

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

PUBLIC MEETING

BEFORE: MARY DIGIACOMO COLINS, CHAIRMAN
Raymond S. Angeli (Via Telephone),
Jeffrey W. Coy, James B. Ginty,
Kenneth T. McCabe, Sanford Rivers,
and Gary A. Sojka, Members
Keith Welks, Ex-officio Designee
Stacie Amsler, representing Secretary of
Revenue, Stephen Stetler

HEARING: Wednesday, January 21, 2009
1:18 p.m.

LOCATION: North Office Building
Commonwealth and North Street
Hearing Room One
400 North Street, West
Harrisburg, PA 17105

WITNESSES: Frank T. Donaghue, Eileen McNulty,
Doug Sherman, Steve Cook, Susan Hensel,
Dustin Miller, Cyrus Pitre, Troy Beaverson,
Nan Davenport, Michael Cruz, James
Schneller, Curtis Rogers, Richard Sandusky
Reporter: Cynthia Piro-Simpson

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A P P E A R A N C E S

1
2
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I N D E X

DISCUSSION AMONG PARTIES	5 - 6
PRESENTATIONS AND REPORTS	
By Attorney Donaghue	6 - 9
By Ms. McNulty	9 - 15
By Mr. Sandusky	15 - 17
By Attorney Beaverson	17 - 20
By Attorney Sherman	20 - 52
By Attorney Cook	53 - 55
By Mr. Schneller	55 - 63
By Attorney Sherman	63 - 65
By Attorney Cook	65 - 72
By Attorney Sherman	72 - 78
By Ms. Hensel	78 - 88
By Attorney Davenport	88 - 90
By Attorney Rogers	90 - 92
By Attorney Miller	92 - 96
DISCUSSION AMONG PARTIES	96 - 97
CERTIFICATE	98

E X H I B I T S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>Number</u>	<u>Description</u>	<u>Page</u> <u>Offered</u>
---------------	--------------------	-------------------------------

NONE OFFERED

P R O C E E D I N G S

1
2
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4
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CHAIRMAN COLINS:

Now, we'll get into the actual public meeting. We always start with the Pledge of Allegiance. We'll do that now.

PLEDGE OF ALLEGIANCE RECITED

CHAIRMAN COLINS:

All right. Announcements. The Board held an Executive Session January 20th in accordance with the Sunshine Act. The purpose was to discuss personnel issues, privileged and confidential business and to consult with Counsel and other professional advisors to the Board concerning current litigation.

Move to the transcripts now. Do I have a motion to approve the December 2nd transcript and minutes?

COMMISSIONER GINTY:

So moved.

COMMISSIONER MCCABE:

Second.

CHAIRMAN COLINS:

Thank you. All in favor?

AYES RESPOND

CHAIRMAN COLINS:

1 Opposed?

2 NO RESPONSE

3 CHAIRMAN COLINS:

4 Motion carries. New business. Executive
5 Director's report?

6 ATTORNEY DONAGHUE:

7 Thank you. Good afternoon, Chairman
8 Colins and Board members. I would like to report on a
9 couple of items today with an update on the revenue
10 trends at Pennsylvania slot casinos. Last month,
11 again, saw revenues grow, comparing the six facilities
12 operating in December of 2007 to the same six
13 operating in December of 2008. That comparison shows
14 an increase of 7.2 percent, or \$107 million this year,
15 compared to \$99.8 million last year.

16 As I have in past months, when making
17 these comparisons, I warn about drawing any concrete
18 conclusions from this increase since our market is
19 still obviously maturing. In addition, another
20 important caveat to those figures is the fact that
21 about 1,800 more slot machines were operating at those
22 facilities last month, over the amount that were in
23 operation in 2007.

24 Pennsylvania's gaming market is producing
25 very significant revenues, this includes more than \$66

1 million in tax revenues for the Commonwealth in
2 December, which places total tax revenues generated
3 from slots play since the initial November 2006
4 opening of almost \$1.5 billion.

5 Another area that I would like to report
6 upon is the tremendous activity plan by the Gaming
7 Control Board's staff, to oversee the opening of four
8 gaming facilities in 2009. Two of the new facilities
9 where gaming is not yet in operation, while the other
10 two are expansions of existing facilities into
11 permanent facilities.

12 I'll take these in order of opening, and
13 I should note that these are target dates, and they
14 are always subject to many factors including
15 construction schedules, as well as oversight and
16 review by the Gaming Board's opening team as well as
17 PENNSYLVANIA STATE POLICE and the Department of
18 Revenue. The Meadows Racetrack & Casino currently
19 operating with 1,825 slot machines in Washington
20 County is planning to move into their new facility and
21 begin receiving the public in mid-April of this year.

22 This permanent facility will create an additional 250
23 jobs and house over 3,700 machines with Board
24 approval. The permanent casino will be 350,000 square
25 feet and will integrate harness racing with the

1 casino, have a bowling alley and a parking garage.

2 The Sands Casino Resort, Bethlehem, will
3 work with our agency toward an opening date in late
4 May 2009 with 3,000 slot machines and increase to
5 5,000 machines by the end of the year, again, with
6 Board approval. The casino is expected to create as
7 many as 1,000 jobs.

8 The Rivers Casino in Pittsburgh is
9 targeting an opening date in the first half of August
10 and is projected to open with 3,000 slot machines and
11 create as many as 1,000 jobs. Initially, the 4,000
12 --- 400,000 square foot facility will include five
13 dining locations, lounges and a 1,000 seat
14 amphitheatre and a parking garage.

15 Finally, Philadelphia Park Casino &
16 Racetrack currently operating with 2,900 slot machines
17 in Bucks County will close out our busy year with a
18 planned opening of its new facility in December. This
19 new 250,000 square foot facility will house 4,000 slot
20 machines and will have eight restaurants, three bars
21 and an entertainment lounge.

22 As you can see, 2009 is going to be a
23 challenging year, but one that's promising to bring
24 more tax revenue to the Commonwealth and more than
25 2,000 additional jobs in these very tough economic

1 times. And that concludes my report.

2 CHAIRMAN COLINS:

3 Thank you very much. Eileen McNulty,
4 Chief Financial Officer.

5 MS. MCNULTY:

6 Thank you, Chairman Colins. The first
7 item on the agenda is the report of the Chief
8 Financial Officer. This report covers revenues and
9 expenses recorded by the Gaming Control Board through
10 the first half of fiscal 2009.

11 Spending to date this fiscal year totaled
12 \$14,365,203. Spending recorded in December was
13 \$2,675,709, or 18.6 percent of the year-to-date total.
14 Payroll expense through December totaled \$10,969,193,
15 or 76.4 percent of total spending for the fiscal year.
16 December payroll was \$1,793,427.

17 Operating expenses recorded in December
18 totaled \$882,281, bringing the year-to-date total of
19 operating expenses to \$3,396,011. Operating expenses
20 were one-third of December's spending, and 23.6
21 percent of the year-to-date spending.

22 The largest category of operating expense
23 for the first half was services, which accounted for
24 \$1,156,882, or 34.1 percent of operating expenses.
25 December's service expenditures were \$382,581.

1 Year-to-date consultant services for financial
2 suitability analyses and compliance reviews amounted
3 to \$632,301. EDP Consulting Services contributed
4 another \$191,390.

5 Interagency billings for use of the SAP
6 Accounting and Payroll Systems were \$85,802. Legal
7 services of \$83,359 and PENNSYLVANIA STATE POLICE
8 charges for fingerprints of \$56,355 were other items
9 in the services category. Rentals and leases totaling
10 \$980,088 is the second largest category of operating
11 expense to date and represents 28.9 percent of
12 operating expenses for the first half of the fiscal
13 year. December lease rental expense was \$154,026.

14 The third largest category of expense was
15 other operating expenses which accounted for 13.1
16 percent, or \$444,878 of year-to-date operating
17 expense. Subscription costs for ChoicePoint Data
18 Services for background investigations account for the
19 majority of this category. Recurring
20 telecommunication costs are the majority of our
21 utility costs of \$340,778. These charges which
22 comprise ten percent of operating expenses so far this
23 fiscal year are the fourth largest operating expense.

24 We are on target to achieve the four and
25 a quarter percent budget savings in non-reimbursed

1 spending, as promised in response to the Governor's
2 request. If there's no questions on the financial
3 report, I'll move on to the next item.

4 Now that our agency is starting to
5 mature, it is time for us to ensure that our job
6 responsibilities, role accountabilities and reporting
7 relationships across all of our Bureaus are well
8 defined and accurate. We also need to ensure that job
9 requirements are clarified and documented.

10 We have been approached by some employees
11 questioning the accuracy of our classification and our
12 pay structure, and we also realize that there are some
13 inconsistencies within the classifications at our
14 agency. The Hay Group provides a proprietary job
15 evaluation methodology that assesses each job and
16 establishes an accurate position assessment. This
17 methodology is what was used to establish the
18 classification structure that is used throughout much
19 of the Commonwealth.

20 We are proposing that the Board approve
21 the procurement of a Hay evaluation of PGCB employee
22 classifications and recommendations for a job
23 classification structure. So I would request a
24 motion ---.

25 CHAIRMAN COLINS:

1 May I have a motion?

2 COMMISSIONER RIVERS:

3 Yes, Madam Chairman. I move that the
4 Board authorize the Chief Financial Officer to procure
5 a Hay evaluation of the Pennsylvania Gaming Control
6 Board employees' classification and to provide
7 recommendations for classification structure.

8 COMMISSIONER MCCABE:

9 Second.

10 CHAIRMAN COLINS:

11 Any discussion or questions?

12 COMMISSIONER MCCABE:

13 I have a question. Is this normal
14 procedure --- for a new agency, is this a normal
15 procedure?

16 MS. MCNULTY:

17 Yes, it is. After a couple of years, we
18 find that the job descriptions that were produced when
19 we were planning what work employees were going to do
20 within the agency may have shifted around as we
21 changed peoples' jobs a little bit to match the needs
22 as we went forward and learned more about what we have
23 to do. It's time now to revisit that to get accurate
24 clarification of what each individual job entails and
25 to review how those jobs have been placed in

1 relationship to each other and within our pay
2 structure.

3 COMMISSIONER MCCABE:

4 What will we do with the report that they
5 give us?

6 MS. MCNULTY:

7 We'll review it, and review their
8 recommendations and bring to the Board some decisions
9 to be made on the classification and structure of our
10 jobs and our pay structure.

11 COMMISSIONER MCCABE:

12 Why are we using the Hay Group?

13 MS. MCNULTY:

14 The Hay Group provides access to their
15 proprietary job evaluation methodology and also
16 provides a database that allows the comparison of jobs
17 in our agency with similar jobs in other similar
18 agencies within state government and outside of state
19 government other regulatory agencies and also provides
20 data that can benchmark our salaries against those in
21 --- in jobs that require similar skills and
22 qualifications in both the private and public sector.

23 COMMISSIONER RIVERS:

24 I'd like to add what Eileen just made
25 reference to. Having had an opportunity to go through

1 a Hay evaluation, I can say that they are the gold
2 standard when it comes to this type of evaluation, and
3 that the time, effort and energy that they put in will
4 be well worth what we're spending to go forward with
5 this, because I think it will give us a good analysis
6 of where we are and where we should be in the future.
7 So I wholeheartedly endorse what we're getting ready
8 to do.

