

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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PUBLIC MEETING

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BEFORE: GREGORY C. FAJT, CHAIRMAN
Raymond S. Angeli, Jeffrey W. Coy,
James B. Ginty, Kenneth T. McCabe,
Gary A. Sojka, Kenneth I. Trujillo

HEARING: October 6, 2010

LOCATION: Pennsylvania Gaming Control Board
North Office Building
Hearing Room One
Harrisburg, PA 17106

WITNESSES: NONE

Reporter: Cynthia Piro-Simpson

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P R O C E E D I N G S

CHAIRMAN:

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2 -----
3
4 Okay. Folks we'll put that hearing on
5 hold for a minute and we will begin to move into our
6 public meeting. By way of announcement the Board did
7 hold an Executive Session on October 5th and the
8 purpose of yesterday's Executive Session was to
9 discuss personnel matters including new hires being
10 acted upon at today's meeting to discuss pending
11 litigations with his counsel. Also the Board would
12 like to formally announce that the Licensing hearings
13 covering each Applicants' eligibility and the
14 suitability for the remaining Category 3 License will
15 be held on November 16th and 17th here in Harrisburg
16 at the State Museum. Each hearing will last
17 approximately four hours. Although the times maybe
18 adjusted slightly, as of right now the starting times
19 for the hearings on November 16 are 11:00 a.m. and
20 4:00 p.m. The starting times on November 17th are
21 10:00 a.m. and 3:00 p.m. The precise order of the
22 hearings has not yet been determined. It will be
23 assigned by luck of the draw which will be conducted
24 by the Director of Office of Hearing and Appeals.
25 Once the order is determined the Board will post the

1 schedule on our website. And we also in yesterday's
2 Executive Session conducted quasi judicial
3 deliberations relating to the matters coming before
4 the Board today. We made all those announcements;
5 next for consideration is adoption of the transcript
6 of August 19th, 2010, may I have a motion please?

7 MR. ANGELI:

8 Mr. Chairman, I move that the Board
9 approve the transcript of the August 19th, 2010
10 meeting.

11 MR. COY:

12 Second it.

13 CHAIRMAN:

14 All in favor?

15 ALL SAY AYE

16 CHAIRMAN:

17 Opposed? Motion passes. Next up is
18 Kevin O'Toole our Executive Director with his report.
19 Welcome, Kevin.

20 MR. O'TOOLE:

21 Good morning, Chairman Fajt and members
22 of the Board. Today I would like to take the
23 opportunity to express my appreciation publicly to the
24 staff of the Pennsylvania Gaming Control Board for the
25 successful test period at SugarHouse Casino in

1 Philadelphia that led to the opening of our tenth
2 casino in the Commonwealth. Each Bureau of the Board
3 played its part in ensuring the overall regulatory
4 preparedness of the casino staff at SugarHouse. While
5 I cannot name everyone during this short presentation
6 I would like to acknowledge two dedicated employees of
7 the Board. Art Watson, our Casino Compliance
8 Supervisor assigned to SugarHouse, and Jeanne Ort-
9 Motto, our Gaming Operations Liaison who was the
10 opening team leader. Art and Jeanne worked tirelessly
11 with their staffs to coordinate the testing in the
12 opening process. Thank you, Art and Jeanne and the
13 rest of the opening team. I would also like to thank
14 Commissioners Ginty and Trujillo for their efforts in
15 serving as the Board's Designated Representatives
16 during the testing and the opening process.

17 The second noteworthy topic for today is
18 the continued growth of slot revenue at Pennsylvania
19 casinos that has recently reported an increase of
20 nearly eight percent in gross slot machine revenue was
21 experienced during the month of September 2010 as
22 compared to September 2009. With the implementation
23 of table games and continued growth in slot revenues
24 Pennsylvania is experiencing the benefits that were
25 hoped for through the recent amendments to the Gaming

1 Act.

2 I would also like to express my
3 appreciation to Catherine Stetler, a legislative
4 assistant who is leaving our employment. Today is her
5 last public meeting. Catherine has been a valuable
6 member of our legislative office for three years and
7 she will be greatly missed; however, we wish her the
8 best of luck in her new endeavors.

9 Thank you, Chairman and Commissioners.

10 CHAIRMAN:

11 Thank you, Kevin. Any questions from the
12 Board? Again just on behalf of the Board I would also
13 like to thank our employees for the great job you did
14 at SugarHouse. I continue to hear, you know, from
15 other operators around the state how competent, how
16 professional our staff is. And I know this agency
17 takes on a lot of water at times from those opposed to
18 gambling and other slights, but we know that we have
19 the best staff of any agency in the Commonwealth, so
20 thank you all and, Catherine, good luck to you.

21 Next up will be Claire Yantis our
22 Director of Human Resources. Welcome, Claire.

23 MS. YANTIS:

24 Good morning, Chairman. Good morning,
25 Commissioners. The Office of Human Resources has two

1 motions before you today relative to hiring of PGCB
2 staff. First we ask that you consider a motion to
3 hire Jonathan Lauterbach as a Casino Compliance
4 Representative. Mr. Lauterbach has completed the
5 agency interview process, background investigation and
6 drug screening and is being recommended for hire by
7 Director of Casino Compliance Jerry Stoll. As such I
8 ask that you consider a motion to hire Mr. Lauterbach
9 as indicated.

10 CHAIRMAN:

11 May I have a motion?

12 MR. COY:

13 Mr. Chairman, I move for the Board to
14 approve the Applicant as proposed on the condition
15 that the necessary background investigation and drug
16 testing has been completed.

17 MR. ANGELI:

18 Second.

19 CHAIRMAN:

20 All in favor?

21 ALL SAY AYE

22 CHAIRMAN:

23 Opposed? Motion passes.

24 MS. YANTIS:

25 Finally pursuant to a Board Order of July

1 29th, 2010 the personnel committee was authorized to
 2 hire individuals as they successfully completed their
 3 background investigation in an effort to ensure
 4 adequate staffing and training for the anticipated
 5 opening of the SugarHouse Casino. Since the last
 6 Board Meeting there have been three individuals that
 7 have been approved to commence employment under the
 8 Gaming Act. Stephen Niglio, Albert Merrifield and
 9 Anthony DeLuca have been approved by the Personnel
 10 Committee to begin employment as Casino Compliance
 11 Representatives. All three individuals were
 12 recommended for hire by Director of Casino Compliance,
 13 Jerry Stoll, and have completed the necessary
 14 background screening and drug testing. We would
 15 therefore ask the Board to ratify the hiring of these
 16 individuals as required by the July 29th, 2010 Order
 17 of the Board.

18 CHAIRMAN:

19 Any questions or comments from the Board?
 20 Can I have a motion, please?

21 MR. SOJKA:

22 Mr. Chairman, I'll move that the Board
 23 ratify the previous hiring of the applicants as just
 24 described by the Director of Human Resources.

25 MR. COY:

1 Second.

2 CHAIRMAN:

3 All in favor?

4 ALL SAY AYE

5 CHAIRMAN:

6 Opposed? Motion passes.

7 MR. COY:

8 Mr. Chairman, if I might.

9 CHAIRMAN:

10 You may, Commissioner Coy.

11 MR. COY:

12 Thank you. Claire, I think it would be
13 interesting for the Board and the public to know in
14 terms of the status report on our CCRs, that is the
15 folks that are employed by the Gaming Board in each of
16 the casinos, to really make sure that the rules and
17 regulations are followed. How many of them do we have
18 in place now across the Commonwealth?

19 MS. YANTIS:

20 I'm happy to report that we are at full
21 complement for all of our CCR positions, our Casino
22 Compliance Representatives. There are ten at each
23 open facility bringing that complement to hundred.

24 MR. COY:

25 I just want to indicate on behalf of the

1 Board that once again to express our appreciation of
2 the staff that were involved in the investigations of
3 these individuals to get them on board and certainly
4 the Human Resources' staff who put together the
5 interviews to make sure that we have good qualified
6 people in these positions and the Board appreciates
7 your efforts and those of BIE and the Office of
8 Professional Responsibility. Thank you very much.

9 MS. YANTIS:

10 Thank you.

11 CHAIRMAN:

12 Thank you, Claire. Next up is our Chief
13 Counsel, Doug Sherman.

14 ATTORNEY SHERMAN:

15 Good morning, Chairman and members of the
16 Board. Our first order of business pertains to the
17 Board's consideration of the Pennsylvania Thoroughbred
18 Horsemen's Association's Employee Retirement Plan and
19 Trainer's Retirement Plan. Section 1406 of the
20 Pennsylvania Race Horse Development Gaming Act
21 provides that about four percent of the distribution
22 of the slot machine revenue is placed in the
23 Pennsylvania Race Horse Development Fund and use the
24 fund health and pension benefits for the Horsemen's
25 Organization's members, their families and employees.

1 Subsection F of the Act requires that all health and
2 pension benefit contracts be reviewed and approved by
3 this Board. The Pennsylvania Thoroughbred Horsemen's
4 Association has submitted two plans to the Board for
5 consideration today. The first covering its employees
6 and the second covering trainers. Representatives of
7 the association, including counsel consulted with
8 preparing these plans, are present to provide an
9 overview of the plans and answer any questions from
10 the Board. Following that I would ask you to
11 entertain motions to approve those plans.

12 CHAIRMAN:

13 Thank you, Doug. If counsel will please
14 introduce those folks at the table, state your name
15 and spell it for the stenographer, please?

16 ATTORNEY WASCH:

17 Sure. Nancy Wasch, from Archer and
18 Greiner. It's W-A-S-C-H, and we are counsel to the
19 PTHA.

20 ATTORNEY BALLEZZI:

21 Good morning. Michael Ballezzi,
22 B-A-L-L-E-Z-Z-I. I'm the Executive Director and
23 Counsel of Pennsylvania Thoroughbred Horsemen's
24 Association.

25 CHAIRMAN:

1 And Mr. Ballezzi, could you stand for
2 swearing in? I assume you're ---.

3 ATTORNEY BALLEZZI:

4 I'm an attorney.

5 CHAIRMAN:

6 You're an attorney.

7 ATTORNEY BALLEZZI:

8 Yes.

9 CHAIRMAN:

10 All right. Thank you. Counsel you may
11 begin.

12 ATTORNEY WASCH:

13 Thank you and thanks, Doug, for the
14 introduction. We're here to ask for your approval for
15 the plans which we have submitted in their entirety to
16 the Board for review. I also will give a summary of
17 the provisions of those plans at this time.

18 I'd like to give a little background on
19 the due diligence that we went through in order to
20 establish these plans. As you know they're required
21 by statute. There's no distinction made in the
22 statute between providing health benefits and
23 retirement benefits and it's really up to the
24 Horsemen's Organization to set forth the guidelines
25 for who's going to be eligible, how much money is

1 allocated to each person's benefits. So, the PTHA has
2 been, through it's executive committee and Board have
3 really surveyed the membership of the Association to
4 see which benefits were most important and clearly
5 health benefits came out on top with that group. So,
6 about two years ago we did establish a health plan for
7 trainers at Philadelphia Park and now that we have
8 some sense of what the cost of those benefits will be
9 we've been able to talk about a pension plan and
10 design a pension plan for the members. And the
11 objectives were to cover what's possible with benefits
12 that acknowledged contributions to recent technologic
13 processes and we went through a request for a proposal
14 process wherein we not only talked about the design
15 features that the Board was considering, but also
16 interviewed providers of the services such of
17 recordkeeping, investment management services and what
18 is certain qualifications, oversight, thought
19 processes having to do with these plans.

20 The structure, we ended up with two
21 separate plans for a specific reason. We structured
22 the retirement program as a plan for the trainers and
23 a plan for the employees of the PTHA. And the reason
24 that was done was that most retirement plans that you
25 hear about are called qualified retirement plans and

1 those types of plans really only apply to a plan that
2 an employer provides for its employees. And if the
3 association does not have that employee/employer or
4 service recipient/service provider relationship with
5 the trainers.

6 So, the plan for employees, which would
7 cover about ten people right now is a qualified
8 retirement plan, it's a section 401(k) plan, which you
9 probably all are somewhat familiar with and I'll go
10 into the details of that for you in few minutes. The
11 plan for trainers is not a qualified retirement plan
12 because there's no structure at the federal level to
13 put that in place. It's something of a unique plan,
14 but we'll call it for ease of reference a nonqualified
15 plan. Both plans are effective January 1, 2009, this
16 is when the Board decided to make contributions
17 effective of and hopefully the funding will follow
18 upon approval by this Board.

