

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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ORAL STATEMENT

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BEFORE: DAVID M. BARASCH, CHAIR
Sean Logan, Ahmeenah Young, Richard G. Jewell, Anthony C. Moscato, William H. Ryan, Jr., Dante Santoni, Jr., Members, Fred Strathmeyer, representing Russell Redding, Secretary of Agriculture; Jennifer Langan representing Joseph Torsella, State Treasurer; Robert P. Coyne representing C. Daniel Hassell, Secretary of Revenue
HEARING: Wednesday, April 26, 2017 10:01 a.m.
LOCATION: Pennsylvania Gaming Bureau of Appeals
303 Walnut Street
Strawberry Square
Harrisburg, PA 17101

Reporter: Rhonda K. Thorpe

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CHAIRMAN:

Today we have an oral argument and a public hearing scheduled. The oral argument pertains to Louis DeNaples' Petition for a determination regarding the Gaming Control Board orders of September 23rd, 2009 and June 13, 2012. The public hearing pertains to the Joint Petition by Eldorado Resorts Inc. and Isle of Capri Casinos Inc. and the related entities for prior approval of a transfer of interest in the Management Company for a Category 3 Licensee Woodlands Fayette, LLC and the Lady Luck Casino Nemacolin.

Could we have counsel for the DeNaples' Petition please come forward? Thank you.

Mr. Grad, if you would state and spell your name for the court reporter.

ATTORNEY GRAD:

Joseph Grad, G-R-A-D.

CHAIRMAN:

Thank you.

Before we begin, Mr. Grad, I just want to be clear about what exactly the relief is that you are seeking here today. First we are dealing with two

1 Board Orders as we mentioned relative to Mount Airy.
2 The one --- the one's from September 23rd of 2009 and
3 June 13th, 2012.

4 Is that correct?

5 ATTORNEY GRAD:

6 Correct.

7 CHAIRMAN:

8 And as we read your pleading, the relief
9 you appear to be seeking is you're requesting this
10 Board to hold those Orders of September 23rd, 2009 and
11 June 13th, 2012 did not prohibit Mount Airy from
12 transacting business with a company in which Mr.
13 DeNaples had an ownership interest.

14 Is that correct?

15 ATTORNEY GRAD:

16 That is correct.

17 CHAIRMAN:

18 So, would you agree that in the Order to
19 be granted --- in order to be granted the relief that
20 you seek, specifically that the companies owned by Mr.
21 DeNaples can conduct business with Mount Airy,
22 notwithstanding the two Orders that are currently in
23 place, that this would require a qualified majority of
24 this Board to vote in favor of granting the relief
25 that you're requesting?

1 ATTORNEY GRAD:

2 That's correct.

3 CHAIRMAN:

4 Thank you.

5 And if you are successful in obtaining
6 the relief you request, this decision will not lift
7 any part of the Orders in question but will instead
8 establish how certain conditions in that Order should
9 be interpreted by the Board, its staff, Mount Airy,
10 the public, et cetera.

11 Is that correct?

12 ATTORNEY GRAD:

13 That's correct.

14 CHAIRMAN:

15 Thank you. Okay.

16 You may begin.

17 ATTORNEY GRAD:

18 Okay. Thank you.

19 Mr. Chairman and members of the Gaming
20 Board, my name is Joseph Grad and I am here on behalf
21 of the Petitioner Louis DeNaples.

22 We are here today seeking a
23 determination that the Board's September 23rd, 2009
24 Order and June 13th, 2012 Order do not prohibit Mount
25 Airy Casino from transacting business with the

1 corporation in which Mr. DeNaples holds an ownership
2 interest. The relevant condition is found in both
3 Orders, paragraph 13 of the 2009 Order and paragraph 5
4 of the 2012 Order.

5 We believe the condition limits Mount
6 Airy from providing Mr. DeNaples with Principal type
7 compensation. Casino profits, compensation for
8 Executive services. There is no basis to conclude
9 that the condition extends beyond Principal type
10 compensation so it's to prohibit Mount Airy from
11 transacting business with DeNaples' company.

12 The text of the condition refers only to
13 Mr. DeNaples as an individual and contains no mention
14 of Mr. DeNaples' ownership in any companies, nor does
15 it mention the transacting of any business. In 2009,
16 this Board was well aware of the DeNaples' companies
17 and I drafted specific conditions related to them.