9 CHAIRMAN COLINS:

10 All right.

11 COMMISSIONER GINTY:

12 I, too, have used Hay in the past, and I
13 think Ms. Yantis and Eileen, you're to be
14 congratulated. It's time we bring some structure to
15 an organization that's young with --- got an idea of
16 what the jobs are, what the positions are, and it's
17 just time that we review as we go forward. So thank
18 you for doing this.

19 CHAIRMAN COLINS:

20 All right. Let's have a vote on the
21 motion, please. All in favor?

22 AYES RESPOND

23 CHAIRMAN COLINS:

24 Opposed?

25 NO RESPONSE

1 CHAIRMAN COLINS:

2 Motion carries. Thank you very much.

3 MS. MCNULTY:

4 Thank you.

5 CHAIRMAN COLINS:

6 Doug Sherman, Chief Counsel.

7 ATTORNEY SHERMAN:

8 Good afternoon, Madam Chairman, members
9 of the Board. Our first two agenda items relate to a
10 Statement of Policy and Final-form Regulation to be
11 addressed by Director of Regulatory Review, Richard
12 Sandusky and Assistant Chief Counsel, Troy Beaverson.

13 MR. SANDUSKY:

14 Good afternoon. I'm going to handle the
15 Statement of Policy presentation. What we are doing
16 today is proposing an amendment to Chapter 461b,
17 dealing with slot machine tower lights. There was a
18 request from one of the licensed facilities to change
19 the denominations on some of their machines to \$3.
20 The current lighting schemes that are in our technical
21 standards, and these refer to the bottom of the two
22 tower lights that are on top of the slot machines, did
23 not address that denomination, so what we have done in
24 this proposed change is, it will make the blue light
25 alternative scheme that used to apply to \$1, \$2 and \$5

1 denominations apply to anything between \$1 and \$5.

2 The other change that is contained within
3 this proposal is to change the approval to use these
4 alternative schemes to be something that is applied
5 for and received from the Bureau of Gaming Operations.
6 Since the Board will have already approved this
7 alternate scheme for use, there really is no need for
8 requests to use that actual scheme to come to the
9 Board, so this should streamline operations for
10 operators who wish to use these new denominations.

11 If there are any questions, I'd be happy
12 to answer them, otherwise we'd ask for a motion for
13 adoption of this statement of policy.

14 CHAIRMAN COLINS:

15 May I have a motion, please?

16 COMMISSIONER MCCABE:

17 Madam Chair, I move that the Board adopt
18 the Statement of Policy Number 125-98, amending
19 Chapter 461b, and that the Statement of Policy be
20 posted on the Board's website.

21 CHAIRMAN COLINS:

22 Second, please?

23 COMMISSIONER RIVERS:

24 Second.

25 CHAIRMAN COLINS:

1 All in favor?

2 AYES RESPOND

3 CHAIRMAN COLINS:

4 Opposed?

5 NO RESPONSE

6 CHAIRMAN COLINS:

7 Motion carries.

8 ATTORNEY BEAVERSON:

9 Good afternoon. I have your
10 consideration Final-form Regulation Number 125-93.
11 This Final-form rulemaking makes a number of revisions
12 to the Board's Practice and Procedure Regulations, to
13 improve their clarity, conform to current practice and
14 simplify some of the existing requirements.

15 For example, the regulation allows
16 prehearing conferences and hearings be conducted using
17 video conferencing, allows the electronic filing of
18 documents with the Office of the Clerk and adds a new
19 section, Section 493a.10(a), which provides to protect
20 confidential information.

21 This proposed rulemaking was adopted by
22 the Board on August 28th, 2008, and was published in
23 the Pennsylvania Bulletin in October 2008 with a
24 30-day public comment period. The Board received
25 comments from Downs Racing, Greenwood Gaming

1 Entertainment and Sands Bethworks Gaming, LLC. By
2 letter dated December 3rd, 2008, the Independent
3 Regulatory Review Commission also submitted comments.

4 All of these comments voiced concerns
5 over the new requirement for a motion to protect
6 confidential information. The commentators believe
7 that, as proposed, this would shift the burden of
8 proof regarding the protection of confidential
9 information and would create a new adversarial process
10 that would be expensive and time consuming.

11 To address these comments, the staff has
12 removed the language found in that section, "a party
13 or individual may seek to protect confidential
14 information" and replace it with "a party or
15 individual may designate information as confidential."

16 Staff feels that this clarifies that the purpose of
17 the motion to protect confidential information is for
18 the filing party to identify for the record the
19 confidential information in its pleadings and provide
20 the reason it should be so designated.

21 If there are no questions, I would ask
22 for a motion to approve this Final-form Regulation.

23 CHAIRMAN COLINS:

24 Are there any questions? May I have a
25 motion?

1 COMMISSIONER SOJKA:

2 Madam Chair, I'm happy to provide such a
3 motion if we could just have a brief comment or
4 question period following that.

5 CHAIRMAN COLINS:

6 All right.

7 COMMISSIONER SOJKA:

8 Madam Chair, I move that the Board adopt
9 Final-form Regulation Number 125-93, amending Chapters
10 401a, 403a, 405a, 491a, 493a, 494a, 495a, 497a, 499a
11 and 511a, and that the Final-form Regulation be posted
12 on the Board's website.

13 COMMISSIONER COY:

14 Second.

15 CHAIRMAN COLINS:

16 All right. Comments, questions?

17 COMMISSIONER SOJKA:

18 I want to make sure that since there are
19 some issues having to do with confidentiality and I
20 understand this, it is your understanding that this
21 does nothing to push us away from being as transparent
22 in our dealings as possible; is that correct?

23 ATTORNEY BEAVERSON:

24 No, this doesn't change the Board's duty
25 pursuant to the statute or the regulation to protect

1 confidential information. It merely requires the
2 filing party to make clear on the record what
3 information is confidential and the reason it should
4 be so protected.

5 COMMISSIONER SOJKA:

6 Okay. Thank you.

7 CHAIRMAN COLINS:

8 All right. May I have a vote? All in
9 favor?

10 AYES RESPOND

11 CHAIRMAN COLINS:

12 Opposed?

13 NO RESPONSE

14 CHAIRMAN COLINS:

15 Motion carries. Thank you. Thank you
16 very much.

17 MR. SANDUSKY:

18 Thank you.

19 CHAIRMAN COLINS:

20 The next matter is the motion to consider
21 the Mount Airy #1, LLC, Petition for Approval of
22 Second Amendment to its Revolving Credit and Term
23 Loan.

24 ATTORNEY SHERMAN:

25 That's correct, Madam Chairman. The

1 motion of Mount Airy for the approval of the
2 refinancing, which has been presented to the Board
3 here today in the earlier hearing is right for the
4 Board's consideration, if the Board so warrants.

5 CHAIRMAN COLINS:

6 All right. Well, this is as a result of
7 the hearing that was held today and the information
8 that was received, and testimony and argument from not
9 only the Trustee but the representatives from Mount
10 Airy as well as our Enforcement Counsel. So at this
11 point, having had an Executive Session for
12 deliberative purposes, let me ask if there's a motion
13 on this?

14 COMMISSIONER GINTY:

15 Yes. Madam Chairman, I move that the
16 Board approve Mount Airy #1, LLC, Petition as
17 described by the Office of Chief Counsel (OCC) in its
18 discussion this morning.

19 CHAIRMAN COLINS:

20 Is there a second?

21 COMMISSIONER RIVERS:

22 Second.

23 CHAIRMAN COLINS:

24 All right. Are there any questions or
25 any comments at this point?

1 COMMISSIONER SOJKA:

2 Yes, Madam Chair, if I may. This is,
3 needless to say, an extraordinarily difficult issue
4 for this Board. It strikes right to the heart of
5 several of our principal responsibilities, one of
6 which is to do all within our power and authority to
7 protect the public and to protect the integrity of
8 gaming, and this is something from which this Board
9 has drawn considerable attention over recent months.

10 We also have responsibilities relating to
11 the citizenry of the Commonwealth with regard to
12 economic activities. Jobs, revenue which goes to
13 myriad useful and respected aspects of the operation
14 of the state. Property tax relief, support of the
15 horse racing industry, several specific projects
16 relating to tourism and on and on. And today, because
17 of the timing of the situation, the tension between
18 these differing responsibilities have been brought
19 into very sharp focus. We are aware of the fact that
20 should we not find in favor of this Petition, we risk
21 the possibility, it's a very real responsibility, that
22 people will at least, for a time, lose their jobs and
23 their employment in this difficult economic situation.

24 We realize that the state is likely to
25 lose revenues at a time when the state desperately is

1 seeking revenues. So the stakes are very high for us
2 on that side. On the other hand, there was
3 information presented to us today that caused some of
4 us to have pause, and that is on the protection side,
5 we have to be absolutely positively within the limits
6 of our ability to see that the resources coming
7 forward in this Petition are as they are stated, okay.

8 The problem here, again, is one of time.
9 There's no question, even though I wasn't here for the
10 decision to award the Mount Airy license, it was clear
11 that one of the strong features of that proposal was
12 the ability of Mr. DeNaples to stand behind the
13 project financially. And in fact, what we're seeing
14 through this Petition is his willingness to continue
15 to so do, and I think there's no particular problem
16 with that.

17 There are complications having to do with
18 the \$20 million, the additional money, and so on that
19 was expressed today, and we have heard testimony that
20 suggests that our staff is not in a position to give
21 us an absolutely final reading on the situation today,
22 that they have appended a number of stipulations,
23 which if clearly adhered to, I think would raise the
24 comfort level of this Board and any other impartial
25 entity that would look at this situation. So this is

1 the problem that we face, and I want to make it very
2 clear that this is a decision that's not being taken
3 lightly, we understand that we are likely to receive
4 some criticism for it as a Board, and some of us are
5 likely to receive criticism as individuals. But our
6 responsibilities are to the Commonwealth and to
7 discharge these to some degree, conflicting duties,
8 and for that reason, I think after further discussion,
9 I would be willing to vote for this.

10 CHAIRMAN COLINS:

11 All right. Are there any other comments
12 or questions?

13 COMMISSIONER MCCABE:

14 I have a question, but before I ask the
15 question, I think Commissioner Sojka played it very
16 well. My question is to Office of Enforcement Counsel
17 (OEC). Are you comfortable that with the safeguards
18 and the conditions that you have established, that you
19 have no objection to us approving this?

20 ATTORNEY DAVENPORT:

21 We have no objection.

22 COMMISSIONER MCCABE:

23 Okay. One of the things that I know I
24 would like when we vote on this is, if any type of
25 issues come up that that be reported immediately to

1 the Board, and at least on a weekly basis, that the
2 Board get a report from the accounting section on
3 their movement to discover where the source of funds
4 have come from.

5 ATTORNEY DAVENPORT:

6 I believe that we have weekly meetings
7 with the Trustee, and during those meetings, I believe
8 OCC is present at those meetings; is that correct?

9 COMMISSIONER MCCABE:

10 We want the information to come up ---.

11 ATTORNEY DAVENPORT:

12 Provided --- we can provide that.

13 COMMISSIONER SOJKA:

14 With regard to that, we heard testimony
15 also earlier today when we were asking about remedies,
16 should there be a problem, I think it should be
17 understood by everyone that in the course of the
18 reporting that Commissioner McCabe just mentioned,
19 through Enforcement Counsel, the Board become aware of
20 any misrepresentation with regard to the source of the
21 funds, the remedy is likely to be revocation.

22 COMMISSIONER MCCABE:

23 That's correct.

24 COMMISSIONER SOJKA:

25 That's going to be understood, the stakes

1 clearly have been raised.