19 The trainer's plan, I'll talk about just
20 some of the main features first. The eligibility was
21 designed to distinguish the hobbyist from the person
22 who is a trainer as an occupation and so the plan will
23 cover trainers who meet anyone of the following
24 requirements; employee starts during the calendar year
25 with 65 percent of their total annual starts at

1 Philadelphia Park or an affiliate of Philadelphia Park
2 or 150 starts at Philadelphia Park or a full barn,
3 stable at Philadelphia Park

4 CHAIRMAN:

5 I'm sorry. What was the last part of
6 line?

7 ATTORNEY WASCH:

8 A full barn, that's 44 horses stabled at
9 Philadelphia Park. So, that's eligibility. The
10 contribution amount. The total annual contribution
11 for pension for trainers is going to be based on the
12 budget, the cash flow, the four percent statutory
13 allocation, because that's not a set amount from year
14 to year as you know, and the contribution that's
15 required for health and pension benefits as well and
16 the Board's ultimate discretion. That's how the
17 amount's determined. The amount is allocated based on
18 starts. So, in other words the pension committee of
19 the Board of PTHA will have a meeting and say all
20 right, this is how much money we have to allocate to
21 the pension for the year, here are all our trainers,
22 here are all our starts, how much is it going to be to
23 start? Whether it's going to be \$20 to start, \$30 to
24 start, \$40 to start, whatever.

25 So, that amount is based on start, but

1 there was also a contribution for the first year that
2 takes into account years of service. Years during
3 which the trainer would have met the eligibility
4 requirements if a retirement plan had been in place
5 and that of course is to account for the fact that all
6 these years people have been providing service to the
7 track and never had any sort of retirement plan in
8 place. The amounts will be invested as a single pool
9 with a professional investment manager and it's up to
10 the Board and the investment manager to set the
11 investment policy that will provide exactly how much
12 will be invested.

13 It may be that the pool is separated into
14 more than one pool, different investment objectives
15 for different age groups or something like that, but
16 it's not going to be a plan where each individual
17 controls their own money. It's controlled by the
18 investment manager as a pool of assets invested until
19 such time that it is distributed to the eligible
20 participants of the plan. There is an investment
21 requirement of five years. So, you have to meet a
22 five year service period in order to be fully invested
23 in the amount that's put aside for you in the plan.
24 And then any amounts that are forfeited because an
25 individual accrues a benefit, but does not end up

1 vesting it, will be put back into the plan and used at
2 the Board's discretion for planning purposes, whether
3 it's to pay expenses or to be allocated to be paid for
4 contribution or something like that.

5 Distributions again consistent with the
6 purpose of this being a retirement program are only
7 permitted in three events. A payment at age 65;
8 disability, which the plan uses the Social Security
9 definition of disability; or death and the plan
10 further provides no distribution will be made until
11 the program is approved by the Gaming Control Board.

12 I'll go ahead with the employee's plan
13 and kind of describe the same features. The same
14 effective date January 1, 2009. Eligibility, of
15 course, starts is not relevant with respect to
16 employees, so it's the typical plan that you would
17 have in a corporation. One year of service is defined
18 as 1,000 hours during the year and two enter dates
19 during the year. It covers employees of PTHA and
20 affiliated entities. Again there's a tax reason for
21 that, because you're required under the '02 Act that
22 the employers do their part.

23 Contribution amount will have several
24 components and the total annual contribution is going
25 to be based on the budget, cash flow, four percent

1 amount, what's been used for the benefits. That may
2 include just a regular, call it profit sharing type
3 allocation where it's allocated based upon
4 compensation and there's also what's called Safe
5 Harbor or Gateway contribution. These are kind of
6 technical terms that people who do retirement plans,
7 but I'll just briefly say that they are --- the plan
8 is subject to non-discrimination rules and the Safe
9 Harbor and Gateway are the two methods of complying
10 with the non-discrimination rules under the Internal
11 Revenue Code. And I'll be pleased to give you more
12 information on that. There's also an elective salary
13 deferral feature, so employees can put away either
14 regular 401 (k) contribution or a ROTH 401(k)
15 contribution and they can also make cash up to if they
16 are age 50 or older.

17 The allocation of employer contribution,
18 and this is going to be allocated among all eligible
19 employees in of course with the rewards proven for the
20 allocations for the year so it's going to be designed
21 to pass the Internal Revenue Code, nondiscrimination
22 rules, as what we call a new comparable allocation
23 that they may take into account years of service in
24 addition to compensation. The investments of a
25 person's accounts, this plan will have participant

1 directed investments and it made sense to do that
2 because the plan is going to be significantly smaller
3 than the other plans. It's really for structural
4 togetherness and since the employees will be putting
5 in their own money, those people will be able to
6 direct their own investments, so it's structured like
7 a typical 401(k) with mutual fund choices. Those
8 choices again though are selected by the investment
9 manager and approved by the Board.

10 The best thing is the five year vesting
11 schedule, it is graded as a vesting schedule, not what
12 we call a Cliff vested schedule. In other words it
13 goes from 20 percent after one year, 40, 60, 80, 100
14 and that is to comply with the Internal Revenue Code
15 regulations. Forfeitures in the plan will be used to
16 offset administrative expenses or be allocated under
17 the plan. Distribution is age 65, disability and
18 death, no distributions until approved by Gaming
19 Control Board. And the plan has a participant loan
20 feature that means the participant can borrow from
21 their own salary accounts only with a minimum limit of
22 \$1,000. So, that's the summary of the plan features.

23

24 The plan does have internal controls in
25 terms of how the funds are allocated and moved from

1 the PTHA account into the plans. All of the funds
2 that come from PRDF are subject to internal controls
3 that were recommended by the firm's lawyers which
4 include there are only three permissible signatories
5 and you need two out of the three signatures for any
6 transaction greater than \$2,000.

7 There are also external controls in terms
8 of an independent audit of the PTHA generally and then
9 separately there's an audit of the slot money related
10 to the slot money and that's by a third-party auditor
11 and then that second audit becomes attached to the
12 PTHA one, which is submitted to the Gaming Control
13 Board for review. There's an annual review of the
14 investments or at least an annual review of the
15 investments with the investment manager and as I'm
16 looking at that I just need to show that the
17 investments are meeting the objectives of the plan.

18 One thing that I think has come up as a
19 question from time to time is the possibility of
20 underfunding in the plan because that's a concern
21 because of other types of plans, but these are both
22 what we call defined contribution plans not employee
23 benefit plans. So, the amount benefits that are owed
24 from the plan at this point in time are determined by
25 the amount that has been contributed plus or minus

1 earnings on that amount, so there's never an offset of
2 the funding. There's never --- it's not like we're
3 playing catch up with the funding. The amount that
4 goes in determines the benefit and so you won't end up
5 --- and part of the rationale behind the set up of
6 this structure was that you'll never be playing catch
7 up with the contributions. And that's what I wanted
8 to present and I would be pleased to entertain any
9 questions you might have.

10 CHAIRMAN:

11 Thank you very much. As a former pension
12 lawyer many, many years ago I appreciate your
13 statement and ability to put that into layman's
14 language. That's great. Questions, Mr. Sojka?

15 MR. SOJKA:

16 Again my apologies, because I do have
17 several and I'm not a pension lawyer. One thing just
18 for clarification so we all understand it, I think we
19 know about the unqualified plan and the trainer's and
20 we know the complication there, but could you give us
21 quickly an indication who these employees are in the
22 qualified plans? What kind of persons we are talking
23 about who are employees of this organization? What do
24 they do?

25 ATTORNEY BALLEZZI:

1 Yes, we have hired mostly clerical staff.
2 Obviously I'm an employee of the Association and the
3 secretary and I have several other individuals who
4 conduct positions of importance where they monitor the
5 records. I have a bookkeeper, office manager who
6 oversees the bookkeeper, we also manage the benefit
7 trust, which is our self-insured plan for our
8 employees and we also have various other entities.
9 For example we have the horse adoption rescue for
10 returning to home where we take racehorses that are no
11 longer able to race or are disabled otherwise. We
12 administer that. We also have a horsemen's purchasing
13 company where we sell the products to the horsemen at
14 a discount and it is basically a horse co-op. So, at
15 the present time there are approximately ten employees
16 who manage our various entities.

17 MR. SOJKA:

18 Thank you. The issue of qualification
19 and reaching back for prior service that applies to
20 both plans; right, to an extent?

21 ATTORNEY WASCH:

22 Not exactly. That's a good question and
23 maybe I can clarify that a bit. It's clearly part of
24 the trainer's plan. Okay. That reaching back is
25 clearly put in the trainer's plan. In the qualified

1 plan you really can't do that so much. As I said you
2 can use this new comparability strategy to try to
3 account for someone's years of service, but you really
4 can't give them 15 times what their contribution
5 should have been because of all limits placed in the
6 Internal Revenue Code. And so when the Board met to
7 determine the allocations under the employee's plan
8 they try to take into account the fact of years of
9 service without any pension plan in place, but you
10 really can't --- like I said you can't multiple out
11 all --- you don't get to use all your prior years'
12 contributions that you could of made under the
13 Internal Revenue Code.

14 MR. SOJKA:

15 In either plan?

16 ATTORNEY WASCH:

17 Just in the employee's plan. The
18 trainer's plan there's really no dollar limit under
19 the law. There's no formula rationale under the law.
20 There really is no structure in place for non-
21 qualified plans. It's really just a promise to pay
22 something in the future is essentially what it is and
23 so there aren't any rules about that. If it were
24 compensation, which it's not because we don't have
25 that service provider, service recipient then there

1 will be tax rules and limitations on the amount you
2 have to pay. I mean we wouldn't be close to
3 approaching those amounts, but there would be
4 limitations if it were compensation, but it's not.

5 MR. SOJKA:

6 Can we then just focus for a second on
7 the unqualified or non-qualified plan for the trainers
8 and to qualify for that, regardless of how many years
9 of prior service you may given to the industry, to be
10 eligible you must be active now and meet the
11 qualifications you're talking about; the number of
12 starts or a full barn or something?

13 ATTORNEY WASCH:

14 Well, pretty much with one small twist
15 that if you had one year of --- if you had one start
16 in the initial year of the plan, your prior years
17 would be considered and that was to take into account
18 the fact that some people may have been slowing down
19 at that point or whatever, but they still have many
20 years of service we did take into account; is that
21 correct?

22 ATTORNEY BALLEZZI:

23 Let's make it crystal clear. The purpose
24 of the plan is to really center upon those trainers
25 who are participating in the plan currently, using

1 2009 as current because that's the origination date.
2 And what we did was we tried to distinguish between
3 professional trainers and hobbyists and that's why we
4 have the 20 start minimum. So, if you make 20 starts
5 or if you make 65 percent of your starts at
6 Philadelphia Park rather than Maryland or some other
7 racetrack, and you also are stabled at Philadelphia
8 Park, we consider you a professional contributor. We
9 then reached back to those trainers older than 55 of
10 which we have a substantial number. Our actual
11 average age is 53 years old. We have an aged trainer
12 count and we felt it would be unfair for all those
13 trainers who've been here 20 or 30 years, where there
14 was no pension, to simply start them at ground zero
15 comparable to another trainer. That's why we gave
16 them that \$1,000 per year catch-up we call it. So, if
17 you had 20 years --- 20 starts in say from 2002 to
18 2009, seven years, you would receive a \$7,000 catch-up
19 and that allowed for their pension to have some basis
20 to go forward. Whereas trainers under 55 years old
21 simply start at zero.

22 MR. SOJKA:

23 The problem with that is, you can see
24 where I'm concerned, and that is the person who
25 essentially has been a stalwart in the industry for

1 years was slowing down and I'm concerned about, you
2 know, how many of those people might be out there and
3 can simply get into this based on past performance by
4 minimum contribution, but you've blocked that out?

5 ATTORNEY BALLEZZI:

6 Correct. In other words what we did was
7 we established 2009 as the critical year. If you
8 started in 2009 you received some portion of the
9 pension. Going back prior to 2009, if you made those
10 starts you didn't receive any pension.

11 MR. SOJKA:

12 So there maybe some poor individual out
13 there who became disabled that previous year who had
14 given 30 years to the industry and just is out of
15 luck.

