

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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IN RE: MOHEGAN SUN AT POCONO DOWNS LICENSE RENEWAL  
HEARING

PA GAMING CONTROL BOARD LICENSE RENEWAL HEARING

\* \* \* \* \*

BEFORE: LINDA S. LLOYD, Chair

HEARING: Wednesday, August 19, 2009

LOCATION: Plains Township Municipal Building  
50 Second Street  
Plains, PA

WITNESSES: Troy Beaverson, Larry Newman, David Lee,  
Pinkie Stanzewski, Ed Koleski,  
Nanette Horner, Darryl Brown

Reporter: Kenneth Dominic O'Hearn

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CHAIR:

Good morning, my name is Linda Lloyd and I'm the presiding officer assigned by the Board to conduct this portion of a License Renewal Hearing for Downs Racing, Mohegan Sun at Pocono Downs. Before we begin, if we can turn off our cell phones or Blackberries and the like so they at least vibrate so they don't interrupt presentations ---. I call to order this hearing. The date is August 19, 2009. The time is 10:05. And the location is Plains Township Municipal Building Number 2.

This License Renewal Hearing is convened by the Pennsylvania Gaming Control Board, pursuant to the Authority filed at Section 1326(e) of the Gaming Act and the Board's regulations at 58 PA Code 4918A.8. The Board and Staff would like to thank Plains Township and its Staff for making the Municipal Building available for us today, for this hearing. We appreciate that. The hearing will begin with presentation by Downs Racing.

After the close of each witness's testimony, the Officer of Enforcement Counsel will have the opportunity to Cross Examine the witness.

1 Redirect will be permitted, and so forth, back and  
2 forth until all parties are satisfied all questions  
3 are asked and answered. After Downs Racing has  
4 concluded, Office of Enforcement Counsel will make its  
5 presentation in the same fashion with witnesses and  
6 Cross Examine, and such.

7           After the close of testimony and evidence  
8 from the parties, those individuals that have  
9 registered to speak today about the hearing regarding  
10 the public comment period will be heard as the name is  
11 called. Elected officials will have ten minutes to  
12 speak, representatives from the Community groups will  
13 have five minutes and individuals will have three. We  
14 don't have that many signed up today, so we may give  
15 you a little leeway on the time, since we don't have a  
16 lot of public speakers today.

17           All speakers will be sworn in, as a  
18 group. Before that happens, we will swear in those  
19 from Downs Racing, LLC in a few minutes. This is an  
20 official Administrative Hearing, so please treat this  
21 as if you were attending a court proceeding, please  
22 refrain from interrupting or speaking out loud during  
23 the proceedings, so we can hear what each witness has  
24 to say.

25           If you have any questions during the



1 hearing, Mickey Kane, our Board Staff, she raises her  
2 hand, you can pull her aside and ask her a question.  
3 So let's begin by having all witnesses from Downs  
4 Racing and the Office of Enforcement Counsel who would  
5 testify today during the hearing, please stand and  
6 raise your right hand to be sworn by the court  
7 reporter.

8 -----

9 WITNESSES SWORN EN MASSE:

10 -----

11 CHAIR:

12 And before we begin, if anyone  
13 participating needs a break for a little bit, please  
14 let me know and we'll take a break. Okay? Downs?

15 ATTORNEY KOHLER:

16 Good morning, Director Lloyd. We have a  
17 panel of witnesses representing Mohegan Sun at Pocono  
18 Downs, who are going to do a presentation, which  
19 follows the PowerPoint, which will be on the screen.  
20 They are starting on my left, Bobby Soper, who's  
21 president of Mohegan Sun at Pocono Downs, Mike Bean,  
22 who's the director of administration and Jeff  
23 Hartmann, who's actually with us this morning from  
24 Connecticut and the Parent Organization and has  
25 responsibility for this property. Without further

1 ado, I'm going to turn if over to the panel, and  
2 hopefully we'll have a nice presentation regarding in  
3 a summary fashion what's happened at Pocono Downs,  
4 Mohegan Sun at Pocono Downs since the last time we had  
5 an application pending.

6 MR. SOPER:

7 Thank you, Al. Is this --- can you hear?

8 CHAIR:

9 Is it on?

10 MR. SOPER:

11 Okay. There we go. Is it on? As Al  
12 mentioned, my name's Robert Soper. I'm president of  
13 Downs Racing, LP. And on behalf of Downs Racing,  
14 we're pleased to testify regarding suitability of our  
15 organization to renew its Category 1 license. Also,  
16 as Al noted, along with myself testifying today would  
17 be Mike Bean our vice president of administration here  
18 at our property, as well as Jeff Hartmann, the chief  
19 operating officer for Mohegan Tribal Gaming Authority.  
20 To begin our presentation, I would like Jeff to say a  
21 few words.

22 MR. HARTMANN:

23 Okay. Thank you, Bob. As Bob mentioned,  
24 I'm Jeff Hartmann. I serve as the chief operating  
25 officer of the Mohegan Tribal Gaming Authority. It's

1 a pleasure to be here today, so thank you very much.  
2 As you know, the authority's a legal instrumentality  
3 of the tribe, which is responsible for the operation  
4 of Mohegan Sun and serves as the general partner of  
5 the Licensee, Downs Racing, LP.

6           Now, I've been with the organization for  
7 13 years prior to opening of the initial phase of  
8 Mohegan Sun in 1996. As you know, the authority who  
9 owns and operates Mohegan Sun in Uncasville,  
10 Connecticut. It's recognized as one of the largest,  
11 most distinctive and spectacular entertaining, gaming,  
12 shopping and meeting destinations in the United  
13 States, with over 6,600 slot machines, 350 table  
14 games, 30 restaurant venues, 1,200 hotel rooms and  
15 10,000 seat Mohegan Sun area in one of the most  
16 shopped --- successful shopping venues in the nation.

17           This impressive array of amenities is  
18 complimented by our highly acclaimed design that's  
19 been associated with Mohegan Sun brand. Along with  
20 high quality product and distinctive design, this  
21 brand is also associated with unmatched customer  
22 service and a strong conviction to our core values.  
23 Our intent was to extend this brand by taking these  
24 attributes in Northeast Pennsylvania. I'm proud to  
25 say that Bobby and his team have accomplished this and

1 we're very proud to be here.

2                   Our organization and its owners, the  
3 Mohegan Tribe, not only pride themselves by creating a  
4 first class product and brand, but also seems very  
5 important and takes very seriously its relationship  
6 with the community, government bonds and its  
7 employees. In Connecticut, we have an extremely  
8 positive and open relationship with the local towns,  
9 state government, nonprofit agencies and other  
10 industries without our local community. This focus on  
11 relationships, the spirit of operation I'm confident  
12 to say has been brought in Pennsylvania. We have  
13 invested over \$550,000,000 in Northeastern  
14 Pennsylvania, which includes \$270,000,000 in bricks  
15 and mortar.

16                   We decided to invest in Northeastern  
17 Pennsylvania, not only because of the prospect of the  
18 new, growing market attracting to the demographics, we  
19 see opportunities in which we could leverage from our  
20 Connecticut property. But also we felt it was very  
21 important that we invest in an area that we know,  
22 where we could establish a long-term, positive  
23 relationship. We're pleased with this relationship  
24 and with the help of stable, welcomed community and  
25 the product we've created here.

1                   Notwithstanding the difficult economic  
2 times we're all facing, we continue to believe this  
3 project is a long-term success. I can say without  
4 hesitation that we remain committed to our presence  
5 here and ensuring the success of Mohegan Sun and  
6 Pocono Downs. When we initially applied for a  
7 Category 1 license we made no promises concerning our  
8 intentions for Mohegan Sun at Pocono Downs. We made  
9 promises about our investment and the amenities we  
10 will create. We provided assurances regarding our  
11 commitment to harness racing, in both physical  
12 improvements to the property and improvements in  
13 operation. We made assertions about potential  
14 economic gain for this area, including job creation  
15 and revenue generation. We made a pledge to hire  
16 locally. We expressed our commitment to diversity and  
17 the adoption of a comprehensive compulsive gambling  
18 program.

19                   So as I sit here today, I'm happy to say  
20 that we delivered on all these promises. And now I  
21 would like to turn the program back over to Bobby and  
22 Mike, who will tell you more specifically how we  
23 delivered on these promises. Again, thank you very  
24 much.

25                   MR. SOPER:

1                   Thank you, Jeff, I appreciate that. Now  
2 we'll turn your attention to the slide presentation  
3 and take you through the topics that will be presented  
4 today, as part of this presentation. I'm going to  
5 start off with talking about our casino operation, as  
6 well as the racing and amenities that we have at our  
7 property, talk a little about tax revenue, jobs we've  
8 created and Mike's going to take you through, you  
9 know, our accomplishments regarding adversity and our  
10 compulsive and problem gambling program, as well as,  
11 you know, our involvement in this community. And I  
12 will talk about our commitment to harness racing, and  
13 some of the challenges and we'll wrap it up from  
14 there.

15                   I'd like to start off by telling you a  
16 little bit about the casino operation, itself. When  
17 we applied for a Category 1 License, we laid out our  
18 plans for development of our property in two phases.  
19 Our first phase, we're going to include a major  
20 transformation of the current racetrack facilities,  
21 with additional building space to accommodate any such  
22 food --- food and beverage entities. This phase of  
23 our property was successfully opened as the first  
24 casino in Pennsylvania on November 14th, 2006, which  
25 included approximately 1,100 slot machines, which was

1 later expanded to 1,200 units. A 10,000 square foot  
2 food court, several bars and outdoor patio to  
3 accommodate group events, and new parking to  
4 accommodate 1,500 vehicles.

5           Our second phase, our permanent facility  
6 would be comprised of a wide array of gaming,  
7 restaurants, shopping and nightlife amenities. We  
8 successfully opened this phase on July 17th, 2008.  
9 Our permanent facility, deemed Project Sunrise, is  
10 designed in a manner that celebrates the culture,  
11 environment and people of the region by incorporating  
12 materials, imagery and art associated in Northeast  
13 Pennsylvania. With the unique designs, substantial  
14 amenity offering, as well as the thought out --- well  
15 thought out layout of a gaming floor and non-gaming  
16 amenities, we succeeded in accomplishing our goal in  
17 creating an entertaining destination, something very  
18 different than is often associated with racinos and  
19 high taxed environments.

20           The total estimated cost of construction  
21 for both phases of the project is approximately,  
22 \$270,000,000, which is substantially higher than the  
23 \$205,000,000 we previously estimated at the time of  
24 our initial license. Illustrated is a map of the  
25 completely integrated project, which you notice the

1 location of each of our amenities and how the two  
2 phases have been tied together. I'll now briefly  
3 describe the types of amenities that we have created  
4 here at Mohegan Sun Pocono Downs.

5           First our slot operation, a little  
6 difficult to see, but basically what this illustrates  
7 up to here is the type of games we have, you know,  
8 both video and real slot machines; mixes approximately  
9 88 percent real machines and 11 and a half percent  
10 poker machines. We do have approximately 2,400 ---  
11 actually 2,466 games today. I think it's important to  
12 note when we applied for our license we had estimated  
13 that we would have 2,000 units. So we've actually  
14 exceeded that amount by over 450 units.

15           Our harness racing operation, as you can  
16 see from the slide, we race from April through  
17 November and our current racing schedule has us racing  
18 Tuesday, Wednesday and Friday evenings and Saturday  
19 afternoon and our simulcast runs from 11:00 a.m. until  
20 the last race. And that's 365 days a year. I would  
21 make a couple points in regards to our racing  
22 operation. Number one, we had made substantial  
23 improvements to our property, and I'm going to tell  
24 you a little bit about that later on. But I think  
25 it's important to note that we made these improvements



1 first, you know, and I think it's in the spirit and  
2 intent of Act 71 that we were going to make an  
3 investment in the racing operation. And you know,  
4 before we were up and operating our slots or even knew  
5 when we were going to open and operate slots, we made  
6 these improvements. And I think that's worthy to  
7 note.

8           Number two, we take very seriously what  
9 our customers want. And because of the construction  
10 and constraints related to parking, we moved to day  
11 racing. Nevertheless, with the hopes we can move to  
12 night racing, we spent the money to invest in lights  
13 at our track. And I'm happy to say this past year, we  
14 were able to revert back to night racing and it has  
15 been well-received by our guests. And then finally,  
16 --- and it's something, again, I'm going to hit upon a  
17 little later. We developed a very strong relationship  
18 with our Horsemen Organization, Pennsylvania harness  
19 Horsemen's Association, their executive director Ron  
20 Battoni and their team. And I think it's a great  
21 example for many tracks, and it's allowed us to do  
22 what we've been able to do, in having that  
23 relationship.

24           Some of the other amenities that we had  
25 here, I --- you know, what we'd like to point out that

1 when we built this facility --- and I sort of alluded  
2 to it earlier that, you know, we wanted to create a  
3 destination. We wanted to have an offering that  
4 provided a very strong product, well recognized brands  
5 and a unique environment that you cannot find not  
6 only in Northeast Pennsylvania, but you know, you  
7 cannot find anywhere in Pennsylvania. And you know,  
8 just touch upon a few of the restaurant offerings, we  
9 have a wide variety. You know, whether you want an  
10 ice cream at Ben and Jerry's or a pizza at Wolfgang  
11 Puck or, you know, a nice steak at Ruth's Chris.

12           We provide a significant variety at price  
13 points that any of our patrons can afford. The other  
14 thing is, we want to provide some unique attributes.  
15 Our buffet is one location, where we wanted to tell  
16 the story of our own at Mohegan Tribe, and incorporate  
17 natural materials, things that are significant ---  
18 culturally significant to the tribe. Another good  
19 example of, you know, these, you know, unique products  
20 --- our Italian restaurant, Rustic Kitchen, is one of  
21 the fewer --- maybe the only restaurant that has  
22 within its four walls a television kitchen studio  
23 where we actually have live cooking shows every week  
24 and in the very near future will be televised on Fox  
25 Television.

1           So these are products we've invested in  
2 to, you know, help create that image that Jeff alluded  
3 to and, you know, extend that Mohegan Sun brand here  
4 in Pennsylvania. On shopping, we believe we have, you  
5 know, in the State of Pennsylvania at any casino  
6 location, you know, an unmatched retail experience. A  
7 wide variety, whether it's men's clothing, ladies  
8 clothing, electronics, wine and cheese shop and again,  
9 we wanted to create that full experience of, you know,  
10 shopping, restaurants, gaming and entertaining, as  
11 well.

12           And you know, we not only have live  
13 entertainment within the facility on the weekends and  
14 have some great nightlife amenities, Breakers and  
15 Sunburst Bar, but this summer we rolled out for the  
16 first time live entertainment outside, and it's been a  
17 very successful concert series. We've had LeAnn  
18 Rimes, Peter Frampton, Hall & Oates and in fact, this  
19 Sunday, we had Montgomery Gentry, a very popular  
20 country act and, again, a very successful offering  
21 there.

22           Just some of the other additional  
23 amenities --- and these are amenities that we didn't  
24 necessarily talk about when we applied for a license,  
25 but nevertheless added. We actually have a radio

1 station located on our facility. We are a part owner  
2 of this. But it provides an opportunity to really get  
3 the word out and, you know, have special guests get  
4 the word out about our facility, and see unique ---  
5 and unique, actually, that you wouldn't find them in  
6 most casinos.

7           And a couple of other things, we wanted  
8 to utilize the space we had in our first phase in a  
9 positive way, so we converted our food court into a  
10 nice ballroom, and some of our gaming space into some  
11 other, you know, meeting spaces. And those have been  
12 well received, in addition to all the other products.

13   So that's a synopsis of our property and the  
14 amenities that we offer. As part of our initial  
15 application, we espouse the economic benefits of this  
16 project, which included, among other benefits, job  
17 creation, generation of significant business to local  
18 suppliers and vendors and the generation of tax  
19 revenue, all of which come to fruition --- have come  
20 to fruition.

21           Illustrated on this slide are some of the  
22 actual numbers of the taxes we have generated for the  
23 Commonwealth, local governments and the horse racing  
24 industry. To date, you know, up to the --- this past  
25 fiscal year, Pennsylvania's past fiscal year, we

1 generated over \$483,000,000 in those --- in taxes.

2           In regards to hiring, we previously  
3 estimated, again, at the time of licensing, that our  
4 initial license --- that there would be approximately  
5 800 jobs created with both phases of our project. As  
6 noted on the slide, we currently have over a 1,000  
7 team members that operate Mohegan Sun at Pocono Downs.  
8 So clearly we not only fulfilled that promise, but  
9 we've exceeded our initial estimates on job creation.

10           Just some other points of interest  
11 related to the workforce at our property, 162 of those  
12 jobs are executive managerial and professional  
13 positions that are --- I think bring added value both  
14 to our property and to this area. I think another  
15 very important point is that, you know, in the three  
16 years that we've been open, there have been 250  
17 promotions. That's to me an astounding number. In  
18 very few industries and organizations do you see that  
19 type of advancement in such a short period of time and  
20 we do have a philosophy of hiring within our  
21 organization. So you know, we like to tell our team  
22 members when they start if you have a passion of  
23 providing service and a passion of doing a good job,  
24 there's going to be opportunities. And we have  
25 numbers that back that up. And I think that is not

1 only positive for our organization, but it's positive  
2 for the area.