18 If this Board truly wanted to restrict
19 Mount Airy from doing business with the DeNaples'
20 companies, the Board would have drafted a simple,
21 unequivocal statement of condition to that effect.
22 The context also provides insight. The condition was
23 imposed and the context of Mr. DeNaples being a
24 Principal Licensee in transferring sole ownership of
25 the \$700 million casino to his daughter, Lisa

1 DeNaples' trusts. As Mr. DeNaples was a Principal at
2 that time logic would suggest that the condition
3 applied to his rights as a Principal Licensee.

4 This is not only my belief, it was also
5 the belief of the Board's Deputy Enforcement Counsel
6 during the May 23rd, 2012 hearing when she stated the
7 following; OEC is of the opinion that the restrictions
8 and conditions implemented by the Board's September
9 23rd, 2009 Order will require the licensure of Louis
10 A. DeNaples, and as such, recognize such restrictions
11 and conditions remain in place until such time that
12 Louis A. DeNaples has submitted an application for a
13 Principal Licensure and the Board has issued has
14 issued such a license.

15 That's about as clear as it gets. The
16 condition applies only to activities which will
17 require Mr. DeNaples to obtain a Principal License.
18 No license, especially not a Principal License is
19 required for Mr. DeNaples, or any other individual, to
20 be the owner of a Gaming Service Provider.

21 And I didn't cherry pick this statement
22 from the record, this is the only statement from the
23 2009 and 2012 Board hearings that articulates the
24 scope of the condition and it clearly supports the
25 relief we seek today that the condition does not apply

1 to the DeNaples' companies.

2 And perhaps, most importantly, the
3 subsequent actions of the Board are wholly
4 inconsistent with the interpretation that the --- that
5 the condition applies to the DeNaples' companies.
6 From September 2009 to June 2012, while the condition
7 was in effect, Mr. DeNaples continued to be a licensed
8 Principal, continued to bankroll the casino, continued
9 to inject over \$35 million of needed cash to sustain
10 its operations and fund the table games' expansion.

11 So, while the condition was in place,
12 Mr. DeNaples was engaged in regular activity before
13 this Board at the highest level. So, it defies common
14 sense and basic licensing principles to believe at the
15 same time that he was restricting from engaging
16 activity with Mount Airy which required no license and
17 perhaps no investigation at all.

18 And finally, let's turn to the Board's
19 final action with respect to Mr. DeNaples as a
20 Licensee. After Mount Airy restructured in 2012, so
21 that Mr. DeNaples was no longer needed to be a lender
22 and Principal of Mount Airy, the Board allowed him to
23 withdraw his Principal application without prejudice.

24 In doing so, the Board granted Mr.
25 DeNaples a clean state for the highest level of

1 licensure before the Board. If Mr. DeNaples has a
2 clean slate for the highest level of licensure, it is
3 only fair that the condition be interpreted so that he
4 has a clean slate for the lowest level of licensure,
5 an ownership interest and a Gaming Service Provider
6 that wants to engage in business with Mount Airy.

7 Accordingly, I request that this Board
8 grant Mr. DeNaples' petition and determine that the
9 Board's Orders of September 23rd, 2009 and June 13th,
10 2012 do not prohibit Mount Airy Casino from
11 transacting business with a corporation which Louis
12 DeNaples holds an ownership interest.

13 Thank you for your consideration.

14 CHAIRMAN:

15 Thank you.

16 Enforcement Counsel?

17 ATTORNEY TEPPER:

18 Good morning Chairman Barasch, Members
19 of the Board. David Tepper, T-E-P-P-E-R, Assistant
20 Enforcement Counsel with the Office of Enforcement
21 Counsel (OEC).