2 COMMISSIONER MCCABE:

3 And do you have an Affidavit from Mr.
4 DeNaples saying that this is his money?

5 ATTORNEY PITRE:

6 Right now we have two Affidavits, and
7 there are --- how many are outstanding?

8 ATTORNEY DAVENPORT:

9 It could be just one other Affidavit. We
10 need to ---.

11 ATTORNEY PITRE:

12 We are awaiting additional Affidavits.

13 ATTORNEY DAVENPORT:

14 For the balance of funds.

15 ATTORNEY PITRE:

16 But that is part of the stipulation that
17 we submitted today, and there are conditions in the
18 Order in place to ensure that has to be delivered to
19 us.

20 COMMISSIONER MCCABE:

21 Well, I'd take that a little bit further
22 that there's even a more severe penalty besides
23 revocation ---?

24 ATTORNEY PITRE:

25 Well, there's also criminal ---.

1 COMMISSIONER MCCABE:

2 Criminal charges that, in fact, have ---.

3 CHAIRMAN COLINS:

4 Well, I think that, you know, as
5 Commissioner Sojka mentioned, it's a weighing process,
6 and you know, as I've been saying all along throughout
7 our Board's existence, there are enforcement powers
8 that this Board has, and this is all part of the
9 process. I'm comfortable with --- I'm comfortable
10 with the conditions that OEC has placed in the Order.
11 I'm comfortable with our staff, specifically the OEC's
12 statement on the record that there is no objection and
13 that they, too, are very confident that these
14 conditions enable them to do the necessary tracking
15 and investigation that they have to do in order to
16 enforce the Order.

17 And I believe that as part of the Board's
18 overall enforcement powers, that upon presentation to
19 this Board of a complaint by Enforcement Counsel, that
20 there has been misrepresentation that there is a
21 violation of the conditions, then I believe I'm very
22 comfortable with our power to enforce and to use
23 remedies up to revocation. So I wanted to make that
24 statement before I vote on this. So now let me ask
25 for a vote. All those in favor?

1 AYES RESPOND

2 CHAIRMAN COLINS:

3 Opposed?

4 NO RESPONSE

5 CHAIRMAN COLINS:

6 Motion carries. Thank you.

7 ATTORNEY SHERMAN:

8 Madam Chairman, also in connection with
9 the Mount Airy Petition was a motion to maintain the
10 confidentiality of certain Petition Exhibits. That's
11 Exhibits B through D which were addressed earlier
12 during the hearing as proprietary financial documents,
13 I believe the OEC could also address that with the
14 Board during the hearing.

15 The matter of that motion to Maintain the
16 Confidentiality of those Proprietary Financial
17 documents is right for the Board's consideration at
18 this point.

19 CHAIRMAN COLINS:

20 Right. And I had inquired of Ms.
21 Davenport because it's very important to me that if we
22 exercise --- if we authorize confidentiality, that it
23 is in total compliance and uniformity with our prior
24 exercise of the requirement of the Act that we deem
25 something confidential. And so that was the reason

1 for my questioning. If it's your determination
2 through your review that these are, in fact,
3 proprietary documents and that's your recommendation,
4 then that consideration is before us.

5 ATTORNEY DAVENPORT:

6 It is.

7 CHAIRMAN COLINS:

8 All right. Thank you. All right. May I
9 have a motion?

10 COMMISSIONER RIVERS:

11 Yes, Madam Chairman, I move that the
12 Board approve the Mount Airy #1, LLC, Petition seeking
13 a Protective Order, as described by the OCC.

14 COMMISSIONER SOJKA:

15 Second.

16 CHAIRMAN COLINS:

17 And before voting, the documents that
18 confidentiality is being sought for are specifically
19 documents that contain proprietary financial terms and
20 conditions; is that correct?

21 ATTORNEY DAVENPORT:

22 That is correct.

23 CHAIRMAN COLINS:

24 All right. Thank you. All in favor?

25 AYES RESPOND

1 CHAIRMAN COLINS:

2 Opposed?

3 NO RESPONSE

4 CHAIRMAN COLINS:

5 Motion carries. Thank you.

6 COMMISSIONER SOJKA:

7 One clarifying point, just so everybody
8 understands. Those documents just don't include
9 matters for Mr. DeNaples, they also include
10 information from the lending institution and so on and
11 so forth, so ---.

12 ATTORNEY SHERMAN:

13 That's correct.

14 CHAIRMAN COLINS:

15 Thank you. Okay. Next matter.

16 ATTORNEY SHERMAN:

17 The next matter on the agenda is the
18 consideration of the Shuffle Master Petition Seeking
19 Approval of the Vegas Star Roulette Slot Machine for
20 Operation in the Commonwealth. This matter was heard
21 by the Board on December 18th, 2008 at a public
22 hearing, at which time substantial evidence was
23 received, both on behalf of representatives of Shuffle
24 Master, as well as from the Board's Gaming Laboratory.

25 The record remained open for a period of

1 time. No additional information or evidence has been
2 received in the record. Briefly, Shuffle Master is
3 the holder of the Manufacturer License in the
4 Commonwealth and produces, among other products, Vegas
5 Star Roulette Machine, a simulated videogame allowing
6 multiple gamers to place simultaneous bets on the
7 outcome of a single simulated Roulette result.

8 The Board, as I stated, has heard
9 presentation of both sides of this issue. Should the
10 Board have any questions, a representative of Shuffle
11 Master is present, as is Michael Cruz, the Director of
12 the Gaming Lab, otherwise the record will be closed
13 and the matter would be ripe for the Board's
14 consideration.

15 CHAIRMAN COLINS:

16 All right. I believe that some of the
17 Board members do have questions. I realize that we
18 had the hearing, we've had a record established, but
19 there are some additional questions. So I open it up
20 to the Board.

21 COMMISSIONER SOJKA:

22 I still have a question or two.

23 CHAIRMAN COLINS:

24 That's fine.

25 COMMISSIONER SOJKA:

1 And I apologize, this is a long meeting,
2 and I've raised this question before, but I got an
3 answer, and I've since then pondered the answer that I
4 received, and I'm no less confident now than I was
5 before.

6 Let's look at this game in reference to
7 another Shuffle Master game, namely the one having to
8 do with the Blackjack simulation, which I've looked at
9 carefully, weighed as best as I could and concluded
10 that it, indeed, was a slot machine and also was
11 indeed different than sitting down and playing
12 Blackjack for a variety of reasons; okay? And when
13 we, as a Board, or this industry are frequently
14 criticized by individuals who say, ah, you've brought
15 in table games, you've just covered them up with
16 electronics, but they're still table games, we've had
17 a perfectly good answer.

18 With this one, with this Roulette
19 simulation, I have additional problems. One of them
20 has to do with the issue of the statutory 85 percent
21 payout. And I asked a very naïve layman's question,
22 got a professional answer but I'm not happy with it.
23 And that is, this game seems to me to raise the risk,
24 and I'm going to direct this question to the Director
25 of our Laboratory, Mr. Cruz. It seems to me that it

1 raises the possibility, and it's admittedly a remote
2 possibility, but I'm pointing this out because I think
3 it makes this game slightly different.

4 Let's assume an infinitely unlucky gamer,
5 okay, who sits down to play this game, probably beyond
6 the capacities of any human being, namely for the life
7 of the game, because our regulations at 85 percent
8 payout are for the life of the game. And let's assume
9 that this poor benighted soul simply wants to play the
10 single number option and chooses wrong every single
11 time, how do you get to the 85 percent payout?

12 MR. CRUZ:

13 I definitely --- answer that question.
14 Payback percentage, without going too deep into the
15 mathematics behind actually calculating it is the sum
16 product of the odds of achieving a combination or
17 award multiplied by the corresponding award, and
18 that's how you achieve the overall, the theoretical
19 payback percentage. And for your example of ---.

20 COMMISSIONER SOJKA:

21 That's what you've got on this card?

22 MR. CRUZ:

23 Yes. For your example of, let's say I
24 like the number seven. I've never played nothing but
25 the number seven, and I just put all my money every

1 single time on the number seven, odds are you have the
2 1 and 38 chance of it happening. And the odds of
3 probability saying that you will never go infinite
4 without getting that.

5 COMMISSIONER SOJKA:

6 Understood.

7 MR. CRUZ:

8 And that's some of the tests that we run,
9 is that if it is represented to us that ---.

10 COMMISSIONER SOJKA:

11 If my infinitely unlucky person isn't
12 that smart to stay on number seven and get his 85
13 percent, he keeps moving around, and he's always
14 wrong.

15 MR. CRUZ:

16 Well, the same question can be given to
17 video poker. I suck at video poker. I do not know
18 the hands, I dump my cards because I'm always trying
19 to go for the royal flush. I can infinitely lose on
20 that game as well. And the argument is it could be
21 used against the video poker as well ---.

22 COMMISSIONER SOJKA:

23 But sooner or later, there will be a
24 royal flush dealt to somebody. How do you guard
25 against this unlucky player?

1 MR. CRUZ:

2 Well, that's ---.

3 COMMISSIONER SOJKA:

4 You are keeping the number --- the random
5 number generator truly random throughout. There is no
6 adjustment to that to ---.

7 MR. CRUZ:

8 No, because then it would not meet our
9 definition of a slot ---.

10 COMMISSIONER SOJKA:

11 And it wouldn't be a slot machine?

12 MR. CRUZ:

13 Yes.

14 COMMISSIONER SOJKA:

15 Okay.

16 CHAIRMAN COLINS:

17 May I ask a question?

18 COMMISSIONER SOJKA:

19 Sure.

20 CHAIRMAN COLINS:

21 Just to interrupt. Is the standard used
22 in the industry that one unlucky player, or is it a
23 standard that is a mathematical theorem?

24 MR. CRUZ:

25 Excuse me, can you repeat that?

1 CHAIRMAN COLINS:

2 Is the standard to just take the example
3 of the one unlucky player or is there a mathematical
4 theorem that's used to compute what the probability
5 is?

6 MR. CRUZ:

7 Well, the mathematics behind it is, given
8 the randomness of the random number generator, which
9 we proved to be sufficient for the slot machine
10 devices, combined with the odds of achieving certain
11 outcomes combined with those outcomes payouts,
12 specific payouts, corresponds to the theoretical
13 payback percentage. And the volatility of the
14 randomness is thrown in there for good measure so that
15 you cannot predict what is going to come next. So it
16 is a mathematic that is an unlucky person can move
17 their chips around or dump their hands and not get
18 what they want as far as the poker similarity goes.

19 COMMISSIONER GINTY:

20 I have a question. Does the statutory
21 requirement here make the odds of winning on the video
22 Roulette greater, or better I guess is one way of
23 putting it, than the odds of winning on a table game?

24 MR. CRUZ:

25 On a table game, no, the odds are

1 identical. When you compare to three or five real
2 slot machines, the odds are better.

3 COMMISSIONER GINTY:

4 And let me understand that. If I got a
5 number on a table game, I have a 1 in 38 chance of
6 winning; is that correct?

7 MR. CRUZ:

8 Correct.

9 COMMISSIONER GINTY:

10 Which my quick calculations says it's 21
11 percent chance of winning.

12 MR. CRUZ:

13 Uh-huh (yes).

14 COMMISSIONER GINTY:

15 You mean if I --- if picking Mr. Sojka's
16 infinitely unlucky player, but instead I stayed on
17 seven infinitely, could I expect to average either a
18 21 or an 85 percent payout?