3           Then finally, you know, we made promises  
4 regarding hiring locally. In fact, we estimated that  
5 95 percent of our workforce would come from  
6 Pennsylvania. And as you can see from this slide  
7 here, we fulfilled that promise and actually exceeded  
8 it. Almost a hundred percent reside in Pennsylvania,  
9 99.6 percent. Now, to discuss our efforts and  
10 diversity in hiring, as well as contracting as well as  
11 discussing some other initiatives, I'm now going to  
12 turn it over to Mike Bean, our vice president of  
13 administration.

14           MR. BEAN:

15           Thank you, Bobby. Good morning, I'm  
16 pleased to be here today on behalf of Mohegan Sun at  
17 Pocono Downs. I'd like to speak to you today about  
18 our diversity initiatives, our Compulsive and Problem  
19 Gambling and our community involvement. The first  
20 area that I'd like to discuss is diversity. And I  
21 want to point out that --- it's important to note that  
22 Mohegan Sun at Pocono Downs is a minority business  
23 itself. It's owned and operated by the Mohegan Tribe.  
24 The Mohegan Sun at Pocono Downs Chief Executive  
25 Officer is Native American. And all members of the

1 governing body of the Mohegan Tribe are Native  
2 American.

3           So as such, the Mohegan Sun at Pocono  
4 Downs is committed to achieving diversity in all  
5 aspects of its operation. And to that end, Mohegan  
6 Sun at Pocono Downs developed a diversity plan to  
7 assure that all persons are afforded equal opportunity  
8 employment in contracting with Mohegan Sun at Pocono  
9 Downs. Our diversity plan and corresponding  
10 objectives are divided into two primary parts,  
11 diversity employment and diversity as it relates to  
12 contractors.

13           As shown on this slide, when Mohegan Sun  
14 purchased the Pocono Downs property, our diversity was  
15 1.5 percent. As we've grown the number of team  
16 numbers from under 200 to more than 1,000 as Bobby  
17 previously stated, we not only increased the number of  
18 diverse team members, we have substantially increased  
19 our overall team number versus percentage to 9.1  
20 percent. This is six times the diversity percentage  
21 of the employee base, when we purchased Pocono Downs  
22 and more than doubled the 3.9 percent benchmark of the  
23 local metropolitan statistical area.

24           Diversity and management professional  
25 positions also exceeded the local MSA benchmark. In

1 addition, female diversity inside Pocono Downs  
2 exceeded the local MSA benchmark. The next diversity  
3 area, I'd like to discuss is our diversity in  
4 contracting. Over the past three years 9.2 percent of  
5 vendor spending by Mohegan Sun at Pocono Downs has  
6 been the minority and women owned businesses. This is  
7 above the 6.1 percent benchmark in the local MSA. And  
8 to achieve this Mohegan Sun at Pocono Downs has  
9 maintained active memberships with the minority  
10 supplier, development council of Pennsylvania,  
11 Delaware and New Jersey, and with the Women's  
12 Enterprise Council of Pennsylvania, Delaware and New  
13 Jersey.

14           Some of our diversity highlights, for a  
15 lifetime gold member of the NAACP, we're sponsoring  
16 this year and hosting the NAACP's 100th anniversary  
17 celebration. We're members of the Diversity Committee  
18 of the Wilkes-Barre Chamber of Commerce and we are  
19 members of the Board of Diversity Institute at the  
20 College of Misericordia. In addition to that, we hold  
21 quarterly diversity committee meetings to review the  
22 status of our clients with our diversity plan.

23           The next area that I'd like to touch upon  
24 is compulsive and problem gambling. Mohegan Sun at  
25 Pocono Downs is committed to addressing issues



1 associated with compulsive and problem gambling. We  
2 work with the council on compulsive gambling in  
3 Pennsylvania to develop and implement training for all  
4 of Mohegan Sun at Pocono Downs team members.

5           In addition, we parted with the council  
6 on compulsive gambling of Pennsylvania as a yearly  
7 contributor to the CCGP and sponsored the statewide  
8 CCGP conference. We've also participated in broader  
9 efforts as a sponsor of national problem with gambling  
10 awareness week for the past three years. And on a  
11 local level, we have various team member activities to  
12 reinforce our commitment to addressing compulsive and  
13 problem gambling issues.

14           The next thing I'd like to talk about is  
15 our community involvement. I think that, you know, we  
16 would be hard pressed to hear anyone in this area say  
17 that we're not committed to the community. We donated  
18 to hundreds of local organizations. And the following  
19 slides provide a sampling of those organizations,  
20 which are broad and far reaching. It's important to  
21 note, however, that our commitment does not end with  
22 contributing money. The Mohegan Sun at Pocono Downs  
23 team is involved --- we had hosted numerous charitable  
24 events at our facility, which has provided many of our  
25 team members with the opportunity to interact with

1 members from the broad group of local organizations.

2           In addition to this, Mohegan Sun at  
3 Pocono Downs management team has contributed its time  
4 serving on Boards of Directors of local organizations,  
5 such as the Catholic Youth Charities, Luzerne County  
6 --- Luzerne County Community College Foundation,  
7 Misericordia University, Northeast Regional Cancer  
8 Institute, the Osterhout Library, Spring Chamber of  
9 Commerce, Spring Tomorrow, the Diversity Institute,  
10 the College of Misericordia, United Way in Wyoming  
11 Valley, Victims Resource Center, several YMCAs, WVIA  
12 Public Broadcasting and Wilkes-Barre Chamber of  
13 Commerce. So now, I'm going to turn the program back  
14 over to Bobby to review the commitment to harness  
15 racing.

16           MR. SOPER:

17           Thanks Mike, I appreciate that. As we  
18 see from the slide here, you know, we have a few  
19 bullet points in regards to, you know, our commitment  
20 to harness racing. I would like to, before looking at  
21 these bullet points, reiterate a point that I made  
22 earlier, that I think is the primary reason we have  
23 been able to execute on our commitments. And that is  
24 we have established and sustained a strong and  
25 positive relationship with the Pennsylvania harness

1 Horsemen's Association as well as their executive  
2 director, Ron Battoni.

3           And I would like to provide a little  
4 context and history. When it became apparent in 2005  
5 that there would be a delay in the commencement or the  
6 opening of our operation, it did not delay our  
7 commitment to horse racing. As the delay of the slot  
8 licenses ensued due to the legal challenges of Act 71,  
9 we nevertheless voluntarily advanced higher purses to  
10 the horsemen prior to opening any slots. And of  
11 course as I mentioned before, we also proceeded with  
12 the development of a new state of the arts simulcast  
13 facility and made other improvements notwithstanding  
14 the uncertainty and inability to proceed with the  
15 development of the casino.

16           I think this showed our commitment early  
17 on. And since that point, we have shared with the  
18 horsemen a vision of improving the sport. And we both  
19 have relied on each other to execute our commitments.  
20 And in fact, frankly, we have relied on them for  
21 assistance far more than they have relied upon us,  
22 which is problem something not very common at most  
23 tracks and I think is reflective of our relationship.  
24 Now, a long-term commitment is also reflected by other  
25 improvements we've made both in the backside, the

1 renovation to our patron facilities, including the new  
2 simulcast that I mentioned, as well as a renovated  
3 grandstand. We just opened up this year a new  
4 first-class paddock at \$5.8 million, which is \$800,000  
5 more than our backside obligation that Act 71  
6 requires.

7           And we've also, from an operational  
8 standpoint, engaged in some joint marketing efforts  
9 with the horsemen. And so, you know, all that  
10 combined I think, you know, reflects the fact that  
11 we've had this commitment. And you know, a few of the  
12 points up there that I'd like to allude to as well  
13 because of the slot --- the revenue that's been  
14 generated from our property and other properties in  
15 the Commonwealth, we've been able to raise our purses  
16 from \$63,000 a day to \$170,000, clearly improving the  
17 quality of horse racing for our guests. And in an  
18 economy that's very difficult, an industry that's been  
19 declining, we've been able to hold our own due to  
20 those increase in purses, improvement in the property  
21 and the marketing efforts of both the horsemen and  
22 ourselves.

23           Challenges since opening. Now, like any  
24 casino in any jurisdiction, we have our challenges.  
25 We have a strong commitment to prevent irresponsible

1 consumption of alcohol and prevent those individuals  
2 under the age of 21 from entering the gaming floor.  
3 While no facility can have a hundred percent provision  
4 record due to the significant transactions that occur  
5 at casinos, we make all possible, reasonable efforts  
6 in prevention and assure we address any issues that  
7 may occur, even if it requires exerting additional  
8 resources.

9           I think it's important to note that ---  
10 as I previously alluded to, we wanted to create a  
11 facility that Northeast Pennsylvania and the  
12 Commonwealth would be proud of. Not the stereotypical  
13 slot box often associated with racetrack casinos. As  
14 a result, we purposely developed a guest friendly  
15 environment with a wide array of amenities, a place  
16 with great sight lines that is easily navigable by our  
17 patrons. This, of course, makes it more challenging  
18 in ensuring those under the age of 21 do not  
19 transgress onto the gaming floor.

20           Overall, we think you've done a good job  
21 in addressing these concerns, and will continue to be  
22 committed to doing so. I would like to turn it over,  
23 so Mike can briefly described our commitment and how  
24 we address these issues.

25           MR. BEAN:

1           Okay. Thanks, Bobby. What I'd like to  
2 do is --- as Bobby mentioned, we have --- you know, as  
3 a guest friendly organization, which is reflected by  
4 our layout, we have faced challenges. But what I  
5 think is most important when challenges arise is how  
6 an organization handles them and has an eye toward  
7 corporation and continuous improvement. And that's  
8 really been our approach to the growth that we've  
9 experienced over the past several years, both with our  
10 phase I and with the opening of our most recent phase  
11 II operation a little more than a year ago. And so  
12 what I'd like to point out with regard to the several  
13 liquor control matters that we've had is that we've  
14 gone forward and we've become a RAMP certified  
15 organization. We exceeded the minimum percentages of  
16 required RAMP training and certified team members.  
17 And all of our food, and beverage and supporting  
18 managers have received management level RAMP training.

19           And this is something that we believe is  
20 going a long way toward, as I said, our continuous  
21 improvement. We also have a process that we worked  
22 steadily toward, where access to the gaming floor  
23 which requires individuals to be 21 years of age,  
24 doesn't automatically mean that a person is served  
25 alcoholic beverages. What it means, when a person

1 gets on the floor, is that if they look underage all  
2 of our beverage staff is trained to, again, ask for  
3 further identification. And further, we do this kind  
4 of as a second layer of a check and balance of our  
5 internal processes.

6           With regard to, you know, --- similarly  
7 and in the same spirit of cooperation in learning from  
8 mistakes associated with growth and continued  
9 improvement, you know, when we have had several of our  
10 issues associated with the PGCP, we've made  
11 significant changes. For instance, when we have had  
12 issues with regard to those under 21 getting access to  
13 the gaming floor, which as Bobby mentioned in  
14 virtually all casinos occurs from time to time. And  
15 at times, they game as well. What we've done is we've  
16 changed our security strategy from one where we had  
17 roaming officers monitoring several entrances to one  
18 where we have the all our entrances staffed or  
19 cordoned off at an additional cost to about \$225,000.

20           And we've also purchased additional  
21 scanning devices that verify driver's licenses from  
22 almost all states and record the information. And I  
23 think that as we grow, our view is that we'll continue  
24 to significantly improve our internal processes to  
25 alleviate as many issues as we can, again, in the

1 spirit of cooperation and enforcement with the Gaming  
2 Control Board.

3 MR. SOPER:

4 Thanks, Mike. Now, we're just going to  
5 finish up the presentation, you know, just summarizing  
6 some of the promises made and some of the promises  
7 delivered, you know, from the beginning of our  
8 presence here in Plains Township, Northeast  
9 Pennsylvania in 2005 through the opening of our first  
10 development, which was our state of the art simulcast  
11 in March 2006 and the renovation of some of our track  
12 amenities, including the Clubhouse dining room, some  
13 of the backhouse faces and some work done on the  
14 backside, through the opening of the first casino in  
15 Pennsylvania in November of 2006, and then more  
16 recently the completion and successful opening of  
17 Project Sunrise in July of last year. We delivered on  
18 a number of promises.

19 Whether it's job creation, the generation  
20 of business for local vendors, recapturing dollars  
21 that leave the state to other gaming jurisdictions,  
22 catalyzing future investment of the area, significant  
23 tax revenue to the Commonwealth and to the  
24 communities, physical improvements to the track prop  
25 --- to the track in the backside, and providing



1 benefits that are not only competitive but make us an  
2 employer of choice in the area. Our involvement with  
3 the community, both from a monetary standpoint and,  
4 you know, participation with our --- from our team  
5 members, charitable donations plan, you know, hiring  
6 locally and ensuring that we do utilize local  
7 business, partnering with various educational  
8 institutions in the area, committing to participate in  
9 efforts to grow the area, communication with local  
10 authority, businesses, and residents of the area and  
11 of course, you know, implementing --- developing and  
12 implementing the compulsive gambling program. We  
13 appreciate the opportunity to present this information  
14 today pertaining to our license renewal. And that  
15 will end our presentation.

16 CHAIR:

17 I have one question of clarification for  
18 Mr. Bean. You were testifying with regards to liquor  
19 control issues. You said something about it became a  
20 grant certified ---?

21 MR. BEAN:

22 I'm sorry. RAMP, R-A-M-P, Responsible  
23 Alcohol Management Program, R-A-M-P.

24 CHAIR:

25 Okay. I misunderstood. Thank you.

1                   MR. BEAN:

2                   You're welcome.

3                   CHAIR:

4                   Officer of Enforcement Counsel.

5                   ATTORNEY DAVENPORT:

6                   Good morning. I'm Nan Davenport. I'm  
7 Deputy Chief Enforcement Counsel for the Office of  
8 Enforcement Counsel. And I have a couple questions.  
9 Could you discuss any plans to add additional slot  
10 machines, especially in light of the fact that table  
11 games may not happen or may happen? Can you address  
12 that?

13                   MR. SOPER:

14                   Sure. Right now, we have no plans to add  
15 machines. We feel, you know, comfortable with the  
16 number of machines we have now, based on what the  
17 market demand is. And we're all hoping that the  
18 economy will improve and the market will grow. And we  
19 are seeing population growth. And you know, based on  
20 those variables we certainly wouldn't discount the  
21 fact that sometime in the future, we may add machines.  
22 But as of right now, we feel comfortable where we're  
23 at and we have no plans to add any additional  
24 machines.

25                   ATTORNEY DAVENPORT:

1           Are there any plans to add additional  
2 amenities?

3           MR. SOPER:

4           We don't have any definitive plans. You  
5 know, we --- and I've mentioned this previously, you  
6 know, in front of the Board, I believe. We as an  
7 organization like to plan for everything, so there's  
8 always some planning going on. We overplan, and since  
9 that, we've always planned for more than we're ever  
10 going to accomplish, just in case. And so, we do have  
11 a master plan in place which contemplates other  
12 amenities, lodging amenities, meeting space, you know,  
13 more food and beverage and retail, and of course more  
14 gaming. But whether we actually pull the trigger on  
15 any of those amenities, it will be dictated by, you  
16 know, those variables I discussed. You know, whether  
17 there's a market demand, you know, capital markets,  
18 you know, is there access to capital --- all those  
19 things that, you know, an operator and developer would  
20 consider.

21           ATTORNEY DAVENPORT:

22           With respect to the Liquor Code  
23 Enforcement Violations, it appears that there's this  
24 one that you actually paid a fine. What is the status  
25 of the other violations?

1                   MR. BEAN:

2                   We have several that are on appeal. Let  
3 me just pull out my notes for a second, Ms. Davenport.

4                   ATTORNEY DAVENPORT:

5                   Okay.

6                   MR. BEAN:

7                   The February 5th, 2007 is on appeal with  
8 the Luzerne County Court of Common Pleas. The 3/21/07  
9 matter was discussed by an Administrative Law Judge  
10 --- I'm sorry --- yes. And we had --- we have a  
11 matter that's ranging from 9/1, so it's actually the  
12 same matter to 9/4, where we're awaiting a decision  
13 and the 9/25 matter is on appeal as well.

14                   ATTORNEY DAVENPORT:

15                   With respect to the incident that  
16 happened on March 21st, 2007, the adjudication was  
17 dismissed. Do you know whether the Liquor Control  
18 Enforcement appealed that to the Liquor Control Board?

19                   MR. BEAN:

20                   It's my understanding that they have not.

21                   ATTORNEY DAVENPORT:

22                   So that matter would be considered  
23 closed?

24                   MR. BEAN:

25                   That's my understanding.

1                   ATTORNEY DAVENPORT:

2                   Could you just --- I know you've already  
3 testified with respect to meeting the monies that  
4 Mohegan has extended with respect to acts to prevent  
5 underage incidents on the gaming floor with respect to  
6 the additional staff as well as the scanning devices,  
7 could you go over the training that you supplied to  
8 your staff and how often that they are trained with  
9 respect to preventing incidents?