22 Louis DeNaples is asking the Board to
23 permit companies with which he has an ownership
24 interest in to do business with Mount Airy Casino.
25 More specifically, Mr. DeNaples is requesting that the

1 Board reinterpret longstanding Board Orders which
2 prohibit him from conducting ---.

3 MR. JEWELL:

4 I'm sorry. Can you move either closer
5 to the microphone or, Doug, can you turn it. I'm
6 having trouble hearing you.

7 ATTORNEY TEPPER:

8 Is this better?

9 MR. JEWELL:

10 Yeah.

11 ATTORNEY TEPPER:

12 Mr. DeNaples is asking the Board to
13 permit companies with which he has an ownership
14 interest in to do business with Mount Airy Casino.
15 More specifically, Mr. DeNaples is requesting that the
16 Board reinterpret longstanding Board Orders which
17 prohibit him from conducting business with Mount Airy.

18 Since May of 2011, Mount Airy Number 1,
19 LLC has petitioned the Board several times with the
20 same request which has been ultimately denied. OEC
21 respectfully request that the Board come to the same
22 conclusion today.

23 This matter arises out of Mr. DeNaples'
24 former ownership of Mount Airy Casino. Mr. DeNaples
25 was the sole owner and Principal Licensee of Mount

1 Airy when it was initially issued a Category 2 Slot
2 Machine License in 2006. Mr. DeNaples' Principal
3 License was suspended by the Board in 2008 following
4 Mr. DeNaples being charged by the Dauphin County
5 District Attorney with perjury based on sworn
6 statements Mr. DeNaples made to the Board's Bureau of
7 Investigations and Enforcement (BIE) during the
8 background investigation for his Principal License in
9 2006.

10 The Board subsequently turned over
11 control of Mount Airy to a trustee appointed pursuant
12 to the Act and placed conditions on Mr. DeNaples that
13 prohibited from receiving any compensation,
14 consideration or distribution generated by or related
15 to slot machines or amenities located at Mount Airy
16 during his suspension.

17 In 2009, the Dauphin County District
18 Attorney's office withdrew the criminal charges
19 against Mr. DeNaples and the Board lifted the
20 suspension of Mr. DeNaples' Principal License,
21 however, the Board kept in place certain conditions
22 including the condition prohibiting Mr. DeNaples from
23 receiving any compensation, consideration or
24 distribution from Mount Airy.

25 In 2012, the Board approved a corporate

1 restructuring of Mount Airy whereby Mr. DeNaples would
2 transfer his ownership interest in Mount Airy to his
3 children. Mr. DeNaples' Principal License was
4 permitted to expire. However, the Board kept in place
5 a prior condition that prohibited Mr. DeNaples from
6 receiving directly or indirectly any remuneration,
7 cash or property distributions from Mount Airy.

8 In 2013, Mount Airy filed a petition
9 with the Board requesting the same relief which
10 Petitioner requests today. Mount Airy argued that the
11 Board's conditions only related to Mr. DeNaples
12 personally but did not include or reference entities
13 in which Mr. DeNaples has an ownership interests.
14 Therefore, Mount Airy opined that this condition does
15 not prohibit Mount Airy from contracting with a
16 business in which Mr. DeNaples has an ownership
17 interest.

18 OEC recommended that if the Board were
19 to modify or lift the condition, that due to Mr.
20 DeNaples' unique history before the Board being
21 criminally charged with perjury for statements made to
22 the Board's BIE during his initial background
23 investigation in 2006 that he be required to submit an
24 application, be vetted and be found qualified prior to
25 Mount Airy conducting any business with the company in

1 which Mr. DeNaples has an ownership interest.

2 Following a hearing before the Board and
3 further negotiation between the parties, an agreement
4 was not reached regarding the scope of a background
5 investigation of Mr. DeNaples. As a result, the Board
6 issued an Order dated March 20th, 2014 denying Mount
7 Airy's request. The Board's Order stated that under
8 the unique circumstances of this case, the Board will
9 not authorize Mount Airy to do business with an entity
10 affiliated with Mr. DeNaples given the BIE and the
11 OEC's objection to the relief requested without some
12 level of vetting of Mr. DeNaples.

13 In its Order, the Board noted that it
14 would reconsider the issues raised if Mount Airy, BIE
15 and OEC came to an agreement regarding the scope of a
16 background investigation of Mr. DeNaples. Although
17 Mr. DeNaples may argue that the Board's condition
18 would include a prohibition of any of the corporations
19 in which he holds even a single share of stock, the
20 OEC is of the opinion that this assertion places form
21 over substance.