16 ATTORNEY BALLEZZI:

17 There may be, but I doubt it. The way we
18 established it, we grandfathered in quite a few of
19 those individuals.

20 MR. SOJKA:

21 So you do use the grandfathering?

22 ATTORNEY BALLEZZI:

23 Correct, based on starts. In other words
24 they get 20 starts going forward, we have less starts
25 in the year 2009 for certain individuals who had, in a

1 sense, started to retire and crank down on their
2 involvement in the business.

3 ATTORNEY WASCH:

4 But they had to have some participation
5 in 2009.

6 ATTORNEY BALLEZZI:

7 The minimum of one start.

8 ATTORNEY WASCH:

9 So, if somebody left in 2002, 2003, 2004
10 or whatever and they never came back, they're out.

11 MR. SOJKA:

12 But one start will qualify you?

13 ATTORNEY BALLEZZI:

14 Right.

15 MR. SOJKA:

16 And give you credit for a lot of your
17 previous years and going forward for previous.

18 ATTORNEY WASCH:

19 Just for that ---.

20 MR. SOJKA:

21 Okay. That's enough for me. Thank you.

22 CHAIRMAN:

23 Commissioner Coy.

24 MR. COY:

25 Thank you, Mr. Chairman. I'm interested

1 in the loans that are available to employees, which is
2 really their own money. Do those loan amounts
3 amortize immediately or is there an interest free
4 period?

5 ATTORNEY WASCH:

6 That's a good question. They must be
7 amortized in regular installments not less than
8 quarterly over a period not exceeding five years.

9 MR. COY:

10 Then who sets the interest rate?

11 ATTORNEY WASCH:

12 The interest rate is attributed under IRS
13 guidelines. It's determined to be a reasonable
14 amount. A lot of times they use the AFRs or something
15 like that.

16 MR. COY:

17 And I ask again, who sets the interest
18 rate?

19 ATTORNEY WASCH:

20 The plan administrator, which is going to
21 be the Board, they're actually going to set the
22 interest rate.

23 MR. COY:

24 So they're going to set the rate.

25 ATTORNEY WASCH:

1 They're going to set it but let me just
2 make it clear, that the interest gets paid back to
3 that individual participant's account. It doesn't
4 have anything to do with everyone else's money.
5 They're paying it back to their own account.

6 MR. COY:

7 I just think that it's important in the
8 days of today's economy to have this money available
9 to those folks if they think they need it and that the
10 interest rates will be reasonable and not unusual and
11 that the money is available. Thank you.

12 ATTORNEY WASCH:

13 Okay. Thank you.

14 ATTORNEY BALLEZZI:

15 Thank you.

16 CHAIRMAN:

17 Other questions, Commissioner Trujillo?

18 MR. TRUJILLO:

19 Thank you, Mr. Chairman. Counsel,
20 actually I think this is probably better directed to
21 Mr. Sherman, I just want to understand the scope of
22 our approval. As I understand it that our --- we're
23 required to take a look to be certain that four
24 percent is being used to fund the health and pension
25 benefits and that requirements of the State Gaming

1 Commission or State Harness Racing Commission are met.
2 Beyond that is our approval --- does our approval have
3 any further relevance?

4 ATTORNEY SHERMAN:

5 I don't believe so. The Act is very
6 clear. You are to approve --- review and approve and
7 I believe that's the context which is set forth in the
8 act is that money is being used consistently for the
9 purposes of the Pennsylvania Race Horse Development
10 Gaming Act. You are not approving it beyond this in
11 terms of the liquidity or validity of the fund whether
12 it is qualified, non-qualified or rather is consistent
13 with the purposes designated within the Act.

14 MR. TRUJILLO:

15 And as I understand it staff has reviewed
16 this with the staff of the Horsemen's Harness Racing
17 Commission as well and determined that in fact what we
18 heard here today is accurate; am I correct in that?

19 ATTORNEY SHERMAN:

20 That is our belief, yes.

21 MR. TRUJILLO:

22 That's all I have. Thank you, Mr.
23 Sherman.

24 CHAIRMAN:

25 Thank you. I have a couple questions.

1 Counselor, I thought you mentioned that there was a
2 health plan, but I wasn't sure whether that was for
3 the employees' or the trainer's or both. Could you
4 explain that? Is there a health plan for both the
5 employees' and the trainer's?

6 ATTORNEY WASCH:

7 There is.

8 CHAIRMAN:

9 And is that health plan funded from the
10 four percent?

11 ATTORNEY WASCH:

12 Yes.

13 ATTORNEY BALLEZZI:

14 First. That comes out first. The
15 premium for that health plan comes out first and then
16 the remainder of the four percent is then utilized by
17 the Board for payment of pension. That's how we
18 establish the annual individual angle amount of the
19 pension.

20 CHAIRMAN:

21 In light of the questions on the
22 contributions to the pension plan is that there's a
23 pension board I heard you say and ---.

24 ATTORNEY WASCH:

25 There's a Pension Committee of the Board.

1 CHAIRMAN:

2 There's a Pension Committee, who's on
3 that Pension Committee?

4 ATTORNEY WASCH:

5 Mr. Ballezzi.

6 ATTORNEY BALLEZZI:

7 Two Board members. Vice president Sal
8 DeBunda and Betsy Gambone.

9 CHAIRMAN:

10 Could you please say that for the record?

11 ATTORNEY BALLEZZI:

12 Myself, Michael Ballezzi, the Chairman is
13 Betsy Gambone, a Board member, and another member is
14 Salvador DeBunda.

15 CHAIRMAN:

16 Okay. And so they will determine what
17 the contributions are for both the Employees'
18 Retirement Plan, which is qualified, and the Trainer's
19 Retirement Plan; is that correct?

20 ATTORNEY BALLEZZI:

21 That committee makes recommendations to
22 the full Board. The committee does not determine but
23 rather recommends.

24 CHAIRMAN:

25 Okay. And then the full Board will make

1 that determination as to how much money goes to the
2 Employees' Retirement Plan and how much money goes to
3 the Trainer's Retirement Plan?

4 ATTORNEY BALLEZZI:

5 That's correct.

6 CHAIRMAN:

7 Okay. And where I'm going with this is,
8 is there going to be a natural tension between those
9 two plans as to how much money goes to the Employee's
10 Plan, how much money goes to the Trainer's Plan and as
11 I understand it the Board --- the big Board and the
12 committee will have the discretion to make those
13 determinations as, you know, we're going to put \$5,000
14 in the Employees' Plan for 2009 and \$20,000 in the
15 Trainer's Plan for 2009; am I correct in that
16 assumption?

17 ATTORNEY WASCH:

18 Uh-huh (yes). And I might be able to get
19 to your point. The Board is compromised of trainers
20 and owners and so the trainers are at the table voting
21 on it more so than the employees.

22 CHAIRMAN:

23 Well, I'm worried about the employees. I
24 guess since the trainers are going to be --- who's
25 representing the employees?

1 ATTORNEY WASCH:

2 Yeah, okay that's a good point.
3 Excellent. Remember I mentioned before the Safe
4 Harbor and Gateway contributions?

5 CHAIRMAN:

6 Right.

7 ATTORNEY WASCH:

8 Because the Employees' Plan is subject to
9 the non-discrimination rules --- this may have come in
10 since your days as a pension attorney, because we
11 didn't have any comparable allocations in such
12 profusion back then, but the Safe Harbor contribution
13 is a three percent of pay contribution across the
14 board. The plan is going to be required to make that
15 contribution in order to meet the non-discrimination
16 requirements.

17 CHAIRMAN:

18 I get that. I mean I get that the
19 employees are going to have to get a set amount of
20 contribution, but it still doesn't answer my question
21 as to the possible tilting if you will of the
22 contributions to the Trainer's Plan versus the
23 Employees' Plan.

24 ATTORNEY WASCH:

25 I guess it could come up. It's worked

1 harmoniously so far. I looked at the numbers and what
2 goes in the allocations, they seem quite fair.
3 Everyone's getting --- I think everyone's grateful to
4 be receiving a pension benefit and certainly the
5 trainers are. They haven't seen that before. So,
6 you're raising a good point that there are potential
7 there. We haven't seen that to date, but we've been
8 working on this plan for two years.

9 ATTORNEY BALLEZZI:

10 I will also add that I am also member of
11 the Board. I'm the executive director, but I'm also a
12 member of the Board and I'm an employee, so I assure
13 you that the employees will be protected.

14 CHAIRMAN:

15 The investment manager that you
16 mentioned, is it the same for both plans and if so who
17 is that?

18 ATTORNEY WASCH:

19 It is not the same for both plans. For
20 the Trainer's Plan it will be Philadelphia Audit
21 Company and for the Employees' Plan it is --- John
22 Simone (phonetic). What's the name of his company?

23 ATTORNEY BALLEZZI:

24 I think it's just John Simone.

25 ATTORNEY WASCH:

1 John Simone.

2 CHAIRMAN:

3 And who are the monitors for the plans?

4 ATTORNEY WASCH:

5 Herbein and Associates is the independent
6 auditor for ---.

7 CHAIRMAN:

8 I'm sorry. How do you spell that?

9 ATTORNEY WASCH:

10 H-E-R-B-E-I-N.

11 CHAIRMAN:

12 Okay. I know that name.

13 ATTORNEY WASCH:

14 Okay. They're the independent auditor
15 for all the slots money to keep it in check.

16 CHAIRMAN:

17 Okay. So for both plans they are the
18 independent auditors?

19 ATTORNEY WASCH:

20 Right.

21 CHAIRMAN:

22 Okay. I'm getting to the end here. The
23 one question that I have about the trainers --- my one
24 remaining question, I thought I heard you say that it
25 was a promise to pay in the future? I mean it's a

1 non-qualifying plan and as a non-qualifying plan is
2 there cash being paid annually into that plan and if
3 it's not qualified how does that not attribute to the
4 employees as additional compensation?

5 ATTORNEY WASCH:

6 Well, you're raising a really, really
7 great question that I don't have a perfect answer to
8 and what we have to do is --- this is something I've
9 been talking to the service about the health plan.

10 CHAIRMAN:

11 You mean the Internal Revenue Service?

12 ATTORNEY WASCH:

13 Right, with the Internal Revenue Service.
14 And the same issue comes up with respect to the
15 pension plan and we will seek a private letter ruling
16 from the Internal Revenue Service regarding the tax
17 treatment of benefits under this Trainer's Plan. We
18 recognize that the benefits will be taxable and there
19 is a question as to exactly when they will be taxable
20 and I'm sure you're familiar with the concept of
21 constructive receipt. So, when you receive a
22 constructive receipt, is it when they're vested, is it
23 when the trainers are able to access the funds, which
24 isn't until they reach age 55. There is recognition
25 by us as counsel and by the Board that these funds

1 will be taxable to the trainers. And the trainers
2 know about it, too. Because it's not --- it might
3 happen with these plans, they have acknowledged that
4 this is a case of first impression. They don't have
5 another plan like this in the country that they're
6 looking at. It doesn't mean that there aren't other
7 plans, no one has ever really sought out our location
8 on the proper tax treatment and that's what we are
9 doing. We are seeking out a ruling so that we won't
10 get hit with it many years down the line. We want to
11 know up front what their position will be.

12 CHAIRMAN:

13 But again there is actually cash being
14 set aside right now, so it's not a promise to pay like
15 --- there's cash being set aside?

16 ATTORNEY WASCH:

17 There is cash being set aside. It's in a
18 separate account right now. It will be with the
19 investment manager and not co-mingled with any other
20 funds.

21 ATTORNEY BALLEZZI:

22 Maybe I can answer your question, Mr.
23 Chairman. Since the inception of Receipt of Slot
24 Revenues Organization, from day one we established a
25 four percent of the pension account, which has not

1 been touched. It was there since day one. The money
2 that's been allocated for that specifically every time
3 we get a check and that money will then be applied to
4 various accounts once we have approval, but it's there
5 for when ---.

6 CHAIRMAN:

7 Thank you. And one last question on the
8 Employees' Retirement Plan. When do you anticipate
9 the qualification of the plan?

10 ATTORNEY WASCH:

11 Well, we haven't submitted it and we're
12 just waiting for your approval.

13 CHAIRMAN:

14 Okay.

15 ATTORNEY WASCH:

16 I've been doing a lot of these and it
17 takes like a year right now to get their approval, but
18 there's no question in my mind as to whether they'll
19 approve it. It's not out of the box.