19 MR. CRUZ:

20 Well, the calculation of the minimum
21 payback percentage isn't as straightforward as that,
22 because you have to still take in what that payout is
23 and the fact that each spin, whether it's a spin of a
24 ball, the dealing of cards or the spinning of wheels
25 is independent of previous spins and future spins, so

1 averages don't compute when you take in theoretical
2 pay percentage, it is what is available at that
3 independent spin. And the calculations, when you do
4 calculate it, including the payouts corresponding to
5 the probability, I think it yields about 94 percent.
6 I have a letter here.

7 COMMISSIONER GINTY:

8 Well, let me put it another way then.

9 MR. CRUZ:

10 Ninety-two (92) percent.

11 COMMISSIONER GINTY:

12 The payout of this game would be greater
13 than the payout, I mean, over time, however ---
14 whatever your probabilities are, however you calculate
15 that, but because of the 85 percent requirement, over
16 time the machine would pay out 85 percent, whereas
17 over time the table game should be paying out only 21
18 percent.

19 MR. CRUZ:

20 Well, that's not taking into account the
21 volatility aspect of the randomness. For example, you
22 said, if you choose one number; correct, you have a 1
23 in 38 chance ---

24 COMMISSIONER GINTY:

25 Right.

1 MR. CRUZ:

2 --- of always getting --- of getting that
3 number independent of what happened previously and
4 what's going to happen in the future. One of the pay
5 tables, the payout is 35 credits for that payout. So
6 you have a 1 in 38 chance of getting that number, and
7 if you hit it, you have a 35 credit payout, so that's
8 how you calculate the payback percentage. In that
9 case, it's about 92.1 percent.

10 And when we always say what the --- what
11 I always bring in the lifecycle of the game, when
12 actuality approaches theoretical, it's because of the
13 fact that there is a random number generator involved
14 that makes it prohibitively hard to predict what's
15 coming out next. So if you bet \$1, you can lose, yes.
16 You only have 1 in 38 chances of getting the number
17 correct. And if you didn't win, your payout is zero
18 at that time. Now, the payback percentage of the game
19 is not zero percent because that's an instantaneous
20 reading of it. But as it's programmed, the
21 theoretical is based off of all those calculations on
22 the payouts and the combinations.

23 COMMISSIONER GINTY:

24 Let me try it a different way. Over the
25 life of the machine, ---

1 COMMISSIONER SOJKA:

2 Life of the game.

3 COMMISSIONER GINTY:

4 --- life of the game --- I mean, when
5 you're looking at a slot machine, you do a calculation
6 that says over the life of that machine, the payout
7 will be at least 85 percent. Does that same rule now
8 apply to the video Roulette?

9 MR. CRUZ:

10 Yes.

11 COMMISSIONER GINTY:

12 Okay.

13 COMMISSIONER RIVERS:

14 Michael, my concerns revolve around
15 nothing pertaining to the logic of the game or the
16 algorithms of the game or the payout charts, it's more
17 philosophical in terms of I see this as a back door,
18 the table games, and I'm bothered by that. I'm
19 bothered for the very simple reason, is that we don't
20 have table games in the Commonwealth, and the only
21 difference between this and a table game is the fact
22 that you have a person who's not a person. It's like
23 playing my grandson's videogames, and they're make
24 believe people who act like people, who do the things
25 that people do.

1 And if, in fact, that's true, I ask
2 myself why should we allow this game? Well, I hear
3 that, well, it's a random number generator, but the
4 law does not say that everything that's a random
5 number generator generated has to be approved.

6 MR. CRUZ:

7 That is correct. I mean, your concerns
8 are valid, but the capacity of the Lab is to review
9 the product for its technical merit.

10 COMMISSIONER RIVERS:

11 Right. And I don't doubt your technical
12 expertise, I don't doubt your technical explanations,
13 I am just concerned that we're opening up Pandora's
14 box, because I think the moment we allow this game in,
15 I would probably say within months we'll have one with
16 that same inanimate person with a pair of dice in
17 their hand shooting dice, because in essence, you end
18 up with the same scenario, and you'll sit here and the
19 rest of the world will sit here, but it has a random
20 number generator, it's a slot machine. It's going to
21 have payouts of 85 percent.

22 And I guess what I'm saying is that,
23 getting where we are in this day and age, and the
24 earliness of this, I don't think the Commonwealth, as
25 far as Sanford Rivers is concerned, is ready for table

1 games. And I think this is a back door to table
2 games. And I say that with full appreciation of what
3 your company does and suggest that you continue
4 creating the kinds of products that you do. But I
5 just want you to understand my own personal feeling,
6 so I know that I cannot support this game.

7 MR. CRUZ:

8 I completely understand ---.

9 CHAIRMAN COLINS:

10 Let me ask you a question. Have you
11 measured in the Lab, is it your goal in the Lab to
12 measure the game that you're given against the
13 definition of the statute?

14 MR. CRUZ:

15 That is our main purpose, is to hold all
16 products that enter the Lab to the definitions in the
17 statute and then follow that with specific regulations
18 for minimum design standards that we have crafted in
19 our regulations.

20 CHAIRMAN COLINS:

21 All right. And specifically, reiterate
22 why you came to the conclusion that this technology
23 meets the definition of the statute.

24 MR. CRUZ:

25 Well, the --- I'll paraphrase a quote

1 from the statute as electronic contrivance by way of
2 chance or skill, which from what I hear has been
3 purposely written very vague, so we have more specific
4 regulations regarding minimum design standards, such
5 as requirement of a random number generator,
6 requirement that there's no secondary decisions on
7 those random number generators, requirement of proper
8 connectivity to the central system, requirement for
9 its independence in game play between individual
10 players, requirements for independent accounting
11 between each machine, and these are --- that's just
12 what I can rattle off the top of my head, but these
13 are standards that every product that enters the lab
14 has to meet in order for the Lab to issue a
15 recommendation for approval.

16 And that is really what it boils down to,
17 is the Lab is the recommendation based off the
18 technical merit, based off of what the statute says
19 and what the regulations we have written as
20 recommendation to the Board as far as do we have any
21 objections to it, so ---.

22 CHAIRMAN COLINS:

23 All right. Any other questions or
24 comments?

25 COMMISSIONER SOJKA:

1 Yes. I'd like to try one more, and I
2 think it has to do, again, with the special nature of
3 Roulette, and I think that's what Sanford's getting
4 at. And I think I'm willing to concede that you have
5 provided information that suggests that as our statute
6 is written, this device is a table game, but let me
7 ask you, if you packed up your same bag of tools,
8 drove back to New Jersey, went into a casino in
9 Atlantic City and applied those same mathematical
10 tools to a real live Roulette wheel with a real live
11 human being, wouldn't you pretty likely call that a
12 slot machine, too?

13 MR. CRUZ:

14 The device that we have in our ---?

15 COMMISSIONER SOJKA:

16 No, the real person with the ---?

17 MR. CRUZ:

18 Oh, the actual ---?

19 COMMISSIONER SOJKA:

20 Yes. Not an electronic device, but
21 mathematically, isn't that thing almost a slot
22 machine? It's a random number generator, it's a set
23 of game rules, and it's a payout table.

24 MR. CRUZ:

25 Well, the main difference between the

1 game of Roulette and the product, the electronic
2 version is an algorithm based random number generator,
3 whereas a live game of Roulette is a person with a
4 manufactured wheel spinning the ball that is
5 manufactured at that particular dealer's rates, and
6 there's a lot of other factors that go --- that are
7 involved with the live game that I think Shuffle
8 Master's representatives did a really good job in
9 explaining what the main difference between live ---.

10 COMMISSIONER SOJKA:

11 So you're saying that's not a slot
12 machine, so we do have a slot machine here, and they
13 don't have a slot machine in Atlantic City?

14 MR. CRUZ:

15 I don't know if it's my decision to make,
16 to determine if it's a ---.

17 ATTORNEY PITRE:

18 If I may add, Michael, he can approve the
19 technical standards, but it's not actually a slot
20 machine until the Board approves it as such.

21 COMMISSIONER SOJKA:

22 That's the way the statute's written.

23 MR. CRUZ:

24 Correct.

25 COMMISSIONER COY:

1 Madam Chair, ---

2 CHAIRMAN COLINS:

3 Yes?

4 COMMISSIONER COY:

5 --- just a question, I guess, of our
6 Chief Counsel. Is the result of a negative vote on
7 this Petition, does it limit the company from any
8 future time frame of coming back and re-petitioning?

9 ATTORNEY SHERMAN:

10 I don't think it would, per se, limit
11 them from coming back. I think the issue would become
12 whether the vote that it's not a slot machine could be
13 revisited, what the basis of that determination would
14 be and whether this decision would, in any way, be
15 precedential later. I'm not sure what they would
16 present differently at another time.

17 I think, under the statute it wouldn't
18 prohibit them. There'd be no flat-out prohibition
19 from seeking approval at a later time.

20 COMMISSIONER COY:

21 I'm asking the Board to reconsider, and
22 with some sort of information, it would be up to them
23 to determine.

24 ATTORNEY SHERMAN:

25 To come back to the Board with either

1 other factors, other arguments, yes.

2 COMMISSIONER COY:

3 But there's no prohibition?

4 ATTORNEY SHERMAN:

5 I don't believe there is a flat-out
6 prohibition, no.

7 COMMISSIONER COY:

8 Okay.

9 COMMISSIONER MCCABE:

10 I'd like to ask Shuffle Master ---.

11 ATTORNEY DOWNEY:

12 Commissioner, before you ask me the
13 question, if I could speak to that point? I would
14 want to look pretty closely at whether there would be
15 res judicata implications of a determination of this
16 Board to the negative.

17 There's a principal under the law that an
18 application once determined --- we can certainly
19 follow the administrative procedures and seek
20 reconsideration of the Board on the same set of
21 circumstances, but where I have to re-petition under
22 their same set of circumstances, it is not entirely
23 clear that I would be able to do so with the same
24 product, and that would potentially be a problem for
25 us, we'd need to look at that issue.

1 COMMISSIONER MCCABE:

2 Is the Roulette wheel that we're looking
3 at, has that been approved in any other jurisdiction,
4 or is it in use in any other jurisdiction?

5 ATTORNEY DOWNEY:

6 It has, sir. And that's a matter of
7 record. We submitted ---.

8 COMMISSIONER MCCABE:

9 And how do those jurisdictions look at
10 it, do they look at it as a table game or as a slot
11 machine?

12 ATTORNEY DOWNEY:

13 Every one of them looks at it as a slot
14 machine. And if I can patrol one point on that. To
15 some extent, this may be ultimately a distinction
16 without a difference, but I would like to make this
17 point. Our Petition does not seek your determination
18 if this is a slot machine. We believe that the
19 statute provides, under 1320, that this Board has the
20 opportunity to review for use on the floor, slot
21 machines in the Commonwealth.

22 In connection with that determination, I
23 think you certainly have to make a predicate finding
24 that the device that we're talking about is slot
25 machine. But I do not agree with the position of OEC,

1 that it is within the jurisdiction of this Board to
2 say that something that otherwise satisfies all of the
3 criteria under the Statute and the Regs is not a slot
4 machine.

5 So under 1103, I think this is the clause
6 that Counsel refers to, there is a tag at the end
7 after a litany of various contrivances that could be
8 deemed to be a slot machine. There is a phrase that
9 reads, or other device approved by the Pennsylvania
10 Gaming Control Board. We do not read that to suggest
11 that you somehow have a first approval, where we
12 determine that it's a slot machine and then a second
13 approval and determine that it's okay for use. We
14 think that would cause a lot of strain for results
15 under both your Act and some others under the criminal
16 code.