22 Since 2008, the Board has kept in place
23 a condition that Mount Airy may not receive any
24 compensation --- or sorry, that Mr. DeNaples may not
25 receive any compensation, consideration or

1 distributions from Mount Airy either directly or
2 indirectly. Although in the past it has been Mount
3 Airy that has petitioned for relief from this
4 condition, Mr. DeNaples is here today asking for the
5 same relief. This is essentially a second bite at the
6 apple. As a result OEC requests that at the Board
7 deny Mr. DeNaples' request.

8 However, if the Board decides to grant
9 the relief requested, the OEC has maintained and
10 continues to maintain the fire of Mr. DeNaples or any
11 companies in which he has an ownership interest and
12 conducting business with a licensed facility and
13 pursuant to Section 1317.2D of the Act and Section
14 4378.1 of the Board's Regulations, the proposed
15 company file an Application For Certification as a
16 Gaming Service Provider and Mr. DeNaples file
17 application as a qualifier that no emergency or
18 interim authorizations be granted, that Mr. DeNaples
19 be vetted through the background investigation process
20 and be found qualified by this Board prior to any
21 authorization to conduct business.

22 Thank you.

23 CHAIRMAN:

24 Thank you very much.

25 Mr. Grad, do you have any rebuttal at

1 this moment?

2 ATTORNEY GRAD:

3 I would just want to say that a lot of
4 the previous petitions, I believe almost I believe all
5 of them dealt with the modification of the Board
6 Orders. We're not seeking a modification. We are
7 seeking determination of this Board with respect to
8 the interpretation of these conditions.

9 CHAIRMAN:

10 Okay.

11 ATTORNEY GRAD:

12 And with respect to reinterpreting, I
13 would respectfully suggest that OEC has reinterpreted
14 this condition. When this condition was put into
15 place in 2009, 2012, there was no mention before this
16 hearing that these conditions applied to the DeNaples'
17 companies.

18 Now, you know, after the fact when Mr.
19 DeNaples and Mount Airy have come back just to do ---
20 to have this limited engagement with the Board, now
21 they've come up with this interpretation.

22 CHAIRMAN:

23 Okay.

24 Anything further from Enforcement
25 Counsel at the moment?

1 ATTORNEY TEPPER:

2 Solely as to our belief that Mr. --- the
3 directly or indirectly provisions directly address the
4 companies that Mr. DeNaples owns and that we believe
5 that indirectly means that benefit.

6 CHAIRMAN:

7 I understand.

8 Are there any questions from the Board
9 or comments at this time?

10 MR. MOSCATO:

11 One question. Thank you, Mr. Chairman.

12 Mr. Tepper, twice you mentioned a --- I
13 think it was 2009 Dauphin County case where --- and
14 I'm not being an attorney. I'm going to go out on a
15 limb here, it was an indictment? Is that what you
16 mentioned?

17 ATTORNEY TEPPER:

18 It was criminal charges being filed.

19 MR. MOSCATO:

20 What was the outcome of that?

21 ATTORNEY TEPPER:

22 The charges were ultimately withdrawn by
23 the Dauphin County District Attorney's office.

24 MR. MOSCATO:

25 Thank you.

1 MR. RYAN:

2 If I can, Mr. Grad, is it your
3 understanding that the condition against the business
4 context that apparently are being pushed now are
5 prohibited at least as far as Mr. DeNaples himself is
6 concerned?

7 ATTORNEY GRAD:

8 You mean Mr. DeNaples' personal
9 involvement?

10 MR. RYAN:

11 Yes.

12 ATTORNEY GRAD:

13 Well I --- in my interpretation, if Mr.
14 DeNaples would be directly involved he would providing
15 management services or executive services he would be
16 licensed as a Principal --- or be required to be
17 licensed as a Principal.

18 MR. RYAN:

19 So, you're saying a distinction between
20 Mr. DeNaples personally and his companies?

21 ATTORNEY GRAD:

22 Yeah, and the regulatory scheme is based
23 upon that --- is based upon not that you ultimately
24 receive money but it's in what context do you receive
25 it.

1 So, if you got \$20, \$30 from a revenue
2 share from a casino, you're required full licensure.
3 If you get \$30 from a company that does visits with
4 the casino, you have to do nothing.

