

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

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

\* \* \* \* \*

CONFIDENTIAL HEARING

BEFORE: DAVID M. BARASCH, CHAIRMAN  
Gregory C. Fajt; Richard G. Jewell; Keith  
R. McCall; Anthony C. Moscato; William  
H. Ryan, Jr.; David W. Woods, Members  
Jennifer Langan, representing Timothy  
Reese, State Treasurer; Frederick  
Strathmeyer, representing Russell Redding,  
Secretary of Agriculture; Robert Coyne,  
representing Eileen H. McNulty, Secretary  
of Revenue

HEARING: Wednesday, July 13, 2016, 12:53 p.m.

LOCATION: PA Gaming Control Board  
Strawberry Square Complex  
Second Floor  
Harrisburg, PA 17101

WITNESSES: John O'Riordan, Joseph Canfora, Rod Simon,  
Jeff Fritz, Gary Pezzuolo, Jim Chifulo,  
Dan Vogler

Reporter: Danielle Obert

Any reproduction of this transcript is prohibited  
without authorization by the certifying agency.

## A P P E A R A N C E S

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

## OFFICE OF CHIEF COUNSEL

R. DOUGLAS SHERMAN, ESQUIRE

Chief Counsel

STEPHEN S. COOK, ESQUIRE

Deputy Chief Counsel

## OFFICE OF ENFORCEMENT COUNSEL

CYRUS PITRE, ESQUIRE

Chief Enforcement Counsel

GLENN STUART, ESQUIRE

Senior Enforcement Counsel

MICHAEL ROLAND, ESQUIRE

Assistant Enforcement Counsel

JAMES ARMSTRONG, ESQUIRE

Assistant Enforcement Counsel

BENJAMIN FERRELL, ESQUIRE

Assistant Enforcement Counsel

KIM ADAMS, ESQUIRE

Assistant Enforcement Counsel

DAVID TEPPER, ESQUIRE

Assistant Enforcement Counsel

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

A P P E A R A N C E S (Cont.)

PA Gaming Control Board

P.O. Box 69060

Harrisburg, PA 17106-9060

Counsel for the Pennsylvania Gaming Control Board

JAMES A. DOHERTY, III, ESQUIRE

Scanlon, Howley & Doherty, P.C.

217 Wyoming Avenue

Scranton, PA 18503

Counsel for Endeka Entertainment, LP

JOHN F. O'RIORDAN, ESQUIRE

O'Riordan Law Firm

1818 Market Street

Suite 3310

Philadelphia, PA 19103

Counsel for Endeka Entertainment, LP and

Procacci Local Gaming, LLC

## I N D E X

1		
2		
3	DISCUSSION AMONG PARTIES	7 - 13
4	OPENING STATEMENT	
5	By Attorney Pitre	13 - 22
6	By Attorney Doherty	22 - 29
7	<u>WITNESS</u> : John O'Riordan	
8	DIRECT EXAMINATION	
9	By Attorney Doherty	29 - 37
10	CROSS EXAMINATION	
11	By Attorney Pitre	38 - 42
12	QUESTIONS BY BOARD	42 - 44
13	<u>WITNESS</u> : Joseph Canfora	
14	DIRECT EXAMINATION	
15	By Attorney Doherty	44 - 50
16	CROSS EXAMINATION	
17	By Attorney Pitre	50
18	<u>WITNESS</u> : Rod Simon	
19	DIRECT EXAMINATION	
20	By Attorney Doherty	52 - 57
21	<u>WITNESS</u> : Jeff Fritz	
22	DIRECT EXAMINATION	
23	By Attorney O'Riordan	57 - 60
24		
25		

1	I N D E X (Cont.)	
2		
3	<u>WITNESS:</u> Gary Pezzuolo	
4	DIRECT EXAMINATION	
5	By Attorney Doherty	60 - 64
6	CROSS EXAMINATION	
7	By Attorney Pitre	64 - 66
8	<u>WITNESS:</u> Jim Chifulo	
9	DIRECT EXAMINATION	
10	By Attorney O'Riordan	67 - 71
11	CROSS EXAMINATION	
12	By Attorney Pitre	71 - 73
13	<u>WITNESS:</u> Dan Vogler	
14	DIRECT EXAMINATION	
15	By Attorney Doherty	74 - 77
16	QUESTIONS BY BOARD	78 - 122
17	DISCUSSION AMONG PARTIES	122 - 126
18		
19		
20		
21		
22		
23		
24		
25		

E X H I B I T S

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

		Page	Page
<u>Number</u>	<u>Description</u>	<u>Offered</u>	<u>Admitted</u>
<u>BY OFFICE OF ENFORCEMENT COUNSEL:</u>			
1-86	Affidavits and Supporting Documentation	12	13*
<u>BY ENDEKA:</u>			
1-23	Casino Documents	13	13*

\*Exhibit Not Attached

## P R O C E E D I N G S

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

-----  
CHAIRMAN:

Good afternoon. We've completed our lunch break and now we're ready to proceed with the Endeka Entertainment matter. Before we begin, I just want to note that Commissioner Moscato had to get on the road. He will be calling in telephonically and will be participating in this while he's driving to wherever it is he needs to be today. So he'll be sitting and participating in these discussions and will be --- to the Board. Before we begin, I'd like to ask everyone who's going to be speaking today to please spell and state your name for the Court Reporter before you speak. Is it only going to be the three people sitting here?

ATTORNEY DOHERTY:

No, I wish.

ATTORNEY O'RIORDAN:

There's going to be seven.

CHAIRMAN:

Seven? So get your witnesses, we'll deal with that separately. But for the time being, if all three would please stand, identify yourselves and your names for the Court Reporter.

1                   MR. CANFORA:

2                   Joseph Canfora.

3                   CHAIRMAN:

4                   Spell it. Spell it, please.

5                   MR. RYAN:

6                   Spell your last name.

7                   MR. CANFORA:

8                   I'm sorry. Joseph Canfora,

9 C-A-N-F-O-R-A.

10                  ATTORNEY O'RIORDAN:

11                  John F. O'Riordan,

12 O-apostrophe-R-I-O-R-D-A-N.

13                  ATTORNEY ROLAND:

14                  Mr. Chairman, would you like the other

15 --- or hear the ---?

16                  CHAIRMAN:

17                  All right. Let's do it all at the same

18 time.