10                   MR. BEAN:

11                   Yes. Security officers are trained upon  
12 their hire and, you know, typically a team member  
13 comes onboard and they receive broad training with our  
14 human resource teams and then they are released to  
15 their department, where on their first day, they're  
16 trained with regard to what their various duties are.  
17 And that training involves shadowing a more  
18 experienced security officer. So in their first  
19 several weeks of operation, I'm sorry, of employment,  
20 they're working with, and side by side another  
21 responsible security officer to show them what our  
22 processes are. And those processes, with regard to 21  
23 year olds --- or I'm sorry, those who attempt to gain  
24 access to the gaming floor who are under 21, it is to,  
25 you know, be diligent in looking at people who appear

1 to be under 30, ask them for identifications. And  
2 we've also had training, recent training on --- it's  
3 my understanding that we had recent training on using  
4 the new handheld devices that we have purchased, which  
5 are an upgraded version of what we have had in the  
6 past. And so we believe at least a number of those  
7 devices and they're better quality and perform more  
8 functions.

9 ATTORNEY DAVENPORT:

10 And I just want to get on the record too  
11 that the act only requires individuals under 18 years  
12 of age of not being on the gaming floor. Was it a  
13 policy decision for Mohegan to prevent those 18 to 21  
14 to be allowed on the gaming floor?

15 MR. BEAN:

16 Yes, it's an internal policy of ours to  
17 attempt to prevent anyone under the age of 21 from  
18 gaining access to the gaming floor, so that we can  
19 have a higher level of security and not then be  
20 challenged with having to determine whether someone  
21 who has gained access to the gaming floor who's under  
22 21 is then under 21 when they sit down at a slot  
23 machine. We tell them that that would be too  
24 difficult for us to enforce.

25 ATTORNEY DAVENPORT:

1 Thank you.

2 ATTORNEY PITRE:

3 I have a couple of questions. With  
4 regard to the build-out, are you complete? Are you at  
5 full build-out right now?

6 MR. SOPER:

7 I am hopeful that the answer's no, you  
8 know, and I'll reiterate. We don't have any  
9 definitive plans now to put a shovel in the ground.  
10 But with the prospect of the economy improving, we  
11 believe that there's potential for growth in demand of  
12 the product. Obviously, you know, table games is a  
13 potential opportunity. If that happens, we'll be  
14 ready to move forward with that project. And in fact,  
15 the table games have been --- I think it will increase  
16 the likelihood that there will be other non-gaming  
17 amenities, you know, such as lodging facilities and  
18 maybe some other entertainment, food and beverage,  
19 retail. So I think the answer is, we don't have any  
20 plans now, but they could change. And the change  
21 could be, you know, sooner rather than later, if  
22 certain things happen. You know, such as table games,  
23 you know, improvement of the economy and those types  
24 of things.

25 ATTORNEY PITRE:

1           Okay. If table games were to happen,  
2 will you --- would you be able to accommodate table  
3 games in your present facility right now without a  
4 reduction of the slot machines?

5           MR. SOPER:

6           The answer is yes. And our initial plan  
7 would be to incorporate table games into our existing  
8 footprint, our existing structure. I would tell you  
9 this, probably, optimally in knowing what we --- we've  
10 certainly evaluated our property, where it makes sense  
11 to put table games, where it makes sense to keep or  
12 relocate slot machines, if we were to relocate.  
13 Optimally for us, we believe, we would start off with  
14 a mix that may reduce the slot machines a little bit  
15 without impacting the revenue or, in fact, we've  
16 actually modeled it where we believe, if we reduced  
17 our machines by a hundred units, because the table  
18 games would bring additional volumes in, our revenues  
19 would actually increase. And it's simply because we  
20 would remove they slot machines from the poor, what we  
21 call real estate locations, locations where they don't  
22 generate a high win per unit. They would be in areas  
23 that don't receive much play. That being said, if in  
24 fact we were required to maintain the same number of  
25 machines that we have now, we would be able to do so,



1 and we would, in fact, do so. We just don't  
2 necessarily think that would be optimal, because for  
3 us it's about finding the right mix that generates the  
4 greatest revenue and it's the best experience for a  
5 customer. We believe, probably, slightly reducing our  
6 --- the number of units. And one other point, I want  
7 to point, what substantiates what I'm saying, is when  
8 you look at our highest peak times, highest peak  
9 volumes, our highest utilization is around 2,300  
10 units, even though we have 2,460. So there's no  
11 really --- an opportunity to generate greater revenues  
12 beyond that 2,300 slot unit count. And so that's  
13 why --- one other reason we concluded that.

14 ATTORNEY PITRE:

15 Do you have an estimate as to the number  
16 of table games that you can handle within your current  
17 facility with the same number of slot machines?

18 MR. SOPER:

19 Yes. We believe approximately 70 table  
20 games.

21 ATTORNEY PITRE:

22 I'd like to move to the Liquor Control  
23 Board Violations. Again, is there any prospect if  
24 those appeals --- or those violations that are on  
25 appeal, if they're lost, is there any prospect that

1 you could lose your liquor license, if those appeals  
2 were lost?

3 MR. SOPER:

4 I would have to look at that closely,  
5 because my understanding is that --- of the current  
6 Liquor Law is that, there are violations that count  
7 toward the three strikes or violations that don't. So  
8 I would have to review that. I don't know offhand  
9 whether that's the case.

10 ATTORNEY PITRE:

11 Thank you.

12 ATTORNEY KOHLER:

13 I could address that, ---

14 ATTORNEY PITRE:

15 Thank you.

16 ATTORNEY KOHLER:

17 --- if you wish, Cyrus?

18 ATTORNEY PITRE:

19 That's fine.

20 ATTORNEY KOHLER:

21 As you look on the page in the  
22 presentation that talks about PLCB violations --- as  
23 you're probably aware the Liquor Code only assigns  
24 what's called --- what we now call strikes, for  
25 certain violations that are deemed particularly

1 serious by the Liquor Code. For purposes of this  
2 chart, they are primarily --- sales to minors is a  
3 strike and sale with an expired license would be a  
4 strike, serving patrons after --- or patrons with  
5 alcohol --- in possession of alcohol after 2:30 is not  
6 a strike. And so, as you look at the chart, the first  
7 matter and the last matter --- you know, one, we paid  
8 the fine, the other's on appeal. Whether or not that  
9 last matter is sustained or not, it is not a strike.  
10 So as you look at the rest of the chart, we have a  
11 violation for sale to minors. If we would lose that  
12 appeal, that would become a strike.

13                   And the sale with the expired license, if  
14 that matter is pending, so there's been no  
15 determination by the PLCB one way or another. I can  
16 tell you that that matter was, I think, fairly  
17 described as a bizarre matter. It was due to, you  
18 know, some circumstances, frankly, beyond our control.  
19 And I think we, you know, we feel we have a strong  
20 case to have that resolved in favor. I hope that  
21 answered your question. But worst case scenario,  
22 would be two strikes.

23                   ATTORNEY PITRE:

24                   Are those three strikes over the life of  
25 the license?

1                   ATTORNEY KOHLER:

2                   It's over four years, over a four year  
3 period under the Liquor Code.

4                   ATTORNEY PITRE:

5                   You guys implemented a policy whereby if  
6 you find someone, let's say between the ages of 18 and  
7 21 anywhere in the facility, do you provide --- is  
8 there any way that you can identify those individuals,  
9 maybe, by a color coded band, or a stamp or something?  
10 Are those individuals, once they're discovered,  
11 they're just noted and told that they can't do certain  
12 things. I mean, is there anything that you guys do?

13                   MR. BEAN:

14                   We have seriously contemplated and looked  
15 at the band concept. And the reason that we haven't  
16 implemented that, at this point, is simply the related  
17 issue of people taking the bands off and then putting  
18 them on someone else, you know. Or you know, someone,  
19 you know, or simply, you know, removing them. And so  
20 they can be transferred or be taken off and, you know,  
21 so that we consider it to be an issue. You know, with  
22 regard to those, that we find, who are turned away at  
23 the entrance and then --- and I think our track record  
24 shows this. And then an attempt to re-enter or, in  
25 fact, re-enter at the gaming floor, those matters, the

1 State Police have issued citations in a large part for  
2 those. And so that enforcement action, I think has  
3 been effective.

4 MR. SOPER:

5 And I'll add --- generally, when you do  
6 implement a system, whether it's stamps or wrist bands  
7 or whatever, the purpose behind it is actually for  
8 convenience. When you have someone who may look young  
9 and under the legal age of 21, then --- and they're  
10 often carded wherever they walk. You know, casino  
11 solution will be, just to give them a wrist band or  
12 stamp, so that way they don't have to keep pulling out  
13 their license. You know, obviously, we want to, you  
14 know, provide all the conveniences to our guest. But  
15 we felt there would be a little too much exposure for  
16 us to implement that system. So our policy is, you  
17 know, even though it may be inconvenient at times for  
18 the younger guests, it's to ID them every single time  
19 that, you know, they want to enter the gaming floor.

20 ATTORNEY PITRE:

21 I have no further questions.

22 ATTORNEY DAVENPORT:

23 I just have a follow-up question. With  
24 respect to the scanners that you have now --- and this  
25 is at the gaming floor --- they obviously scan the

1 Pennsylvania Driver's License. Do they also --- are  
2 they also effective with other states or other types  
3 of identification?

4 MR. BEAN:

5 Yes, they are effective with most other  
6 states' driver's licenses. Although, I'm aware of  
7 that was --- I just don't recall state, but there's a  
8 state --- maybe two, that don't participate in the  
9 program with this particular vendor. But it's not a  
10 state that's nearby.

11 ATTORNEY DAVENPORT:

12 Does the security officer, also,  
13 physically look at the ---

14 MR. BEAN:

15 Yes. Yes.

16 ATTORNEY DAVENPORT:

17 --- picture?

18 MR. BEAN:

19 Yes. Yes, they look at the --- the  
20 security officers will look at the picture and do  
21 their typical routine, look at the picture, and the  
22 date of birth and also scan it for actual validity of  
23 the license, itself.

24 ATTORNEY KOHLER:

25 The only thing I wanted to add from a

1 legal perspective on the liquor issues is, number one,  
2 I'm sure you're aware, we are not alone with  
3 facilities that are struggling with a three strike  
4 rule. We essentially are under the same standard as  
5 the corner bar and obviously are --- have much, much  
6 larger volumes. I think all the facilities in the  
7 state have done a pretty good job with liquor, given  
8 the volumes. But nevertheless, there's what we  
9 believe an outdated law that is causing some concern.  
10 We are very, very aware of that. It's monitored very  
11 closely. We've worked very closely with the LCB on  
12 this, who's had some ideas as to, how to apply the law  
13 more reasonably. And we are also, you know, very  
14 active with the legislature, who, I believe, at some  
15 point in time, will resolve this issue. I think the  
16 question that comes, will time run out on somebody  
17 first? And from what I know, that --- if it does, it  
18 will not, likely, be Mohegan but it is an issue of  
19 concern with the industry in Pennsylvania and one, I  
20 think the industry as a whole and Mohegan, in  
21 particular, has done a pretty good job. But the  
22 concern is real.

23 CHAIR:

24 Any other questions for Counsel?

25 ATTORNEY DAVENPORT:

1 No.

2 CHAIR:

3 Mr. Kohler, do you have Redirect of your  
4 witnesses?

5 ATTORNEY KOHLER:

6 No, Your Honor.

7 CHAIR:

8 Okay. We will take a five minute break  
9 to allow the parties to change places and change for  
10 presentations.

11 ATTORNEY KOHLER:

12 I think it's just a procedural question.  
13 As far as admission of exhibits, is it your plan to do  
14 that at the very, very end or should we hold our ---?

15 CHAIR:

16 If you would like to, we'll mark it at  
17 this time, that's fine.

18 ATTORNEY KOHLER:

19 We can. Or with reason, you may want to  
20 do it later as we've --- we can move exhibits, but we  
21 also have issues that we've discussed with OEC and  
22 have agreement on, as to confidentiality of certain  
23 portions. That may take a little bit of time. I can  
24 do it now, or we can hold it to the end. It's up to  
25 you.



1                   CHAIR:

2                   Then we'll hold.

3                   ATTORNEY KOHLER:

4                   Okay. Thank you.

5                   CHAIR:

6                   We'll hold those until the end. We'll  
7 take five minutes and then we'll start at 11 o'clock.

8 SHORT BREAK TAKEN

9                   CHAIR:

10                  Okay. We'll begin this portion with the  
11 Office of Enforcement Counsel's presentation. Thanks.

12                  ATTORNEY DAVENPORT:

13                  Thank you. The Office of Enforcement  
14 Counsel was established within the Board's Bureau  
15 Investigation and Enforcement and advises the Bureau  
16 on all matters, including the granting of licenses,  
17 permits and registrations, the conduct background  
18 investigations, audits and inspections, and violations  
19 of the Pennsylvania Racehorse Development and Gaming  
20 Act, the regulations promulgated there under as well  
21 as the facility's internal controls.

22                  The Office of Enforcement Counsel also  
23 files recommendations and objections related to the  
24 issuance of licenses, permits and registrations on  
25 behalf of the Bureau of Investigations and

1 Enforcement. Pursuant to Section 1302, the Gaming  
2 Act, the Board may issue a Category 1 slot machine  
3 license to a licensed racetrack facility that has been  
4 issued a license from either the State Horseracing  
5 Commission or the State Department Racing Commission  
6 to conduct thoroughbred or harness race meetings with  
7 pari-mutuel wagering.

8           Downs Racing, LP doing business as  
9 Mohegan Sun at Pocono Downs was issued a license by  
10 the Pennsylvania State Horse Racing Commission on  
11 October 22nd, 2004 to conduct harness racing. The  
12 Gaming Control Board approved Downs Racing for a  
13 conditional Category 1 slot machine license on  
14 September 27th, 2006, and November 14, 2006 Downs  
15 Racing opened its temporary facility, thereby,  
16 becoming the first Pennsylvania casino to begin  
17 operations.

18           On December 20th, 2006, the Board issued  
19 Downs Racing a permanent Category 1 slot machine  
20 license. On July 17th, 2008, Downs Racing received  
21 Board authorization to commence racing operations at  
22 its new, permanent facility. Prior to opening its  
23 permanent facility, Downs Racing closed the lowest  
24 level of the gaming floor in its temporary facility  
25 and reconfigured the entrance level of the gaming

1 floor. The entire facility, which consists of the  
2 new, permanent facility and portions of the temporary  
3 facility includes an approved gaming floor area of  
4 68,694 square feet and a maximum slot machine  
5 configuration of 2,466 slot machines. According to  
6 Section 1326 of the Gaming Act and Section 441A16, the  
7 current regulations, a slot machine license shall be  
8 held over one year from the date of approval for the  
9 license renewal by the Board.

10                   Here today, to testify on behalf of the  
11 Gaming Control Board are representatives from  
12 Pennsylvania State Police, the Boards Office of  
13 Compulsive and Problem Gambling, the Boards Bureau of  
14 Compulsive --- or our Casino Compliance and the Boards  
15 Bureau of Investigations and Enforcements. According  
16 to Section 1517C of the Gaming Act, the powers and  
17 duties of the Pennsylvania State Police include, among  
18 other things, to initiate proceedings for criminal  
19 violations with the Act and to conduct administration  
20 inspections on the premises of a licensed facility and  
21 to ensure compliance with the Gaming Act and the  
22 regulations. Captain Timothy Allue for the  
23 Pennsylvania State Police is here today to testify  
24 about reporting criminal offenses at Downs Racing.  
25 -----

1 CAPTAIN TIMOTHY J. ALLUE, HAVING BEEN PREVIOUSLY  
2 SWORN, TESTIFEID AS FOLLOWS:

3 -----

4 DIRECT EXAMINATION

5 BY ATTORNEY DAVENPORT:

6 Q. Good morning.

7 A. Good morning.

8 Q. Could you please state your full name for the  
9 record, please?

10 A. My name is Captain Timothy J. Allue, A-L-L-U-E.  
11 I'm the director of the Gaming Enforcement Office for  
12 the Pennsylvania State Police.

13 Q. How many years have you been with the State  
14 Police?

15 A. I've been with the Pennsylvania State Police for  
16 23 years. I've been the director of the Gaming  
17 Enforcement Office for, approximately, four years, a  
18 little less than four years. Prior to the --- prior  
19 to serving as the Director of the Gaming Enforcement  
20 Office, I served in the executive office for the State  
21 Police. And I was the executive officer to the Deputy  
22 Commission of Operations.

23 Q. And could you describe the role of the State  
24 Police at a licensed facility?

25 A. The State Police at Mohegan Sun, as well as all

1 the casinos across the state, we have a dedicated  
2 complement at the site --- the Mohegan Sun property  
3 that's located within the Plains Township. And the  
4 local police department, the local jurisdiction  
5 outside of the slots area of the facility is under the  
6 jurisdiction of the Plains Township Police Department.  
7 So the --- our State Police contingent of Gaming  
8 Enforcement Officers here is pretty much dedicated to  
9 the slots area and any of the areas of the casino  
10 related to slots activity, meaning the count rooms,  
11 employee areas, administrative areas, so we provide  
12 that service in those areas. Anything in the parking  
13 lots, the lobby areas, the racetrack side, all of that  
14 falls within Plains Township under their jurisdiction,  
15 but we have an extremely positive relationship with  
16 the Plains Township Police Department. And certainly,  
17 the State Police, obviously, has jurisdiction  
18 everywhere in the Commonwealth. So if there were to  
19 be any kind of a public safety issue or incident that  
20 would occur in a parking lot or in an area other than  
21 the slots area, we would certainly respond to ensure  
22 public safety was taken care of, and assist or simply  
23 handle the incident for Plains Township. Again, we  
24 have a real positive relationship with Plains  
25 Township.