5 MR. RYAN:

6 Even if you are the controlling
7 shareholder of that company in this situation?

8 ATTORNEY GRAD:

9 Sure. I mean, in terms of Gaming
10 Service Provider context, it has to do with the money,
11 the goods or services and the compensation for those
12 goods or services flowing to the Gaming Service
13 Provider. Under \$100,000 there was no --- there is
14 not investigation. That does not prohibit OEC from
15 coming to this Board if a DeNaples' company or any
16 other company does a \$1 business and requesting the
17 Board --- require them to full --- you know, to fill
18 out a Vender Certification Form but the regulatory
19 scheme in place does not require anything below
20 \$100,000.

21 MR. RYAN:

22 All right. Thank you.

23 MR. JEWELL:

24 We have a couple questions. First of
25 all, the preliminary question of standing and the real

1 party members, should the companies here really be
2 petitioning us today instead of Mr. DeNaples? How
3 would you respond to that?

4 ATTORNEY GRAD:

5 Well I think the --- I would respond
6 under, you know, the Principal of res judicata that
7 this Board had already granted Mr. DeNaples' standing
8 with respect to modifying the May --- September 23rd,
9 2009 Order and the June 13th, 2012 Order. So, that
10 standing had already been granting and Mr. DeNaples is
11 personally identified in this condition and it
12 prohibits him from engaging in a business activity of
13 a facility that he envisioned, owned, financed and
14 built.

15 MR. JEWELL:

16 Which we're not modifying again.

17 ATTORNEY GRAD:

18 We're not --- you're not modifying the
19 condition. We're asking simply for a determination
20 regarding the scope of a condition in which Mr.
21 DeNaples is personally named.

22 MR. JEWELL:

23 I was interested in your commentary
24 about Counsel for OEC and comments that you made. My
25 sense is that OEC can make lots of comments but the

1 Board --- just like you can, both sides, but the Board
2 of course then makes the ultimate decision and how do
3 you respond that we're bound by what OEC ---?

4 ATTORNEY GRAD:

5 I wouldn't --- I wouldn't --- I don't
6 suggest that you're bound by it. I would suggest that
7 the Board ultimately sided with OEC's position in that
8 case and OEC --- that statement was close to, if not
9 literally, the final word on this matter before it was
10 cemented into place.

11 So, no, I don't believe I --- I think
12 --- I don't believe it's binding. I think it's
13 context. It's you sided with OEC's interpretation.
14 That was their interpretation of the meeting.

15 There is no other statements in the
16 record that articulate the scope of this condition.
17 That's all we have. All we have in the record from
18 2000, 2012 is OEC's statement on the matter.

19 MR. JEWELL:

20 How do you deal with the plain meaning
21 interpretation of the words directly or indirectly?
22 I'm interested in that because I've been bothered by
23 indirectly indicates to me that an individual may be
24 able to receive benefit, could be behind a corporate
25 shield or whatever but ---

1 ATTORNEY GRAD:

2 Sure ---.

3 MR. JEWELL:

4 --- still money comes to them.

5 ATTORNEY GRAD:

6 I think that under the principal
7 regulations that --- for example, I think that if it
8 was a company setoff.

9 Okay.

10 And that company distributed profits and
11 then ultimately distributed profits to Mr. DeNaples
12 without Mr. DeNaples having a Principal License, that
13 would clearly violate the condition. You know, it's
14 --- it would be circumvention. Clearly --- I don't
15 know if Susan Hensel's here but she would view that as
16 being a Principal.

17 MR. JEWELL:

18 And if I understand it, too, you would
19 take the position should this be granted that --- and
20 should be the amount --- the threshold amount of
21 business done in the ensuing, you would be below a
22 hundred thousand that OEC would not be permitted to do
23 any kind of inquiry or examination of your client?

24 ATTORNEY GRAD:

25 Well, the regulatory scheme is in place

1 which requires no vetting. But there's also ---
2 that's the default. But there is a provision in the
3 regulations that require the Board --- OEC can come
4 before the Board and seek relief, you know, to full
5 --- to full Gaming Service Provider certification if
6 there is a finding by this Board that that's required.

7 MR. JEWELL:

8 Right ---

9 ATTORNEY GRAD:

10 That's simply what ---.

11 MR. JEWELL:

12 --- in the interest of the broader scope
13 of Title 4 of protecting the Commonwealth and its
14 citizens.