19                  MR. FITZ:

20                  Jeffrey Fitz, F-I-T-Z.

21                  MR. SIMON:

22                  It's Rod Simon, S-I-M-O-N.

23                  MR. PROCACCI:

24                  John Procacci, P-R-O-C-A-C-C-I.

25                  MR. CHIFULO:

1 James Chifulo, C-H-I-A-F-U-L-L-O.

2 MR. PEZZUOLO:

3 Gary Pozzuoli, P-E-Z-Z-U-O-L-O.

4 MR. VOGLER:

5 Dan Vogler, V as in Victor-O-G-L-E-R.

6 CHAIRMAN:

7 One additional detail. Would those who  
8 are not attorneys please stand and collectively be  
9 sworn in.

10 ATTORNEY PITRE:

11 Chairman ---

12 CHAIRMAN:

13 All together, please.

14 ATTORNEY PITRE:

15 --- if I may? We have --- we also have  
16 witnesses, however ---.

17 CHAIRMAN:

18 We take care of theirs first, but let's  
19 continue with Endeka. And not just the two, I think  
20 there were others. Anybody who might be testifying,  
21 please stand to be sworn.

22 -----

23 WITNESSES SWORN EN MASSE

24 -----

25 CHAIRMAN:

1 Thank you. Should we swear your  
2 witnesses at this time?

3 ATTORNEY PITRE:

4 Well, we would like to ---

5 CHAIRMAN:

6 Absolutely.

7 ATTORNEY PITRE:

8 --- in case if we'd need anybody to  
9 testify. So everyone here on our behalf, please stand  
10 to be sworn.

11 CHAIRMAN:

12 You have to get their names, too.

13 -----

14 WITNESSES SWORN EN MASSE

15 -----

16 ATTORNEY PITRE:

17 Thank you.

18 CHAIRMAN:

19 I will note for the record that there  
20 are stipulations of fact that we put into the record  
21 for the Board's consideration. With that being said,  
22 I'd ask the Office of Enforcement Counsel (OEC) to  
23 provide a brief overview of what brings us here today,  
24 to be followed by any additional evidence from OEC.  
25 And then we'll turn to Endeka for their response to

1 OEC and proceed from there.

2 ATTORNEY PITRE:

3 Mr. Chairman, if I may, we'd like to do  
4 a couple of housekeeping matters to get this out of  
5 the way before we begin.

6 CHAIRMAN:

7 Thank you.

8 ATTORNEY PITRE:

9 Mr. Doherty, Mr. O'Riordan and I have  
10 discussed the exhibits that will be entered into the  
11 record today. From what I understand, there are no  
12 objections to any of our exhibits, we have no  
13 objections to their exhibits. And with that said the  
14 Office of Enforcement Counsel would offer, on their  
15 side, 12 affidavits which will take care of testimony  
16 for witnesses that are called. They've been notarized  
17 and they've been filed with the Office of Hearings and  
18 Appeal (OHA). And if called today, that each of these  
19 individuals would testify to the information included  
20 in those affidavits. We'd also like to offer in globo  
21 movement of OEC Exhibits 1 through 86. Those have  
22 also been submitted to the OHA, and so they have a  
23 record of those.

24 We would ask that those exhibits be  
25 moved into the record. And those exhibits also

1 support the affidavits and the stipulation of facts  
2 that have been entered into the record in this matter,  
3 also. We'd ask also that the Board take judicial  
4 notice of the previous and extensive records ---  
5 record that relates --- as it relates to the Category  
6 1 Application and the Category 1 License as it relates  
7 to the Lawrence County siting and the Lawrence County  
8 casino. With that said, I'll turn it over to Mr.  
9 Doherty for the introduction of his exhibits.

10 (OEC Exhibit 1 through 86 marked for  
11 identification.)

12 CHAIRMAN:

13 Oh, I'm sorry. Are there any objections  
14 up here to the introduction --- I believe we have a  
15 motion made by Enforcement Counsel.

16 ATTORNEY DOHERTY:

17 No objection.

18 CHAIRMAN:

19 Okay. So moved. Now, we'll turn it to  
20 you gentlemen.

21 ATTORNEY DOHERTY:

22 Thank you, Mr. Chairman. My name is Jim  
23 Doherty, I'm here on behalf of Endeka with my counsel,  
24 John O'Riordan. I do not have any objections to the  
25 exhibits of OEC. We would move for the admission in

1 total of our Exhibits 1 through 23. We would also  
2 indicate that we do not object to the affidavits  
3 submitted by OEC, that those individuals have been  
4 called in to testify consistent with the terms and the  
5 Statements in their affidavits.

6 (Endeka Exhibits 1 through 23 marked for  
7 identification.)

8 CHAIRMAN:

9 As to your request for a motion, do you  
10 have any objection to that, Board? Then it's so moved  
11 as to your various exhibits.

12 ATTORNEY DOHERTY:

13 Thank you, Mr. Chairman.

14 CHAIRMAN:

15 Thank you.

16 ATTORNEY PITRE:

17 And the ---.

18 CHAIRMAN:

19 Any other housekeeping, or is that it?

20 ATTORNEY PITRE:

21 That's it.

22 CHAIRMAN:

23 Proceed.

24 ATTORNEY PITRE:

25 As many will recall, on May 20th, 2015

1 the Board held a public hearing as to whether to grant  
2 Endeka's request for additional time to meet the  
3 suitability and financial fitness requirements under  
4 the Act, or to grant OEC's request to set a date and  
5 time to conduct a hearing based upon OEC's April 2015  
6 Recommendation of Denial and its May 2015 Amended  
7 Recommendation of Denial.

8                   At the May 28th, 2015 Board hearing, the  
9 Board received testimony and information from a number  
10 of individuals, many of whom are here today. Sound  
11 bites from the transcript of that hearing were as  
12 follows. Attorney Doherty requested, on behalf of his  
13 client Endeka, and I quote, a six month extension of  
14 time to work with Mr. Procacci to finalize agreements  
15 and project financing. And that they were, I quote,  
16 confident that in six months, the next six months,  
17 they would be able to provide Board Staff with all the  
18 requisite documents to confirm the financial  
19 suitability of this project.

20                   Mr. Doherty stated on behalf of his  
21 client, at the time that they were asking the Board to  
22 consider allowing the project to move forward and that  
23 the Endeka Group appreciated that, at that time, it  
24 had been two years that the license had --- was  
25 applied for. Principal Applicant Manuel Stamatakis

1 testified on behalf of Endeka and requested from the  
2 Board six months so that our new team can continue  
3 with its efforts to finalize the details of this  
4 project and secure the documents and financial  
5 commitments necessary to satisfy the requests of both  
6 OEC and BIE.

7           Attorney O'Riordan on behalf of Procacci  
8 Local Gaming, LLC and its Principal, Joseph Procacci,  
9 supported Endeka's request for an extension of time of  
10 six months so that the Procacci team had sufficient  
11 time to put the necessary project team, details and  
12 funding in place. And that Mr. Procacci and Merit  
13 intended to move the project forward, and with the  
14 Board's blessing carry that project across the goal  
15 lines, opening the door to a racetrack and casino in  
16 Lawrence County.

