction that warrants termination from the
22 position.

23 In addition, by way of further background, all
24 of this happened as we were bringing in a new, very
25 seasoned Director of Security on who is a retired

1 Philadelphia Police Officer and has significant Naval
2 Reserve experience as an officer.

3 It has been a significant improvement in both
4 the spirit of the corps and also the manner of which we
5 are managing the department.

6 I'm hopeful this is the last one you will see.
7 We've made many changes, not the least of which is
8 replacing the senior management of the department.

9 CHAIRMAN DiGIACOMO COLINS: Thank you.

10 May I have a motion?

11 COMMISSIONER GINTY: Madame Chairman, I move
12 that the Board approve the Consent Agreement between the
13 BIE and Greenwood Gaming and Entertainment as described
14 by the OEC.

15 COMMISSIONER McCABE: Second.

16 CHAIRMAN DiGIACOMO COLINS: All in favor?

17 COMMISSIONERS: Aye.

18 CHAIRMAN DiGIACOMO COLINS: Opposed?

19 Motion carries.

20 MR. BONNER: Thank you all.

21 COMMISSIONER RIVERS: See you next month.

22 MR. BONNER: Hope not.

23 MR. PITRE: The next matter for the Board's
24 consideration is a Consent Agreement from BIE and TDN
25 Money Systems, Inc.

1 Mr. Orlando is here and Dustin Miller on behalf
2 of the OEC.

3 MR. DUSTIN MILLER: Madame Chair, this is a
4 Consent Agreement entered into between our office and
5 TDN Money Systems, Richard Orlando, and Edward Hannon.

6 TDN Money Systems was granted a supplier
7 license on December 2nd, 2007. Richard Orlando and
8 Edward Hannon are Principals of TDN Money Systems and
9 they were also granted licensure on that date.

10 The Act and the Regulation state that a
11 supplier license needs to be renewed -- the application
12 -- renewal application needs to be submitted two months
13 before the license is set to expire.

14 In this case, that would have had to have
15 happened on October 2nd, 2008. Our licensing department
16 did not receive renewal applications until October 20th,
17 2008. Therefore, that is a violation of the Act.

18 I contacted Mr. Orlando and we have entered
19 into an agreement whereby they institute policies and
20 provide training to make sure that they do not file late
21 applications again.

22 They also have agreed to pay a \$200 per day
23 fine for the amount -- the length of the lateness of the
24 applications, for a total of \$3,600.

25 As Mr. Pitre said, Richard Orlando, President

1 of TDN Money Systems is here today if you have any
2 questions to ask him.

3 Otherwise, it would be appropriate for the
4 Board to entertain a motion to approve this Consent
5 Agreement.

6 CHAIRMAN DiGIACOMO COLINS: May I have a
7 motion?

8 Mr. Orlando, did you want to say anything?

9 MR. ORLANDO: No. Madame Chair, we were just
10 simply unaware. We thought it was 30 days and turned
11 out to be 60 days. We will take note of that and assure
12 you it won't happen again.

13 CHAIRMAN DiGIACOMO COLINS: Thank you.
14 May I have a motion, please?

15 COMMISSIONER McCABE: Madame Chair, I move that
16 the Board approve the Consent Agreement between the BIE
17 and TDN Money Systems, Inc., as described by the OEC.

18 CHAIRMAN DiGIACOMO COLINS: May I have a
19 second?

20 COMMISSIONER RIVERS: Second.

21 CHAIRMAN DiGIACOMO COLINS: All in favor?

22 COMMISSIONERS: Aye.

23 CHAIRMAN DiGIACOMO COLINS: Opposed?

24 Motion carries.

25 Thank you.

1 MR. ORLANDO: Thank you.

2 MR. PITRE: Next is the suspension and
3 revocation of a Non-gaming Employee Registration for
4 Brittany Godfrey, OHA Docket No. 42325. I have Katie
5 Higgins here from the OEC.

6 MS. HIGGINS: On September 5th, 2008, the OEC
7 filed an enforcement action complaint seeking the
8 revocation of the non-gaming registration of Brittany
9 Godfrey.

10 The complaint alleges that Miss Godfrey, who is
11 employed as a buffet buser at Presque Isle Downs, was
12 charged, in Erie County, with one count of theft by
13 deception, false impression, and one count of bad
14 checks, both misdemeanor offenses.

15 The charges stem from an incident where Godfrey
16 purchased a vehicle and knowingly wrote two checks from
17 a closed bank account to pay for such vehicle.

18 The complaint was sent via certified mail on
19 September 5th, 2008. However, it was returned due to an
20 insufficient address.

21 The complaint was then sent a second time via
22 certified mail but was again returned with the message,
23 moved and left no address.

24 Pursuant to the Board Regulations, an applicant
25 shall have a continuing duty to inform the Board of

1 changes in information supplied with an original or
2 renewal application including a change of address.

3 The complaint was sent to the address provided
4 by Miss Godfrey on her original application and because
5 Miss Godfrey has failed to respond to the complaint,
6 within 20 days, all facts alleged are deemed admitted.

7 At this time, we ask that Miss Godfrey's
8 Non-gaming Registration be revoked.

9 CHAIRMAN DiGIACOMO COLINS: Very good. Thank
10 you.

11 May I have a motion?

12 COMMISSIONER RIVERS: Yes. Madame Chairman, I
13 move that the Board issue an Order to approve the
14 revocation of the Non-gaming Employee Registration of
15 Brittany Godfrey as described by the OEC.

16 COMMISSIONER SOJKA: Second.

17 CHAIRMAN DiGIACOMO COLINS: All in favor?

18 COMMISSIONERS: Aye.

19 CHAIRMAN DiGIACOMO COLINS: Opposed?

20 Motion carries.

21 Thank you.

22 MR. PITRE: That concludes our business.

23 CHAIRMAN DiGIACOMO COLINS: Thank you very
24 much.

25 That also, I believe, concludes the public

1 meeting today. The Board will hold its next public
2 meeting on Thursday, December 18th at 1:00 p.m. This
3 will be held in the North Office Building, Hearing Room
4 No. 1.

5 May I have a motion to adjourn?

6 COMMISSIONER RIVERS: So moved.

7 COMMISSIONER COY: Second.

8 CHAIRMAN DiGIACOMO COLINS: All in favor?

9 COMMISSIONERS: Aye.

10 CHAIRMAN DiGIACOMO COLINS: We are adjourned.

11 Thank you.

12 (The meeting concluded at 12:20 p.m.)

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

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Hillary M. Hazlett, Reporter
Notary Public

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