1 Q. Could you describe your --- the relationship of  
2 the State Troopers assigned to the facility, to the  
3 Mohegan Sun to the personnel?

4 A. The role of the State Police onsite is that --- it  
5 may seem obvious, but it is that of law enforcement.  
6 And we work very much in unison with the Casino  
7 Compliance Reps from the Gaming Control Board who have  
8 regulatory responsibilities. We also work very  
9 closely with the security department and the  
10 surveillance department of the casino itself. We have  
11 somewhat similar but yet very separate and distinct  
12 functions. And we do not --- while we work together  
13 as a team, we also have very separate functions in the  
14 sense that security and surveillance, they have the  
15 first opportunities to deal with their patrons, to  
16 provide customer service. If there's a regulatory  
17 issue that they need assistance with that, they can  
18 call the Casino Compliance Reps. If something arises  
19 to a level of a crime being committed, then we would  
20 come in and assist with the law enforcement element.  
21 So it's very much of a partnership, but at the same  
22 time, we have --- each have different specialty  
23 functions.

24 Q. Are you familiar with the Uniform Crime Reporting  
25 System?

1 A. Yes, the Uniform Crime Reporting System is  
2 basically a nationwide system. Nationwide is  
3 voluntary, and within the Commonwealth it's actually  
4 mandatory. And there are approximately 1,600 police  
5 departments in Pennsylvania that contribute their  
6 crime statistics to the Uniform Crime Reporting  
7 function within Pennsylvania, which by coincidence is  
8 run by the Pennsylvania State Police. We gather all  
9 of the crime statistics from each one of the agencies,  
10 each agency submits their own crime stats.

11           According to guidelines provided by the  
12 FBI, the State Police compiles and utilizes that  
13 information, puts it into a final report that is  
14 available to the public online, and it's also conveyed  
15 to the FBI, incorporated into the national stats. And  
16 that information --- those crime statistics, then, can  
17 be used by law enforcement, whether it'd be a local  
18 level, state level or national level, to analyze crime  
19 trends in the country. And that system has existed in  
20 a continually upgraded fashion since the early 1930s,  
21 I believe.

22 Q. Is the information contained in the Uniform Crime  
23 Reporting System subject to edits?

24 A. It's definitely subject to edits, in the sense  
25 that Uniform Crime Reports are reeling --- are really

1 living statistics. Everyday crimes occur in all of  
2 these 1,600 jurisdictions within the state and  
3 thousands and thousands of jurisdictions across the  
4 country. The police officers responding will generate  
5 reports. Those reports go through the administrative  
6 process where they're entered into the UCR System, and  
7 those stats are continually updated.

8           So it is very much a living document. So  
9 what you see today in UCR will be very different than  
10 what you see tomorrow. And in terms of deadlines ---  
11 because oftentimes investigations might take multiple  
12 days, so a crime that gets --- that's committed today  
13 might not actually be entered into the system until  
14 next week depending on witnesses who need to be  
15 interviewed or just a multitude of factors that affect  
16 that. Typically, speaking by the 10th of each month,  
17 each Department is required to have their stats in for  
18 the previous month.

19 Q. Okay. We have a --- something in the order that  
20 could --- is this the Uniform Crime Reporting System  
21 that would appear on the State Police's website?

22 A. The UCR System has a wealth of information and one  
23 of the more useful tabs, so to speak, that you can ---  
24 that you can query. And again, this is available  
25 publicly. And for the sake of the record, I will say



1 that it can be found at [www.ucr.psp.state.pa.us](http://www.ucr.psp.state.pa.us), and  
2 you can query a wide variety of information from  
3 virtually any of these 600 police departments and also  
4 nationally.

5           This particular tab is somewhat useful.  
6 It is a comparison between 2007, 2008. I will draw  
7 your attention to a couple of columns across the top.  
8 One would be the offenses known, which would be the  
9 first numerical column. And I would compare that to  
10 actual offenses. And the reason that I usually look  
11 at actual offenses and any kind of analysis is the  
12 offenses known are basically those things that are  
13 simply reported to us.

14           And by way of example, I would indicate  
15 if someone reported to us that they --- their wallet  
16 was stolen from them as they were sitting at a slot  
17 machine, to keep it in the casino environment that  
18 would be reported to us. That would be an offense  
19 known. We look into the investigation, we work with  
20 surveillance, we try and track down that wallet, only  
21 to find out when that patron leaves they find it in  
22 the glove box of their car. So in fact it's an  
23 unfounded offense, so it would still be reflected as a  
24 known offense, but it would be a reduction of --- it  
25 would not be added to the actual offenses. So that's

1 why I looked at the actual offenses, because those are  
2 the ones that have the unfounded --- those statistics  
3 have the unfounded offenses taken out.

4           There are part I offenses and part II  
5 offenses at the top of the page. The part ones are,  
6 typically, more serious crimes, part twos are the less  
7 serious crimes, if there is such a thing. There are  
8 many hundreds, if not thousands, of crimes in the  
9 Pennsylvania Criminal Code and the Crimes Code. Each  
10 one of those has been given a UCR Code. There are  
11 approximately 50 UCR Codes. So those --- the crimes  
12 are listed by a Code Number. What I will compare here  
13 is the total Gaming Enforcement Pocono Downs, the very  
14 bottom line actual offense. For 2007, they were 109  
15 offenses at Pocono Downs. And for 2008 --- I'm  
16 sorry --- by 2007, 109, 2008, 208. As far as any  
17 speculation on that, as to why they increased, I think  
18 that that is --- that's really attributable to many,  
19 many things.

20           One, to be quite frank, is I think our  
21 troopers have become better in the casino environment  
22 as the years have gone by. I think surveillance has  
23 become --- has been a much more useful tool to us,  
24 security as well. And obviously, the --- Mohegan's  
25 put a lot of effort into improving their property. I

1 don't know they're visitation or wagering figures, but  
2 they also have experienced an increase in business.  
3 Anytime, regardless of the facility, if you have a  
4 large group of people, you're going to have a  
5 situation where crimes are going to occur.

6 Q. Okay. With respect to the offenses that are  
7 listed on the overhead, how are those actually input  
8 into the Uniform Crime Reporting System? Is there  
9 somebody at the facility that would translate --- or  
10 transmit this information to the State Police?

11 A. Yes, at our office here at the facility, just like  
12 within any other police department, the whole process  
13 starts with the police officer responding to an  
14 incident. The police officer produces a report, that  
15 report is processed through a supervisor, evaluates  
16 the report, evaluates the totality of the entire  
17 incident ---. There might be follow-up investigation  
18 necessary, arrests may have been made. And the bottom  
19 line, to answer your question, is that supervision  
20 onsite at this facility and designated people  
21 throughout the Commonwealth are responsible for  
22 entering those crime stats into the UCR System by a  
23 computer terminal right on site. And in some cases,  
24 that may occur on the very day of the occurrence. In  
25 other cases, depending on a wide range of operational

1 situations, that may be tomorrow, it may be next week.  
2 But in theory we would have a situation where  
3 everything from one month would be entered by the 10th  
4 of the following month.

5 Q. Have you had a chance to review the UCR for  
6 offenses reports for Pocono Downs from 2006 when it  
7 first opened to date?

8 A. 2006 was a very brief year. The statistics were  
9 very low. They opened in, if I recall, mid-November  
10 of 2006. And as I look at those trends, to look at  
11 the actual offenses again and to look at 2008, for  
12 instance, there were 208 offenses. 126 of them were  
13 thefts, 30 of them were counterfeit currency, forgery  
14 and counterfeit currency. Those cases, the  
15 counterfeit currency, we worked with the United States  
16 Secret Service. That's in their jurisdiction to try  
17 to resolve those cases. And the thefts --- the thefts  
18 are a --- the theft occurrences in the casinos is a  
19 fairly unique environment. I think in a lot of cases  
20 people may not necessarily know that they're taking  
21 someone else's property, whether it'd be credits, or  
22 whether it'd be vouchers. I think there's some  
23 confusion in those cases.

24 But what the State Police is presented  
25 with is a patron, from our perspective, a victim that

1 approaches us and says something that belonged to me  
2 has been taken by someone. And because we do have  
3 tremendous cooperation with the surveillance  
4 department with the security department and with our  
5 CCR, the Casino Compliance Reps, we can work together  
6 and our investigators can oftentimes determine what  
7 happened to that voucher, what happened to those  
8 credits. We were able to identify who, in fact, took  
9 those. And that from that point on it becomes pretty  
10 much a case by case scenario, where we evaluate  
11 exactly what occurred, does it appear to be  
12 accidental, does it appear to be intentional, is the  
13 victim willing to return.

14           Oftentimes, the victims are coming from a  
15 very far distance. They really aren't willing to  
16 return for any kind of a prosecution, so great --- and  
17 oftentimes we will also consult with a district  
18 attorney, not only on thefts but on many crimes, to  
19 determine the prosecutorial merits of the case.

20           So there's a lot of things that go into  
21 what's involved with filing charges. But what we  
22 attempt to do is simply make our determination on  
23 prosecution based on the totality of the circumstances  
24 and the facts of each individual case. So to get back  
25 to my point, I guess, 126 were thefts, 30 were

1 forgeries. Of the 208 there certainly does not seem  
2 to be any serious crime trend at all going on here.

3 Q. Okay. And at this ---?

4 A. It's very bad place to commit a crime with all the  
5 surveillance cameras.

6 Q. Does the UCR list the actual number of offenses  
7 that are prosecuted?

8 A. No, the prosecution is a totally, totally separate  
9 element. And to be quite frank, it's really largely  
10 --- not entirely, but largely beyond the scope of the  
11 police department, where you are somewhat at the  
12 discretion of the local District Justice, the local  
13 District Attorney, whatever rules may differ from one  
14 county to another. So it's very difficult, if not  
15 impossible, to track prosecutions from the law  
16 enforcement perspective.

17 Q. Have the troopers that are stationed at Mohegan  
18 Sun at Pocono Downs cited individuals under the age of  
19 21 for criminal trespass or other offenses, for  
20 attempting to enter the gaming floor?

21 A. Yes, we have cited for trespass. The issue of the  
22 under 21 has a little bit of consideration that you  
23 have to apply to it, because there is not --- there's  
24 not an enforcement section for someone under 21 to  
25 gamble. For instance, there is an enforcement

1 section, that if you're under 21, you can't drink.  
2 That's a law that you can't do it. And there's also  
3 an enforcement section whereby a specific grade of  
4 crime, a specific penalty has been identified by the  
5 law. However, with gaming, there is no specific  
6 grading section and no enforcement section of underage  
7 gambling, so therefore you can't charge someone under  
8 21 with underage gambling.

9           And so you're left in the situation  
10 where, if they're on the floor and they leave  
11 voluntarily --- or shall I simply say, if they come  
12 into the casino, unless there's some other element of  
13 a crime, such as they refuse to leave, there's a  
14 defiance, which moves into the realm of trespass. In  
15 most cases, in the majority of cases, I believe when  
16 the --- I know for a fact that many underage  
17 individuals that are encountered by security, they're  
18 removed from the floor, they go on their way and it's  
19 not a law enforcement issue, so we are not involved in  
20 those.

21           Again, we only get involved in the ones  
22 where there's another law enforcement issue that rises  
23 to the level of the law enforcement issue where an  
24 arrest is made. For 2007, we had one arrest on the  
25 Mohegan property and in 2008, we had seven trespass

1 arrests.

2 Q. Have you seen a pattern of these underage  
3 individuals coming in with their parents? Are you  
4 aware of any pattern there?

5 A. I don't think there's necessarily any pattern, but  
6 when you --- I guess I'm speculating. But when you  
7 have literally millions of visitors a year to any kind  
8 of a facility, you're not going to be able to totally  
9 prohibit someone under 21 for entering, whether it be  
10 intentional or otherwise. So I think it just requires  
11 diligence, proper posting, proper signage, diligence  
12 by security, diligence by surveillance and all of us  
13 working together to insist that the gaming environment  
14 is not some place for someone less than 21.

15 Q. When was the last day that UCR records were  
16 available with reported offenses at Pocono Downs?

17 A. As of today, the last offenses in the UCR System,  
18 that I could guarantee you would be updated would  
19 through July with this still being the middle of  
20 August. As of August 10th, all of the statistics  
21 through July should be in the system.

22 Q. And can one draw a conclusion based upon the crime  
23 statistics between the different licensed facilities?  
24 Because I know that the UCR does show not only Pocono  
25 Downs, but any of the other gaming facilities in



1 Pennsylvania. Can one make any kind of determination  
2 based upon comparison of the statistics contained in  
3 the UCR for the other facilities?

4 A. No, you can't really jump to conclusions. And  
5 this is a question I will face periodically from  
6 reporters that --- they'll look at the UCR stats and  
7 they'll simply look at the number of crimes that  
8 occurred, one casino versus another in an attempt to  
9 draw a conclusion from that. And you really can't do  
10 that any more than you can draw a conclusion by  
11 looking at the crime statistics from a small community  
12 versus a large community. The casinos vary widely in  
13 terms of location, geography, demographics, wagering  
14 volume, whether they have a track, visitation volume.  
15 So while I believe the UCR status and the crime stats  
16 are something that should be considered, they're one  
17 piece of a larger picture. But you have to consider  
18 all of the variables before you would jump to any  
19 conclusion from those stats.

20 Q. Is there any age limitations with respect to  
21 individual being allowed on the track side as compared  
22 to on the gaming floor?

23 A. I'm not a hundred percent sure, but I'm 95 percent  
24 sure that there is no limitation on age at the track  
25 in terms of presence, but there is an age limitation

1 of 18 for wagering on the track side, whereas we've  
2 said it's 21 on the casino side.

3 ATTORNEY DAVENPORT:

4 Okay. Thank you. I'd like to mark the  
5 Uniform Crime Reporting Systems spreadsheet as Exhibit  
6 One.

7 (OEC Exhibit One marked for  
8 identification.)

9 CHAIR:

10 Will you move all your exhibits ---?

11 ATTORNEY DAVENPORT:

12 At the end.

13 CHAIR:

14 Because Captain Allue's testimony is  
15 pretty contained, Mr. Kohler, would you like any Cross  
16 Examine at this time?

17 ATTORNEY KOHLER:

18 Just a couple questions.

19 CHAIR:

20 Go ahead.

21 CROSS EXAMINATION

22 BY ATTORNEY KOHLER:

23 Q. Good morning, Captain.

24 A. Good morning.

25 Q. Just a couple questions which you covered to some

1 extent in your testimony, just a little bit of  
2 clarification. As you look at your statistics,  
3 whether you look at 2007 or 2008, would you agree that  
4 the majority of incidents fell in the theft category?

5 A. Yes, the majority do, that's correct.

6 Q. And you talked a little bit about this. But are  
7 you familiar with the term theft of play?

8 A. No. I would have to say no to that.

9 Q. Okay. You talk about things like patrons,  
10 sometimes mistakenly ending up with another patron's  
11 voucher or --- and essentially representing a win from  
12 playing the slot machine; is that right?

13 A. Yes.

14 Q. Okay. Can we talk about a couple of real life  
15 examples about what you might encounter in that area?  
16 For example, let's talk about a situation, where ---  
17 whether this happens frequently, whether a patron  
18 forgets to collect their voucher before they leave the  
19 slot machine, do you encounter that type of situation?

20 A. Yes.

21 Q. And then maybe a new patron will come to the  
22 machine, does that happen occasionally?

23 A. Yes, it does.

24 Q. And that patron might notice that there is a  
25 voucher in the machine and hit the collect button,

1 believing the prior patron had left?

2 A. Correct.

3 Q. And maybe sometimes, the patron --- the first  
4 patron after leaving the machine might realize that  
5 they had forgotten to hit the collect button and  
6 coming back looking for their ticket. Would you  
7 consider that, for example, a frequent incident that  
8 you encounter at the casino?

9 A. That happens. Yes, it does.

10 Q. And under the Pennsylvania Crimes Code as you  
11 understand that, if that patron --- the last patron  
12 ended up with a ticket of another patron, would you  
13 consider that a problem that would result in an  
14 incident under these statistics or ---?

15 A. It's going to result in an incident in terms of  
16 reported incident. It may very well not result in an  
17 arrest.

18 Q. Okay.

19 A. It's going to result in a clearance, meaning the  
20 case has been resolved. I actually don't have our  
21 arrest stats here. If you would look on the UCR  
22 reports --- I don't mean you, but if someone would  
23 look on the UCR stats at the arrest column, you would  
24 see the arrests for thefts are a smaller figure, a  
25 much smaller figure than the clearance rate. In the

1 situation we have is that --- and I certainly also  
2 realize that our stance in Pennsylvania as the State  
3 Police on this issue, may be different than what's  
4 encountered by gamers in other states.