15 ATTORNEY GRAD:

16 Sure.

17 MR. JEWELL:

18 Okay. Thank you.

19 CHAIRMAN:

20 Any other questions?

21 MR. LOGAN:

22 Yeah.

23 So, when you talk about the DeNaples'
24 affiliated corporations, what's that mean? What do
25 they do?

1 ATTORNEY GRAD:

2 I didn't --- I think Mr. Tepper might
3 have. I spoke just simply to ---.

4 MR. LOGAN:

5 But that's part of ---

6 ATTORNEY GRAD:

7 DeNaples' companies that basically that
8 --- I didn't say affiliated. My point is ownership
9 that he --- Mr. DeNaples has an ownership interest.

10 MR. LOGAN:

11 Okay.

12 So, what are they?

13 ATTORNEY GRAD:

14 So, what are they ---?

15 MR. LOGAN:

16 Do they supply paper? Do they remove
17 snow?

18 ATTORNEY GRAD:

19 I don't ---

20 MR. LOGAN:

21 Do they ---?

22 ATTORNEY GRAD:

23 You know what, I don't --- honestly I
24 can't tell you what garbage removal, snowplowing,
25 those are, you know, certain thing I've heard of

1 that've been --- even before this Board that ---.

2 MR. LOGAN:

3 Shouldn't you know those?

4 ATTORNEY GRAD:

5 Well I'm seeking determination simply
6 that the condition allows him to do business. I'm not
7 privy --- I'm not ---.

8 MR. LOGAN:

9 You don't ---.

10 ATTORNEY GRAD:

11 I'm his attorney.

12 MR. LOGAN:

13 His only ---.

14 ATTORNEY GRAD:

15 I'm his attorney. I don't ---.

16 MR. LOGAN:

17 Oh, I ---.

18 ATTORNEY GRAD:

19 I can see that ---

20 MR. LOGAN:

21 You're his attorney representing
22 the ---.

23 ATTORNEY GRAD:

24 --- but they're ---.

25 MR. LOGAN:

1 Hold on.

2 ATTORNEY GRAD:

3 --- but they're non-gaming services.

4 CHAIRMAN:

5 If you would ---

6 MR. LOGAN:

7 Wait a while.

8 ATTORNEY GRAD:

9 Sure.

10 CHAIRMAN:

11 --- please allow ---

12 ATTORNEY GRAD:

13 Oh, sure.

14 CHAIRMAN:

15 --- the Commissioner ---

16 ATTORNEY GRAD:

17 Sure.

18 CHAIRMAN:

19 --- to frame a question.

20 MR. LOGAN:

21 If I understand the petition, it's that

22 Mr. DeNaples is an officer and owner of several

23 Pennsylvania corporations. Is that true or not true?

24 ATTORNEY GRAD:

25 True, true.

1 MR. LOGAN:

2 Okay.

3 And that he wishes to do business with
4 Mount Airy on several businesses and it's been defined
5 to me, I may be wrong, as affiliated corporations.
6 All I'm asking is that can you tell me --- I mean, you
7 said maybe snow removal, maybe garbage. I mean, can
8 you --- I would hope that you would know what those
9 companies are?

10 ATTORNEY GRAD:

11 I do. I mean, I'm not an executive or a
12 business person within his organization. I'm simply
13 his lawyer. I do know that garbage removal, cleanup
14 of the roads, something --- replacing the golf carts
15 at the golf facility. Overall, you know, exterior
16 maintenance, nothing that revolves around gaming
17 equipment or the gaming operations.

18 MR. LOGAN:

19 Okay.

20 ATTORNEY GRAD:

21 I'm sorry if I interrupted you.

22 MR. LOGAN:

23 That's all right. No problem.

24 And you used the word unique in
25 describing the history, the business relationships

1 probably three times, maybe four. Why do you use that
2 word?

3 ATTORNEY TEPPER:

4 Mount Airy and Mr. DeNaples present a
5 unique situation to this Board.

6 First, Mr. DeNaples is the only
7 Principal Licensee that's been criminally charged for
8 perjury in statements made to Board --- the Board or
9 its staff members. In addition, Mount Airy is the
10 only privately held casino that is held my one family
11 and initially held by one individual.