20 CHAIRMAN:

21 Okay. Thank you. Any other questions?
22 Why don't we do this, let's entertain a motion
23 initially on the Employees' Retirement Plan. May I
24 have a motion?

25 MR. TRUJILLO:

1 And I'll make a motion to that. Although
2 I just wanted to have one other clarification from
3 counsel and your understanding is also is that our
4 scope of review is very limited as described by Mr.
5 Sherman?

6 ATTORNEY WASCH:

7 Yes.

8 MR. TRUJILLO:

9 In that case, Mr. Chairman, I'll move
10 that based on the recommendation made and on the
11 evidence that they have represented to the
12 Pennsylvania Thoroughbred Horseman's Association that
13 the Board approve the associations --- the
14 Pennsylvania's Thoroughbred Horsemen's Association
15 Employees' Retirement Plan with the understanding that
16 the Board can rely on the representations and with the
17 further understanding that any change or modifications
18 to this plan must come before the Board for further
19 approval.

20 CHAIRMAN:

21 Second?

22 MR. GINTY:

23 Second.

24 CHAIRMAN:

25 All in favor?

1 ALL SAY AYE

2 CHAIRMAN:

3 Opposed? Motion passes. Next can I have
4 a motion on the Trainer's Retirement Plan?

5 MR. GINTY:

6 Mr. Chairman, I move based upon the
7 representations made before us today and the evidence
8 that was presented by representatives of the
9 Pennsylvania Thoroughbred Horsemen's Association that
10 the Board approve the Pennsylvania Thoroughbred
11 Horsemen's Association's Trainer's Retirement Plan
12 with the understanding that the Board has relied upon
13 these representations and with the further
14 understanding that any changes or modifications to
15 this plan must come before the Board for approval.

16 CHAIRMAN:

17 Second.

18 MR. MCCABE:

19 Second?

20 CHAIRMAN:

21 All in favor?

22 ALL SAY AYE

23 CHAIRMAN:

24 Opposed? Motion passes. Thank you very
25 much.

1 ATTORNEY BALLEZZI:

2 Thank you very much, Mr. Chairman.

3 ATTORNEY WASCH:

4 Thank you.

5 CHAIRMAN:

6 We're going to break for five minutes.

7 We'll be back at 11:35 and we will at that time ---

8 it's my intention to go back into the hearing portion
9 of our meeting.

10 SHORT BREAK TAKEN

11 We'll now go back into our regular public
12 meeting of the Board. Thank you very much.

13 ATTORNEY GRACI:

14 Thank you.

15 ATTORNEY JACOBY:

16 Thank you, Mr. Chairman.

17 CHAIRMAN:

18 Where we're at on today's agenda is
19 dealing with the Regulation 125-133. Of course our
20 Chief Counsel Doug Sherman, Susan Yocum, please
21 proceed.

22 ATTORNEY SHERMAN:

23 Thank you, Your Honor. As you indicated
24 we're going to hear from Susan Yocum as Chief Counsel.

25 ATTORNEY YOCUM:

1 Chairman Fajt, Commissioners, I think you
2 have Temporary Regulation 125-133 for your
3 consideration today. This is an amendment package
4 which amends three chapters on the Table Games
5 Regulations. The first chapter to amend is 523, on
6 table games equipment. This regulation will allow
7 authorized employees to accept value chips from
8 patrons who choose to purchase food and beverage on
9 the game floor. At the end of this regulation we'll
10 have to submit updated internal controls which would
11 be subject to approval to assure proper accounting of
12 those value chips prior to those employees leaving the
13 gaming floor for the day.

14 In addition we also want an amend 526,
15 the Credit Regulations. The current regulation
16 addresses the issuance of credit to table games
17 players. This amendment allows for the issuance of
18 credit to patrons who play at slot machines as well.
19 Slot patrons who apply for credit will have to go
20 through the same application process, the same account
21 verifications, credit checks as the table games
22 players. This additional regulation governing
23 issuance of credit to slot patrons is in conformance
24 with the Act as amended in January, which authorize
25 the certificate holder to extend credit to both the

1 table games patrons and to slot players.

2 The last chapter to amend is on
3 blackjack. We're going to add the in between wager to
4 the game of blackjack as an optional side wager. If
5 you have any questions I'd be more than happy to
6 answer them, if not I would ask for a motion.

7 CHAIRMAN:

8 Any questions from the Board?
9 Commissioner Sojka?

10 MR. SOJKA:

11 Just an informational question, that in
12 between that is in one of these proprietary
13 copyrighted options ---.

14 ATTORNEY YOCUM:

15 That is correct, yes.

16 MR. SOJKA:

17 I'm just curious as to how the holder of
18 the copyright is compensated. Do they release it or
19 do they get a percentage of the amount of play on
20 that?

21 ATTORNEY YOCUM:

22 Typically it's leased.

23 MR. SOJKA:

24 It's leased. So, once they lease they
25 don't care if it's used or not?

1 ATTORNEY YOCUM:

2 Typically, probably not.

3 MR. SOJKA:

4 Okay. Thank you.

5 CHAIRMAN:

6 Any more questions? Can I have a motion,
7 please?

8 MR. ANGELI:

9 Mr. Chairman, I move that the Board adopt
10 the Temporary Regulation 125-133 and the Board
11 establish a common public comment period of 30 days
12 for the Temporary Regulation and that this Regulation
13 be posted on the Board's website.

14 CHAIRMAN:

15 Second?

16 MR. SOJKA:

17 Second.

18 CHAIRMAN:

19 All in favor?

20 ALL SAY AYE

21 CHAIRMAN:

22 Opposed. Motion passes.

23 ATTORNEY YOCUM:

24 Thank you.

25 CHAIRMAN:

1 Thank you. Next we'll move to
2 application withdrawals.

3 ATTORNEY SHERMAN:

4 We have Chief Counsel, Steve Cook, to
5 present the remaining ---.

6 ATTORNEY COOK:

7 Good morning. The Board received notice
8 on Petitions to withdraw the Application denying
9 individuals and businesses, persons or entities
10 subject of these Petitions as follows; Central Credit,
11 LLC, Scott H. Betts, Cintas Corporation No. 2, Plastic
12 Graphic Company, Masanori Iwabuchi, Naoko Otsuka,
13 Hideki Nakagome, Jerome Smith, and Elizabeth
14 Tranchina.

15 CHAIRMAN:

16 Well done.

17 ATTORNEY PITRE:

18 The OEC has no objection to these
19 withdrawals and agree to grant them without prejudice.

20 CHAIRMAN:

21 Any questions or comments from the Board?
22 May I have a motion, please?

23 MR. TRUJILLO:

24 Mr. Chairman, I move that the Board
25 issues Orders to approve the withdrawals as described

1 by the Office of Chief Counsel.

2 CHAIRMAN:

3 Second?

4 MR. ANGELI:

5 Second.

6 CHAIRMAN:

7 All in favor?

8 ALL SAY AYE

9 CHAIRMAN:

10 Opposed? Motion passes.

11 ATTORNEY COOK:

12 Next before the Board for consideration
13 are five Reports and Recommendations received from the
14 OHA relative to three the Non-Gaming Employee
15 Registrations, one Gaming Employee Permit and one Key
16 Employee License. These Reports and Recommendations
17 along with the evidentiary record have been provided
18 to the Board in advance of this meeting. Additionally
19 each of the individuals involved were notified that
20 this matter would be on the Board's agenda today and
21 they have a right be briefly address the Board. If
22 anyone here is present I would ask that they come
23 forward when their name's called and take advantage of
24 that opportunity to address the Board if they so
25 choose.

1 The first Report and Recommendation for
2 the Board is that of Raymond Ball. Mr. Ball was
3 issued a Non-Gaming Registration on January 23rd, 2008
4 and was employed by a Certified Gaming Service
5 Provider, Debo Moving and Storage, Inc. On July 28th,
6 2010, Mr. Ball was charged with criminal homicide, a
7 felony. As a result of these charges, OEC filed a
8 Request for an Emergency Order of Suspension of Mr.
9 Ball's Non-Gaming Registration. The Order was signed
10 by the Executive Director on August 9th, 2010.

11 On August 19th, 2010, the Board directed
12 the OHA to conduct a full evidentiary hearing in this
13 matter and issue a Report and Recommendation as to
14 whether this Emergency Suspension should continue. A
15 hearing in the matter was held at Hearing and Appeals
16 on August 27th, 2010. Mr. Ball being notified did not
17 attend the hearing. Subsequently, on September 3rd,
18 2010, a Report and Recommendation was issued
19 recommending that the Emergency Suspension remain in
20 place. This Report and Recommendation is here today
21 in front of the Board for action.

22 CHAIRMAN:

23 Is Mr. Ball present? Any questions or
24 comments from the Board? May I have a motion, please?

25 MR. ANGELI:

1 Mr. Chairman, I move that the Board issue
2 an Order to adopt the Report and Recommendation of the
3 OHA denying the Non-Gaming Employee Registration of
4 Raymond Ball as described by the OCC.

5 CHAIRMAN:

6 Second?

7 MR. COY:

8 Second.

9 CHAIRMAN:

10 All in favor?

11 ALL SAY AYE

12 CHAIRMAN:

13 Opposed? Motion passes.

14 ATTORNEY COOK:

15 Next for the Board's consideration is the
16 Report and Recommendation related to Anthony Bell.
17 Mr. Bell submitted an application for a Non-Gaming
18 Employee Registration to work as a Banquet Steward at
19 the Rivers Casino. On July 26th, 2010, the OEC issued
20 a Notice of Recommendation of Denial based on Mr.
21 Bell's failure to disclose the entirety of his
22 criminal history, as well as the nature of Mr. Bell's
23 criminal history, which included several felonies.

24 On his application, Mr. Bell did disclose
25 one drug related charge and plea agreement and

1 contends that while he was arrested multiple times
2 over a 17-month period ending in September 2005, for
3 the purposes of the application he simply consolidated
4 all of these charges to one notation. With respect to
5 the charges, they were all disposed of by the
6 Allegheny County Courts on the same day, December 11,
7 2006.

8 Mr. Bell requested a hearing on the
9 recommended denial, which was held on August 12, 2010.
10 Both the OEC and counsel and Mr. Bell attended that
11 hearing. At the hearing, Mr. Bell explained that,
12 although the application required complete disclosure
13 of all prior arrests, he did not disclose his entire
14 criminal history because of the manner in which his
15 charges were resolved. Mr. Bell also submitted
16 evidence indicating that as a result of pleading
17 guilty to certain of these charges, with the remaining
18 charges dropped, he was sentenced to a one-year period
19 of incarceration at a boot camp facility.

20 At this point Mr. Bell remains on parole,
21 which will end March 9th, 2012. During the hearing
22 before the Hearing Officer, Mr. Bell also submitted a
23 letter from his parole officer indicating that his
24 parole stage was successful and that he has
25 successfully integrated himself back into society.

1 At the conclusion of the hearing, the
2 Hearing Officer issued a Report and Recommendation
3 recommending, that notwithstanding the OEC's
4 objections, that Mr. Bell be granted A Non-Gaming
5 Registration. That Report and Recommendation is
6 before the Board. And just so we're clear, if the
7 Board were to adopt the Report and Recommendation it
8 would grant Mr. Bell his registration. If the Board
9 were to not adopt the Report and Recommendation he
10 would be denied registration.

11 CHAIRMAN:

12 Thank you. Is Mr. Bell present? Any
13 questions or comments from the Board? Commissioner
14 Sojka.

15 MR. SOJKA:

16 Just a couple for clarifications again.
17 How old was Mr. Bell when he was assigned to the boot
18 camp?

19 ATTORNEY COOK:

20 I believe mid-20s.

21 MR. SOJKA:

22 Mid-20s, he was not a juvenile.

23 ATTORNEY COOK:

24 No, that's correct.

25 MR. SOJKA:

1 Mr. Bell is currently employed in the
2 casino industry at the location where he ---?

3 ATTORNEY COOK:

4 He works at the Rivers, as I understand
5 it, back of the house, which does not require
6 regulation.

7 MR. SOJKA:

8 So, basically this is an application to
9 gain promotion and he is still on parole?

10 ATTORNEY COOK:

11 That is correct.

12 MR. SOJKA:

13 And parole, if he's successful, will
14 terminate when?

15 ATTORNEY COOK:

16 March 2012.

17 MR. SOJKA:

18 Thank you.

19 CHAIRMAN:

20 Any of questions, comments? May I have a
21 motion, please?

22 MR. COY:

23 Yes, Mr. Chairman. I move that the Board
24 issue an Order rejecting the Report and Recommendation
25 of the OHA regarding the Non-Gaming Employee

1 Registration of Anthony Bell as described by the OCC.

2 CHAIRMAN:

3 Second?

4 MR. MCCABE:

5 Second.

6 CHAIRMAN:

7 All in favor?

8 ALL SAY AYE

9 CHAIRMAN:

10 Opposed?

11 MR. GINTY:

12 Opposed. I would go on the record that I
13 would adopt the Recommendation.

14 CHAIRMAN:

15 Thank you. One opposition. Given that
16 the opposition is a gubernatorial appointee and not a
17 legislative appointee, this motion does pass.