5           But with the law in Pennsylvania dealing  
6 with theft of mislaid and abandoned property or theft  
7 --- I don't even remember the exact title. But with  
8 that particular section of the law requiring some  
9 level of diligence in determining where --- in  
10 determining who owns that property and I must be frank  
11 that our position is such that, whether it be credits  
12 on a machine or whether it be a voucher, our feeling  
13 is that that's not really terribly different than  
14 someone's wallet or their jacket or their purse. And  
15 I would also liken that to a situation, if someone  
16 would contact one of our stations out in the field and  
17 say, I was at the gas station and dropped a \$50 bill  
18 and I went back and it was gone, is there anything  
19 that you can do.

20           I will say that our troopers are going to  
21 respond to that location, they're going to ask the  
22 convenience store, do you have any surveillance  
23 footage. If we're able to identify who picked up the  
24 \$50 bill, we're going to follow through with it. And  
25 as I had sort of alluded to or implied earlier, that's

1 why each case is a unique circumstance. And we look  
2 at the surveillance footage, we consider what  
3 occurred, we try and get all of the details of how  
4 that incident occurred. And if we can demonstrate and  
5 articulate and often times have surveillance that  
6 clearly demonstrate that that person put a foot over  
7 the voucher and drew it back to them, had been walking  
8 back and forth and apparently targeted that  
9 individual. Those are the ones that we're going to  
10 make the arrest on, but we're also going to consider  
11 all of the facts of that case. We're also going to  
12 consider whether or not the victim wants to  
13 participate in prosecution.

14           When you take a crime to court and you  
15 essentially don't have a victim because your victim's  
16 not willing to return to the state, so it --- I grant  
17 you, it's somewhat of a confusing situation. But I  
18 can say, not confusingly, that as long as the current  
19 statute has that due diligence or that --- for mislaid  
20 property, that the State Police is not going to be in  
21 a position where we're ever going to say to someone  
22 who comes to us and says my property is gone and I  
23 think someone took it. And when we say too bad, you  
24 should have paid closer attention to your property ---  
25 not our way of doing business.

1 Q. Understood. And I'm --- believe me, I'm not  
2 suggesting otherwise, I'm just trying to get an  
3 understanding of the statistics.

4 A. Right.

5 Q. This type of situation, would you think that would  
6 be a significant amount of the incidents that are  
7 reflected under the larceny/theft category?

8 A. To give you a percentage, would be speculation.  
9 But I will certainly acknowledge to you that it's a  
10 significant number of larcenies.

11 Q. And just to clarify a previous answer. If, for  
12 example, there were an incident like the one I  
13 described and it ended up being an incident that was  
14 not subject to arrest that would still be reflected in  
15 these statistics that have been marked as Exhibit One?

16 A. Yes, it would be reflected in these stats.

17 Q. Okay. You mentioned in your testimony that you  
18 have to work closely with casino management or that  
19 your people under your supervision have to work  
20 closely with casino management from time to time? And  
21 I assume that's true of casino management at Mohegan  
22 Sun at Pocono Downs?

23 A. Absolutely, Sergeant Deandrea --- Frank Deandrea,  
24 our office manager up here has an excellent rapport  
25 with management up here. And I really do have to

1 commend upper level management and mid-level  
2 management that you very much --- the casino and  
3 Mohegan Sun property and management has a very open  
4 door policy. And you know, certainly working with  
5 each other day in and day out, there are going to be  
6 issues that we have to address with each other. But  
7 virtually without exception we've always gotten a very  
8 cooperative response to any issue that was brought up.

9 Q. You answered my question before I asked it. So  
10 the degree of cooperation is high; is that right?

11 A. Yes, it is.

12 Q. Okay. And I think you mentioned in your testimony  
13 that in any business or facility where there were, you  
14 know, huge volumes of people or patrons, that it was  
15 in --- it would be inevitable that there would be some  
16 level of criminal activity; is that your testimony?

17 A. I think that's probably an assumption any  
18 reasonable person would make.

19 Q. And you would agree that at this particular  
20 facility the volumes of patrons, visitors is  
21 extraordinary on the time?

22 A. I don't know for a fact. I certainly wouldn't  
23 dispute it with you.

24 Q. Okay. And as reflected in OEC Exhibit One, you  
25 would admit, wouldn't you, that given all the



1 circumstances, you consider this a pretty good record;  
2 is that fair?

3 A. Yes, I see no problem with any crime trends here.

4 ATTORNEY KOHLER:

5 Nothing further.

6 CHAIR:

7 Any Redirect?

8 ATTORNEY DAVENPORT:

9 No.

10 CHAIR:

11 Next witness.

12 ATTORNEY DAVENPORT:

13 Thank you. Section 1509 on the Gaming  
14 Act requires the establishment of a Compulsive and  
15 Problem Gambling Program. Amendments to Downs Racing  
16 Compulsive and Problem Gambling Program was  
17 conditionally approved by the Board's Office of  
18 Compulsive and Problem Gambling on August 5th, 2009.  
19 Nan Horner is here today to testify regarding  
20 conditions placed on Downs Racing Compulsive and  
21 Problem Gambling Plan as well as Compulsive and  
22 Problem Gambling Plans, generally.

23 -----  
24 NANNETTE HORNER, HAVING BEEN PREVIOUSLY SWORN,  
25 TESTIFIED AS FOLLOWS:

1 -----

2 DIRECT EXAMINATION

3 BY ATTORNEY DAVENPORT:

4 Q. Good morning.

5 A. Good morning.

6 Q. Could you state your name and your position for  
7 the record, please?

8 A. Yes. My name is Nannette Horner. I am the  
9 director of the Office of Compulsive and Problem  
10 Gambling at the Pennsylvania Gaming Control Board.

11 Q. Could you please summarize the Compulsive and  
12 Problem Gambling Plan requirements that are contained  
13 in the Gaming Act as well as the regulations for slot  
14 machine licensees?

15 A. Yes. The Gaming Act and the regulations  
16 promulgated under the Gaming Act require slot machine  
17 Licensees to do certain things related to compulsive  
18 and problem gambling, underage gambling, intoxicated  
19 gambling and gambling by excluded or self-excluded  
20 individuals. So among those requirements, they would  
21 be --- the licensees would be required to develop and  
22 implement a Compulsive and Problem Gambling Plan, to  
23 train their employees regarding signs and symptoms of  
24 problem gambling, to establish and comply with  
25 procedures, and train employees to prevent self

1 excluded individuals, excluded individuals, underage  
2 and intoxicated individuals from engaging in gambling  
3 activities and from receiving direct mail marketing  
4 materials.

5       The licensees are required to notify me, as the  
6 director of the OCPG, whenever there is a suspected  
7 violation of a ban. So if a self excluded individual  
8 or an excluded individual were identified on the  
9 property or engaging in gaming activities, I would be  
10 notified within 24 hours. The advertisements for the  
11 casinos must have a Problem Gambling Statement.  
12 Mohegan Sun or Downs Racing, LP, utilizes the phrase  
13 gambling problem, call 1-800-GAMBLER. And that must  
14 be on all advertisements.

15       They have to have procedures to respond to  
16 individuals who request information on problem  
17 gambling services. And they also must place approved  
18 signage at various locations in the facility with the  
19 problem gambling statement, the gambling problem, call  
20 1-800-GAMBLER. Also, notifications for individuals  
21 under 21 and those who are excluded or self excluded  
22 that they're prohibited from being on property and  
23 they may be subject to trespass if they violate that  
24 ban.

25 Q. What are the procedures to improve a Compulsive

1 and Problem Gambling Plan that you utilize in your  
2 office?

3 A. Okay. All slot machine license applicants were  
4 required to submit a Compulsive and Problem Gambling  
5 Plan at the time of a license application. And for  
6 Downs Racing, that was in December of 2005. So that  
7 was submitted through the application process and was  
8 reviewed by the OCPG. However, none of the Compulsive  
9 and Problem Gambling Plans that were submitted with  
10 the applications were approved in that form. There  
11 was always some period of negotiation and you know,  
12 stepping up the submittal. And primarily, the need to  
13 change the Compulsive and Problem Gambling Plans as  
14 submitted was because the regulations were changed  
15 after the initial submittal of the applications. So  
16 generally, 60 days prior to the opening of any of the  
17 facilities, I would work with the facility in order to  
18 assist them in bringing their Compulsive and Problem  
19 Gambling Plan into compliance with the Act, and the  
20 regulations and guidelines. The original plan for  
21 Downs Racing, LP, was approved on October 23rd, 2006,  
22 and that was prior to the opening date.

23 Q. What are the required training requirements in  
24 Downs Racing's Compulsive and Problem Gambling Plan?

25 A. Generally, all employees are educated on the issue

1 of Compulsive and Problem Gambling. The prohibition  
2 of underage gambling, prohibition of gambling by  
3 intoxicated patrons, the identification and ejection  
4 of excluded and self excluded individuals. The  
5 training materials for employees are to be developed  
6 by an individual or a group that has specialized  
7 knowledge, skill and training in Compulsive and  
8 Problem Gambling Programs. And Downs Racing has  
9 utilized the Council on Compulsive Gambling of  
10 Pennsylvania to develop training materials for their  
11 employees.

12 Q. Could you describe the duties and responsibility  
13 of Downs Racing employees, with respect to the  
14 Compulsive and Problem Gambling Plan?

15 A. Yes. Pursuant to Downs Racing's approved  
16 Compulsive and Problem Gambling Plan, duties and  
17 responsibilities --- and I'll just go by department,  
18 if that's okay. Security has procedures to prevent  
19 underage gambling, excluded and self excluded and  
20 intoxicated gambling. I believe there was testimony  
21 already that security individuals and food and  
22 beverage individuals have training in responsible  
23 Alcohol Management Program. And security also engages  
24 in the dissemination of problem gambling materials.  
25 If somebody requests such materials security would be

1 able to provide the materials or direct an individual  
2 to where the materials can be located. Surveillance  
3 has procedures to prevent underage gambling, excluded  
4 and self excluded gambling, as well as intoxicated  
5 gambling. Slots department includes procedures to  
6 prevent underage, excluded, self excluded, intoxicated  
7 gambling as well as the prohibition of a payment on a  
8 jackpot, a hand-paid jackpot to such individuals.

9 Cashier's cage has procedures to prevent cashing  
10 checks or --- or, you know, providing cashiering  
11 privileges to underage excluded and self excluded  
12 individuals. Marketing has procedures to ensure that  
13 underage, excluded and self-excluded individuals do  
14 not participate in promotions, do not receive direct  
15 mail marketing materials and do not receive player  
16 club cards. And food and beverage has procedures to  
17 prevent intoxicated gambling and to prevent underage  
18 drinking.

19 Q. Does the Act have requirements to establish  
20 procedures to attempt to identify patrons and  
21 employees suspected or known with Compulsive and  
22 Problem Gambling behaviors or to report such behavior  
23 in an attempt to provide information to the  
24 individuals?

25 A. Yes. There is a requirement in the regulations

1 and also Downs Racing, LP has provisions in its  
2 Compulsive and Problem Gambling Plan to have  
3 procedures to attempt to identify individuals, patrons  
4 or employees who may know --- be suspected of having a  
5 gambling problem, and to provide information to  
6 individuals regarding treatment services in Gamblers  
7 Anonymous Programs. Problem gambling is known as a  
8 hidden addiction. It is not as obvious as someone who  
9 is intoxicated in another form, intoxicated by alcohol  
10 or intoxicated with drugs. So it's --- the signs and  
11 symptoms are very subtle.

12       And pursuant to Downs Racing's training program,  
13 an employee would attempt to look for items such as  
14 change in the pattern of play, change in appearance of  
15 an individual, someone who was very, you know, well  
16 put together, you know, all of a sudden is looking,  
17 you know, unkempt, disheveled. Players who may be  
18 seeking loans from employees or other players,  
19 irrational thought that someone thinks that, if they  
20 increase their bet, they will get all of their losses  
21 back. That's known as chasing losses.

22       And there are some verbal cues, as well,  
23 statements from an individual that they have no  
24 control over their behavior or they appear to be  
25 emotionally upset, you know, or sound like they're

1 going to engage in some sort of destructive behavior.  
2 But as you can imagine, any one of these, you know,  
3 visual or oral cues could be something else. So it is  
4 very, very difficult to attempt to find out if  
5 somebody does have a gambling problem. And employees  
6 should never attempt to diagnose someone; that is for  
7 mental health professionals, not for employees.

8 But also, you know, if an employee suspects that  
9 somebody, you know, may have a problem, they can offer  
10 assistance, you know, through telling somebody to call  
11 the toll free number, the 1-800-GAMBLER for assistance  
12 or provide a brochure for treatment information. But  
13 if a patron --- if an employee attempts to provide  
14 such information to a patron and a patron says, you  
15 know, I don't want this, I don't have a problem, get  
16 away, walk away, the employee must just walk away and  
17 cannot, you know, pursue it any further.

18 Q. Does Downs Racing's Compulsive and Problem  
19 Gambling Plan have procedures to prevent underage  
20 gambling and to prevent intoxicated, excluded or self  
21 excluded persons from gambling?

22 A. Yes. All of the procedures and training related  
23 to intoxicated, underage, excluded and self excluded  
24 individuals are covered in the Downs Racing approved  
25 Compulsive and Problem Gambling Plan.



1 Q. Can you briefly describe the signage requirements  
2 that are contained in Downs Racing Compulsive and  
3 Problem Gambling Plan?

4 A. Yes. Pursuant to the Gaming Act and the  
5 regulations, licensees must have certain signage. And  
6 Downs Racing, you know, has such signage. And the  
7 signage would include the problem gambling statement,  
8 which once again is, you know, gambling problem, call  
9 1-800-GAMBLER. And signage of that type must be  
10 within 50 of each exit and entrance to the property,  
11 and also within 50 feet of each ATM. And Downs has  
12 the signage placed on every ATM, and cash dispensing  
13 and change machine. There must be signage notifying  
14 self excluded individuals that they're subject to  
15 arrest. And that signage is located at the entrances  
16 to the facilities.

17 Signage within 50 feet of the entrance and exits  
18 to the gaming floor to notify individuals under 21  
19 that they're not permitted to gamble and Downs Racing  
20 does have that signage. And also signage at all  
21 entrances to the facility notifying the individuals  
22 that firearms and deadly weapons are prohibited  
23 without Gaming Control Board approval.

24 Q. When was Downs Racing's original Compulsive and  
25 Problem Gambling Plan approved?

1 A. That was approved on October 23rd, 2006.

2 Q. And has it been revised since that time?

3 A. It has. On August 10th, 2007, there were minor  
4 revisions made to the Compulsive and Problem Gambling  
5 Plan. And excuse me one second, it was amended to add  
6 the security manager as a person who is involved in  
7 the Compulsive Gambling Committee that they have on  
8 property and also to clarify responsibilities of Downs  
9 Racing personnel regarding ejection of individuals  
10 violating the self exclusion prohibition.

11 Q. What is a 501 A-4 report?

12 A. Okay. Actually --- I'm sorry. If we can back up  
13 there just ---?

14 Q. Sure.

15 A. Compulsive and Problem Gambling Plan was amended  
16 after 2007 as well. And that was --- it was just  
17 recently amended and was approved on August 5th, 2009.  
18 And that amendment really was an overhaul of the  
19 Compulsive and Problem Gambling Plan. It was  
20 rewritten, revised and reorganized, as well as the  
21 attachments and exhibits to ensure that it complies  
22 with the current and effective regulations, guidelines  
23 and policies of the Gaming Control Board.

24 Q. And your office placed certain conditions upon  
25 approval; is that correct?

1 A. Yes, the August 5th, 2009 approval was  
2 conditioned. There were two conditions placed on  
3 Downs Racing. And that is to revise some of their  
4 signage that is at, you know, the entrances to the  
5 facility and the entrances to the gaming floor. That  
6 signage should be revised on or before September 1st,  
7 2009. And they also are required, for a period of  
8 time, to submit for approval all of their future  
9 advertisements and billboards, just so that the Office  
10 of Compulsive and Problem Gambling can make sure that  
11 the Problem Gambling Statement and the phone number at  
12 the bottom of --- or located anywhere on the ad, that  
13 it is of a proper font size. We have a font size set  
14 forth in regulation. And to make sure that it's  
15 visible. So that requirement that the ads be  
16 submitted for approval will go at the latest until  
17 December of 2009.

18 Q. And with respect to a 501 A-4 report, could you  
19 describe what that is?

20 A. The 501 A-4 report is an annual summary of the  
21 Compulsive and Problem Gambling Program that is at  
22 each of the facilities. So Downs Racing, LP submitted  
23 their 501 A-4 report on May 28th, 2009. They  
24 submitted it through the Bureau of Licensing at the  
25 Gaming Control Board. And if I may, I'm going to

1 summarize the summary that Downs Racing provided.  
2 They specified that they made a concerted effort to  
3 outfit the new property with the required and  
4 appropriate signage. They placed materials related to  
5 Problem and Compulsive Gambling at player club booths.  
6 They have their Compulsive and Problem Gambling  
7 Committee meet on a quarterly basis throughout 2008.  
8 They required all new employees to participate in the  
9 Compulsive and Problem Gambling training during the  
10 orientation.

11 They retrained as an annual refresher training  
12 their employees. They had two sessions with a live  
13 training and several other sessions utilizing a taped  
14 presentation that was made by their trainer. They  
15 sponsored the 2008 statewide conference on Problem  
16 Gambling, presented by the Council on Compulsive  
17 Gambling of Pennsylvania, had numbers of Downs Racing  
18 attend that conference and they also sponsored Problem  
19 Gambling Awareness week in March of 2008, which  
20 included employee awareness activities during the  
21 week.