17           At the time, Mr. O'Riordan further  
18 stated that after we submit our application on June  
19 1st, all of our efforts will be devoted to finalizing  
20 project details with our new partners and putting the  
21 project financing in place as quickly as humanly  
22 possible. He said, and I quote, we've got a lot of  
23 work to do. We've done it before, and with your  
24 blessing we'll do it again, if you give us the time.

25           Peter Farrell, President of Merit PHL,

1 testified at the hearing that Merit executives have  
2 designed, financed, constructed and operated start-up  
3 casinos throughout the country and internationally.  
4 Mr. Farrell asked that the Board give them the  
5 opportunity to deliver a project that we all will be  
6 proud of. When asked by Commissioner McCall when he  
7 contemplated submitting a full financing package to  
8 BIE, Mr. Doherty responded on behalf of Endeka they  
9 needed the full six months to get that completed. Mr.  
10 O'Riordan reiterated and added that they were going to  
11 get their stuff in on time and they were not going to  
12 be back here seeking further delay.

13           At the time, then Commissioner John  
14 McNally asked Endeka if it would be willing to agree  
15 to a shorter timeframe with specific benchmarks  
16 established by OEC. Mr. Farrell of Merit PHL  
17 responded that they didn't think they could get this  
18 done in less time, and that they did not want to fail.  
19 Mr. Farrell stated, and I quote, we need six months,  
20 we've been through this before. I personally have  
21 seen how long it takes to do these things, and I just  
22 think trying to ask for less and to come back here  
23 again is just not what we want to do. We don't want  
24 to come back here again for an extension. I won't be  
25 back here again for an extension. I won't be back.

1 So if we can't get it done in six months, we're not  
2 going to be back. You will be talking to someone  
3 else.

4 Attorney O'Riordan is quoted as stating,  
5 we will be stepping in as the new general partner.  
6 You will have all of our cooperation. We will be the  
7 ones in the driver's seat --- we'll be the ones  
8 driving the project. When asked by Commissioner Fajt,  
9 what is going to change to make this whole entity now  
10 all of the sudden get religion and be cooperative?  
11 Mr. Doherty responded on behalf of his client, moving  
12 forward with the project will be --- the  
13 responsibility will be with Merit. When asked by then  
14 Chairman, now Commissioner, Ryan, could the Board  
15 infer what we're hearing --- that what we're hearing,  
16 that all this can be done in six months? Not in 7-  
17 and-a-half or 8 or 12. Mr. Doherty responded that the  
18 point was just to establish the need for the six  
19 months, that nothing less would be sufficient in their  
20 opinion.

21 Subsequently, the Board generously  
22 granted Endeka a six-month extension --- the six-month  
23 extension that it requested. That six-month extension  
24 was extended in good faith based upon the Statements  
25 by the representatives of Endeka, Procacci Local

1 Gaming and Merit. There were no statements by  
2 representatives of any other Applicant or any other  
3 individual associated with the project, and the blame  
4 for what follows lies at the feet of those  
5 individuals. What followed was the submission of  
6 documents, applications, agreements and information  
7 that were, at best incomplete and unsupported, and at  
8 worst fraudulent, maybe even criminally fraudulent.  
9 It is based upon this information that on May 31, 2016  
10 the OEC issued a 22-page Notice of Recommendation of  
11 the Abandonment or Denial of Endeka's Category 1  
12 Application.

13           The Recommendation of Abandonment is  
14 based upon Endeka's failure to cure all of the  
15 application deficiencies noted by the Bureau of  
16 Licensing, Endeka's failure to cure the application  
17 deficiencies noted by the Bureau of Investigations and  
18 Enforcement (BIE). Endeka's failure to cooperate or  
19 participate in the background investigation process  
20 after April 19th, 2016, Endeka's failure to fully  
21 cooperate with the background investigation process  
22 prior to April 19th, 2016.

23           The Recommendation of Denial is based  
24 upon Endeka's failure to cooperate in the background  
25 investigation process, Endeka's failure to cure

1 application deficiencies, Endeka's failure to complete  
2 all requirements of licensure within the six month  
3 period, which was November 20th, 2015, in violation of  
4 the Board's May 20th, 2015 Order. Endeka's failure to  
5 demonstrate its financial fitness by clear and  
6 convincing evidence, as required by 1313 of the Act.  
7 Endeka's failure to demonstrate its suitability by  
8 clear and convincing evidence, as required by 1310 of  
9 the Act. Failure to fully comply with the Board's May  
10 20th, 2015 Order.

11                   Subsequent to the May 22 --- 20th, 2015  
12 Board Order granting Endeka a six month extension, the  
13 BIE, the Bureau of Licensing and the OEC has  
14 consistently received inconsistent and contradictory  
15 information throughout the process, which is best  
16 evidenced by the Joint Stipulation of Facts, 12  
17 notarized Affidavits of testimony of OEC witnesses and  
18 the 290 exhibits labeled 1 --- OEC Exhibits 1 through  
19 86 ---.

20 BRIEF INTERRUPTION

21                   CHAIRMAN:

22                   Tony, are you on?

23                   MR. MOSCATO:

24                   I am, sir.

25                   CHAIRMAN:

1                   Thank you. I'll just note for the  
2 record Commissioner Moscato is now part of the Board.  
3 Proceed.

4                   ATTORNEY PITRE:

5                   All of these exhibits and files have  
6 been submitted to the OHA, and we have entered those  
7 into the record. Our work on Endeka's Category 1  
8 Application over the last three years has been futile  
9 labor, much like that of Sisyphus. Sisyphus rolling a  
10 boulder up a mountain, only to see that boulder tumble  
11 back down under its own weight. And here we sit,  
12 having once again reached the point where the Endeka  
13 boulder has tumbled down the mountain under its own  
14 weight and of its own doing.

15                   Through the background investigation  
16 process, it was revealed that the definitive project  
17 funding to be in place by November 20th, 2015, Board  
18 Order deadline, was not in existence then and is  
19 likely not in existence today. Applications filed by  
20 Endeka to comply with the Board's May 20th, 2015 Order  
21 for the entity and Principal who was to be its main  
22 funding source are now being sought to be withdrawn.  
23 And agreements with that main funding source filed by  
24 Endeka with the Board to comply with the May 20th,  
25 2015 Order are no longer valid.