18 ATTORNEY COOK:

19 Douglas Young is the next Report and
20 Recommendation before the Board for consideration.
21 Mr. Young submitted an application for a Non-Gaming
22 Employee Registration during May 2010, seeking work
23 with the Gaming Service Provider, S&H Construction
24 Company at the Mt. Airy Casino.

25 Mr. Young's application reported three

1 arrests, including a pending charge of possession of
2 drug paraphernalia. The criminal history report
3 obtained by the Bureau of Investigations and
4 Enforcement was similar to Mr. Young's report;
5 however, it indicated that the pending charges also
6 included undisclosed felony drug charges as well as a
7 charge of providing false identification to a law
8 enforcement officer. As result of Mr. Young's failure
9 to disclose the complete nature of his pending
10 charges, on June 7th, 2010, OEC issued a Notice of
11 Recommendation of Denial.

12 Mr. Young requested a hearing which was
13 held on August 12th, 2010. Although Mr. Young
14 received notice of that hearing he didn't attend.
15 Thereafter a Report and Recommendation was issued,
16 recommending that Mr. Young's application be denied
17 based upon his failure to fully disclose the nature of
18 his pending criminal charges. That Report and
19 Recommendation is presently before the Board for
20 action.

21 CHAIRMAN:

22 Is Mr. Young present? Any questions or
23 comments from the Board? May I have a motion, please?

24 MR. GINTY:

25 Mr. Chairman, I move that the Board issue

1 an Order to adopt the Report and Recommendation of the
2 OHA regarding the Non-Gaming Employee Registration of
3 Douglas Young as described by our OCC.

4 CHAIRMAN:

5 Second?

6 MR. MCCABE:

7 Second.

8 CHAIRMAN:

9 All in favor?

10 ALL SAY AYE

11 CHAIRMAN:

12 Opposed? Motion passes.

13 ATTORNEY COOK:

14 The next Report and Recommendation before
15 the Board pertains to Kenneth Thomas. Mr. Thomas
16 submitted an application for a Gaming Employee Permit
17 on June 1st, 2010, seeking work as a Security Officer
18 at Harrah's Chester Casino and Racetrack. At the same
19 time he also filed a Petition for permission to
20 reapply for a Gaming Employee Permit less than five
21 years after a prior application was denied.

22 The OEC issued a Notice of Recommendation
23 of Denial to the application as well as opposition to
24 the Petition given this individual's rejection for a
25 Gaming Employee Permit five years ago. Mr. Thomas

1 requested a hearing, which was held on August 10th,
2 2010, which both the OEC and Mr. Thomas appeared. Mr.
3 Thomas testified that before reapplying in 2010 he
4 attempted to obtain information from the City of
5 Chester regarding the previously undisclosed 1991
6 arrest for which the charges were dropped, which was
7 the nature of a dispute back in 2006; however, once
8 again he was unable to acquire any documentation on
9 that arrest. Mr. Thomas also put in evidence some
10 information relative to the steps he has taken to
11 straighten out his life and kick what was a drug
12 habit.

13 Thereafter a Report and Recommendation
14 was issued limited to the issue as to whether the five
15 year prohibition on reapplication should be lifted.
16 The Hearing Officer recommending that in fact
17 prohibition on the application should be lifted and
18 could be lifted under the Board's regulations. The
19 OEC filed Exceptions to the Report and Recommendation
20 arguing that Mr. Thomas' failure to disclose the
21 arrest and remains ineligible for a permit.

22 The OCC believes that these issues were
23 addressed sufficiently in the Report and
24 Recommendation and that Mr. Thomas should be allowed
25 to reapply for a permit. The OCC recommends that the

1 Board consider a motion to adopt the Report and
2 Recommendation, thereafter remanding the matter back
3 to the OHA for further hearings as to suitability.

4 CHAIRMAN:

5 First of all is Mr. Thomas here? Mr.
6 Thomas, will you please come forward? Also note that
7 the OEC has come forward. Mr. Thomas, do you want to
8 make a brief statement as to the Board?

9 MR. THOMAS:

10 Yes. The matter at hand is about me not
11 disclosing a 1991 arrest ---.

12 CHAIRMAN:

13 I'm sorry, I apologize before you start,
14 will you stand and be sworn in by the stenographer?

15 -----

16 KENNETH THOMAS, HAVING FIRST BEEN DULY SWORN,
17 TESTIFIED AS FOLLOWS:

18 -----

19 CHAIRMAN:

20 Thank you. I apologize. Go ahead.

21 MR. THOMAS:

22 I think the matter in dispute was the
23 1991 arrest in Chester and at that hearing those
24 criminal charges were dropped and so I did not
25 disclose that in my application. I had contacted the

1 Pennsylvania State Police to get my criminal
2 background and put that in the official document and I
3 put all of that information on the application. And
4 so it was denied --- I think the first denial was I
5 think in 1997, if I recall. And I was working in that
6 capacity at the time, so I didn't bother to follow up
7 with that. And so I was not aware that there was a
8 denial in 2007. My first --- when the information was
9 relayed to me via letter on I believe it was on June
10 9th that there was a denial in 2007 that was a
11 surprise to me and I quickly filed for the appeal. I
12 have gone back on two occasions to try to get
13 information on the 1991 arrest. The Department told
14 me that they had thrown out that information, that
15 they no longer had it and that's what I have been told
16 all along. I had gotten a call, I believe in 2007, in
17 like March or April, first alerting me to that
18 information and trying to clarification on the arrest
19 and that's why I didn't put it on the application. It
20 has never come up on anything else I have done.

21 CHAIRMAN:

22 Thank you. OEC do you have any comments?

23 ATTORNEY ARMSTRONG:

24 No.

25 CHAIRMAN:

1 Thank you. Questions from the Board,
2 Commissioner McCabe?

3 MR. MCCABE:

4 From my recollection of the material that
5 we have and you read, when you first filled out the
6 application for employment the first time, you went to
7 the State Police and got your criminal record?

8 MR. THOMAS:

9 Correct.

10 MR. MCCABE:

11 And then based on the record they gave
12 you, you filled out the form.

13 MR. THOMAS:

14 That's correct.

15 MR. MCCABE:

16 At that time on that record that the
17 Pennsylvania State Police provided you was there
18 anything about this 1991 arrest?

19 MR. THOMAS:

20 No.

21 MR. MCCABE:

22 So, then you in good faith put down
23 everything that was on that piece of paper?

24 MR. THOMAS:

25 That's correct.

1 MR. MCCABE:

2 And then from what I understand
3 subsequent to that, how did we find out about the 1991
4 arrest?

5 MR. THOMAS:

6 I got the call from BIE I believe, but it
7 was a telephone call. They alerted me to that, back
8 in 2007.

9 MR. MCCABE:

10 I understand how the City of Chester
11 threw out or whatever or destroyed all the paperwork
12 that was from 19 years ago, so you in good faith
13 filled out that first form?

14 MR. THOMAS:

15 That's correct.

16 CHAIRMAN:

17 Any other questions? Mr. Trujillo?

18 MR. TRUJILLO:

19 You knew that you had been arrested in
20 1991, did you not?

21 MR. THOMAS:

22 Yes, I did.

23 MR. TRUJILLO:

24 And you still did not submit that
25 information?

1 MR. THOMAS:

2 Well, the reason I didn't is --- most of
3 the time when I fill out an application they asked me
4 if I had been convicted and when I read that I assumed
5 that's what I have, that I was not convicted of
6 anything and so I did not put that in.

7 MR. TRUJILLO:

8 Mr. Cook, you had suggested a course of
9 action that the Board may want to consider. Could you
10 tell us what course of action and what the result
11 would be if the Board did follow with that course of
12 action?

13 ATTORNEY COOK:

14 Sure. The Board Recommendation that's
15 presently before the Board is limited to the issue of
16 whether this gentleman should be allowed to reapply
17 within the five year period of suspension. Our
18 regulations do allow for someone to Petition in order
19 to reapply within that five year period of suspension
20 time period after two years have elapsed. So, the
21 issue that is before the Board is the Report and
22 Recommendation issue recommending that he should be
23 allowed to reapply and then remand the matter back to
24 OHA for hearings on the actual suitability issue.

25 MR. TRUJILLO:

1 And so if we were to adopt the Report and
2 Recommendation that it would go back to the Hearing
3 Officer to determine whether or not he can reapply?

4 ATTORNEY COOK:

5 Correct.

6 MR. TRUJILLO:

7 Okay.

8 ATTORNEY COOK:

9 I'm sorry, it goes back to the Hearing
10 Officer for approval of the reapplication and then the
11 suitability is the issue.

12 MR. TRUJILLO:

13 So, if we reject the Report and
14 Recommendation then it will go back to the Hearing
15 Officer?

16 ATTORNEY COOK:

17 If you reject his Report and
18 Recommendation, it's over.

19 CHAIRMAN:

20 Again just to be clear. What we're
21 voting on is, in my terms, a relaxation of the five
22 year prohibition on reapplication. So, if we vote in
23 favor of the motion we will allow Mr. Thomas to
24 reapply then we will subsequently deal with whether he
25 is suitable for employment.

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ATTORNEY COOK:

There will be a second Report and Recommendation forthcoming as to his suitability.

CHAIRMAN:

Okay? Enforcement Counsel, any comments again?

ATTORNEY BUTERBAUGH:

We've filed exceptions because we don't believe that he met the requirements for early reapplication. One of the requirements is to show how things have changed since his original denial. The original denial was based upon his non-disclosure of his arrest and he failed to disclose the arrest again and failed to disclose it when he previously applied.

CHAIRMAN:

Commissioner McCabe?

MR. MCCABE:

Move to motion.

CHAIRMAN:

All right. Okay. Any other questions or comments? I'll have a motion.

MR. MCCABE:

To be clear I'm not making a motion for the licensing.

ATTORNEY COOK:

1 Correct. The motion is simply to allow
2 him to reapply.

3 MR. MCCABE:

4 Mr. Chairman, I move that the Board issue
5 an Order to adopt the Report and Recommendation of the
6 OHA regarding the Gaming Employee Permit of Ken Thomas
7 as described by the OCC, which is a waiver to allow
8 him to reapply.

9 ATTORNEY COOK:

10 Correct.

11 CHAIRMAN:

12 Second?

13 MR. SOJKA:

14 I'll second that.

15 CHAIRMAN:

16 All in favor?

17 ALL SAY AYE

18 CHAIRMAN:

19 Opposed? Motion passes. Thank you.

20 ATTORNEY COOK:

21 The final Report and Recommendation
22 before the Board pertains to Sherrell Burks. Ms.
23 Burks submitted a Key Employee License application to
24 work as a Players Club Supervisor at the Rivers
25 Casino. Ms. Burks had been working at the casino

1 under temporary credentials issued by the Bureau of
2 Licensing until she resigned on January 29th, 2010,
3 just prior to her arrest and conviction for 45 counts
4 of Misapplication of Entrusted Financial Institution
5 Property. Specifically, Ms. Burks was charged with
6 awarding family members just over \$8,000 worth of free
7 play on their Rivers Casino Players Club cards between
8 September 14th, 2009 and January 21st, 2010.

9 After her resignation, the Rivers filed a
10 Petition to Withdraw her application. OEC filed an
11 Answer requesting that that only be granted with
12 prejudice given the circumstances. Because of the
13 objection the hearing was held on August 24th, 2010.
14 Neither Ms. Burks nor anybody from the casino attended
15 the hearing, therefore, we proceeded in their absence.
16 A Report and Recommendation was issued granting her
17 withdrawal with prejudice under these circumstances.
18 That is before the Board, the Report and
19 Recommendation and if approved allow the application
20 to be withdrawn with prejudice.