22 Q. Do you know whether Downs Racing's Compulsive and  
23 Problem Gambling Plan is contained in the Renewal  
24 Suitability report?

25 A. I do not believe that the entire Compulsive and

1 Problem Gambling Plan is set forth in that report, but  
2 a summary of it has been provided.

3 ATTORNEY DAVENPORT:

4 Thank you. I have no further questions.

5 CHAIR:

6 Mr. Kohler, any Cross Examination? Do  
7 you have any?

8 ATTORNEY KOHLER:

9 No, thank you.

10 CHAIR:

11 Okay. Thank you.

12 A. Thank you.

13 ATTORNEY DAVENPORT:

14 The Board's Bureau of Casino Compliance  
15 is responsible for protecting the integrity of gaming  
16 within each casino throughout the enforcement at  
17 gaming regulations and be the first in line in  
18 responding to patron complaints. The Bureau of Casino  
19 Compliance has casino compliance representatives.  
20 They're assigned to each facility, who are familiar  
21 with not only the Gaming Act, but the regulations and  
22 the facilities and internal controls, as well as its  
23 policies and procedures. The Bureau of Casino  
24 Compliance also ensures that all casino employees that  
25 have access to the gaming floor are properly licensed

1 and that all vendors who have business relationships  
2 with the casino have complied with the Bureau of  
3 Licensing's registration requirements. The Casino  
4 Compliance representatives monitor the casino's  
5 surveillance department to ensure that there's  
6 adequate camera coverage throughout the facility and  
7 that each --- and that such coverage meets the  
8 requirements of the regulations.

9                   In addition, the Bureau of Casino  
10 Compliance refers any criminal acts to the  
11 Pennsylvania State Police for investigation and refers  
12 to any violation of the act, regulations or internal  
13 controls to the Office of Enforcement Counsel, with  
14 possible sanctions against the casino or its  
15 employees. Gerry Stoll from the Bureau of Casino  
16 Compliance is present to testify regarding its working  
17 relationship with the casino.

18 -----  
19 GERALD STOLL, HAVING BEEN PREVIOUSLY SWORN, TESTIFIED  
20 AS FOLLOWS:

21 -----  
22 A. Morning.

23 DIRECT EXAMINATION

24 BY ATTORNEY DAVENPORT:

25 Q. Good morning. Could you state your name and your

1 title for the record?

2 A. Yes. I'm the senior supervisor of compliance.

3 Q. And your full name?

4 A. Gerald, G-E-R-A-L-D, S-T-O-L-L.

5 Q. Thank you.

6 A. You're welcome.

7 Q. What's the role of casino compliance  
8 representatives at Downs Racing?

9 A. At Downs Racing as well as, you know, the other  
10 eight locations, we are more or less the boots on the  
11 ground. We're the conduit between the Gaming Board  
12 and the property. We're there to administer, you  
13 know, to the fact that, you know, the casino is  
14 compliant with our regulations as well as their  
15 internal controls. We're there to, you know, work in  
16 conjunction with our own Bureaus, Licensing, you know,  
17 the lab --- different things that would come up on a  
18 daily basis. We're there to make sure that the casino  
19 has the --- all information as soon as possible, so  
20 they can effectively, you know, manage their  
21 organization. We work with DOR and G-Tech to make  
22 sure that the proper revenue is collected for the  
23 state. We're there 24/7 to administer, you know,  
24 Compulsive and Problem gaming issues.

25 When an excluded individual arrives at 2:00 in the

1 morning, we're there to, you know, go through the  
2 paperwork and assist with that function. What we try  
3 to do is we try to be a partner with the property to  
4 enable them to, you know, adhere to our regulations  
5 and their internal controls. And you know, that's  
6 basically what we try to do, to be the conduit for,  
7 you know, a smooth operation with the property.

8 Q. And you stated DOR and G-Tech, could you describe  
9 them?

10 A. Yes, ma'am. DOR is the Department of Revenue.  
11 And the revenue in the Commonwealth is collected at  
12 the machine level. And to collect that revenue, the  
13 DOR has a computer system that is G-Tech, that's the  
14 name of the system, that is a very, very sensitive and  
15 secure area. And we just have to make sure that, you  
16 know, that area remains secure, communication is, you  
17 know, uninterrupted and that if entry is necessary  
18 into that area that, you know, the property as well as  
19 us make sure that those who enter are, you know,  
20 allowed to be in the area. And it --- that's  
21 basically, you know, just one of our responsibilities.

22 Q. Could you describe the Bureau's working  
23 relationship with Downs Racing with employees and  
24 management?

25 A. Yes. Our employees have a fantastic rapport with



1 the Downs Racing. You know, it's --- you know, their  
2 executive staff as well as, you know, the rank and  
3 file have become much more professional and proficient  
4 with, you know, operating in Pennsylvania. And I have  
5 a good feeling and I see no issues when it comes to  
6 our relationship.

7 Q. Okay. And they've been responsive to anything  
8 that Bureau has needed?

9 A. Yes, very responsive to, you know, our suggestion  
10 and ways to improve their operation.

11 Q. And have they been cooperative with any  
12 investigations that have been initiated by your  
13 Bureau?

14 A. Yes, ma'am.

15 Q. What is the Bureau's working relationship with the  
16 State Troopers that are assigned to Downs Racing?

17 A. It's a very, very, very good relationship. You  
18 know, we feel that we are in partnership with the  
19 State Police, the operators and ourselves to really  
20 provide a decent product to the, you know, citizens of  
21 the Commonwealth and the Commonwealth. And you know,  
22 we just have a fantastic working relationship with  
23 Sergeant Deandrea and, you know, his executive staff  
24 within the State Police. It's really better than I  
25 had ever hoped.

1 Q. When the Bureau of Casino Compliance raised issues  
2 or concerns with Downs Racing's security plans, has  
3 Downs Racing been cooperative in modifying its  
4 security plans to address the staff concerns?

5 A. Yes, they have. You know, we've met with Downs on  
6 a number of occasions and, you know, we feel that, you  
7 know, they have addressed the issues and our concerns  
8 in a positive fashion that will, you know, create  
9 some, you know, positive results.

10 Q. And have the changes of Downs Racing's security  
11 plans alleviated some of the staff concerns with  
12 respect to underage patrons?

13 A. Yes. Yeah. You see the frequency has diminished.

14 ATTORNEY DAVENPORT:

15 Okay. Thank you. I have no questions at  
16 this time.

17 CHAIR:

18 Any Cross Examination, Mr. Kohler?

19 ATTORNEY KOHLER:

20 No Cross.

21 CHAIR:

22 None? Thank you.

23 ATTORNEY KOHLER:

24 Thank you.

25 ATTORNEY DAVENPORT:

1 Attorney Katie Higgins from the Office of  
2 Enforcement Counsel would discuss any violations of  
3 the Gaming Act, regulations as well as Downs Racing  
4 Internal Controls.

5 ATTORNEY HIGGINS:

6 The Office of Enforcement Counsel has on  
7 various occasions issued warning letters to Mohegan  
8 Sun for alleged infractions of Board regulations or  
9 Internal Controls. The first warning letter, which  
10 has been pre-marked as Exhibit 2-A was issued on March  
11 28th, 2007, due to a patron on a self-excluded list  
12 receiving promotional materials from Mohegan Sun in  
13 violation of Section 503.585 of Board regulations.  
14 The OEC received a corrective response from Mohegan  
15 Sun on March 28th, 2007. This is marked as Exhibit  
16 2-B.

17 (OEC Exhibits Two-A and Two-B marked for  
18 identification.)

19 ATTORNEY HIGGINS:

20 Next warning letter, which has been pre-  
21 marked as Exhibit 3-A, was issued on November 1st,  
22 2007 regarding Mohegan Sun's failure to record unusual  
23 occurrences into its incident logbook and for failing  
24 to notify the Board and PSP of these occurrences as  
25 required by the Act at Mohegan Sun's Internal

1 Controls. The OEC received a corrective action  
2 response from Mohegan Sun on November 8, 2007. And  
3 this is marked as Exhibit 3-B.

4 (OEC Exhibits Numbers Three-A and Three-B  
5 marked for identification.)

6 ATTORNEY HIGGINS:

7 The next warning letter, which has been  
8 pre-marked as Exhibit 4-A, was issued on April 1st,  
9 2008 due to Mohegan Sun failing to immediately notify  
10 the Board or PSP of a theft incident in the cage as  
11 required by the Act and Section 465A.11 of Board  
12 regulations. The OEC received a corrective response  
13 from Mohegan Sun on April 28th, 2008. And this is  
14 marked as Exhibit 4-B.

15 (OEC Exhibit Numbers Four-A and Four-B  
16 marked for identification.)

17 ATTORNEY HIGGINS:

18 The fourth warning letter, which has been  
19 pre-marked as Exhibit Five, was issued on August 1st,  
20 2008, due to Mohegan Sun's failure to retain  
21 surveillance video for seven days in violation of  
22 Section 465A.9J of Board regulations, as well as  
23 Mohegan Sun's Internal Controls. The Office of  
24 Enforcement Counsel received a corrective response in  
25 a timely manner.

1 (OEC Exhibit Number Five marked for  
2 identification.)

3 ATTORNEY HIGGINS:

4 The next letter, which has been pre-  
5 marked as Exhibit Number 6, dated October 9, 2008, was  
6 a cease and desist letter regarding a Texas Hold 'em  
7 tournament that was to be conducted at Mohegan Sun.

8 (OEC Exhibit Number Six marked for  
9 identification.)

10 ATTORNEY HIGGINS:

11 The sixth letter, Exhibit 7-A, dated  
12 October 24th, 2008 was a cease and desist letter  
13 regarding a charity event with Blackjack, Craps and  
14 Roulette that was to be conducted at Mohegan Sun. The  
15 OEC received a response from Mohegan Sun on October  
16 24th, 2008, and this is marked as Exhibit Number 7-B.

17 (OEC Exhibit Numbers Seven-A and Seven-B  
18 marked for identification.)

19 ATTORNEY HIGGINS:

20 The next letter, pre-marked as Exhibit  
21 Number 8-A, dated November 24th, 2008, was issued due  
22 to location and asset tags being missing on various  
23 slot machines in violation of Section 461A7Y of Board  
24 regulations. The OEC received a corrective response  
25 from Mohegan Sun on November 26th, 2008. And this is

1 marked as Exhibit Number 8-B.

2 (OEC Exhibit Numbers Eight-A and Eight-B  
3 marked for identification.)

4 ATTORNEY HIGGINS:

5 The eighth letter, which has been pre-  
6 marked as Exhibit Number 9, dated April 1st, 2009, was  
7 issued due to an incident where a gaming permit holder  
8 employed by Mohegan Sun was found to be playing slot  
9 machines at another facility within the Commonwealth  
10 in violation of Section 435A.1H. And the Office of  
11 Enforcement Counsel received a corrective response in  
12 a timely manner.

13 (OEC Exhibit Number Nine marked for  
14 identification.)

15 ATTORNEY HIGGINS:

16 On July 21st, 2009 a compliance  
17 conference was held with Mohegan Sun, due to underage  
18 patrons found gaming at Mohegan Sun in violation of  
19 Section 1518A13 of the Act and Section 513A.2A of  
20 Board regulations. During the compliance conference,  
21 an action plan was agreed upon to initiate compliance.  
22 Corrective action was implemented by Mohegan Sun and  
23 to this date Mohegan Sun has complied with full  
24 implementation and corrective action, as agreed upon  
25 by the Office of Enforcement Counsel and the Bureau of

1 Casino Compliance. Exhibit Number 10 is a compliance  
2 conference letter dated July 15th, 2009.

3 (OEC Exhibit Number 10 marked for  
4 identification.)

5 ATTORNEY HIGGINS:

6 There have been two Consent Agreements  
7 entered into by Mohegan Sun and the Office of  
8 Enforcement Counsel and approved by the Board. The  
9 first Consent Agreement was approved by the Board on  
10 December 3rd, 2007. Mohegan Sun entered into the  
11 Consent Agreement relating to its admitted failure to  
12 prevent an underage individual from gaming at its  
13 facility.

14 Due to a deficiency in the communication  
15 process between the Licensee's promotions department  
16 and the security department, an individual identified  
17 as being underage was able to gain access to the  
18 gaming floor and commence play before being approached  
19 by security personnel. In the Consent Agreement,  
20 Mohegan Sun admitted to the violation, agreed to pay  
21 all costs associated with the investigation and agreed  
22 to hire additional security personnel to prevent  
23 another incident. This Consent Agreement and Board  
24 Order is marked as Exhibit Number 11.

25 (OEC Exhibit Number 11 marked for

1 identification.)

2 ATTORNEY HIGGINS:

3 The second Consent Agreement was approved  
4 by the Board on January 21st, 2009. Mohegan Sun  
5 entered into a Consent Agreement, again, relating to  
6 its admitted failure to prevent an underage individual  
7 from gaming in its facility. In this instance an  
8 underage individual was permitted to enter the floor  
9 and commence play for almost an hour before being  
10 identified by security personnel. In the Consent  
11 Agreement, Mohegan Sun admitted to the violation and  
12 agreed to pay a civil penalty of \$5,000. This Consent  
13 Agreement and Board Order has been pre-marked as  
14 Exhibit Number 12.

15 (OEC Exhibit Number 12 marked for  
16 identification.)

17 ATTORNEY HIGGINS:

18 The Office of Enforcement Counsel has  
19 revoked and suspended gaming permits and non-gaming  
20 registrations for various violations that have  
21 occurred at Mohegan Sun. The first Board Order dated  
22 October 2007 --- October 2nd, 2007 revoked the permit  
23 of a former Mohegan Sun employee that was found to be  
24 gaming within 30 days of leaving employment, with a  
25 slot machine Licensee, in violation of Section 435.1Q.



1 This order has been pre-marked as Exhibit Number 13-A.

2           The next Board Order, also dated October  
3 2nd, 2007 and pre-marked as Exhibit Number 13-B  
4 revoked the non-gaming registration of a Mohegan Sun  
5 EBS attendant who was charged by the Pennsylvania  
6 State Police with two misdemeanor theft charges, which  
7 rose out of an incident when the employee took cash  
8 from a wallet that was found on the gaming floor.

9           The next Board Order dated April 10th,  
10 2008 and pre-marked as Exhibit Number 13-C suspended  
11 the gaming permit of a cage cashier, who violated cash  
12 handling policies. Next, is an adjudication filed by  
13 the Board on September 3rd, 2008 suspending the gaming  
14 permit of a security officer, who was charged by the  
15 State Police with three misdemeanor theft offenses,  
16 which resulted from an incident where the security  
17 officer took a jacket from the Mohegan Sun lost and  
18 found. This Order has been pre-marked as Exhibit  
19 Number 13-D.

20           Next, is a Board Order dated October 14,  
21 2008 and pre-marked as Exhibit Number 13-E, which  
22 suspended the non-gaming registration of an employee  
23 who did not return emergency credentials, in violation  
24 of Section 435A.7.

25           Next is a Board Order dated November 13,

1 2008 revoking the non-gaming employee registration of  
2 an EBS attendant who took a \$20 bill that was lying on  
3 the gaming floor. This Order has been pre-marked as  
4 Exhibit Number 13-F.

5           Next are four Board Orders, two dated  
6 December 18th, 2008, one dated June 3rd, 2009 and one  
7 dated July 15th, 2009 all revoking the non-gaming  
8 employee registrations of three beverage servers and  
9 one concessions tenant for theft related incidents.  
10 These Orders have been pre-marked as Exhibits Number  
11 13-G through 13-J.

12           (OEC Exhibit Numbers 13-A to 13-J marked  
13 for identification.)

14           ATTORNEY DAVENPORT:

15           Thank you. The Board's Bureau of  
16 Investigation and Enforcement is responsible for  
17 conducting Downs Racing, Category 1 renewal background  
18 investigation. BIE agent Darryl Brown is present to  
19 testify regarding the background investigation.

20           CHAIR:

21           Before that, I'm assuming Ms. Higgin's  
22 testimony, if Mr. Kohler has Cross Examination of her  
23 we'll do that before you move on.

24           ATTORNEY DAVENPORT:

25           Okay. Well, I didn't know if she was

1 testifying so much as putting this into the record.

2 ATTORNEY KOHLER:

3 All she was doing was sponsoring  
4 exhibits ---

5 ATTORNEY DAVENPORT:

6 Yes.

7 CHAIR:

8 Okay.

9 ATTORNEY KOHLER:

10 --- and I have no Cross.

11 CHAIR:

12 Okay. Thank you.

13 ATTORNEY DAVENPORT:

14 Okay.

15 -----

16 DARRYL BROWN, HAVING BEEN PREVIOUSLY SWORN, TESTIFIED  
17 AS FOLLOWS:

18 -----

19 DIRECT EXAMINATION

20 BY ATTORNEY DAVENPORT:

21 Q. Could you please state your name and your title  
22 for the record?

23 A. The name is Darryl Brown. I'm an agent with the  
24 Pennsylvania Gaming Control Board and the Bureau of  
25 Investigation Enforcement.

1 Q. Did the Bureau of Investigation Enforcement  
2 conduct a renewal investigation to determine the  
3 suitability of Downs Racing for licensure?