12 MR. LOGAN:

13 Okay.

14 CHAIRMAN:

15 I have one clarifying question after
16 Commissioner Logan's inquiry.

17 Whether you know all the entities or
18 not, if we clarify the Order in the way in which you
19 want clarified, is there anything that would prevent
20 him from creating ten entities providing ten other
21 types of businesses and still come under that same
22 rubric of protection? Would our clarification open
23 the door to any number of other supportive services
24 being provided by yet to be created DeNaples'
25 controlled entities?

1 ATTORNEY GRAD:

2 Well I don't think the issue is newly
3 created. I don't think one that's not that plan.

4 CHAIRMAN:

5 I think we're ---.

6 ATTORNEY GRAD:

7 Right, I was going to say --- but I
8 don't think --- I think the question is are they ---
9 are those companies, whether they're new or existing,
10 whether they're providing bonafide goods and services
11 to the casino ---.

12 CHAIRMAN:

13 I'm asking a much more ---

14 ATTORNEY GRAD:

15 Yeah, I guess I'm ---.

16 CHAIRMAN:

17 --- tightly drawn question which is had
18 you been able to list the specific entities and the
19 specific services, we might have a different
20 conversation.

21 But let's say there are three such
22 entities doing snow removal, whatever it is. Once
23 this Order was clarified in that fashion, the Order
24 would apply to any DeNaples' controlled entity that
25 might come into existence to provide other services to

1 Mount Airy.

2 Is that true?

3 ATTORNEY GRAD:

4 Well, I guess --- I think it would but I
5 guess if you're --- I mean, I have --- would have no
6 --- would have no objection to an Order clarifying
7 that ---.

8 CHAIRMAN:

9 I'm just trying to understand the scope
10 and impact of a potential decision that we might make.
11 We're not really --- from your perspective, if we were
12 to give you the relief you wanted, it would not only
13 affect the currently existing DeNaples' controlled
14 entities.

15 Okay.

16 But any other entity that might be
17 created down the road.

18 Is that correct?

19 ATTORNEY GRAD:

20 That's correct.

21 CHAIRMAN:

22 Thank you.

23 ATTORNEY TEPPER:

24 Mr. Chairman, may I ---?

25 CHAIRMAN:

1 One second, please. Please, go ahead.

2 ATTORNEY TEPPER:

3 If I may clarify a few statements
4 including an answer to Commissioner Logan's question.

5 Unique isn't solely a term by the OEC.
6 Unique circumstances of this case is a direct quote
7 from this Board's March 20th, 2014 Order, in addition,
8 in regards to the Principal License comments in 2009.
9 The 2009 comments represent a snapshot in time where
10 Mr. DeNaples was before the Board not as a potential
11 GSP qualifier but as a Principal Licensee. So, the
12 statements were made in context to him being a
13 Principal Licensee and we would like to reaffirm that
14 pursuant to the Act and the Board's regulations, a GSP
15 who does business under a hundred thousand dollars may
16 be required by the Board to be registered or certified
17 and its employees to maintain a permit or other
18 authorization.

19 If the Board determines that
20 registration or certification is necessary to protect
21 the integrity of gaming in this Commonwealth and
22 that's out position today as it has been for years.

23 CHAIRMAN:

24 Thank you. Any follow-up questions
25 here?

1 MR. RYAN:

2 I think Tony had one.

3 CHAIRMAN:

4 Go ahead.

5 MR. MOSCATO:

6 Yeah, if I may, a clarification and a
7 question.

8 Once again, you mentioned criminal
9 charges and you didn't say what the disposition of
10 them ---?

11 ATTORNEY TEPPER:

12 They were nolle prossed which is in lay-
13 terms withdrawn.

14 MR. MOSCATO:

15 Thank you.

16 And my --- that was my clarification.

17 My question, you mentioned unique that a
18 family owns the casino. Could Nemaclin be considered
19 the same circumstances where a family owns the casino?