21 CHAIRMAN:

22 Thank you. Is Ms. Burks here? Any
23 questions or comments from the Board? Commissioner
24 Sojka.

25 MR. SOJKA:

1 Just one and that is that with prejudice
2 part keeps her from employment in the casino for how
3 long? Any casino.

4 ATTORNEY COOK:

5 It keeps her from --- for five years for
6 the reapplication. Although the previous gentleman
7 was --- the request that the five year period be ---.

8 MR. SOJKA:

9 Require action?

10 ATTORNEY COOK:

11 Correct.

12 MR. SOJKA:

13 Okay.

14 CHAIRMAN:

15 Any other questions or comments? May I
16 have a motion, please?

17 MR. SOJKA:

18 Yes, Mr. Chairman, I'll move that the
19 Board issue an Order to adopt the Report and
20 Recommendation of the OHA regarding the Key Employee
21 License of Sherrell Burks as described by the OCC.

22 CHAIRMAN:

23 Second?

24 MR. TRUJILLO:

25 Second.

1 CHAIRMAN:

2 All in favor?

3 ALL SAY AYE

4 CHAIRMAN:

5 Opposed? Motion passes.

6 ATTORNEY SHERMAN:

7 That concludes the matters of the OCC.

8 CHAIRMAN:

9 Thank you, Doug. Now to Susan. I'll ask
10 Susan Hensel to come forward to present the Bureau of
11 Licensing as set forth in the agenda.

12 MS. HENSEL:

13 Thank you, Chairman and members of the
14 Board. The first matter for your consideration is the
15 approval of Principal and Key Employee Licenses.
16 Prior to today's hearing the Bureau of Licensing
17 provided you with the Proposed Orders of two
18 Principals and two Key Employee Licenses from
19 Mountainview Thoroughbred Racing Association and Sand
20 Bethworks Gaming, Inc. I ask that the Board consider
21 the Order approving these licenses.

22 ATTORNEY PITRE:

23 No objection.

24 CHAIRMAN:

25 Thank you. Questions or comments from

1 the Board? May I have a motion please?

2 MR. TRUJILLO:

3 Mr. Chairman, I move that the Board
4 approve the issuance of Principal and Key Licenses as
5 described by the office --- the Bureau of Licensing.

6 MR. ANGELI:

7 Second.

8 CHAIRMAN:

9 All in favor?

10 ALL SAY AYE

11 CHAIRMAN:

12 Opposed? Motion passes.

13 MS. HENSEL:

14 We also have for your consideration the
15 issuance of Temporary Principal and Key Employee
16 Licenses. Prior to this meeting the Bureau of
17 Licensing provided you with an Order regarding the
18 issuance of Temporary Licenses for one Principal and
19 14 Key Employees. I ask that the Board consider the
20 Order approving these licenses.

21 ATTORNEY PITRE:

22 No objection.

23 CHAIRMAN:

24 Questions or comments from the Board?

25 May I have a motion, please?

1 MR. ANGELI:

2 So moved.

3 MR. COY:

4 Second.

5 CHAIRMAN:

6 All in favor?

7 ALL SAY AYE

8 CHAIRMAN:

9 Opposed? Motion passes.

10 MS. HENSEL:

11 Next are the Gaming Employee Permits and
12 Non-Gaming Registrations. Prior to this meeting the
13 Bureau of Licensing provided you with a list of 567
14 individuals including 353 Initial, 170 G2 Temporary
15 Permits and 14 G2 Full Permits who the Bureau has
16 granted occupation permits to and 378 individuals who
17 the Bureau has granted registrations to under the
18 authority delegated to the Bureau of Licensing. I ask
19 that the Board adopt the motion approving the Order.

20 ATTORNEY PITRE:

21 No objection.

22 CHAIRMAN:

23 Questions from the Board? May I have a
24 motion to move?

25 MR. COY:

1 So moved.

2 MR. GINTY:

3 Second.

4 CHAIRMAN:

5 All in favor?

6 ALL SAY AYE

7 CHAIRMAN:

8 Opposed? Motion passes.

9 MS. HENSEL:

10 We also have withdrawal requests for Key
11 Employees. In each case the license is no longer
12 required due to such circumstances as the employee
13 failing to report to work. For to today's meeting I
14 have provided the Board with a list of 27 Key Employee
15 Withdrawals for approval. I ask that the Board
16 consider the Order approving these withdrawals.

17 CHAIRMAN:

18 Motion from counsel?

19 ATTORNEY PITRE:

20 No objection.

21 CHAIRMAN:

22 Thank you. Questions from the Board?

23 May I have a motion, please?

24 MR. GINTY:

25 So moved.

1 MR. MCCABE:

2 Second.

3 CHAIRMAN:

4 All in favor?

5 ALL SAY AYE

6 CHAIRMAN:

7 Opposed? Motion passes.

8 MS. HENSEL:

9 In addition we have three Orders
10 regarding Gaming Service Providers. The first is to
11 certify the following Gaming Service Providers;
12 Eastern Bag & Paper Company, Inc., Phoenix Roofing,
13 Inc., and Rodi Platcow Malin Advertising, Inc. I ask
14 that the Board consider the Order approving the Gaming
15 Service Provider's Certification.

16 ATTORNEY PITRE:

17 We recommend the certification.

18 CHAIRMAN:

19 Thank you. Comments from the Board?

20 Seeing none, may I have a motion, please?

21 MR. MCCABE:

22 Yes, Mr. Chairman, I'll mover the motion
23 that the Board to approve the Applications for Gaming
24 Service Provider Certification described by the Bureau
25 of Licensing.

1 MR. SOJKA:

2 Second.

3 CHAIRMAN:

4 All in favor?

5 ALL SAY AYE

6 CHAIRMAN:

7 Opposed? Motion passes.

8 MS. HENSEL:

9 Next the Bureau of Licensing provided you
10 with Orders, the approval of which would result in the
11 following two Gaming Service Providers being added to
12 the Prohibited Gaming Service Providers' List;
13 Response Envelope, Inc. and XCEND Group, Inc., X-C-E-
14 N-D. These Gaming Service Providers have done
15 business with the Slot Machine Operator Licensee or
16 Applicant but have failed to submit more applications.

17 I ask that the Board consider these Orders adding
18 those Gaming Service Providers to the Prohibited
19 Gaming Service Provider List.

20 ATTORNEY PITRE:

21 Enforcement Counsel supports their
22 motion.

23 CHAIRMAN:

24 Thank you. Questions from the Board?

25 Seeing none, may I have a motion, please?

1 MR. SOJKA:

2 Yes, Mr. Chairman, I move that the Board
3 issue the Orders to approve the additions to the
4 Prohibited Gaming Service Provider List as described
5 by the Bureau of Licensing.

6 CHAIRMAN:

7 Second?

8 MR. TRUJILLO:

9 Second.

10 CHAIRMAN:

11 All in favor?

12 ALL SAY AYE

13 CHAIRMAN:

14 Opposed? Motion passes.

15 MS. HENSEL:

16 Finally I'm asking that the following
17 Gaming Service Provider Applications be declared
18 abandoned; Kistler and Dinapoli, Inc., Lehigh Safety
19 Shoe Company, LLC and Valley Forge Fabric. These
20 companies filed applications with the Board even
21 though they received compensation below the thresholds
22 requiring them to file. However the companies failed
23 to complete their applications. The Board has the
24 authority to declare an application abandoned if an
25 Applicant fails to provide the information necessary

1 to complete his application and I ask that the Board
2 consider the Order declaring these applications
3 abandoned.

4 ATTORNEY PITRE:

5 We support that motion also.

6 CHAIRMAN:

7 Thank you. Comments from the Board? May
8 I have a motion, please?

9 MR. TRUJILLO:

10 Mr. Chairman, I move that the Board issue
11 an Order to approve the abandonment of the Gaming
12 Service Provider Applications as described by the
13 Bureau of Licensing.

14 MR. ANGELI:

15 Second.

16 CHAIRMAN:

17 All in favor?

18 ALL SAY AYE

19 CHAIRMAN:

20 Opposed? Motion passes.

21 MS. HENSEL:

22 That concludes the Bureau of Licensing's
23 presentation.

24 CHAIRMAN:

25 Thank you, Susan.

1 MR. MCCABE:

2 Mr. Chairman, if I may.

3 CHAIRMAN:

4 Sure.

5 MR. MCCABE:

6 Some of the actions that we took today
7 was to provide jobs for 500 and some odd people;
8 correct? I just think that should be dually noted
9 that we're creating jobs in Pennsylvania. Atlantic
10 City just announced this morning that they're going to
11 be cutting 1,400 casino jobs. So, I think this is
12 commendable that we're creating more jobs for people
13 whereas others in the industry are cutting them.

14 CHAIRMAN:

15 Thank you. Just one minor correction to
16 that. The job creators are creating the jobs. Next
17 up is our Chief Enforcement Counsel Cyrus Pitre.

18 ATTORNEY PITRE:

19 Good afternoon. We have four motions for
20 the Board's consideration today. The first involving
21 a Consent Agreement between the OEC and Chester Downs
22 and Marina, LLC. Mark Buterbaugh will present the
23 matters to the Board. Bill Downey and Lynne Hughes
24 are here and I ask that they come forward.

25 CHAIRMAN:

1 Thank you.

2 ATTORNEY BUTERBAUGH:

3 At this time the OEC has a Consent
4 Agreement prepared for the Board's approval. The
5 Consent Agreement is between OEC and Chester Downs and
6 Marina. This Consent Agreement arises from a series
7 of incidents, which occurred from October 1st, 2009 to
8 March 21st, 2010. There are seven incidents total.
9 In each incident Chester failed to prevent individuals
10 under the age 21 from entering the gaming floor and
11 gambling at slot machines. On October 1st, 2009, a
12 20-year-old female entered the gaming floor of
13 Harrah's and gambled for nearly four and a half hours
14 before she was eventually caught by security. On
15 October 19th, 2009, a 20-year-old female entered the
16 gaming floor of Harrah's and gambled over one and a
17 half hours before being caught by a cage cashier when
18 she when she attempted to get change. On November
19 1st, 2009, a 20-year-old female entered the gaming
20 floor and gambled for over an hour before she was
21 stopped by a security guard and identified. On
22 November 2nd, 2009, a 20-year-old female entered the
23 gaming floor and gambled for a half hour before being
24 checked for identification by security. On January
25 14th, 2010, a 19-year-old female entered the gaming

1 floor after presenting her 28-year-old sister's
2 identification to security. The underage individual
3 gambled at a slot machine for 16 minutes before being
4 stopped by another security guard who identified her
5 as being underage.

6 On February 8th, 2010, a 20-year-old
7 female entered the gaming floor at Harrah's and
8 gambled for approximately 45 minutes before being
9 stopped by security and checked for identification.
10 On March 21st, 2010, despite being checked for
11 identification by a security officer at the entrance
12 of the gaming floor a 20-year-old male was allowed to
13 enter the gaming floor of Harrah's Chester. The
14 underage individual proceeded to gamble for six
15 minutes before being stopped and identified by another
16 security officer.

17 On June 15th, 2010, the parties entered
18 into a Consent Agreement to settle these outstanding
19 compliance matters. The terms of the agreement
20 include a provision that Harrah's Chester shall
21 institute policies and provide training to employees
22 to prevent future incidences of this nature from
23 occurring and also that Harrah's Chester shall pay a
24 total fine of \$70,000 for violating the Act and
25 regulations promulgated there under, relating to

1 preventing underage gambling.

2 Harrah's Chester has taken a number of
3 steps since these incidents have occurred to prevent
4 them from happening again. Bill Downey and Lynne
5 Hughes are in attendance today to answer any questions
6 you may have.

7 CHAIRMAN:

8 Thanks, Mark. Any questions or comments
9 from the Board? Commissioner Angeli, do you have a
10 question or a comment?

11 MR. ANGELI:

12 No.

13 CHAIRMAN:

14 Okay. I have couple. Again we continue
15 to see these issues come before the Board. You're not
16 the only one we're going to hear from today. I look
17 at the incidents; 20-year-old female, 20-year-old
18 female, 20-year-old female, 20-year-old female, 19-
19 year-old female, 20-year-old female and 20-year-old
20 male. What we've seen is a preponderance of young
21 women underage getting into casinos all over
22 Pennsylvania. I know you are all here today and this
23 is a message not only to Harrah's, but it's a message
24 to everybody. It needs to stop. It needs to stop.
25 Whether it's swipe machines that every casino is going

1 to employ. Whether it's wristbands you have to put on
2 everybody under the age of 30. Whether it's a policy
3 you're going to card both male and female under the
4 age of 30. Whether you're going to force us to have
5 you hire more security at every entrance. It has got
6 to stop. Any other comments?