1           So today, it's like Groundhog Day for  
2   Endeka and déjà vu for the rest of us. We are back at  
3   the beginning, there will likely be another request by  
4   Endeka for another chance to make things right,  
5   complete with additional requests for time to provide  
6   the information that should've been initially provided  
7   in May of 2013 with the filing of the initial  
8   application and subsequently by November 20th, 2015  
9   under the Board's Order.

10           With new promises to fulfill obligations  
11   that should have been fulfilled in May 2013 with the  
12   filing of the initial application, and subsequently on  
13   November 20th, 2015 under the Board's Order, with new  
14   reasons, excuses and blame as to why those obligations  
15   have not been fulfilled and with new faces that will  
16   make bigger and better promises. And if allowed by  
17   the Board, all of these new promises, all of these new  
18   faces and all of these new obligations will have to be  
19   vetted. And another year will pass before the Board  
20   and the Commonwealth will be in a position to know  
21   whether or not this will be the last time Sisyphus has  
22   pushed the boulder up the mountain. The Commonwealth  
23   deserves better.

24           Twelve (12) casino projects have been  
25   built and many extended in the Commonwealth during the

1 time that this project has been on the drawing board.  
2 Casino projects have been built in more trying  
3 economic times with two and three times the amount of  
4 funding needed, without needing the financial  
5 assistance of the local community, but instead  
6 providing significant financial assistance to the  
7 local community. As is evident by Endeka's record  
8 before this Board, the time has come to end this  
9 recurring loop.

10 As a result, the OEC recommends that the  
11 Board deny Endeka's Application for a Category 1  
12 License based upon the record in this matter. Endeka  
13 has failed to comply with the Board's May 20th, 2015  
14 Order, failed to cooperate or participate in the  
15 background investigation process, failed to illustrate  
16 by clear and convincing evidence that it was or is  
17 financially fit pursuant to the Act and has failed to  
18 illustrate by clear and convincing evidence that it is  
19 suitable pursuant to the Act. With that, I turn it  
20 over to the Board.

21 CHAIRMAN:

22 Very good. Proceed with comments that  
23 you have.

24 ATTORNEY DOHERTY:

25 Thank you, Mr. Chairman. Good morning,

1 Mr. Chairman and Commissioners. My name is Jim  
2 Doherty and I, along with my co-counsel, John  
3 O'Riordan, are here today on behalf of our mutual  
4 client, Endeka Entertainment, LP. I would like to  
5 initially start by thanking the Board for providing my  
6 client with this opportunity to respond to the notice  
7 filed by the OEC on May 31st, 2016.

8           However, before I begin I would like to  
9 introduce the members of our team who are seated with  
10 me today, including Mr. Joseph Procacci, Mr. Joseph  
11 Canfora, Charles Long, Commissioner Dan Vogler of  
12 Lawrence County, Solicitor Attorney Jim Chifulo,  
13 Legado Principal Rod Simon and Jeff Fritz, Assistant  
14 Vice President of Merrill Lynch, and Gary Pezzuolo,  
15 Chairman of Mahoning Township.

16           As we all know, this Board has been  
17 dealing with this proposed casino in Lawrence County  
18 since Valley View Downs first submitted an application  
19 on October 29th, 2007. Since that time, it's been a  
20 very winding road leading us to where we are today.  
21 The project has been through several owners, all the  
22 various positions regarding financing, ownership and  
23 project design. While I am sure we would all like  
24 this project to advance more quickly, I do want to  
25 thank this Board and its staff for the patience and

1 dedication it has shown, particularly with the  
2 application filed by Endeka Entertainment for a  
3 Category 1 facility.

4 I want to assure this Board that all of  
5 the actions taken by the current owners of Endeka have  
6 been with the singular objective of delivering on a  
7 promise made long ago to assist Lawrence County to  
8 construct and operate a first class gaming and racing  
9 facility that would spur economic development and  
10 create hundreds of new jobs. Unfortunately, this path  
11 has not been an easy one, yet Endeka's commitment  
12 remains.

13 Although Mr. Procacci has only been  
14 involved as a controlling owner of this project since  
15 spring of 2015, we understand that this project is  
16 viewed in its entirety by this Board and that is for  
17 this reason that we have --- that we are here today to  
18 continue to fight for what we believe to be a project  
19 that is in the best interests of the citizens of  
20 Lawrence County and the citizens of this Commonwealth.

21 It certainly would've been far easier  
22 and less expensive of a task for Endeka to simply  
23 withdraw its pending application in the face of  
24 adversity. However, that is not the standard by which  
25 Mr. Procacci has built his business, from a corner

1 market to an international leader in global tomato  
2 production, in a single generation. Therefore, we are  
3 here today to continue to fight for this project and  
4 to give this Board our assurance that every action we  
5 have taken to this point in time has been with the  
6 goal of securing financing for this project to allow  
7 it to become a reality. Today, you will hear from a  
8 number of witnesses concerning Endeka's efforts to  
9 secure financing for the project, the hurdles which  
10 Endeka incurred on the way and our plan to obtain  
11 final financing should this Board consider providing  
12 us with an extension of 60 days.

13                   Specifically, you'll hear from  
14 representatives of well known, internationally  
15 regulated lenders, Merrill Lynch and Bank of America,  
16 regarding our plan to secure a direct loan from them  
17 as a qualified and exempt lender to expedite the  
18 financing of this project and to hopefully streamline  
19 the investigation into the source of the funding in  
20 this matter that will satisfy this Board, your staff,  
21 and in a similar timeframe that's previously projected  
22 by staff.

23                   Moreover, we intend to present testimony  
24 today to confirm the significant benefits this project  
25 will bring to the citizens of this Commonwealth,

1 particularly in Western Pennsylvania. As we have seen  
2 through the media, the State has recently adopted a  
3 \$30,000,000,000 spending plan. Of course next year,  
4 according to Governor Wolf, the result will be a  
5 shortfall of at least \$2.3 billion because of  
6 deficiencies which remain in the revenue-generating  
7 sources of the State. This project alone will ensure  
8 that the Commonwealth could receive at least \$66  
9 million in licensing fees, significant tax revenue  
10 from both table games and slot machine play and will  
11 generate at least 600 new jobs while also likely  
12 spurring significant economic development in the  
13 Lawrence County community.

14                   These are not small numbers, especially  
15 at a time when our state is seeking any new sources of  
16 revenue. The testimony will also demonstrate that  
17 Lawrence County remains steadfast in its support for  
18 this project. In fact, the citizens of Lawrence  
19 County have reaffirmed their offer of a one-time grant  
20 to this project to ensure its success and continued  
21 development. The issues surrounding this grant and  
22 any concerns raised by OEC regarding the same will be  
23 addressed by the Lawrence County Commissioners and the  
24 Solicitor. I believe that once this testimony is  
25 presented, it will be clear that the efforts of

1 Lawrence County in support of this project will ensure  
2 its success and mutual benefit for both parties.

3 OEC has identified a number of  
4 deficiencies it believes exist in the current  
5 application of EndeKa, and we will focus our  
6 presentation on addressing many of these matters.