17 Again, ultimately to Commissioner Rivers'
18 point, I don't know that that's all that important,
19 because to the extent that there are, I'll call them
20 philosophical problems, I understand that that comes
21 in appropriately under 1320, I just wanted to make
22 that point.

23 COMMISSIONER RIVERS:

24 So are you saying that we are obligated
25 or required to authorize utilization of all slot ---

1 anything that passes the slot machine definition?

2 ATTORNEY DOWNEY:

3 No, sir.

4 COMMISSIONER RIVERS:

5 Okay.

6 ATTORNEY DOWNEY:

7 No, sir.

8 COMMISSIONER RIVERS:

9 We do have the discretion ---

10 ATTORNEY DOWNEY:

11 Under 1320. Absolutely.

12 COMMISSIONER RIVERS:

13 --- slot machine meets all the criteria,
14 we can still say no.

15 ATTORNEY DOWNEY:

16 Yeah. We can't call something a slot
17 machine, not a slot machine for purposes of this
18 discussion, but under 1320, I believe you do have the
19 authority to decide whether a slot machine
20 appropriately gets on your floor or not.

21 COMMISSIONER RIVERS:

22 Thank you.

23 ATTORNEY PITRE:

24 And if I wasn't clear, that's correct.
25 Approved for use. The Board has the authority to

1 approve anything for use on the gaming floor.

2 COMMISSIONER MCCABE:

3 Again, specifically, what jurisdictions
4 have found this to be a slot machine and are using it?

5 CHAIRMAN COLINS:

6 Commissioner, could you read in the
7 record and ask ---?

8 COMMISSIONER MCCABE:

9 I'm reading from your slide presentation
10 from 18, December of 2008. In that presentation
11 there's a slide, Vegas --- titled Vegas Star Roulette
12 overview, and on that slide, it has writing on it that
13 says it is approved and installed as a slot machine in
14 the following North American gaming jurisdictions.
15 Arizona, California, Connecticut, Iowa, Michigan,
16 Minnesota and Oklahoma. Approvals are pending in
17 Delaware and Nevada, and over 2,200 Vegas Star
18 Roulette positions have been sold worldwide.

19 CHAIRMAN COLINS:

20 Is that accurate?

21 ATTORNEY DOWNEY:

22 Yes. Thank you.

23 CHAIRMAN COLINS:

24 Okay. Thank you. All right. There
25 being no ---.

1 COMMISSIONER COY:

2 Well, I do have one, ---

3 CHAIRMAN COLINS:

4 All right. Go on.

5 COMMISSIONER COY:

6 --- Madam Chair. In light, Counselor, of
7 your looking at the precedent raised in the res
8 judicata, would you like more time to see if a
9 determination, if you can come to a determination in
10 that regard before the Board votes?

11 ATTORNEY DOWNEY:

12 If the Board believes that it would be
13 helpful to brief any issues further or to offer any
14 further testimony on this subject, we would certainly
15 ask that the record be held open and that we'd be
16 offered the opportunity to provide that additional
17 information.

18 COMMISSIONER COY:

19 Now, in light of that, Madam Chair, I'll
20 make a motion that we table the matter and allow
21 Shuffle Master to provide any information that they
22 think would be helpful to the Board in coming to a
23 conclusion on the matter.

24 COMMISSIONER SOJKA:

25 Second that.

1 CHAIRMAN COLINS:

2 All in favor of that motion to table?

3 AYES RESPOND

4 CHAIRMAN COLINS:

5 All right. I'm going to put it on the
6 next agenda, February 3rd. Okay. Thank you.

7 ATTORNEY COOK:

8 Good afternoon, Madam Chair, members of
9 the Board. Stephen Cook, Deputy Chief Counsel. The
10 next matter on the agenda is the Petition of the
11 Southeastern Pennsylvania Citizens Against Gambling,
12 and I believe Mr. James Schneller, representative of
13 that organization is here today. He would like to
14 address the Board.

15 I'll briefly give you a synopsis of this
16 situation. On October 27th, 2008, Southeastern
17 Pennsylvania Citizens Against Gambling filed a
18 Petition to Intervene in the matter of the Category 3
19 slot machine applications of Valley Forge Convention
20 Center Partners, L.P., Bushkill Group, Inc. and
21 Vacation Charters, Limited. They also filed a motion
22 for leave to file the Petition to Intervene at that
23 time.

24 In its Petition Southeastern makes many
25 averments, the central claim of which is that the

1 gaming facility --- these gaming facilities will
2 adversely affect many aspects of the communities that
3 lie within a certain distance of the casino.
4 According to the Board's duly promulgated regulations,
5 all Petitions to intervene in licensing matters must
6 be filed 45 days prior to the commencement of the
7 first scheduled licensing hearing.

8 The first licensing hearing for the
9 Category 3's was held on October 22nd, 2007, that was
10 the eligibility hearings. Southeastern's Petition to
11 Intervene should have been filed based on that date,
12 no later than September 27th, 2007. It was therefore
13 13 months late in filing.

14 Mr. Schneller, on behalf of Southeastern
15 cited an eye infection for his reason for the late
16 filing. The OEC and Valley Forge have each filed
17 Answers to the Petition and the motion, averring that
18 the Petition is late in filing and untimely, as well
19 as unsupported by fact.

20 On December 2nd, 2008 Southeastern filed
21 a motion to amend its original Petition, attempting to
22 clarify who, in fact, comprises the organization and
23 making several other statements regarding gaming in
24 general.

25 The Bureau of Investigations and

1 Enforcement (BIE), through the OEC, filed its Answer
2 to the motion and objected to the relief requested in
3 that motion as well. The matter is now ripe for
4 consideration. The OCC recommends that the Board now
5 consider a motion denying Southeastern's motion to
6 leave to file a motion out of time, as it is
7 unsupported by good cause. As a result of the Board
8 granting that motion, if they would so do, it would
9 effectively deny the Petition of Southeastern's
10 seeking to intervene in the matter as moot, as well as
11 all subsequent filings would also be moot at that
12 point.

13 CHAIRMAN COLINS:

14 Okay. Thank you.

15 MR. SCHNELLER:

16 Yes, Madam Chair, thank you.

17 OFF RECORD DISCUSSION

18 CHAIRMAN COLINS:

19 All right. Go on, sir.

20 MR. SCHNELLER:

21 I thank the Board very much for the time
22 allotted for this short argument. As the Board's
23 aware, we are actually actively opposed to two
24 different applications, and so without further
25 discussion, I'd like to point out that Bushkill

1 Partners, Inc. has waived their objections to the
2 Petition completely and to the motion. At the same
3 time, we had a very strong argument, you know, almost
4 the same issues, regarding our delay.

5 Overall, we feel that the issue of delay
6 is somewhat inherent in our efforts to at least
7 superficially show the variety to what we claim as an
8 ample case, and a case of business with this court,
9 that being one of the elements of intervention.

10 We'd like to ask, perhaps, although we
11 had submitted an Affidavit that I object with all
12 respect, I'd ask that perhaps a hearing might have
13 been scheduled, or certainly we'd ask the Board if
14 there are gaps in your adjudication, or in your
15 ability to adjudicate, that further Affidavits would
16 be ordered.

17 We claim an abundance support in the law,
18 and I won't go on and on, but we claim there's an
19 abundance of support for alleviation for a delay.
20 Without setting a precedent for this, we have objected
21 to the regulation, because it's setting a 45-day limit
22 before the very first hearing, whereas the statute
23 and/or the regulations allow for two or more hearings,
24 because of the way this might affect ongoing and
25 metamorphosis changes in application, this is unfair.

1 We, of course, have claimed in our pleadings that we
2 have diligently sought our standing as intervener as
3 soon as possible. Certainly within 20 days of our
4 learning of the situation, the severity of the
5 situation and the fact that we had a significant
6 movement rolling along, we fortunately filed by the
7 60-day deadline of the hearing in Valley Forge.

8 The public comment permitted, and it's
9 such a substantial public comment, we feel that
10 supports us in large measure because we did timely
11 file that. We feel we've also satisfied the elements
12 of substantial direct and immediate situation that we
13 can directly assist in developing before the Board and
14 that there's little chance of reversal, so that not
15 only is it immediate, but it's the type of situation
16 that cannot be easily reversed. That's where our
17 pleadings make much about the quality of life, traffic
18 and similar community related issues that are familiar
19 to other agencies and boards, we claim there are
20 specific elements that we are enabled to add to the
21 proceedings, whereas no other party represents them at
22 all.

23 And of course, that's another element of
24 intervention that we really would hope to get before
25 the Board, and that also lends the urgency --- the

1 need for this, of us an intervener, despite the fact
2 that we've delayed, we call these, unofficially, the
3 planning related issues, environmental and --- and
4 because this is a gambling type of issue, we're
5 talking about having specific matters, we're talking
6 about health, that being not only mental health but
7 physical health, we're talking about morals, we're
8 talking about education and effects on the youth.

9 We don't think these issues can be lost
10 in the fact that the Act was passed with the intent of
11 expeditiousness.

12 ATTORNEY COOK:

13 Madam Chair, if I could interject? I
14 believe the matter before the Board is the motion on
15 wanting to file after time had expired and not the
16 substance of the Petition.

17 MR. SCHNELLER:

18 Yes, I apologize. I'm trying to at least
19 give a superficial from ---.

20 CHAIRMAN COLINS:

21 Do you have anything further to add
22 regarding that issue, the timeliness of your filing?
23 That's the issue before the Board now.

24 MR. SCHNELLER:

25 Yes, I do.

1 CHAIRMAN COLINS:

2 What else do you have to say about that?

3 MR. SCHNELLER:

4 The hinting word in the regulations
5 appears to be a matter of extraordinary --- quote,
6 unquote, extraordinary reason. I have, as a joint
7 petitioner with our organization, claimed that as a
8 driving force, and during that time the driving force,
9 especially for the lack of funds, I was doing whatever
10 evaluative work, and if I may a legal work, even that
11 statement may bother the attorneys, but because I was
12 a driving force, I have a legitimate claim to stating
13 that my personal circumstances at the time caused this
14 extraordinary reason.

15 Also, we claim, and I will espouse on
16 that immediately, but we do also claim that sheer lack
17 of knowledge, perhaps, even by itself, especially in
18 light of the fact that there was not a lot of
19 publicity made to this. It may seem that way to
20 observers and to the Board and your employees who were
21 involved actively, but to a citizen, I would say there
22 was a 50/50 chance that if a citizen would be aware of
23 this, there's many issues in the modern world, many
24 issues in Philadelphia and many issues in the western
25 suburbs as there are everywhere.

1 As far as extraordinary is concerned,
2 I've put together a short list of time related matters
3 of law. I suppose for out of sheer curiosity, I'd
4 like to say the extraordinary matters, as stated in my
5 Affidavit, while they are not stated in a notarized
6 Affidavit, I'd certainly be willing to so provide, and
7 I'd also be willing to testify at any time.

8 I've testified to these, which are
9 essentially court related issues in my life. I've
10 testified to them at length, any number of dockets
11 and/or court ---.