7 MR. COY:

8 Mr. Chairman, while I associate myself
9 with your remarks in their entirety I also want to
10 indicate that I believe this is the second Consent
11 Agreement regarding these issues. The first Consent
12 Agreement I believe was rejected by the Board or
13 tabled and that amounted --- that recommended a fine
14 of how much?

15 ATTORNEY PITRE:

16 \$58,000.

17 MR. COY:

18 So this is an increase to \$70,000. It is
19 the intent I believe, at least on my part, and I think
20 the entire Board's to continue to send the signal
21 about the significance of these incidents and of the
22 Board's continued concern on behalf of the people of
23 Pennsylvania to enforce against them. Thank you.

24 CHAIRMAN:

25 Thank you. Any other comments from the

1 Enforcement Counsel?

2 ATTORNEY PITRE:

3 Well, I just wanted to add that in one
4 particular casino --- and I won't call them out --- in
5 the past had a significant problem with underage. And
6 I think one of the things they did that seems to be
7 working well was they post a female security guard and
8 a male security guard at all the entrances. The
9 female security guard basically is more attentative to
10 underage females and the male security guard is more
11 attentative to underage males, so you won't have the
12 process where a certain sex could undermine the
13 security guard and enter the casino. I'm just
14 throwing it out there as just something from another
15 casino that you may want to look at.

16 CHAIRMAN:

17 Let me ask the representatives from
18 Harrah's here. Do you employ swipe machines ---
19 driver licenses swipe machines?

20 ATTORNEY HUGHES:

21 Yes, we do.

22 CHAIRMAN:

23 Do you employ the use the wristbands for
24 people under a certain age?

25 ATTORNEY HUGHES:

1 I don't know the answer to that. I
2 believe we do, but I could get that ---.

3 CHAIRMAN:

4 Please do and if you could let us know
5 what age limit you use for the wristbands, whether
6 it's 25, 30, whatever. And then I also would like to
7 know what your general policies are on carding and
8 again whether you make it your policy to card everyone
9 under --- you believe is under a certain age.

10 ATTORNEY HUGHES:

11 Under 30.

12 CHAIRMAN:

13 Okay. And you'll get back to us on it.
14 Tell me a little bit about what you've done to stop
15 these incidents.

16 ATTORNEY DOWNEY:

17 Bill Downey, D-O-W-N-E-Y, for Harrah's
18 Chester. With me is Lynne Hughes, H-U-G-H-E-S, VP of
19 the Eastern Division of Harrah's. I think to kind of
20 --- Commissioner Coy's point, this was outlined in an
21 earlier proceeding, those steps that the Licensee has
22 taken to ensure a better job. In addition to those
23 measures that we've cited we have in fact included the
24 reconfiguration of the entranceways to the casino
25 floor and I'm happy to report that we have not had any

1 incidents of underage gambling since our last visit.
2 You've referenced the swipe machines, those are
3 relatively new. We have closed down the entranceway
4 to the casino floor. It causes more of a funnel
5 effect onto the floor. Again we have offered more
6 training emphasizing the 30-year-old criteria for
7 carding.

8 CHAIRMAN:

9 Thank you. Any other comments from the
10 Board? Mr. Sojka.

11 MR. SOJKA:

12 I just want to ask, do you keep records
13 on the number of people that you reject or turn away?
14 Do you make a notation when someone tries to get in
15 and is turned away?

16 ATTORNEY HUGHES:

17 I don't think we do, sir. That is
18 certainly a great idea I think we should start.

19 MR. SOJKA:

20 You could see why that might be useful
21 down the road?

22 ATTORNEY HUGHES:

23 Absolutely.

24 CHAIRMAN:

25 Any other questions or comments? Seeing

1 none, may I have a motion, please?

2 MR. ANGELI:

3 Mr. Chairman, I move that the Board issue
4 an Order to approve this Consent Agreement between the
5 OEC and Chester Downs and Marina, LLC as described by
6 the OEC.

7 MR. COY:

8 Second.

9 CHAIRMAN:

10 All in favor?

11 ALL SAY AYE

12 CHAIRMAN:

13 Opposed? Motion passes. Thank you.

14 ATTORNEY PITRE:

15 The next Consent Agreement involves the
16 agents and Presque Isle Downs. Nick Rodriguez-Cayro
17 come to the table, representative for Presque Isle
18 Downs.

19 CHAIRMAN:

20 You may proceed.

21 ATTORNEY PITRE:

22 A few incidents of underage gaming at
23 Presque Isle Downs. The first incident occurred on
24 April 17th, 2010, involving a 19-year-old female who
25 placed wages at a slot machine for approximately 12

1 minutes before being apprehended by security. The
2 second incident involved a --- was a May 13th, 2010
3 incident involving a 19-year-old female who placed
4 wages at a slot machine for approximately 25 minutes
5 before being exiting the facility. We are seeking a
6 \$15,000 penalty. It's a combination for both those
7 matters. This is the first time that Presque Isle
8 Downs has had an underage problem in their facility.

9 I can say that in the first incident, the
10 April 17th incident, the underage female walked onto
11 the floor with her mother and I believe another
12 relative. The security guard at that time was busy
13 checking on another individual when she slipped past
14 him.

15 With regard to the second incident, that
16 19-year-old female came in contact with four different
17 individuals --- face-to-face contact with four
18 different individuals on the property. She was a
19 jockey that worked the racing side, she had an
20 identification, which I believe was found to be fake,
21 subsequent to her accessing the floor. That 19-year-
22 old female came into contact with three security
23 guards, they did check the I.D., they failed to scan
24 the I.D. They failed to check it for holograms. They
25 also noted that the I.D. felt flimsy, but checked it

1 against the identification guide and it appeared to
2 have all the proper makings of an official
3 identification. Subsequent to that she went onto the
4 floor, she gambled, there was another face-to-face
5 interaction at the cage where she cashed in a voucher.
6 She exited the facility. I believe the next day the
7 identification was checked by one of the security
8 guards. He checked with the Racing Commission and
9 found out that she was in fact 19-years-old. He
10 reported that to his supervisor. His supervisor
11 failed to contact PGCB personnel and failed to contact
12 the State Police. Three days later one of the Casino
13 Compliance Representatives was in a conversation with
14 one of the security guards and he found out through
15 that conversation about this underage incident. So,
16 that incident was not ever officially reported. So,
17 we're seeking a \$15,000 penalty for both of those
18 matters.

19 CHAIRMAN:

20 Thank you.

21 ATTORNEY RODRIGUEZ-CAYRO:

22 Good afternoon, Chairman Fajt, Members of
23 the Board. Nick Rodriguez-Cayro on behalf of Presque
24 Isle Downs. Spelling of the last name is
25 R-O-D-R-I-G-U-E-Z, hyphen, C-A-Y-R-O. Chief

1 Enforcement Counsel does recite the facts accurately;
2 however, the second incident was reported to the
3 Casino Compliance Officers at Presque Isle Downs;
4 however, it was not reported immediately. The
5 personnel responsible for that inaction were
6 terminated. Just so that is clear. We do share the
7 concern with this Board and I've implemented numerous
8 remedial measures. We have 48 signs, we have 732
9 surveillance cameras, we're averaging approximately 15
10 security officers per shift. Part of the problem we
11 have is that there's no deterrence for the minors.
12 Unfortunately it's a catch and release program. When
13 we catch them, we turn them over to the State Police,
14 they're given a summons and let go. There's no
15 deterrent. We find many of these minors try to come
16 back using I.D.s or using a sibling's I.D. which is
17 going to pass the scanner. So, we're caught in a no-
18 win situation. To this end maybe once again I submit
19 that per our discussion the OEC we hope that the Board
20 will approve the Consent Order and we're taking every
21 measure that we can to reduce these incidents, but we
22 certainly need your help in making it a deterrent for
23 minors to come onto the gaming floor.

24 CHAIRMAN:

25 Thank you. Commissioner McCabe.

1 MR. MCCABE:

2 Mr. Pitre, I look to you to clarify this
3 because I came in with little different opinion. But
4 based on the information we have isn't as thorough as
5 what you have just indicated to us. So you're
6 telling me that they failed? On the second one, the
7 jockey, that she was stopped by the security, she
8 showed a piece of identification what she said was her
9 license from work. Did they swipe that?

10 ATTORNEY PITRE:

11 No, they didn't swipe it.

12 MR. MCCABE:

13 Okay. So, right there they didn't follow
14 their procedure because the procedure is they're
15 supposed to swipe a drivers' license when they see it.

16 ATTORNEY RODRIGUEZ-CAYRO:

17 Commissioner McCabe, I don't believe it
18 was a drivers' license, it was an I.D. and what they
19 did was they compared it to the I.D. manual for the
20 different states.

21 MR. MCCABE:

22 My understanding from what I've seen in
23 the swipe machines is if you swipe an I.D. through
24 there it'll say if it's fake or the date of birth.

25 ATTORNEY PITRE:

1 Yeah, I don't know --- maybe you can
2 answer if Presque Isle has I.D. swipes.

3 ATTORNEY RODRIGUEZ-CAYRO:

4 We have implemented the swipe machines
5 since that incident.

6 MR. MCCABE:

7 I thought you had them before.

8 ATTORNEY RODRIGUEZ-CAYRO:

9 I don't believe we had them at every
10 station.

11 ATTORNEY PITRE:

12 They've never had a problem before so I'd
13 assume that ---.

14 MR. MCCABE:

15 I thought I seen them here before. Okay.
16 The next thing then is more clarification, is that
17 this was brought to the attention the next day to
18 security, but they didn't report it then?

19 ATTORNEY PITRE:

20 It was three days afterwards that the
21 matter came to the attention of the CCR.

22 MR. MCCABE:

23 Based on the --- and this maybe a lesson
24 or construction for the OEC. We need some more
25 information sometimes --- because I thought you were

1 going on him too easy and I was going to say look, you
2 know, people that go out of their way to help
3 indentify underage people, that that should be
4 rewarded and we should not be fining you for doing
5 what's right and it appeared from my write-up that
6 everybody got approached by the security guard and
7 asked to see I.D. Showed an I.D. and checked the book
8 and then let her go in. I'm like, okay, they followed
9 the procedures. They did their due diligence it was
10 because of somebody's conscientiousness, that they
11 went the extra yard, checked and saw that she was
12 underage, but I'm hearing a whole different story.
13 So, I've changed my opinion on most of --- they didn't
14 follow the procedures. So, I think that's all the
15 questions I have, but if they followed all the
16 procedures first of all this wouldn't happen. So,
17 that's the lesson, but if you find somebody that does
18 go that extra yard and I think you may hear a case a
19 little bit later about that, those people should be
20 rewarded. Security has a responsibility over the
21 whole staff and people who point things --- sort
22 things out over somebody who is underage, those people
23 should be rewarded and encouraged. Your employees
24 should be encouraged to follow our rules. Okay.
25 Thanks.

1 CHAIRMAN:

2 Any other questions from the Board? Mr.
3 Rodriguez, I have one quick question. The summons
4 that are issued by the State Police, there's no fine
5 involved with those?

6 ATTORNEY RODRIGUEZ-CAYRO:

7 There usually is a fine; however, I can
8 not tell you with a hundred percent accuracy that
9 there is a summons issued every time nor can I tell
10 you, as in this case, when we had a jockey we
11 requested that their license be suspended by the
12 Racing Commission and it was not. So, there was just
13 no deterrent and she's still working the job at
14 Presque Isle Downs.

15 CHAIRMAN:

16 Do you know the amount of the fine that
17 is accompanying the summons that are?

18 ATTORNEY RODRIGUEZ-CAYRO:

19 It varies, Chairman Fajt. It depends on
20 what the Magistrate assesses. I believe it is a \$50
21 summons.

22 CHAIRMAN:

23 Okay. Any other questions? Can I have a
24 motion, please?

25 MR. COY:

1 Mr. Chairman, I move that the Board issue
2 an Order approving the Consent Agreement between the
3 OEC and Presque Isle Downs as described by the OEC.