4 A. Yes, we did.

5 Q. And were you one of the agents assigned to Downs  
6 Racing's renewal investigation?

7 A. Yes, I was.

8 Q. When did the Bureau of Investigation Enforcement  
9 begin Downs Racing's suitability investigation?

10 A. The renewal?

11 Q. The renewal.

12 A. The renewal was initiated on August 1st of 2007  
13 and it was completed in October of 2008. But since  
14 then, since the --- due to the time that has passed,  
15 we have --- as of August 12th of 2009, we had  
16 additional investigations conducted and updated all  
17 the information from that previous report.

18 Q. As part of the Bureau's renewal investigation, did  
19 it receive a renewal application submitted by Downs  
20 Racing, its affiliates, principles and key employees?

21 A. Yes.

22 CHAIR:

23 Mr. Brown, could you speak up a little or  
24 closer to the microphone? Thank you.

25 BY ATTORNEY DAVENPORT:

1 Q. Did Downs Racing timely provide all requested  
2 documents and information during its renewal  
3 investigation?

4 A. Yes, they did.

5 Q. In your opinion, did Downs Racing fully cooperate  
6 with the Bureau of Investigation Enforcement during  
7 the renewal investigation?

8 A. Yes, they were very cooperative.

9 Q. Did the Bureau of Investigation Enforcement  
10 complete its renewal investigation of Downs Racing?

11 A. Yes, we have.

12 Q. And did the Bureau determine that there are any  
13 issues related to Downs Racing's suitability or the  
14 suitability of any of its affiliates, principals or to  
15 the employees that would impede licensure?

16 A. No, there were no areas of concern on any of the  
17 principals or the entities or the entity affiliates.

18 Q. Is the Bureau of Investigation Enforcement's  
19 findings contained in the report of investigation?

20 A. Could you repeat that again?

21 Q. Sure. Is the Bureau of Investigation  
22 Enforcement's findings regarding Downs Racing's  
23 renewal contained in the report of investigation or  
24 ROI?

25 A. Yes. Yes, they are.

1 Q. Is it a standard procedure for the Bureau of  
2 Investigations Enforcement to forward its report of  
3 investigation to the Office of Enforcement Counsel, so  
4 they can file a recommendation or objections relating  
5 to the issuance of licenses pursuant to Section 1517  
6 of the Act?

7 A. Yes, that's the procedure.

8 Q. Okay. And that was done in this case, that was  
9 forwarded to the Office of Enforcement Counsel?

10 A. That is correct.

11 ATTORNEY DAVENPORT:

12 Okay. Thank you. I just want to note  
13 that the Board is not going to --- or we're not going  
14 to make any recommendation at this time, but we will  
15 make a recommendation regarding the suitability at the  
16 appropriate time.

17 CHAIR:

18 Okay. Thank you. Any questions, Mr.  
19 Kohler, at this time?

20 ATTORNEY KOHLER:

21 No.

22 CHAIR:

23 No? Thank you.

24 ATTORNEY DAVENPORT:

25 As the Bureau of Investigation

1 Enforcement agent testified, its report of  
2 investigation is contained in the suitability report,  
3 which is forwarded to the Board. The suitability  
4 report also contains information on the background of  
5 the licensee, racetrack gaming, gaming operations,  
6 employment, diversity, regulatory and constraint  
7 issues since licensure, compliance with the statement  
8 of conditions, fulfillment of promises and  
9 commitments, application and background  
10 investigations, whether those fees were paid,  
11 financial suitability, the bond for issuance of slot  
12 machine license, civil litigation, tax clearances,  
13 background investigation of principal and key  
14 employees and Downs Racing Compulsive and Problem  
15 Gambling Plan.

16                   As submitted in suitability report Downs  
17 Racing remains in good standing with the harness  
18 racing Commission and a letter of good standing,  
19 noting that there's no regulatory violations involving  
20 Downs Racing is attached in the suitability report as  
21 Exhibit Number One. In addition, the Pennsylvania  
22 Department of Revenue reports to the Board that Downs  
23 Racing is compliant with Chapter 14 of the Gaming Act,  
24 and the Department of Revenue's regulations regarding  
25 all payment of taxes and assessments.

1                   In addition, the Department of Revenue  
2 has reported that there have been no issues regarding  
3 the Departments audits or connectivity to the  
4 Department's central control computer system or  
5 G-Tech. The Pennsylvania Department of Labor and  
6 Industry reported to the Board that Downs Racing is  
7 compliant with its Unemployment Compensation and  
8 Workers' Compensation Taxes. According to the Board's  
9 Office of the Budget, Downs Racing has promptly  
10 reimbursed the Board for all costs associated with the  
11 ongoing investigations and proceedings related to any  
12 application filed by, associated with or filed in  
13 connection with Downs Racing, LP, its affiliates,  
14 intermediaries, subsidiaries, holding companies,  
15 manufacturers, designees, principals, key employees  
16 and permisees and has promptly paid all other fines,  
17 fees, sanctions or assessments imposed by the Board.

18                   Section 1212 of the Gaming Act requires  
19 that the Board promote and ensure diversity in all  
20 aspects of the gaming activities authorized under the  
21 Act, and that the Board shall work to enhance the  
22 representation of diverse groups and the ownership,  
23 participation and operation of licensed entities and  
24 licensed facilities through the ownership,  
25 participation and operation of business enterprises



1 associated with or utilized by the licensed entities,  
2 and licensed facilities and through the provisions of  
3 goods and services utilized by the slot machine  
4 licensees.

5           A renewal of Downs Racing's diversity  
6 plan indicated that the diversity goals are reasonable  
7 and represented in a good faith effort to assure that  
8 all persons are afforded equality of opportunity in  
9 contracting an employment with Downs Racing. Downs  
10 Racing suitability report contains an analysis by the  
11 Board's financial investigation unit of Downs Racing's  
12 finances, which indicates that there is no reason at  
13 this time to find Downs Racing financially unsuitable  
14 for continued licensure. At this time, I'd like to  
15 admit the documents that Attorney Higgins testified to  
16 with respect to uniform crime reporting, which was  
17 Exhibit Number One --- OEC Exhibit Number One, as well  
18 as the following documents, which have been previously  
19 provided to opposing Counsel as well as to the Board  
20 and Board packet. Exhibit Number 14 will be a July  
21 31st, 2009 memorandum from Anthony Pagliaro, manager  
22 of the Bureau of Gaming Operations.

23           Exhibit 15 will be a March 10th, 2009  
24 letter from the Pennsylvania Department of Agriculture  
25 Racing Commission's letter of good standing. Exhibit

1 Number 16 would be the August 3rd, 2009 memorandum  
2 from Melinda Tucker, the director of racetrack gaming.  
3 Exhibit Number 17 will be the August 4th, 2009 letter  
4 from the Pennsylvania Department of Revenue, Bureau of  
5 Fiscal Management. And as Exhibit Number 18 will be  
6 Downs Racing, LP's Category 1 Renewal Background  
7 Investigation suitability report. And I believe  
8 opposing Counsel would stipulate to the admission of  
9 all these records.

10 ATTORNEY KOHLER:

11 We've talked about stipulating them in,  
12 and I don't have any problem with that. But we also  
13 talked about a stipulation with OEC, that while there  
14 have been warning letters sent from time to time  
15 despite that there are a couple of consent agreements,  
16 et cetera, that OEC as well as Mohegan Sun at Pocono  
17 Downs considered this a very good record. With that  
18 stipulation, I'll stipulate to the documents coming  
19 in.

20 CHAIR:

21 Okay.

22 ATTORNEY DAVENPORT:

23 We do.

24 CHAIR:

25 Okay. Any question on confidentiality of

1 any of Exhibits One through 18 under confidentiality  
2 provisions of our Act or any other law or regulation?

3 ATTORNEY DAVENPORT:

4 With respect to Exhibit Number 18, I know  
5 there are parts of the suitability report that, I  
6 believe should remain confidential. You can have  
7 Attorney Kohler ---

8 ATTORNEY KOHLER:

9 We would ---.

10 ATTORNEY DAVENPORT:

11 --- address that.

12 ATTORNEY KOHLER:

13 I could address that now or do you want  
14 to address confidentiality generally at the end?

15 CHAIR:

16 That's fine, we'll address it as a whole  
17 at the end.

18 ATTORNEY KOHLER:

19 We will, you know, stipulate the  
20 suitability report in, subject to our agreement with  
21 OEC, as to which part should be marked confidential.

22 CHAIR:

23 Okay. And any ---?

24 ATTORNEY KOHLER:

25 Yes. And OEC --- we haven't discussed

1 this but if OEC agrees, we'd like the warning letters  
2 marked confidential.

3 CHAIR:

4 All right.

5 ATTORNEY DAVENPORT:

6 We don't object to that.

7 CHAIR:

8 Okay. At this point, any pieces of the  
9 warning letter and --- warning letters and Exhibit  
10 Number 18 will be kept confidential in accordance with  
11 the Act and Regulations of the Board and other rule of  
12 the state law or regulation. At this point, the  
13 Office of Enforcement Counsel requests that the record  
14 remain open for at least 15 days so that the parties  
15 may supplement the record with additional information,  
16 prior to the Renewal Hearing before the Board. And  
17 the record will remain open. And actually, the Board  
18 will also have an opportunity to ask questions, and  
19 supplement that record at the time of the hearing. So  
20 the record will remain open. Mr. Kohler.

21 ATTORNEY KOHLER:

22 Just a clarification. We're going to ---  
23 we're stipulating in the suitability report --- late  
24 last evening, we found a couple of things that needed  
25 updating. They're relatively administrative and the

1 arrangement we have reached with OEC is to put those  
2 updates into the record, post-hearing.

3 CHAIR:

4 Okay. That's fine. And you'd like to  
5 move your records --- or exhibit --- I'm sorry.

6 ATTORNEY KOHLER:

7 I will --- let me mark my exhibits first.  
8 And I wasn't sure how we were going to mark here. But  
9 we have our original renewal application. I'm going  
10 to mark that as MSPD One. We have our update to the  
11 renewal application, which we've identified as  
12 supplement Number One to the renewal application,  
13 which we would request be marked as MSPD Two.

14 (MSPD Exhibits One and Two marked for  
15 identification.)

16 CHAIR:

17 Okay.

18 ATTORNEY KOHLER:

19 And we have our presentation by the panel  
20 earlier today, which we would request be marked as  
21 MSPD Three. And I would move admission of all three.  
22 Again, subject to our resolution of confidentiality  
23 issues, at the end of the hearing.

24 (MSPD Exhibit Three marked for  
25 identification.)

1           CHAIR:

2           All right. Anything that is protected by  
3 the Act and regulation under state law and regulations  
4 will be kept confident.

5           ATTORNEY KOHLER:

6           Okay. And I can go --- if you want, I  
7 can go through that now? I was trying to be sensitive  
8 to the members of the public here to testify, but ---.

9           CHAIR:

10          We can work that out.

11          ATTORNEY KOHLER:

12          Okay.

13          CHAIR:

14          Any objections from OEC for the admission  
15 of Downs Racing Exhibits as listed?

16          ATTORNEY DAVENPORT:

17          No objection.

18          CHAIR:

19          Any other testimony or evidence from  
20 Office of Enforcement Counsel?

21          ATTORNEY DAVENPORT:

22          No, not at this time.

23          CHAIR:

24          Okay. Then we'll conclude that portion  
25 of our hearing and move onto the public comment

1 period. I would ask any of the individuals that have  
2 registered to speak today, please stand, raise your  
3 right hand to be sworn by the court reporter.

4 -----

5 WITNESSES SWORN EN MASSE:

6 -----

7 CHAIR:

8 We will begin with a statement from State  
9 Representative from Eddie Day Pashinski. I understand  
10 he is in Harrisburg in session at this time, and a  
11 representative will read his statement for him.

12 -----

13 TROY BEAVERSON, HAVING BEEN PREVIOUSLY SWORN,  
14 TESTIFIED AS FOLLOWS:

15 -----

16 MR. BEAVERSON:

17 Yes. I am Troy Beaverson for the Office  
18 of Chief Counsel. And as you said, I think the record  
19 should reflect that the House is in session today, so  
20 I will be reading his statement verbatim. As a member  
21 of the gaming oversight committee, I have seen  
22 firsthand the efficient operation of this dynamic  
23 facility. Our committee has been a part of several  
24 tours that directed us behind the scenes to illustrate  
25 the sophistication of the equipment and superior

1 design of the state of the art facility.

2           We toured the security operations,  
3 observing the impressive and extensive electronic  
4 equipment, which demonstrated the high degree of  
5 technology, ensuring a safe and secure facility. The  
6 new facility enhances the appearance of Plains  
7 Township, the beautifully landscaped grounds  
8 complementing --- complemented by the unique building  
9 architecture and colorful lighting. The property has  
10 increased the value of Plains Township and the  
11 surrounding communities in more ways than simply the  
12 real estate.

13           Over 1,000 quality jobs have been created  
14 by this facility. More than 98 percent of these  
15 positions are filled by Pennsylvania residents,  
16 primarily from Northeastern Pennsylvania. And the  
17 vast majority of these positions are full-time. In  
18 addition, these permit jobs, nearly 2,000 construction  
19 jobs, were utilized to build both phases of the  
20 Mohegan Sun complex. Over \$550,000,000 has been  
21 invested in our area, including \$270,000,000 in bricks  
22 and mortar. In addition to these onsite developments,  
23 the Mohegan Sun operation has invested additional  
24 millions into offsite improvements for the  
25 installation of traffic signals and road improvements.



1           As a volunteer member of the Wyoming  
2 Valley United Way Organization for 27 years, I know  
3 and understand the need and importance of community  
4 involvement. One of my first experiences of observing  
5 and working with President Soper was through the  
6 United Way Campaign 2006. Bobby agreed to be our  
7 campaign chairman and he worked diligently to achieve  
8 our financial goal exceeding \$4,000,000. The Mohegan  
9 Sun operation donated their facility, their staff and  
10 finances to ensure a successful campaign. Over the  
11 past three years, the benevolence of the Mohegan Sun  
12 operation has set a new standard for community  
13 involvement by donating to over 330 different  
14 organizations.

15           In 2007, Mohegan Sun donated over  
16 \$182,000 to charitable organizations and community  
17 outreach activities. In 2008, they expended over  
18 \$315,000. Mohegan Sun not only donates financially,  
19 they encourage their management teams to actively  
20 participate in community activities by serving on  
21 numerous boards, volunteering for the community  
22 initiatives and hosting countless nonprofit functions  
23 at their main facility.

24           Furthermore, the Gaming Act was designed  
25 to reduce property tax, re-energize a failing equine

1 industry, enhance tourism and help local communities  
2 with an infusion of new dollars for economic  
3 development. Because of a quality management team, a  
4 great business plan, creative marketing and excellent  
5 customer service, Mohegan Sun has done their part by  
6 contributing over \$320,000,000 into the Gaming Fund  
7 for the areas previously listed.

8           My constituents that completed the  
9 Homestead Agreement received over \$200 in property tax  
10 rebates each year for the last two years. Luzerne  
11 County has garnered more than \$26,000,000 in economic  
12 development dollars and the local equine business has  
13 seen dramatic improvement in our financial stability.  
14 Plains Township, the host community, has received over  
15 \$7,000,000 for their local share. These dollars have  
16 created a brighter future for the residents of Luzerne  
17 County, enabling the local municipalities the  
18 financial resources to improve the quality of life for  
19 its citizens without increasing their taxes or  
20 operational fees.

21           In conclusion, I believe Mohegan Sun has  
22 demonstrated time and time again that they are indeed  
23 an asset to our community and a major benefactor to  
24 the wellbeing of countless Pennsylvanians. I believe  
25 the positive relationship they have developed

1 throughout northeast Pennsylvania and the successful  
2 operation of this outstanding facility qualifies them  
3 for renewal of their gaming license. I make this  
4 request without reservation. And I thank you for your  
5 consideration.

6 CHAIR:

7 Thank you. We will move onto comment  
8 from community groups. First Mr. Larry Newman from I  
9 believe the Chamber of Business, come forward.

10 -----

11 LAWRENCE NEWMAN, HAVING BEEN PREVIOUSLY SWORN,  
12 TESTIFIED AS FOLLOWS:

13 -----

14 MR. NEWMAN:

15 Good afternoon. My name is Lawrence  
16 Newman. I am the vice president of Economic and  
17 Community Development for the Greater Wilkes-Barre  
18 Chamber of Business and Industry. And on behalf of  
19 our 1,200 member businesses, I welcome the  
20 representatives of the Pennsylvania Gaming Control  
21 Board to Plains Township and to Greater Wilkes-Barre.  
22 This morning, I'd like to address the impact of  
23 Mohegan Sun at Pocono Downs in three general areas,  
24 direct economic impact, amenity development and  
25 engagement in the Greater Wilkes-Barre Community.

1                   Before Mohegan Sun opened in Plains  
2 Township, when gaming in Pennsylvania was still an  
3 abstract concept and the new owners of Pocono Downs  
4 were an unknown quantity, we were naturally wary of  
5 what would result. Would gaming be a boom for our  
6 community or an empty promise? Today we can look  
7 back, examine Mohegan's record and provide a confident  
8 answer to that question. As a result, I'd like to  
9 express the Greater Wilkes-Barre Chambers unequivocal  
10 support for the renewal of Mohegan Sun's casino  
11 operator license for Pocono Downs.