12 CHAIRMAN COLINS:

13 Sir, it's a simple question. Why were
14 you late in filing? Why were you late in the filing
15 of your Petition?

16 MR. SCHNELLER:

17 Lack of knowledge, furthered by
18 intentional obstruction and impoverishment of myself.

19 CHAIRMAN COLINS:

20 Okay.

21 MR. SCHNELLER:

22 And it is serious and ongoing.

23 CHAIRMAN COLINS:

24 Okay. Thank you.

25 CHAIRMAN COLINS:

1 All right.

2 MR. SCHNELLER:

3 If I may continue, Madam Chair.

4 CHAIRMAN COLINS:

5 Go on. But stick to that issue, sir.

6 MR. SCHNELLER:

7 We had thought and we had researched the
8 matter of good cause, and are somewhat familiar with
9 it in terms of the professional liability of the law,
10 not to diverge, but that also was a very strict
11 requirement in Pennsylvania, and being familiar with
12 good cause type arguments, this very reason has been
13 accepted by certain courts. I think it would --- I
14 know this is just an agency, but more so over the
15 standard --- any administrative proceeding, once an
16 individual is intentionally obstructed, and --- there
17 is a loss of due process. And many, many people are
18 not familiar with that, but while the parties are not
19 related to any casino, I would hope they --- this is a
20 matter of the record.

21 Likewise, in discussions of developments
22 --- discussions of time and delay, developments in the
23 law can alleviate a tribunal's disappointments or
24 misgivings, and this is a development in the law. My
25 issues here, while I state they're ongoing, are in

1 full and active litigation. And this is litigation
2 that's worthy of a presentation to the court at some
3 other hearing, but it's also decided in some courts a
4 nebulous, but deals with this constitutional issue of
5 obstruction and retaliation.

6 CHAIRMAN COLINS:

7 All right. Sir, I'm going to interrupt
8 you now. I'm going to ask Enforcement Counsel, do you
9 have a brief statement?

10 ATTORNEY CREANY:

11 Madam Chair, we rest on the pleadings
12 that the regulation is clear, the time limits of the
13 regulation were clear, that the time limits were not
14 met, and in any of the pleadings, no extraordinary
15 circumstances were shown, which would enable the Board
16 to give relief to this Petitioner.

17 CHAIRMAN COLINS:

18 Okay. And just reiterate one more time,
19 the motion before the Board.

20 ATTORNEY COOK:

21 The motion to be considered by the Board
22 would be to deny the motion to file the Petition to
23 Intervene out of time, and the effect of that motion
24 would be to moot all further pleadings of this matter.

25 CHAIRMAN COLINS:

1 All right. Do I have a motion from the
2 Board?

3 COMMISSIONER MCCABE:

4 So moved.

5 CHAIRMAN COLINS:

6 Is there a second?

7 COMMISSIONER GINTY:

8 Second.

9 CHAIRMAN COLINS:

10 All in favor?

11 AYES RESPOND

12 CHAIRMAN COLINS:

13 Opposed?

14 NO RESPONSE

15 CHAIRMAN COLINS:

16 The motion carries. The Petition to
17 Intervene is denied. Mr. Schneller, thank you.

18 MR. SCHNELLER:

19 Thank you.

20 ATTORNEY SHERMAN:

21 Madam Chair, the next matter before the
22 Board is Innovation Group's Petition for Permission to
23 be removed from a Prohibited Vendor List. The OEC and
24 the Innovation Group have entered into a Consent
25 Agreement in order to resolve the Petition for

1 Permission to be removed from the list of prohibited
2 vendors.

3 By way of background, Innovation Group
4 was placed on the Prohibited Vendor List December 9th
5 of 2008 because it failed to provide certain requested
6 information to Board staff, including a question
7 regarding vendor employees, completed diversity plan
8 and certain authorizations required by the PGCB.

9 The Consent Agreement provides an
10 explanation of the series of events and the
11 circumstances under which the Innovation Group failed
12 to provide the requested information within the
13 deadline. And largely, portrays as a series of
14 clerical errors.

15 As a result of the Innovation Group's
16 failure to submit the requested documents, it has
17 agreed to pay a \$1,500 civil penalty to the Board
18 within 15 days of the entry of the Board's Order.
19 It's also represented that the required documents have
20 now been filed. The Consent Agreement between the
21 Innovation Group and the OEC and a request to remove
22 the Innovation Group from the Prohibited Vendors List
23 is now ready for the Board's consideration.

24 CHAIRMAN COLINS:

25 Thank you. May I have a motion?

1 COMMISSIONER GINTY:

2 Madam Chair, I move that the Board
3 approve the Petition to remove the Innovation Group
4 from the Prohibited Vendors list as described by the
5 OCC.

6 COMMISSIONER COY:

7 Second.

8 CHAIRMAN COLINS:

9 Any objection from Enforcement Counsel?

10 ATTORNEY CREANY:

11 No, Madam Chairman.

12 CHAIRMAN COLINS:

13 All in favor?

14 AYES RESPOND

15 CHAIRMAN COLINS:

16 Opposed?

17 NO RESPONSE

18 CHAIRMAN COLINS:

19 Motion carries. Thank you.

20 ATTORNEY COOK:

21 Next on the agenda are withdrawals. The
22 Board has received eight unopposed Petitions to
23 withdraw applications which include nine withdrawals
24 consisting of three Principal Applications, one
25 Principal Renewal, four Key Employee Applications and

1 one Vendor Registration Application. The OEC has no
2 objection to these withdrawals, therefore these
3 Petitions would all be granted without prejudice.

4 CHAIRMAN COLINS:

5 Thank you. May I have a motion?

6 COMMISSIONER MCCABE:

7 Madam Chair, I move that the Board issue
8 Orders to approve the withdrawals or surrenders, as
9 described by the OCC.

10 CHAIRMAN COLINS:

11 May I have a second?

12 COMMISSIONER RIVERS:

13 Second.

14 CHAIRMAN COLINS:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN COLINS:

18 Opposed?

19 NO RESPONSE

20 CHAIRMAN COLINS:

21 Motion carries.

22 ATTORNEY COOK:

23 Next before the Board for consideration
24 are two Reports and Recommendations received from the
25 Office of Hearings & Appeals (OHA) relative to two

1 Non-gaming Registrations. These Reports and
2 Recommendations, along with the evidentiary record for
3 each hearing have been provided to the Board in
4 advance of this meeting.

5 Additionally, in each case the applicant
6 has been notified, the Board is considering his or her
7 Report and Recommendation today, and that he or she
8 has the right to be present to address the Board. If
9 any of the individuals are present today, they should
10 come forward when their name is announced.

11 The first Report and Recommendation
12 pertains to Ronald Manley. Mr. Manley sought work as
13 an EVS Attendant at Harrah's Chester Casino &
14 Racetrack. On October 3rd, 2008, the OEC issued a
15 Notice of Recommendation of Denial of the original
16 application due to the fact that Mr. Manley failed to
17 disclose numerous arrests and convictions. While Mr.
18 Manley --- I'm sorry, excuse me.

19 Mr. Manley was arrested seven times
20 between February 1979 and June 1990. Six of those
21 arrests involved felony charges. Mr. Manley had
22 originally disclosed only one of his felony
23 convictions and then later amended his application to
24 include only one other arrest. Even with those
25 disclosures, Mr. Manley failed to disclose the bulk of

1 his arrests.

2 Mr. Manley requested a hearing and
3 attended, and during his hearing, he admitted that he
4 did not acknowledge his complete criminal history
5 because he felt it would impede his ability to secure
6 employment.

7 The OCC recommends that the Board
8 consider a motion adopting the Report and
9 Recommendation of the OHA and deny Mr. Manley's
10 application.

11 ATTORNEY PITRE:

12 We ask that you adopt the Report and
13 Recommendation.

14 CHAIRMAN COLINS:

15 Very good. May I have a motion?

16 COMMISSIONER RIVERS:

17 Yes. Move to approve.

18 COMMISSIONER SOJKA:

19 Second.

20 CHAIRMAN COLINS:

21 All in favor?

22 AYES RESPOND

23 CHAIRMAN COLINS:

24 Opposed?

25 NO RESPONSE

1 CHAIRMAN COLINS:

2 Motion carries.

3 ATTORNEY COOK:

4 The final Report and Recommendation
5 before the Board today is Dale Phillips. Mr. Phillips
6 submitted an application seeking work as a Cook at
7 Mohegan Sun. The OEC issued a Notice of
8 Recommendation of Denial based upon Mr. Phillips'
9 failure to disclose his entire criminal history and
10 the nature of his criminal history.

11 While Mr. Phillips did disclose that 1989
12 he had been arrested and convicted of a drug
13 possession charge and that in November of 2006 he was
14 arrested and convicted of conspiracy to deliver
15 narcotics, he failed to disclose a third drug
16 conviction. He requested a hearing, failed to show
17 for the hearing, and based upon that, evidence was
18 presented by the OEC showing that Mr. Phillips failed
19 to report that additional conviction as well as two
20 other arrests that did not result in conviction.

21 The OCC recommends that the Board
22 consider a motion to adopt the Report and
23 Recommendation of the OHA to deny Mr. Phillips'
24 application.

25 CHAIRMAN COLINS:

1 May I have a motion? Is there an
2 objection?

3 ATTORNEY PITRE:

4 There's no objection.

5 CHAIRMAN COLINS:

6 Okay. Motion, please.

7 COMMISSIONER SOJKA:

8 Madam Chair, I move for the
9 Recommendation of the OHA.

10 CHAIRMAN COLINS:

11 May I have a second?

12 COMMISSIONER MCCABE:

13 Second.

14 CHAIRMAN COLINS:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN COLINS:

18 Opposed?

19 NO RESPONSE

20 CHAIRMAN COLINS:

21 Motion carries. Thank you.

22 ATTORNEY COOK:

23 The next matter, Madam Chair, is of a
24 miscellaneous nature. On March 27th, 2008, the Board
25 issued an Order applicable to all slot machine

1 licensees dealing with how certain matters relating to
2 promotion should be handled. Subsequently, on
3 December 13th, 2008, the Board finally promulgated
4 Regulation 125-88, which requires all slot machine
5 licensees to have internal controls regarding the
6 conduct of promotions.

7 As a result of the passage of Regulation
8 125-88 and the regulatory authority given to the Board
9 pursuant thereto, it will be appropriate for the Board
10 to now rescind its --- rescind its March 27th, 2008
11 Order regarding promotions.

12 CHAIRMAN COLINS:

13 May I have a motion?

14 COMMISSIONER COY:

15 Madam Chair, I move the Board rescind the
16 March 27, 2008 Order regarding the Licensee's
17 Promotional Guidelines, as described by the OCC.

18 COMMISSIONER SOJKA:

19 Second.

20 CHAIRMAN COLINS:

21 All in favor?

22 AYES RESPOND

23 CHAIRMAN COLINS:

24 Opposed?

25 NO RESPONSE

1 CHAIRMAN COLINS:

2 Motion carries.

3 ATTORNEY COOK:

4 Thank you.

5 ATTORNEY SHERMAN:

6 Madam Chairman, the final matter which is
7 listed on the agenda today is that regarding the
8 Category 3 License applicants. As indicated
9 previously, the record previously had been closed, the
10 matter is pending for the Court --- I'm sorry, for the
11 Board's convenience to address.

12 CHAIRMAN COLINS:

13 Okay. Thank you. This had previously
14 been scheduled for a vote. I understand there are
15 some questions or issues that some of the
16 Commissioners want to raise at this point in time.