7 Initially, it should be noted that based  
8 on the concerns and deficiencies raised by the OEC to  
9 the applications of the Nannicola Brothers, Kurt Wise  
10 and Newcastle Plumbing, EndeKa has persuaded those  
11 individuals and entities to recently file Motions to  
12 Withdraw with the Board that are currently pending  
13 resolution. EndeKa is of the position that no matter  
14 what action the Board takes on those respective  
15 Petitions to Withdraw, each of those individuals  
16 and/or entities are, as of this date, no longer part  
17 of this project nor can they actually have any control  
18 over any future developments of EndeKa.

19 We understand that the OEC's time for  
20 filing a response to these Petitions has not yet run  
21 and that the Board is still required to consider these  
22 Petitions. However, we simply ask that the Board give  
23 these petitions the weight it deems appropriate,  
24 particularly in light of the fact that if the  
25 individual Petitions to Withdraw are granted the

1 concerns and/or deficiencies raised by OEC directed to  
2 these parties would be moot.

3           Accordingly, our request today is that  
4 the Board deny the Recommendation of Denial and/or  
5 Abandonment filed by the OEC or hold in advance its  
6 consideration of that Notice for a period of 60 days  
7 to allow Endeka to secure and execute final financing  
8 commitments with Merrill Lynch and Bank of America to  
9 allow this project to become a reality. Endeka is  
10 prepared, should this Board consider its request, to  
11 also immediately file a Petition to Withdraw that  
12 would become effective on the midnight of the 60th day  
13 of the Board extension, thereby allowing the Board to  
14 immediately deem the application withdrawn without  
15 further hearing or request if Endeka has not secured  
16 the project financing.

17           We know that this Board has been  
18 involved in this project for a significant amount of  
19 time. However, it is Endeka's belief that a short 60-  
20 day extension in the grand scheme of the life of this  
21 application is a small risk for the Board, given the  
22 significant harm that could occur to Lawrence County  
23 and the citizens of this Commonwealth if OEC's Notice  
24 of Denial is granted, denying the project a final  
25 attempt to deliver a Category 1 facility to this

1 Commonwealth, which would include the influx of  
2 significance revenue and the creation of hundreds of  
3 jobs, both of which are sorely lacking in our current  
4 economic environment.

5 I again thank you for this opportunity,  
6 and with Mr. Chairman and the Commissioners' approval,  
7 We'd call the witnesses on the project.

8 CHAIRMAN:

9 Please call your first witness.

10 ATTORNEY DOHERTY:

11 Thank you, Mr. Chairman. I'm going to  
12 call Attorney John O'Riordan.

13 -----  
14 JOHN O'RIORDAN, HAVING FIRST BEEN PREVIOUSLY SWORN,  
15 TESTIFIED AS FOLLOWS:

16 -----  
17 DIRECT EXAMINATION

18 BY ATTORNEY DOHERTY:

19 Q. Mr. O'Riordan, can you please advise the  
20 Commission of your role on this project?

21 A. Sure. I'm counsel for Endeka Entertainment, LP  
22 and counsel for Procacci Local Gaming, LLC.

23 Q. And have you been in that role since Mr.  
24 Procacci's involvement began in this project?

25 A. I have, since the spring of 2015.

1 Q. Can you explain to this Board what the amount of  
2 funding Endeka is seeking by way of debt for this  
3 project?

4 A. Well the amount of funding is \$205 million, which  
5 is the total amount of funding for the project.

6 Q. And we were last here on May 20th, 2015. I would  
7 ask that you please explain to this Board what steps  
8 Endeka has taken from May 20th, 2015 to November 20th,  
9 2015 to secure project funding and resolve issues  
10 related to the taxable income.

11 A. Sure. As of May 15th, 2015, what we had was a  
12 term sheet with the Tuxepo entities, which would've  
13 given Mr. Procacci, I believe it was a, 66 percent  
14 interest through Procacci Local and Procacci Limited -  
15 -- Local Gaming, LLC. That term sheet required that  
16 we post a \$50 million bond, we submit our applications  
17 and that we would then negotiate with the Tuxepo  
18 entities and its Principal, Manny Stamatakis,  
19 definitive agreements that would transfer the  
20 interests.

21 We anticipated that those negotiations would take  
22 somewhere about a month. We did post the bond. We  
23 filed our application by June 1st and then engaged in  
24 negotiations with the Tuxepo entities. Those  
25 negotiations, which were required to be consummated

1 first to become a general partner of Endeka, took much  
2 longer, were much more difficult and much more  
3 protracted than we anticipated. And they did not  
4 culminate in a final binding agreement until September  
5 23rd. So what we anticipated taking some time in the  
6 month of June drug on negotiations with Mr.  
7 Stamatakis's attorneys and his Tuxepo entities for  
8 several months.

9       During that time, we were not general partner of  
10 Endeka and really didn't have the ability to control  
11 its affairs. At the same time, we were pushing to get  
12 moving on securing finances. We were able to persuade  
13 the Tuxepo entities to sign on and allow us to retain  
14 a financial advisor sometime in August of 2015, and  
15 from August 2015 right up through November 20th, 2015,  
16 Endeka, Procacci Local and its financial advisor,  
17 Michael Kim of Global Gaming and Hospitality,  
18 aggressively pursued as many financial sources as we  
19 could find. One of those financing sources --- as we  
20 looked at a host --- not just of sources, but a host  
21 of structures, we looked at EB 5, we looked at rate,  
22 we looked at traditional financing.

23       One of those financing sources was an individual,  
24 who was introduced to us by a member of AHT, which  
25 holds a ---AHT holds a ten percent interest in Endeka,

1 LP. One of the members of AHT was Charles Long. Mr.  
2 Long is a Newcastle native, he introduced a fellow by  
3 the name of Kurt Wise to Joe Canfora of Merit PHL, who  
4 was an Endeka representative who was basically  
5 responsible for developing the project in conjunction  
6 with Endeka, but Mr. Canfora is also a Newcastle  
7 native. Mr. Long introduced Kurt Wise as a successful  
8 Wisconsin businessman who had previously been involved  
9 in gaming, who had a very valuable patent and who was  
10 interested in providing financing for the project.