12                   With regard to direct economic impact,  
13 you are already familiar with the salient numbers.  
14 The approximately 1,000 employees, the \$270,000,000  
15 invested in construction of the casino facilities, the  
16 \$216,000,000 in gross terminal revenue generated  
17 during the most recent fiscal year, 55 percent of  
18 which went to the Commonwealth as tax revenue. Of  
19 that, as stated earlier, four percent went to Plains  
20 Township's general operating budget, as well as to  
21 competitive grants for public safety and economic  
22 development activities within Luzerne County.

23                   This past March, Mohegan's success  
24 permitted the Luzerne County local Share Account  
25 Program to award \$13.8 million to 20 worthy local

1 projects. The results of that investment are now  
2 becoming visible throughout our community in projects  
3 ranging from the rebuilding of Kingston's Hoyt Library  
4 to Wilkes-Barre Township's new police station, to  
5 Misericorida University's College of Health Sciences  
6 and to the expansion of the Chambers business  
7 incubator in Downtown Wilkes-Barre. Mohegan's  
8 contributions to amenity development are equally  
9 impressive, in an age when investment and leisure  
10 dollars are more mobile than ever, quality of place  
11 matters more than ever to any community trying to  
12 remain competitive.

13                   The addition of Mohegan Sun at Pocono  
14 Downs, the local list of things to do, has  
15 exponentially improved the quality of place that  
16 northeastern Pennsylvania can today offer. It is an  
17 amazing addition to our local amenities package, not  
18 only as a casino, but as a well rounded dining,  
19 shopping and entertainment destination, a fact most  
20 recently evidenced by the thousands of people  
21 attending Mohegan's new summer concert series. And  
22 rather than competing for a static pool of  
23 entertaining dollars within our market, Mohegan's new  
24 complex has helped to draw out-of-market visitors to  
25 Greater Wilkes-Barre. Even against the backdrop of a

1 very difficult national economy, Mohegan's presence  
2 has proven to be complimentary rather than  
3 competitive.

4           My final comments address community  
5 involvement. Mohegan Sun has not simply paid lip  
6 service to its host community, rather starting with  
7 Bobby Soper, the Mohegan team has become fully engaged  
8 with our community and its issues. Time and again,  
9 they have willingly contributed not just their  
10 resources, but their time and their ideas. They have  
11 become fixtures, not only in public settings, but also  
12 in the unglamorous tedium of meetings and committees  
13 familiar to anyone who's meaningfully occupied with  
14 community causes. It is difficult to think of another  
15 new corporate arrival in our region that has so  
16 rapidly woven itself into our community fabric. To  
17 put it bluntly, when it comes to community  
18 involvement, Mohegan has set a very high bar for its  
19 peers to follow.

20           In closing, because Greater Wilkes-Barre  
21 has benefited tremendously from the economic impact,  
22 the new investment and the new energy that Mohegan Sun  
23 has brought to our region, the Greater Wilkes-Barre  
24 Chamber is firmly in support of this request for  
25 license renewal. Again, thank you very much for this

1 opportunity to testify before you on this matter. And  
2 I'm happy to take any questions that you may have.

3 CHAIR:

4 Thank you, Mr. Newman.

5 MR. NEWMAN:

6 Thank you.

7 CHAIR:

8 Mr. David Lee from United Way.

9 -----  
10 DAVID LEE, HAVING BEEN PREVIOUSLY SWORN, TESTIFIED AS  
11 FOLLOWS:

12 -----  
13 MR. LEE:

14 Good afternoon. My name is David Lee  
15 from the Pennsylvania --- the United Way Wyoming  
16 Valley, and I have a prepared statement I'd like to  
17 read. Dear Members of the Pennsylvania Gaming Board,  
18 thank you for allowing me this opportunity to comment  
19 on the licensed application of Mohegan Sun at Downs  
20 Racing, LP. I am here today to ask the Gaming Board  
21 to approve this application. I'm quite sure there are  
22 others, like Larry Newman, who will testify regarding  
23 the positive economic benefits to our community. And  
24 I know there have been many. One benefit that should  
25 not be overlooked is the charitable contributions and

1 pro bono services provided by many of the construction  
2 companies and employees of the facility itself.

3           As an example, Pensita (phonetic)  
4 Construction was donated \$10,000 a year to the United  
5 Way, since they began work on the new building and  
6 continued ever since. I must also comment, that each  
7 of the major union building trades made special  
8 donations to our community during the whole  
9 construction process and became longtime friends of  
10 the community because of this relationship. Right  
11 from the start, Mohegan Sun has been very coactive.  
12 Officials from Mohegan Sun sought out the United Way  
13 when it first came to our community to announce their  
14 intention to buy the racetrack. At that moment, they  
15 made a commitment to become involved in our community,  
16 and it's obvious that they had more than lived up to  
17 that promise.

18           The President, Bobby Soper, is a very  
19 special individual to our United Way. Personally,  
20 he's become very active in numerous charities in the  
21 area. And now Mohegan Sun as a whole actively  
22 supports many causes, including the Wilkes-Barre YMCA,  
23 the Osterhout Library, Wilkes-Barre Chamber of  
24 Commerce, the Blind Association and Domestic Violence  
25 Service Center, to name a few. For United Way, in



1 particular, Bobby became --- Bobby became immediately  
2 involved as a volunteer. And we immediately put him  
3 to work. He chaired the 2007 campaign and raised a  
4 total of over --- a little more than Eddie reported  
5 \$4,750,000. He now holds the important position as  
6 treasurer of our organization.

7 I've been a part of the Social Service  
8 Community for over 30 years, and without a doubt this  
9 past year has been one of the most difficult  
10 fundraising years I have ever experienced. Given the  
11 state of the economy, times have been difficult for  
12 everyone in this country. During these challenging  
13 times, many chose to run and hide. However, I am  
14 proud to tell you that Mohegan Sun and its team did  
15 not shy away from their commitment to help the United  
16 Way and our community. Their employees donated a  
17 total of \$21,000 to United Way this past year. And  
18 Mohegan Sun as a corporation matched it dollar for  
19 dollar.

20 Lastly, I did not want to forget to  
21 mention the special pre-opening night that benefited  
22 the United Way and our community to the tune of more  
23 than \$86,000. This gift could not have come at a  
24 better time as funds have become so scarce for Human  
25 Services in our area. These dollars were a key reason

1 why our United Way was able to maintain funding at the  
2 same level as the year before. I want to share some  
3 of the examples of the funding that we were able to  
4 maintain because of this special gift. Twenty-five  
5 (25) students suffering autism had an opportunity to  
6 share a summer camp experience this year. Eighty (80)  
7 physically disabled individuals were able to receive  
8 one week of vocational rehabilitation because of this  
9 gift. 350 uninsured individuals were provided  
10 prescription help in the coming year. Seventy-five  
11 (75) homeless people were provided eight nights of  
12 emergency shelter. Eight-seven (87) victims of sexual  
13 assault were provided three crisis counseling  
14 sessions, in addition to support --- group support.  
15 And 20 at-risk three to four year olds received a very  
16 special four week pre-kindergarten learning school  
17 program this summer.

18                   I only wish I could have brought some of  
19 these individuals here to share with you how special  
20 that one time gift was to our community. I'm pleased  
21 to also report that our indicators tell me that we  
22 have not seen an increase in addictions since the  
23 opening of the casino. Please don't misunderstand,  
24 every community is facing a challenge of helping those  
25 who suffer from addicting behaviors, whether it's

1 alcohol, drugs, nicotine or gambling. I've learned  
2 that to the vast majority of our residents, Mohegan  
3 Sun has become an entertainment facility. And it's  
4 definitely been welcomed with open arms. Once again,  
5 I thank you for this opportunity to share with you  
6 today, and urge you to consider the request  
7 positively. Thank you.

8 CHAIR:

9 Thank you. We will move onto the  
10 individuals that have registered. And I apologize in  
11 advance if I mispronounce your name. Pinkie  
12 Stanzewski?

13 MR. STANZEWSKI:

14 Yes.

15 -----  
16 PINKIE STANZEWSKI, HAVING BEEN PREVIOUSLY SWORN,  
17 TESTIFIED AS FOLLOWS:

18 -----  
19 MR. STANZEWSKI:

20 I'm here to just say that Mohegan Sun at  
21 Pocono Downs is a very nice place. Mr. Soper is cool  
22 and his management staff is warm and friendly. It is  
23 much closer than Atlantic City, in fact, our gaming  
24 administrator's inspiring me to pursue gaming law at  
25 law school. PS, bringing out the table games and

1 support House Bill 21.

2 CHAIR:

3 Thank you very much.

4 MR. STANZEWSKI:

5 You're welcome.

6 CHAIR:

7 And Edward Koleski.

8 -----

9 EDWARD KOLESKI, HAVING BEEN PREVIOUSLY SWORN,  
10 TESTIFIED AS FOLLOWS:

11 -----

12 MR. KOLESKI:

13 Good morning. My name is Edward Koleski.  
14 I'm the director of Media and Marketing for the  
15 Pennsylvania harness Horsemen's Association, however  
16 for short PHHA. We are a Progressive Trade  
17 Association concerned with the promotion and  
18 development of standard breed horseracing in the  
19 Commonwealth. We're also responsible for the  
20 dissemination of purse monies, as well as the  
21 administration of health and retirement plans for our  
22 members. I come before you today to testify on behalf  
23 of the PHHA in support of renewing the Category 1  
24 license held by Mohegan Sun at Pocono Downs.

25 I'm pleased to report that our

1 relationship with Mohegan Tribal Gaming Authority, and  
2 most specifically management of Mohegan Sun at Pocono  
3 Downs has been exceptionally collaborative and  
4 successful in every way possible. Our working  
5 relationship began on a good note in 2005 after the  
6 passing of Act 71. Mohegan Sun recognized that  
7 harness racing at Pocono was at a competitiveness  
8 disadvantage, in terms of purse monies offered,  
9 because racinos in neighboring states were already  
10 operating and adjusted their purses upwards in the use  
11 of slot brands.

12           To help ease that disadvantage, Mohegan  
13 Sun advanced purses here fronting \$4,000,000 towards  
14 purse monies in buying us much needed time. Since  
15 then, we've worked together effortlessly thanks to the  
16 sense of shared goals. One of the fears of  
17 organizations like the PHHA is that racing operators  
18 will neglect the racing portion of their business and  
19 focus only on slots. In the case of Mohegan Sun,  
20 nothing can be further from the truth. They have  
21 joined our efforts to aggressively promote racing and  
22 both of our marketing departments work together  
23 closely to ensure this.

24           They have made significant improvements  
25 to the racing facility, including a total renovation

1 of the Simulcast and grandstand areas. This year they  
2 also completed construction of the state of the art  
3 paddock in the cost of approximately \$6,000,000.  
4 These improvements together with enhanced purses have  
5 resulted in what is arguably the highest quality  
6 harness racing in the country. Cumulatively it's  
7 helped us to attract one of the premiere events in  
8 harness racing, the Breeders Crown, to Mohegan Sun in  
9 2010, which will carry total purses in excess of  
10 \$7,000,000 and put us in the national spotlight. In  
11 addition, Mohegan Sun have taken their responsibility  
12 to the community equally seriously. They have joined  
13 our organization in charitable giving to organizations  
14 like the Wilkes-Barre YMCA, the Susan G. Komen  
15 Foundation, March of Dimes, F.M. Kirby Center and many  
16 others.

17           They have also contributed directly to  
18 the Horse Racing and Agriculture Industries by joining  
19 us in support in a New Bolton Center for equine  
20 research at the University of Pennsylvania and others.  
21 This is in addition to the long list of their own  
22 grantees, which you've heard today.

23           In closing, Mohegan Sun at Pocono Downs  
24 have exceeded what we expect from a partnership such  
25 as ours, in every way imaginable. We look forward to

1 continuing our relationship for many years to come,  
2 and therefore support the renewal of their Category 1  
3 license. Thank you.

4 CHAIR:

5 Thank you. That is the list that I had  
6 indicating people that registered. Did I miss anyone  
7 that registered to speak at this hearing? Okay.  
8 We'll move onto the closing. Downs Racing, Mr.  
9 Kohler, do you have any closing remarks?

10 ATTORNEY KOHLER:

11 I do. And very brief --- and then we'll  
12 do the confidentiality after closing?

13 CHAIR:

14 We'll do confidentiality after we  
15 close ---

16 ATTORNEY KOHLER:

17 Okay.

18 CHAIR:

19 --- the hearing so you don't bore those  
20 in the audience.

21 ATTORNEY KOHLER:

22 Thank you, Director Lloyd. We have the  
23 burden of proof in this proceeding, and that burden of  
24 proof is one of clear convincing evidence, which from  
25 a lawyer's perspective is sometimes difficult for him

1 to meet. But I think in this case, the evidence is  
2 overwhelming and there's been not one single objection  
3 here this morning to renewal. There have been several  
4 requests for a renewal including all the public  
5 witnesses, including a member of the general assembly.  
6 And just very briefly, I would like to go through the  
7 issues that you identified in your guide to the  
8 License Renewal Hearing Process and what the evidence  
9 shows.

10 I think overall the theme for Mohegan Sun  
11 at Pocono Downs is one of cooperation and commitment.  
12 The evidence today of cooperation is overwhelming,  
13 whether it be with the State Police or with Board  
14 Staff or maybe even most of all with the community.  
15 And as to commitment, I think what you've heard this  
16 morning is that we met every promise that we made at  
17 the time of our original application for licensing,  
18 and in virtually every case have not only met the  
19 commitment but exceeded the commitment.

20 Just quick examples of the issues that  
21 you identified as important, you know, as to jobs we  
22 indicated that we would create 2,000 jobs --- oh, I'm  
23 sorry --- the first one is as to a number of slot  
24 machines, we indicated that we would have 2,000 slot  
25 machines. Today, the property has 2,466 slot



1 machines. Tax revenue generated, that all was put  
2 into the record. But I think, generally speaking  
3 every one of the communities is that the property has  
4 exceeded projections. I know they very significantly  
5 exceeded projections of the innovations required for  
6 this property that was used by the general assembly  
7 --- or done for the general assembly prior to the  
8 Gaming Act.

9           And you know, from that revenue --- gross  
10 internal revenue, of course, comes tax dollars and the  
11 success of the property that is --- has generated  
12 substantial taxes as indicated in the record. Jobs,  
13 we indicated we'd produce 800 jobs. We've actually  
14 produced 1,049 employees. As for many of those  
15 employees, we thought we would have a 95 percent  
16 residency of the employee base. As we sit here today,  
17 it's 99.6 percent. Diversity, the record is  
18 outstanding. When we started operations at Pocono  
19 Downs, the diversity figure was 1.5 percent. It's now  
20 9.1 percent. For vendors, the average in the area is  
21 6.1 percent, ours is 9.2 percent.

22           As for our record, before the agency,  
23 while --- like any other Licensee, we will from time  
24 to time have a problem. We have a stipulation with  
25 the Office of Enforcement Counsel that we have a very

1 good record. And it's certainly one that could not  
2 possibly weigh against suitability. The other thing I  
3 wanted to mention was not on your list is our  
4 commitment to the harness racing Industry. And in  
5 fact, you heard Mr. Soper's testimony that, not only  
6 have we met the commitment --- financial commitment  
7 for backside improvements that are required in the Act  
8 but we've exceeded those. And I think maybe even more  
9 importantly, we did that right away. The Act gives us  
10 a significant period of time in years to make the  
11 investment.

12                   And we realize that that part of the  
13 property needed capital improvement and had an  
14 absolutely legal right to wait to the last day and  
15 chose not to and we invested that money right away. I  
16 think in all those areas we have clear and convincing  
17 evidence that we met our burden. And hearing no  
18 opposition certainly grant of renewal is required by  
19 the record.

20                   CHAIR:

21                   Thank you. Ms. Davenport.

22                   ATTORNEY DAVENPORT:

23                   No closing. But I would just like to  
24 thank Downs Racing staff and its employees, as well as  
25 the Board employees during this renewal process for

1 their cooperation.

2 CHAIR:

3 Thank you. A few housekeeping matters to  
4 remind Counsel that any written brief addressing any  
5 issues or matters, you may wish to present for the  
6 Board's consideration are due to be filed before close  
7 in five business, so close of business next Wednesday.  
8 For all of you curious as to what will happen next,  
9 the report --- I will prepare a report for the Board,  
10 which includes process and findings of facts. That  
11 report along with the entire record, produced or  
12 generated today, with exhibits, transcripts, et  
13 cetera, will be sent to the Board for their  
14 consideration. And they will schedule a hearing at a  
15 future public meeting date of the Board to take up the  
16 consideration of the renewal of Downs Racing's  
17 license, so stay tuned to our Board's website for that  
18 date. I don't know when that would be. That's up to  
19 the Board. If I have no objections from anyone in the  
20 audience or who participated, I want to thank everyone  
21 for coming today and for your cooperation. And the  
22 hearing is now adjourned. Thank you.

23 \* \* \* \* \*


24 HEARING CONCLUDED AT 1:04 P.M.

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CERTIFICATE

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I hereby certify that the foregoing proceedings, hearing held before Linda S. Lloyd was reported by me on 08/19/2009 and that I Kenneth Dominic O'Hearn read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.



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Court Reporter