20 ATTORNEY TEPPER:

21 Nemaclin is not an issue here today.
22 It's a different ownership structure.

23 ATTORNEY PITRE:

24 Commissioner Moscato, if I may?

25 MR. MOSCATO:

1 Yes, sir.

2 ATTORNEY PITRE:

3 Let's start with the charges. The
4 criminal charges, they were dismissed. They were
5 nolle prossed. There was an agreement between the
6 DA's Office and Mr. DeNaples that Mr. DeNaples would
7 step away from the casino business.

8 Okay?

9 MR. MOSCATO:

10 Right.

11 ATTORNEY PITRE:

12 And those charges were nolle prossed.
13 Mr. DeNaples subsequently got an expungement of that
14 record.

15 Okay?

16 That's the criminal charges.

17 With regard to the uniqueness. It's not
18 so much a family relationship and you're right, family
19 relationship could be looked at Nemacolin the same
20 weight although Nemacolin does have a Management
21 Company that runs that casino.

22 The difference here is that Mr. DeNaples
23 came before this Board in 2006 seeking a Principal
24 License. He underwent a background investigation.
25 During the course of that background investigation he

1 --- a sworn in --- a sworn interview was given by Mr.
2 DeNaples under oath. That sworn interview was taken.

3 Subsequent to that, Mr. DeNaples was
4 issued a Principal License by the Board. Subsequent
5 to that, the charges were filed. The charges allege
6 that Mr. DeNaples perjured himself before this Board.
7 That was the last time a background investigation was
8 done on Mr. DeNaples. That's where it stopped.

9 Since that time, we've attempted
10 numerous times in the course --- after the suspension
11 was lifted to schedule a background investigation,
12 sworn interview of Mr. DeNaples to no avail. An
13 agreement was reached that once Mr. DeNaples would
14 turn over everything to his family that he would step
15 away from the casino business. We would allow his
16 license to expire. That is what took place.

17 Subsequent to that time, Mr. DeNaples
18 has come before this Board either through Mount Airy
19 seeking the relief from these conditions. Mr. Grad is
20 here today on behalf of Mr. DeNaples. Before Mr.
21 Grad, other counsel came before this Board on behalf
22 of Mr. DeNaples seeking relief. Today Mr. Grad is
23 seeking an interpretation. It is up to the Board to
24 interpret its Order.

25 We respectfully request that the Board

1 interpret the Order in a fashion that requires that
2 Mr. DeNaples be prohibited or any of his companies be
3 prohibited from doing business with any licensed
4 facility without going through the vetting process. I
5 mean, that has been our position since day one. If
6 Mr. DeNaples' company files an application, he submits
7 himself to a background investigation, we will go
8 through the process, the results will be given to this
9 Board for it to make a decision with regard to the
10 suitability of that company and Mr. DeNaples.

11 Even if the Board interprets the Order
12 today to say that it does not prohibit Mount Airy from
13 doing business with Louis DeNaples' company, we're
14 going to be right back here the day after. Day one
15 that they do business with the company, we will be
16 right here before this Board requesting that this
17 Board have that company file an application, have Mr.
18 DeNaples file a Qualifier Application and go through
19 vetting. As soon as he's fingerprinted or any
20 notification is filed, we're going to probably seek a
21 termination or not authorize him to do any business
22 until that vetting occurs. We're going to be right
23 back here before this Board.

24 Okay.

25 So, you might interpret it that way

1 today but it's not going to solve the issue. It's
2 just kicking the can down the road.

3 Okay.

4 If you interpret it our way, Mr. Grad's
5 going to likely appeal to Commonwealth Court which it
6 wouldn't be the first time this has happened. So, I'm
7 here to you today to tell you that regardless of the
8 outcome today, this issue will continue.

9 CHAIRMAN:

10 Was there any other question from the
11 Board?

12 I really appreciate your presentation.
13 That helps to clarify things well for me. Anything
14 further at this point?

15 Thank you very much. We will go into
16 Executive Session a little later before we rule on
17 this matter.

18 Thank you.

19 ATTORNEY GRAD:

20 Thank you.

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23 ORAL STATEMENT CONCLUDED

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CERTIFICATE

I hereby certify that the foregoing proceedings,
oral statement before Chair Barasch was reported by me
on 4/26/2017 and that I, Rhonda K. Thorpe, read this
transcript, and that I attest that this transcript is
a true and accurate record of the proceeding.


Court Reporter
Rhonda K. Thorpe