11 Mr. Long himself is quite a successful  
12 businessman, had a previous relationship with Mr.  
13 Canfora, and we really didn't have any reason to doubt  
14 that Mr. Wise was not everything he was representing  
15 himself and that Mr. Long was representing him as. He  
16 proposed to finance the project on terms that were  
17 quite favorable. We negotiated the binding term sheet  
18 with him and submitted that binding term sheet to the  
19 Gaming Control Board on November 20th, 2015.

20 Q. Attorney O'Riordan, after November 20th, 2015,  
21 did there come a point in time after Kurt Wise became  
22 involved in the project that you had then identified  
23 potential problems with Mr. Wise's ability on the  
24 project as promised?

25 A. There was. And actually, even before we signed

1 the term sheet, the binding term sheet with Mr. Wise,  
2 one of the things we did --- we didn't just take Mr.  
3 Long's word or Mr. Wise's word. One of the things we  
4 did was, we said you're going to have to show some ---  
5 the ability to come forward and meet your financial  
6 obligations. And show us some proof that you have the  
7 financial wherewithal to fulfill your commitment.

8 Mr. Wise produced for us a statement from a  
9 person he represented to be his banker on bank  
10 letterhead that said that he had the financial ability  
11 to meet the commitments to fund the whole project  
12 amount. I believe that that's been submitted to the  
13 Board. Thereafter, we continued with what we could in  
14 terms of an investigation of Mr. Wise. We don't have  
15 the same resources or same ability that the OEC has,  
16 but we sought to do a background investigation and we  
17 sought to get as much information as we could from  
18 him.

19 Mr. Wise had represented to us that he had  
20 previously been involved in Gaming, had previously  
21 been licensed. And we were a little surprised when,  
22 shortly after signing the binding term sheet, the  
23 information became a little bit more difficult to get.  
24 He was less than cooperative with us and all the while  
25 pushing to negotiate definitive loan documents. We

1 persisted from that time, right up through the very  
2 end of our relationship with Mr. Wise, to obtain as  
3 much information as we could about he, his financial  
4 wherewithal and the sources of the funding, which he  
5 had committed to provide through his company,  
6 Newcastle Funding, LLC.

7       In the extent of our due diligence, at one point,  
8 Mr. Wise represented to us that he was obtaining some  
9 of his funding from two banking houses in the UK. And  
10 we went as far to hire the Law Firm of Pepper Hamilton  
11 through their London office to substantiate and verify  
12 some of the representations that Mr. Wise had made to  
13 us. For example, Mr. Wise --- and just so the  
14 timeline's clear, we signed and submitted this binding  
15 term sheet on November the 20th, 2015. That  
16 culminated in a Fuller loan document, which we signed  
17 and submitted on January 7th, 2016.

18       In that loan document, in Section 6, Mr. Wise  
19 represented a number of things. One of the things he  
20 represented and warranted was that he had the  
21 financial ability to meet his obligations, that  
22 supporting that financial ability was an extremely  
23 valuable patent and source code that he had offered  
24 that patent and source code as collateral for his  
25 obligations and that that patent and source code had

1 been accepted by a British banking house called ACM  
2 Holdings.

3       When we --- and those were the representations  
4 that we sought to verify first through direct  
5 conversations with a representative of ACM Holdings,  
6 who'd been introduced to us by Mr. Wise. And when  
7 those conversations did not alone prove satisfactory,  
8 we engaged London Counsel to go to this fellow's  
9 office, to go meet with him and substantiate Mr.  
10 Wise's claims. By that time, we are at the end of  
11 January.

12       The attorney we engaged from Pepper Hamilton  
13 reported back to us that things didn't seem right,  
14 that Mr. Wise's representations were not accurate,  
15 that his patent had not been accepted by ACM. We went  
16 back to Mr. Wise, attempted to pin down what had  
17 happened, put him on notice as of February 11th that  
18 he was in breach of the agreement, that he had made  
19 misrepresentations, that he had failed to do a number  
20 of things in terms of disclosing information.

21       One of the things was he hadn't been cooperative  
22 with the Board, and I believe that Counsel Pitre's  
23 representations about fraudulent statements and  
24 failure to cooperate and participate in background  
25 investigations, I believe that they refer to Mr. Wise.

1 Mr. Wise had been uncooperative, and he would not  
2 allow Endeka to see the files. He was making his  
3 filings directly with the Board staff. So we were  
4 never privy to the information he was filing with the  
5 Board.

6 We put him on notice, as I said, February 11th  
7 that he was in breach, demanded that he cure. We  
8 attempted to work with him on a cure and cure the  
9 breaches, because we wanted to keep the project moving  
10 forward. I don't know why. It ultimately became  
11 clear that Mr. Wise's purported attempts to cure were  
12 nothing more than more misrepresentations.

13 And on April 26th, 2016 we sent Mr. Wise a letter  
14 notifying him that we were terminating our  
15 relationship with him and all contractual arrangements  
16 we had with him. Moving forward in time, we recently  
17 filed a lawsuit against Mr. Wise in Newcastle based on  
18 the misrepresentations and the breach of contract.  
19 We've sued him and his company in Lawrence County.

20 Q. Attorney O'Riordan, can you also tell the Board  
21 when was the first time that you, on behalf of Endeka,  
22 learned to the full extent of the representations made  
23 by Mr. Wise to the Gaming Control Board, as far as  
24 their investigation in 2015?

25 A. Sure. And this goes back to a point I just made.

1 Mr. Wise refused all --- did not share with us his  
2 filings with the Board. We explicitly asked him that  
3 he do so, and he refused that permission. So it was  
4 not until we received OEC's May 31st Recommendation  
5 for Denial that we became aware of the full extent of  
6 his lack of cooperation and his misrepresentations to  
7 staff, which I have to say are substantial.

8 Q. And, Attorney O'Riordan --- well, we'll get into  
9 greater detail with other witnesses. Are you here  
10 today to represent to the Board that replacement  
11 financing has been identified for this filing?

12 A. Yes. As soon as we terminated the relationship  
13 with Mr. Wise we went out and basically had to restart  
14 the engine in terms of finding substitute financing.  
15 We were able to, with the assistance of Rod Simon of  
16 Legado, engage with Bank of America and Merrill Lynch.  
17 We've talked with them, went over the project, and we  
18 and they are prepared to execute final loan documents  
19 within the next 60 days to bring this project to where  
20 it would've been had the investigation of Mr. Wise  
21 went forward and been successful.

22 ATTORNEY DOHERTY:

23 Mr. Chairman, I have no further  
24 questions on Direct Exam for Mr. O'Riordan. And I  
25 leave him up for Cross, obviously, if the Board

1 has ---.

2 CHAIRMAN:

3 I'm going to ask that Enforcement  
4 Counsel could ask the witness some questions, and I've  
5 got some more ---- a question. Given what you're  
6 telling us here, has Endeka or any people associated  
7 with the project approached the United States  
8 Attorney's Office for legal prosecution of fraud?