4 MR. GINTY:

5 Second.

6 CHAIRMAN:

7 All in favor?

8 ALL SAY AYE

9 CHAIRMAN:

10 Opposed? Motion passes. Thanks.

11 ATTORNEY RODRIGUEZ-CAYRO:

12 Mr. Chairman, thank you very much.

13 ATTORNEY PITRE:

14 The next matter involves a Consent
15 Agreement between the OEC and Mountainview
16 Thoroughbred Racing, Hollywood Casino. Mr. Quigley's
17 present and will present the matter for OEC.

18 CHAIRMAN:

19 Before we begin, Mr. Quigley, would you
20 please stand to be sworn in?

21 -----

22 FRANK QUIGLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
23 AS FOLLOWS:

24 -----

25 MS. MATELEVICH-HOANG:

1 Good afternoon, Mr. Chairman and members
2 of the Board. I'm Billie Jo Matelevich-Hoang on
3 behalf of the OEC. I'll spell that. That's
4 B-I-L-L-I-E J-O M-A-T-E-L-E-V-I-C-H, hypen, H-O-A-N-G.
5 We have today for the Board's consideration two
6 Consent Agreements between the OEC and Mountainview
7 Thoroughbred Racing Association, doing business as
8 Hollywood Casino at Penn National Race Course. The
9 first Agreement involves three incidents of underage
10 gaming. On February 1st, 2010, a 19-year-old female
11 gained access to the gaming floor. The underage
12 individual placed wagers at slot machines for
13 approximately 21 minutes and was on the gaming floor
14 for approximately 31 minutes. The individual was
15 evicted from the casino and charged with criminal
16 trespassing.

17 On March 13th, 2010, a 19-year-old female
18 accessed Hollywood's gaming floor and placed wagers at
19 slot machines for approximately 34 minutes and was on
20 the gaming floor for approximately one hour and nine
21 minutes. The individual was evicted from the casino
22 and charged with criminal trespass. On March 24th,
23 2010, the individual pled guilty to defiant trespass,
24 a summary offense. She paid \$187 fine.

25 On March 27th, 2010, an 18-year-old

1 female gained access to Hollywood's gaming floor and
2 remained on the floor for approximately 49 minutes and
3 placed wagers at slot machines for 16 minutes before
4 leaving the casino with her mother. The underage
5 female was sent criminal trespass charges in the mail.
6 On April 19th, 2010, the individual pled guilty to
7 defiant trespass, a summary of offense. She paid a
8 fine \$157.

9 As a result of these incidents Hollywood
10 Casino issued three final warnings to security
11 officers involved in the incidents. Two security
12 officers were terminated and one supervisor received a
13 verbal warning. Hollywood has also taken numerous
14 steps to minimize the opportunity for similar
15 incidents to occur in the future. In addition the
16 parties have agreed that within five days of the
17 Board's Order Hollywood shall pay a civil penalty in
18 the amount of \$45,000. If approved this will be the
19 third fine for Hollywood regarding underage patrons
20 placing wagers at the slot machines. The OEC asks
21 that the Board approve the Consent Agreement as
22 presented today. The OEC and representatives from
23 Hollywood Casino would be happy to answer any
24 questions you may have.

25 CHAIRMAN:

1 Thank you. Mr. Quigley, do you have any
2 comments?

3 MR. QUIGLEY:

4 Yes, I do. Chairman Fajt, Board Members,
5 thank you very much for giving me a chance to speak on
6 this. What is very important to me and my team at
7 Penn National is that we communicate how tremendously
8 important we believe this is and how seriously we take
9 this matter and we work very hard to try to minimize
10 as many of these as we can. Since I've been here
11 approximately a year --- just over a year now and
12 since I've been here I've done several things to
13 change and to work on especially. We have created
14 files at the front of our operation. We staff up
15 during peak volumes, Friday and Saturday nights when
16 we know we have a high volume. We do use the card
17 swipe technology. We have turned away 4,000 --- over
18 4,000 people so far this year to date. I believe we
19 have carded over 180,000 people, year to date with
20 this technology. Chairman Fajt, I heard you loud and
21 clear a couple of months ago when you talked about
22 this in regard to table games and in reality our table
23 games employees will be face-to-face with these
24 customers and it is not only --- it's the training
25 that we put our folks through, it's not only security,

1 but all of our team members know that they're
2 responsible for underage gaming --- all responsible
3 gaming for that matter.

4 To that matter we actually put the swipe
5 technology in the gaming pits and our supervisors are
6 using them there. We've also instituted a very
7 aggressive disciplinary policy with regard to underage
8 gaming and with that we also put in a significant
9 rewards policy also with our employees who catch
10 people. Specifically we have a plan in our security
11 department where once we turn away one of those ---
12 there's 4,000 people, so to speak, that try to get in,
13 one of these folks will try again. If they get
14 stopped at one entrance they will show up again at
15 another entrance and we're working together with our
16 surveillance department and our security department
17 and our rewards process that if one of our employees
18 catch one of these people re-entering, they're
19 rewarded to have a combination of --- they are given a
20 gift card to one of our local stores.

21 We put together a significant media
22 package so to speak to communicate our
23 responsibilities and how seriously we take this issue.
24 We've dedicated a portion of our advertising budget
25 and our outdoor for a billboard advertising campaign

1 that's on Route 81 right now getting ready to move
2 this quite soon. On Responsible Gaming Week I did a
3 television piece that we put out for the two weeks
4 during the Responsible Gaming Week, a public service
5 address regarding underage gaming. And I also did
6 several radio spots where I talked in radio interviews
7 with local disc jockeys that particularly focus on the
8 demographics that we're talking about. Again it is
9 extremely important for you to understand that we take
10 this very seriously and we have some challenges as the
11 gentleman from Presque Isle spoke. We also need that
12 help with regard to PSP helping us with these folks
13 also. And they do, they work hard.

14 We also have an added challenge and
15 anyone with a racetrack has an added challenge.
16 Racetracks historically attract families and underage
17 folks. By law they can make a bet on a horserace at
18 the age of 18 and at 18 those guys can get quite brave
19 when trying to get in and make a bet on the gaming
20 floor. We recognize that. Not an excuse, just the
21 reality and hopefully we give you the confidence that
22 we will continue to work this to the best of our
23 ability.

24 CHAIRMAN:

25 Thank you. Questions, comments from the

1 Board? Seeing none, may I have a motion, please?

2 MR. GINTY:

3 Mr. Chairman, I move that the Board issue
4 an Order to approve the Consent Agreement between OEC
5 and Mountainview Thoroughbred Racing Association as
6 described by the Office of Enforcement.

7 CHAIRMAN:

8 Second?

9 MR. MCCABE:

10 Second.

11 CHAIRMAN:

12 All in favor?

13 ALL SAY AYE

14 CHAIRMAN:

15 Opposed? Motion passes. Next.

16 MS. MATELEVICH-HOANG:

17 The next second Agreement involves one
18 incident of a minor on the gaming floor. This
19 incident occurred on July 16th, 2010, when a 10-year-
20 old female entered Hollywood's gaming floor through
21 the bus entrance. The minor entered the floor with
22 her father. The minor and her father observed
23 blackjack for approximately five minutes and the minor
24 observed her father playing slot machines for
25 approximately 17 minutes. The minor was on the gaming

1 floor for 25 minutes before being escorted out of the
2 casino. No charges were filed against the father, but
3 he was evicted from the casino for a period of one
4 year.

5 As a result of this incident Hollywood
6 Casino verbally coached the security officer as to the
7 importance of diligent observation. Hollywood has
8 also taken additional steps to minimize the
9 opportunity for similar incidents to occur in the
10 future. In addition the parties have agreed that
11 within five days of the Board's Order Hollywood shall
12 pay a civil penalty in the amount of \$20,000. If
13 approved this will be the first fine for Hollywood
14 regarding minors present on the gaming floor. The OEC
15 asks that the Board approves the Consent Agreement as
16 presented today.

17 CHAIRMAN:

18 Thank you. Questions from the Board?

19 MR. SOJKA:

20 Just one. You made just a fine point.

21 The distinction between this and the previous
22 agreement is that this minor did not gamble, is that
23 the distinction?

24 MS. MATELEVICH-HOANG:

25 Well, the minor is under 18 and she was

1 10 and she didn't gamble. In the first three the
2 females were 19, 19 and 18, so therefore underage.

3 MR. SOJKA:

4 But I mean they were on the gaming floor,
5 they were minors --- or is that the distinction that
6 they weren't minors, but they were too young to
7 gamble?

8 MS. MATELEVICH-HOANG:

9 We separated --- I apologize, we
10 separated the Consent Agreements because the first one
11 there was underage gaming and they were under 21. The
12 second one was a minor because they were under 18 and
13 there was no gaming, so we didn't want to confuse ---
14 so we separated into two separate Consent Agreements.

15 MR. SOJKA:

16 Thank you.

17 MR. GINTY:

18 I heard your statement. This was a 10-
19 year-old? It's hard to believe that people are
20 listening to you and you're letting a 10-year-old on
21 the floor.

22 MR. QUIGLEY:

23 There's no defense to this. I can
24 explain to you what happened. The young lady was
25 brought in by her father who was a very big man and I

1 don't believe the man thought he was doing anything he
2 thought was wrong, but we did screen the young lady as
3 she walked in and he walked in holding her hand, as
4 you see in the surveillance tape, and clearly screened
5 by the security guard's view and walked over and stood
6 back and watched the blackjack game for a little bit
7 of time. Now if we remember the period of time, I
8 believe the table game was opened for about two or
9 three days at that point and the place was absolutely
10 packed. The table game staff was very new and just
11 trying to get their feet on the ground. If there's
12 any good news with this story is the person who found
13 this --- who pointed this person out was a
14 housekeeping employee, an entry level housekeeping
15 employee and I was very, very proud of that person,
16 very proud of our training, that it showed me that our
17 training had actually got to that level and we did
18 reward that person and gave them a gift card. No
19 defense to this. It was a 10-year-old person who got
20 screened on the way in and was in there for, you know,
21 too long, no doubt.

22 MR. GINTY:

23 I don't have problem with the screening,
24 that can happen. But a lot of other dealers and
25 managers ---.

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CHAIRMAN:

Other comments? Just again I'll follow up with what Commissioner Ginty said, you know, I had some serious questions about --- that you mentioned earlier --- my comment is how one is underage gaming and how it will be tolerated even less with table games and yet you hear this 10-year-old girl, you know, was observing. And I don't know what that means. Maybe it was next to the table, maybe it's 10 feet away from the table, but observing table games for, you know, five minutes and again there's surveillance cameras everywhere, there are pit bosses, there are dealers, there are, you know, security folks walking around and I hear your comment, Mr. Quigley, about it was two or three days in and the place was packed, but again certainly you have to scratch your head that a 10-year-old could be on a gaming floor for 25 minutes doing anything. I mean she had to walk from point A to point B and point B to point C and point C to point D and, you know, it does make you scratch your head and I don't know what else to say. We are extremely frustrated with continuing to see these incidents --- very frustrated. I'll get off my horse. May I have a motion, please?

MR. MCCABE:

1 Yes, Mr. Chair, I move that the Board
2 issue an Order to approve the Consent Agreement
3 between OEC and Mountainview Thoroughbred Racing
4 Association as described by the OEC.

5 CHAIRMAN:

6 Second?

7 MR. SOJKA:

8 Second.

9 CHAIRMAN:

10 All in favor?

11 ALL SAY AYE

12 CHAIRMAN:

13 Opposed? Motion passes. Thank you,
14 Billie Jo. Thank you, Cyrus. This concludes today's
15 business. In closing our next scheduled public
16 meeting will be held Wednesday, October 27th. It will
17 be in the Keystone Building, Hearing Room One. That
18 meeting will begin at 10:00 a.m. Any further comments
19 from the Board? Seeing none, can I have a motion to
20 adjourn?

21 MR. SOJKA:

22 So moved.

23 CHAIRMAN:

24 Second?

25 MR. TRUJILLO:

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Second.

CHAIRMAN:

Thank you. Meeting is adjourned.

* * * * *

MEETING CONCLUDED AT 1:00 P.M.

* * * * *

CERTIFICATE

I hereby certify that the foregoing proceedings, meeting held before the Pennsylvania Gaming Control Board, was reported by me on 10/06/2010 and that I Cynthia Piro Simpson read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.


Cynthia Piro Simpson
Court Reporter