17 COMMISSIONER COY:

18 Madam Chair, ---

19 CHAIRMAN COLINS:

20 Yes.

21 COMMISSIONER COY:

22 --- thank you very much. I'm losing my
23 voice at the end of the day here, and that won't upset
24 many people. But before I do, because I believe it is
25 in the public interest that we re-examine the

1 financial commitments that these applicants may or may
2 not have, and because those commitments were part of a
3 record that was taken several months ago. And because
4 I think we all know the economic situation of the
5 world has changed and may or may not affect the
6 current ability to fund the projects as previously
7 demonstrated, I would like to move that in light of
8 these questions involving financial markets and
9 whether or not the Category 3 applicants before us
10 have firm commitments concerning their finances and
11 not a commitment simply like a term sheet, but a firm
12 and binding commitment on the part of the financial
13 institution, I would like to move that we table these
14 decisions today and reopen the record, direct that
15 each applicant submit updated --- an updated
16 memorandum reflecting the status and complete report
17 of the financing and commitments relating to their
18 projects.

19 CHAIRMAN COLINS:

20 Okay. Let me ask you this, Commissioner
21 Coy, then, you're ---.

22 COMMISSIONER COY:

23 Maybe it would be appropriate to have a
24 second?

25 COMMISSIONER SOJKA:

1 I'll second that.

2 COMMISSIONER COY:

3 Thank you.

4 CHAIRMAN COLINS:

5 Just to clarify.

6 COMMISSIONER COY:

7 Yes.

8 CHAIRMAN COLINS:

9 What we're going to do is clarify, but
10 basically your interest is to obtain additional ---
11 open the record, obtain additional evidence of the
12 firmness of the financial commitment to back --- to
13 cover the projects; correct?

14 COMMISSIONER COY:

15 Correct. And going a step further to say
16 that I believe the law indicates that the records can
17 be reopened under three conditions. And the one is
18 that there's been a change in the law or there has
19 been a change in the facts, and finally that it would
20 be in the public interest.

21 CHAIRMAN COLINS:

22 Okay.

23 COMMISSIONER COY:

24 And I think clearly it's within the
25 public interest to have these applicants demonstrate

1 to us that they have the financial wherewithal to move
2 forward with these projects.

3 CHAIRMAN COLINS:

4 Now, are you asking for an indefinite ---
5 what's the --- my inclination is to ask that the
6 record be opened and close and give it ten days, and
7 then reschedule it for the next hearing, February 3rd,
8 at which time depending on the evidence that's
9 received, we consider that new evidence and make a
10 determination on the 3rd.

11 COMMISSIONER COY:

12 Well, I'm happy to consider it at
13 whatever time the applicants provide to us,
14 substantially correct information about their
15 financial commitments.

16 CHAIRMAN COLINS:

17 Okay.

18 COMMISSIONER SOJKA:

19 Well, does that not then give them,
20 essentially, an open-ended window? Wouldn't we be
21 better to place a terminal date on it? Otherwise,
22 they could string this out indefinitely?

23 CHAIRMAN COLINS:

24 I believe that since this is an
25 administrative proceeding and we're opening the record

1 that we --- I would like to see a time frame on it. I
2 would like to see ten days to come forward with
3 evidence of financial commitment. And reschedule this
4 for the 3rd, at which time if the evidence is
5 satisfactory and we feel we can vote at that time, we
6 will. If we feel that for some other reason we have
7 to --- if we feel that there's more time necessary for
8 these applicants to produce that evidence, we can
9 provide it. But I'd like to have some sort of time
10 period on it.

11 COMMISSIONER COY:

12 I don't object to you using the next
13 meeting as the target date.

14 CHAIRMAN COLINS:

15 Okay. Good.

16 COMMISSIONER COY:

17 And under the premise that we have
18 information satisfactory, we'll consider it.

19 CHAIRMAN COLINS:

20 Okay. So then ---?

21 COMMISSIONER SOJKA:

22 Do we need to amend that motion?

23 CHAIRMAN COLINS:

24 Let's correct the motion, yeah.

25 COMMISSIONER COY:

1 If the amendment is to simply insert a
2 ten-day period for them to respond, that's fine with
3 me.

4 CHAIRMAN COLINS:

5 And then we'll put it on the February ---
6 all right. Is there a second on that?

7 COMMISSIONER SOJKA:

8 My second's still good.

9 CHAIRMAN COLINS:

10 Okay. All in favor?

11 AYES RESPOND

12 CHAIRMAN COLINS:

13 Opposed?

14 NO RESPONSE

15 CHAIRMAN COLINS:

16 Motion carries. And I will schedule this
17 for February 3rd, at which time we will evaluate the
18 evidence presented and sufficient for us to vote, we
19 will vote. If, for some reason, there's a need to
20 extend to gather more financial information, we'll
21 consider that, but the goal is to schedule it for the
22 3rd and have enough information from the ten-day
23 opening of the record to be able to vote.

24 COMMISSIONER COY:

25 I just wanted to make sure, you did say

1 the 3rd?

2 CHAIRMAN COLINS:

3 I did.

4 COMMISSIONER COY:

5 Yeah.

6 OFF RECORD DISCUSSION

7 COMMISSIONER GINTY:

8 I think you meant the 4th.

9 CHAIRMAN COLINS:

10 No, the 3rd is our meeting.

11 COMMISSIONER GINTY:

12 The 3rd is our meeting?

13 CHAIRMAN COLINS:

14 Yes. Okay. Thank you very much.

15 ATTORNEY SHERMAN:

16 That concludes the report of the OCC.

17 CHAIRMAN COLINS:

18 All right. Go on, please.

19 MS. HENSEL:

20 Thank you, Chairman Colins and members of
21 the Board. I have several licensing matters to bring
22 before you this afternoon. First, we have five
23 Manufacturer Licenses that are up for their renewal.
24 These licenses were originally awarded in February
25 2006 and renewed in August of 2007. Each of the

1 Licensees timely filed their renewal applications
2 which allows their licenses to stay in effect for an
3 additional six months.

4 With respect to each renewal applicant,
5 the BIE has completed its investigation, and the
6 Bureau of Licensing has provided you with a Renewal
7 Suitability Report. In each case, no issues were
8 identified by either the BIE or Licensing that would
9 preclude licensure.

10 The renewal applicants are Aristocrat
11 Technologies Australia, Pty. Limited, Aristocrat
12 Technologies, Inc., NRT, Western Money Systems and WMS
13 Gaming, Inc. I have provided you with draft Orders
14 prior to this meeting for each of these companies and
15 their Principals and Key Employees and ask that the
16 Board consider the Orders individually.

17 COMMISSIONER GINTY:

18 I was going to say so moved, but I guess
19 I can't do that. Madam Chairman, I move that the
20 Board approve the Order renewing the Manufacturer
21 License for Aristocrat Technologies Australia Pty.,
22 Limited.

23 COMMISSIONER COY:

24 Second.

25 CHAIRMAN COLINS:

1 All in favor?

2 AYES RESPOND

3 CHAIRMAN COLINS:

4 Opposed?

5 NO RESPONSE

6 CHAIRMAN COLINS:

7 Motion carries.

8 COMMISSIONER MCCABE:

9 Madam Chair, I move that the Board
10 approve the Order renewing the Manufacturer License
11 for Aristocrat Technologies, Incorporated.

12 COMMISSIONER RIVERS:

13 Second.

14 CHAIRMAN COLINS:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN COLINS:

18 Opposed?

19 NO RESPONSE

20 CHAIRMAN COLINS:

21 Motion carries.

22 COMMISSIONER RIVERS:

23 Madam Chair, I move that the Board
24 approve the Order renewing the Manufacturer License of
25 NRT Technology Corporation.

1 COMMISSIONER SOJKA:

2 Second.

3 CHAIRMAN COLINS:

4 All in favor?

5 AYES RESPOND

6 CHAIRMAN COLINS:

7 Opposed?

8 NO RESPONSE

9 CHAIRMAN COLINS:

10 Motion carries.

11 COMMISSIONER SOJKA:

12 Madam Chairman, I move that the Board
13 approve the Order renewing the Manufacturer License
14 for Western Money Systems.

15 COMMISSIONER COY:

16 Second.

17 CHAIRMAN COLINS:

18 All in favor?

19 AYES RESPOND

20 CHAIRMAN COLINS:

21 Opposed?

22 NO RESPONSE

23 CHAIRMAN COLINS:

24 Motion carries.

25 COMMISSIONER COY:

1 Madam Chair, I move the Board approve the
2 Order renewing the Manufacturer License of WMS Gaming,
3 Incorporated.

4 COMMISSIONER GINTY:

5 Second.

6 CHAIRMAN COLINS:

7 All in favor?

8 AYES RESPOND

9 CHAIRMAN COLINS:

10 Opposed?

11 NO RESPONSE

12 CHAIRMAN COLINS:

13 Motion carries.

14 MS. HENSEL:

15 The next matter for your consideration
16 are Key Employee licenses. Prior to this meeting the
17 Bureau of Licensing provided you with a proposed Order
18 for 28 Key Employee licenses. I ask that the Board
19 consider the Order granting these licenses.

20 CHAIRMAN COLINS:

21 Motion, please?

22 COMMISSIONER GINTY:

23 I understand one name was removed from
24 that list?

25 MS. HENSEL:

1 Yes, that is correct.

2 COMMISSIONER GINTY:

3 Madam Chair, I move that the Board issue
4 an Order to approve the issuance of Key Employee
5 licenses, as described by the Bureau of Licensing.

6 COMMISSIONER MCCABE:

7 Second.

8 CHAIRMAN COLINS:

9 All in favor?

10 AYES RESPOND

11 CHAIRMAN COLINS:

12 Opposed?

13 NO RESPONSE

14 CHAIRMAN COLINS:

15 Motion carries.

16 MS. HENSEL:

17 The Bureau of Licensing also provided you
18 with an Order regarding the issuance of Temporary Key
19 Employee licenses to 58 individuals. I ask that the
20 Board consider the Order approving these licenses.

21 COMMISSIONER MCCABE:

22 Madam Chair, I move that the Board issue
23 an Order to approve the issuance of Temporary Key
24 Employee licenses, as described by the Bureau of
25 Licensing.

1 COMMISSIONER RIVERS:

2 Second.

3 CHAIRMAN COLINS:

4 All in favor?

5 AYES RESPOND

6 CHAIRMAN COLINS:

7 Opposed?

8 NO RESPONSE

9 CHAIRMAN COLINS:

10 Motion carries.

11 MS. HENSEL:

12 In addition are Gaming and Non-gaming
13 Permits and Registrations. Prior to this meeting, the
14 Bureau of Licensing provided you with a list of 275
15 individuals, including 59 initial and 216 renewals,
16 who the Bureau has granted Occupation Permits to, and
17 75 individuals who the Bureau has granted
18 Registrations to under the authority delegated to the
19 Director of Licensing. I ask that the Board adopt a
20 motion approving the Order.

21 CHAIRMAN COLINS:

22 May I have a motion?

23 COMMISSIONER RIVERS:

24 So moved.

25 COMMISSIONER SOJKA:

1 Second.

2 CHAIRMAN COLINS:

3 All in favor?

4 AYES RESPOND

5 CHAIRMAN COLINS:

6 Opposed?

7 NO RESPONSE

8 CHAIRMAN COLINS:

9 Motion carries.

10 MS. HENSEL:

11 Next we have recommendations for Denials
12 for two Gaming and four Non-gaming employee
13 applications. Prior to this meeting, the Bureau of
14 Licensing provided you with Orders addressing each of
15 the individual Gaming and Non-gaming applicants to the
16 BIE has recommended for denial. In each case, the
17 applicant failed to request a hearing within the
18 specified time period. I ask that the Board consider
19 the Order denying the Gaming and Non-gaming
20 applicants.