9 ATTORNEY DOHERTY:

10 We have not, but ---.

11 CHAIRMAN:

12 All right. Proceed.

13 CROSS EXAMINATION

14 BY ATTORNEY PITRE:

15 Q. Mr. O'Riordan, I believe that you testified that  
16 Mr. Wise provided a letter on bank letterhead?

17 A. Yes.

18 Q. Do you remember what bank that was?

19 A. I think it was the Panamanian Savings and Trust.

20 Q. And are you accustomed in all your dealings with  
21 Mr. Procacci and his business dealings to doing  
22 business --- doing business with individuals who have  
23 bank accounts in Panama?

24 A. We are not.

25 Q. Did that raise a red flag to you?

1 A. He did not say that it was the only account he  
2 had, but it caused us some concern.

3 Q. The correspondences that OEC sent to Mr. Doherty  
4 and to yourself, has Mr. Doherty shared with you any  
5 of the correspondences? Do you believe you received  
6 all the correspondences?

7 A. I believe Mr. Doherty shared correspondence from  
8 OEC with respect to Mr. Wise, yes.

9 Q. So you are aware that we were seeking evaluation  
10 documents on his patent to support the value that he  
11 said his patent was?

12 A. Yes, we were aware of it and we were urging him,  
13 demanding that Mr. Wise, comply with OEC's request.

14 Q. The other thing, before assigning the term sheet  
15 and before entering into an agreement with Mr. Wise,  
16 what type of due diligence or what type of research  
17 did you do on Mr. Wise and on any other documents that  
18 you provided?

19 A. Sure. Mr. Wise was introduced to Endeka --- I  
20 would say the first financing proposal we got from him  
21 was in early November, and so we were approaching the  
22 November 20th timeline. The due diligence was we  
23 talked to Chuck Long, who was a member of AHT. He had  
24 a --- and Chuck had an ongoing business relationship  
25 with Joe Canfora, he was successful. Joe Canfora was

1 very successful. Chuck said --- represented that he  
2 had an ongoing business relationship with Mr. Wise.  
3 He made representation to us about Mr. Wise's patent  
4 and his success in business and his Gaming experience.  
5 We did some internet research on Mr. Wise and we  
6 intended, as we've done in the past, to have Mr. Wise  
7 investigated by a retired FBI agent to conduct a  
8 background investigation on a forward basis. But in  
9 --- we relied pretty much on Mr. Long's  
10 representations regarding him and Mr. Long's vested  
11 interest in seeing the project succeed. And we didn't  
12 think --- I have no reason to believe that Mr. Long  
13 had told us anything but what he believed to be the  
14 truth. And in speaking with him, he believes he was  
15 duped and defrauded, as well as we were. And I  
16 believe he has intent of pursuing legal action against  
17 Mr. Wise as well. We had the bank letter, and moving  
18 forward we intended to continue with the due  
19 diligence.

20 Q. In fact, Mr. Long owns 40 percent of Newcastle,  
21 LLC; is that correct?

22 A. Yes, he does.

23 Q. Which was supposed to be the conduit or the  
24 funding source for Endeka; was that correct?

25 A. Yes, sir.

1 Q. So with all of that said, Endecka made an open-  
2 eyed decision to go with Mr. Wise and to go with  
3 Newcastle, LLC in pursuit of funding for its Category  
4 1 project; is that correct? No one put a gun to you,  
5 nobody coerced Endecka into making that decision?

6 A. When you say open-eyed, we made a decision to go  
7 with Mr. Wise and Newcastle Funding. We were not  
8 aware of any of the issues that currently --- that  
9 cropped up, and we were not aware of any history of  
10 misrepresentations. And had we been aware of those  
11 things, we never would've gotten involved with him.  
12 But we did make a decision to go with Mr. Wise and  
13 Newcastle.

14 Q. Because Mr. Procacci has been a very successful  
15 businessman over his lifetime. Okay. And I don't  
16 think anybody would dispute that. So I'm just  
17 wondering how --- given the extent of Mr. Procacci's  
18 business dealings, why would you take a deal or make a  
19 deal with someone offering something other than ---  
20 something non-traditional? Why didn't you just go and  
21 get a bank loan for the project? Why didn't you just  
22 seek funding from one of the major banks or even one  
23 of the major funding sources in the country, as  
24 opposed to going with Mr. Wise?

25 A. Well we had explored traditional funding. Mr.

1 Procacci, you'll recall, originally committed to \$15  
2 million. When the decision was made to take out  
3 Tuxepo, he increased that to \$25 million. He already  
4 had \$50 million tied up in the bond, and with that  
5 limit of investment I think a traditional lender we  
6 were going to have some issues with it, particularly  
7 given OEC's view that they were essentially going to  
8 discount the County \$50 million. So I think there  
9 were structural issues. And frankly, Mr. Wise's  
10 private lender looked more flexible on the terms.

11 Q. When you speak about OEC's concerns, are you  
12 talking about the Lawrence County bond?

13 A. Yeah. Yes, I am.

14 Q. And the fact that the Lawrence County bond would  
15 not be issued until the construction had begun or was  
16 complete and the license was issued?

17 A. Yes, sir.

18 ATTORNEY PITRE:

19 All right. I have no further questions.

20 CHAIRMAN:

21 I believe Commissioner Jewell may have a  
22 question.

23 MR. JEWELL:

24 I have two questions, if I may. First  
25 of all, if Mr. Procacci's investment in the bond at 15

1 cents per thousand is the traditional number. Anybody  
2 have an idea of the value of that investment has  
3 been ---?

4 ATTORNEY DOHERTY:

5 What the cost of the bond has been paid?

6 MR. JEWELL:

7 Yep. Yeah.

8 A. I don't know off the top of my head, I'm sorry.  
9 I know that he has assets to support that bond, but I  
10 don't know --- but I don't think the cost extended the  
11 date through that bond.

12 MR. JEWELL:

13 Did Mr. Wise make any oral  
14 representations to you about the value of the patent  
15 as to total consideration for either a lump sum or an  
16 FPB --- royalty.

17 A. He made general representations, millions if not  
18 billions.

19 MR. JEWELL:

20 Nothing else.

21 CHAIRMAN:

22 Do you have some? What we're going to  
23 do is you'll call your next witness, and then we're  
24 going to go through all the witnesses with Cross  
25 Examination by OEC. And then we'll just call your

1 next witness.