21 CHAIRMAN COLINS:

22 Thank you.

23 COMMISSIONER SOJKA:

24 Madam Chairman, I move that the Board
25 issue an Order to approve the denial of Gaming and

1 Non-gaming Employee Permits and Registrations, as
2 described by the Bureau of Licensing.

3 COMMISSIONER COY:

4 Second.

5 CHAIRMAN COLINS:

6 All in favor?

7 AYES RESPOND

8 CHAIRMAN COLINS:

9 Opposed?

10 NO RESPONSE

11 CHAIRMAN COLINS:

12 Motion carries.

13 MS. HENSEL:

14 We also have withdrawal requests for
15 Gaming and Non-gaming employees. The Board has
16 delegated authority to the Director of Licensing to
17 approve routine Gaming and Non-gaming employee
18 withdrawal requests, provided the Director regularly
19 presents a list of withdrawals to the Board for
20 approval. For today's meeting, I have provided the
21 Board with a list of 43 withdrawals for approval. I
22 ask that the Board consider the Order approving the
23 list of withdrawals.

24 COMMISSIONER COY:

25 Madam Chair, I move the Board issue an

1 Order to approve the withdrawal of applications for
2 Gaming and Non-gaming Employee Permits and
3 Registrations, as described by the Director of Bureau
4 of Licensing.

5 COMMISSIONER GINTY:

6 Second.

7 CHAIRMAN COLINS:

8 All in favor?

9 AYES RESPOND

10 CHAIRMAN COLINS:

11 Opposed?

12 NO RESPONSE

13 CHAIRMAN COLINS:

14 Motion carries.

15 MS. HENSEL:

16 Finally, we have two matters concerning
17 vendors. The first is to certify the following nine
18 vendors. Absecon Island Beverage, Adirondack Scenic,
19 Inc., Agilysys NV, LLC, Avatar Software Creations,
20 Earl Girls, Inc., Iron Tree Data Networks, Inc.,
21 Micros-Fidelio Worldwide, Inc., Novick Brothers
22 Corporation and Warko Roofing Company, Inc. I ask
23 that the Board approve the vendors for certification.

24 COMMISSIONER GINTY:

25 So moved.

1 COMMISSIONER COY:

2 Second.

3 CHAIRMAN COLINS:

4 All in favor?

5 AYES RESPOND

6 CHAIRMAN COLINS:

7 Opposed?

8 NO RESPONSE

9 CHAIRMAN COLINS:

10 Motion carries.

11 MS. HENSEL:

12 Lastly, the Bureau provided you with an

13 Order and an attached list of 25 registered vendors.

14 I ask that the Board adopt a motion approving the

15 Order registering these vendors.

16 COMMISSIONER COY:

17 So moved.

18 COMMISSIONER RIVERS:

19 Second.

20 CHAIRMAN COLINS:

21 All in favor?

22 AYES RESPOND

23 CHAIRMAN COLINS:

24 Opposed?

25 NO RESPONSE

1 CHAIRMAN COLINS:

2 Motion carries.

3 MS. HENSEL:

4 That concludes the Bureau of Licensing's
5 presentation.

6 CHAIRMAN COLINS:

7 Thank you. Enforcement Counsel?

8 ATTORNEY DAVENPORT:

9 Good afternoon, Commissioners. In
10 December 2008 the OEC and Downs Racing, L.P., doing
11 business as Mohegan Sun at Pocono Downs entered into a
12 Consent Agreement with respect to an incident that
13 occurred in April of 2008.

14 Downs Racing and OEC entered into a
15 Consent Agreement previously in October of 2007 for an
16 underage incident that occurred in April of 2007.
17 Pursuant to the terms of the October 2007 Consent
18 Agreement, quote, Downs Racing shall amend its
19 Security Department Minimum Staffing Plan and other
20 sections of its System of Internal Controls intended
21 to prevent any violations of Section 1513.2(b) of the
22 Act. And at that point, that was the correct citation
23 to the Act, and to comport with the Consent Agreement.

24 An internal controls amendment form
25 addressing the Security Department deficiencies,

1 discussed above shall be submitted to the Board no
2 later than December 1st, 2007. The Board approved
3 that Consent Agreement on December 3rd, 2007.

4 We realize that Downs Racing has failed
5 to comply with the terms of the October 2007 Consent
6 Agreement, specifically, that it failed to submit an
7 internal controls amendment form addressing the
8 Security Department deficiencies by December 1st,
9 2007. Review of the Board's databases indicate that
10 the amendment to Section 465a.14 of Downs Racing's
11 internal controls was not submitted until January 5th
12 of 2009.

13 At this point, we have another Consent
14 Agreement before the Board. At this point, OEC
15 recommends that we look at that 2007 Consent Agreement
16 with respect to compliance with the terms of that
17 Consent Agreement.

18 CHAIRMAN COLINS:

19 Is there anything you want to add, Mr.
20 Rogers?

21 ATTORNEY ROGERS:

22 Thank you. I apologize?

23 CHAIRMAN COLINS:

24 Is there anything you want to add?

25 ATTORNEY ROGERS:

1 Yes, if we could, briefly. First, I'd
2 certainly like to begin by apologizing to the Board on
3 behalf of our organization for what was an
4 unintentional oversight on our part. We were quite
5 surprised when we were alerted that the internal
6 control had not been revised. We took steps to
7 promptly address that. And I hope and believe that
8 our past history and practices shows that we certainly
9 have a strong desire to comply with all of the Board's
10 Rules and Regulations.

11 I would also stress that the underlying
12 issue that was addressed by the internal control was
13 corrected almost immediately by our organization in
14 practice, if not in the substance of the internal
15 control. And by that, I mean, there was a
16 communication issue addressed that the internal
17 control was meant to correct. We corrected that in
18 practice almost immediately in terms of the
19 operational approach that we'll be taking with our
20 employees. We recognize it does not take the place of
21 the internal control, but we do want to stress to the
22 Board that it, I think, speaks to our overall desire
23 to remain compliant with all the Rules and Regulations
24 in place.

25 So with all that in mind, we hope and we

1 would ask the Board to consider those factors in
2 excusing this unintentional oversight on our part in
3 revising the internal control. That revised control
4 has since been submitted, and we would ask the Board
5 to allow the matter to go forward.

6 CHAIRMAN COLINS:

7 Thank you. May I have a motion?

8 COMMISSIONER RIVERS:

9 Yes. Madam Chair, I move that the Board
10 approve the Consent Agreement between BIE Enforcement
11 and the Mohegan Sun, as described by the OEC.

12 COMMISSIONER SOJKA:

13 Second.

14 CHAIRMAN COLINS:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN COLINS:

18 Opposed?

19 NO RESPONSE

20 CHAIRMAN COLINS:

21 Motion carries. Thank you very much.

22 ATTORNEY ROGERS:

23 Thank you.

24 OFF RECORD DISCUSSION

25 CHAIRMAN COLINS:

1 Go on.

2 ATTORNEY MILLER:

3 Madam Chairman, members of the Board,
4 Dustin Miller on behalf of the OEC. This afternoon,
5 we have two matters relating to Revocations of casino
6 employees. The records pertinent to each matter have
7 been provided to the Board previous to this meeting.
8 Upon their Petition to the complaints to each
9 employee, they failed to file a response and they have
10 been notified that their matter is being considered by
11 the Board today. If any of the individuals are
12 present, they should come forward when their name is
13 announced.

14 The first individual is Ashlie Buchanan.
15 Ms. Buchanan was a Non-gaming employee at Harrah's
16 Chester Casino. She was employed as a beverage
17 server. She was arrested on January 31st, 2008 for
18 theft by unlawful taking, receiving stolen property,
19 access device fraud and identity theft. These charges
20 are all graded as first degree misdemeanors.

21 According to the criminal complaint, Ms.
22 Buchanan found the wallet of a co-worker and took the
23 co-worker's bank card and made various unauthorized
24 purchases over a two-day period.

25 Ms. Buchanan has been terminated by

1 Harrah's Chester Casino and has also entered in
2 accelerated rehabilitative disposition program for her
3 criminal charges. However, she did not, at any time,
4 report her arrest to the Gaming Control Board staff.
5 On November 26th, 2008 the OEC had filed an
6 Enforcement Complaint to revoke Ms. Buchanan's
7 Non-gaming Registration for failure to maintain her
8 suitability and for her failure to report actions,
9 which would affect her suitability. She was served in
10 a timely manner, she did not respond to the complaint,
11 and therefore the facts alleged are conclusively
12 established.

13 Given Buchanan's clear violation of the
14 regulations, OEC asks this Board to revoke her
15 Non-gaming Employee Registration.

16 CHAIRMAN COLINS:

17 May I have a motion?

18 COMMISSIONER SOJKA:

19 Yes. Madam Chairman, I move that the
20 Board issue an Order to approve the revocation of the
21 Non-gaming Employee Registration of Ashlie Buchanan,
22 as just described by the OEC.

23 COMMISSIONER COY:

24 Second.

25 CHAIRMAN COLINS:

1 All in favor?

2 AYES RESPOND

3 CHAIRMAN COLINS:

4 Opposed?

5 NO RESPONSE

6 CHAIRMAN COLINS:

7 Motion carries.

8 ATTORNEY MILLER:

9 The next individual is Teagan Robinson.
10 She was employed as a bartender at Harrah's Chester
11 Downs Casino. On January 8th, 2008, Ms. Robinson was
12 charged with aggravated assault, possession of an
13 instrument of crime, criminal mischief, simple assault
14 and recklessly endangering another person by the
15 Philadelphia Police Department.

16 These charges consist of a first degree
17 felony, a first degree misdemeanor and three second
18 degree misdemeanors. The charges are the result of a
19 domestic incident that occurred on January 8th, 2008
20 in which Ms. Robinson attacked an individual with a
21 dangerous weapon.

22 OEC filed an enforcement action against
23 Ms. Robinson to revoke her Registration due to the
24 nature of the criminal charges and failure to disclose
25 these charges to Gaming Control Board staff. She did

1 not respond to the complaint, and therefore the facts
2 alleged are conclusively established.

3 Based upon OEC's request and the record
4 presented, it would be appropriate for the Board to
5 consider a motion revoking Teagan Robinson's
6 Non-gaming Registration pending revocation --- or I'm
7 sorry, just revocation.

8 CHAIRMAN COLINS:

9 May I have a motion?

10 COMMISSIONER COY:

11 Yes. Madam Chair --- and before I make a
12 motion, I just wanted to tell you, Dustin, we're glad
13 you identified yourself, because we weren't sure we'd
14 recognize you. But having made the observation, I
15 move that the Board issue an Order to approve the
16 Revocation of the Non-gaming Employee Registration of
17 Teagan Robinson, as described by the OEC.

18 COMMISSIONER GINTY:

19 Second.

20 CHAIRMAN COLINS:

21 All in favor?

22 AYES RESPOND

23 CHAIRMAN COLINS:

24 Opposed?

25 NO RESPONSE

1 CHAIRMAN COLINS:

2 Motion carries. Thank you very much.
3 That concludes our business. By way of final
4 announcement, the next public meeting --- does someone
5 have something they ---?

6 COMMISSIONER RIVERS:

7 Yes, Madam Chairman, I think it's proper
8 that you acknowledge the success of the Pittsburgh
9 Steelers, given the fact that that team on the other
10 side of the state ---.

11 CHAIRMAN COLINS:

12 All right. I'm going to conclude the
13 meeting. The next meeting is February 3rd at the
14 State Museum Auditorium at 11:00 a.m. Thank you. The
15 meetings adjourned.

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18 MEETING CONCLUDED AT 3:00 P.M.

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