2 ATTORNEY DOHERTY:

3 Thank you, Mr. Chairman. We'll call Mr.  
4 Joseph Canfora.

5 -----

6 JOSEPH CANFORA, HAVING FIRST BEEN PREVIOUSLY SWORN,  
7 TESTIFIED AS FOLLOWS:

8 -----

9 DIRECT EXAMINATION

10 BY ATTORNEY DOHERTY:

11 Q. Mr. Canfora, can you please explain your role  
12 with Endeka to the Board?

13 A. Yeah, sole CEO of Merit. And we are in the  
14 gaming business, and we've been in the gaming business  
15 since --- well, I've been in the gaming business for  
16 30-some years, but Merit's been around since 2000.  
17 Where we basically do everything from soup to nuts.  
18 We design, build, put a management team together and  
19 purchase it.

20 Q. And you've worked with Mr. Procacci in the past  
21 on other projects; isn't that correct?

22 A. I'm going to use the word unfortunately, we did  
23 not win the Philadelphia license, but we went after  
24 that. We spent millions of dollars going after it,  
25 and got to know Joe Procacci for the last three years,

1 which has been quite an experience.

2 Q. And Mr. Canfora, was it your responsibility to  
3 have --- to locate the financing for this particular  
4 project since litigation?

5 A. Yes, I helped lead the project for the financing,  
6 like ---.

7 Q. And in that role, did you create a budget for the  
8 project?

9 A. Yes.

10 Q. And what is that?

11 A. It was approximately \$205 million.

12 Q. And do you still stand behind that today as the  
13 project budget?

14 A. Yes.

15 Q. What amount of financing is Endeka currently  
16 seeking for the project?

17 A. Well, the structure that we're talking about with  
18 Merrill Lynch would be the \$25 million that Joe has  
19 committed as a reserve account, and the balance would  
20 be fully financed with Merrill Lynch.

21 Q. And what role, if any, is the County grant  
22 anticipated to play in that, as a back ---?

23 A. Well, we would use the County money as an asset.

24 Q. Is the loan you're currently seeking with Bank of  
25 America in any way contingent on the County loan?

1 A. No.

2 Q. Can you explain to this Board, we just heard  
3 about the progression with Newcastle and Kurt Wise,  
4 the transition from Newcastle to a gentleman by the  
5 name of Rod Simons who will testify later today?

6 A. Well obviously, after the Kurt Wise debacle, we  
7 were referred to Rod by a gentleman out of Atlanta.  
8 They got us to one of Kurt's guys and we connected,  
9 and we discussed the project with Rod.

10 Q. And the connection with Mr. Simons, was that made  
11 --- did he allow for additional introductions to  
12 finance committees through potential lenders?

13 A. Yes. Yes, I think you're going to have Rod as a  
14 witness who has an unbelievable background, which  
15 you'll hear from him. But obviously, he has a very  
16 good relationship with Bank of America and Merrill  
17 Lynch, which then progressed to the current  
18 conversation today.

19 Q. And are you continuing to take the lead in those  
20 discussions and negotiations with Bank of America  
21 today?

22 A. Yes.

23 Q. What are you asking for?

24 A. We're asking for --- obviously for a fully  
25 financed commitment. And what we're asking for is ---

1 if I could step aside for a minute. We  
2 wholeheartedly, is the word, understand the history of  
3 Lawrence Downs. And I think it was mentioned, I'm a  
4 Newcastle there, Lawrence County born and raised. As  
5 a kid I used to go by this property. I was going to  
6 bring it to the Board in 1979. I wrote an editorial  
7 to Newcastle as to why I left Newcastle. My father  
8 told me to leave because there weren't any jobs. It  
9 wasn't growing, it needed help from an economic  
10 perspective.

11 And when Penn National withdrew, I got a call  
12 from my old gym teacher, if you could believe that,  
13 knowing that I was in the gaming business, and said we  
14 need help. Can you help us? And between Chuck Long  
15 being a native, I don't think this project would've  
16 even made it to this point if I didn't have a  
17 relationship, obviously, with Joe Procacci and our  
18 persistence to keep this project alive for the right  
19 reasons, not for the wrong reasons. The right reasons  
20 is we think it's a great project. And so knowing the  
21 frustration in how this has evolved --- and truly  
22 we're --- in our business, it's called build fatigue.  
23 This has been a long process.

24 But I do want to make a statement, too, that when  
25 it was recited earlier, when we say Endeka from a

1 corporate, structural, legal, it's one word, it's one  
2 person. But we're kind of new at it in the sense that  
3 we came in when we had --- we did lose a lot of time  
4 negotiating with Manny, we lost a summer. And we  
5 thought it'd be 30 days, we lost a lot of time. And  
6 not because we didn't push, we're known to be  
7 persistent.

8       And going back from a wholeheartedly person that  
9 was born raised, who had a great childhood and a great  
10 place to grow up, there was money at one time with  
11 Centaur. We know the history here. The money was in  
12 the bank. And it's ironic that not only was the money  
13 in the bank, it was a \$400-and-some million project.  
14 And there wasn't an Ohio-Mahoning Township Casino  
15 right across the border, it was not there. So  
16 Lawrence County had that good opportunity, when ---  
17 and then, who would ever think that Endeika teamed up  
18 with Penn National and then Penn National withdrew,  
19 only to own the casino across from the border where I  
20 used to hang out.

21 Q. Mr. Canfora, I'm going to stop you. Can you just  
22 let the Board know what time would be necessary to  
23 secure the financing of the project and the reasons  
24 for that?

25 A. Sixty (60) days. We're going to ask --- what we

1 would like to do is ask for --- we've lasted --- I  
2 wanted to get to that, and I know that Jim's probably  
3 like, I'm getting off track. But I have to say that,  
4 and I appreciate that. But we've come this far, we're  
5 asking for 60 days to get the job done.

6 Q. And is Endeka prepared then to make any other  
7 representations as a result of that request for an  
8 extension, as to what will happen at the end of ---?

9 A. At the end of 60 days we'll sign a withdrawal.  
10 If we can't get the job done in 60 days, then the  
11 project's done.

12 Q. As the individual responsible for evaluating the  
13 finances of this project, what amount of revenue did  
14 you calculate to be lost in Pennsylvania if Endeka's  
15 request for an additional 60 days is not granted?

16 A. Well it's subjective --- not a subjective  
17 reality. It's obviously the \$50 million that goes to  
18 the Commonwealth, the day we get a license, with the  
19 additional \$16-and-a-half from the table games, which  
20 we need to open up table games in order to compete  
21 with Ohio. It's a very important element. So you're  
22 talking \$66-and-a-half million in the first year of  
23 full projection of 12 months revenue, \$68. So we'll  
24 call it \$135 million lost to the Commonwealth. And  
25 again, that's what we're asking for is that 60 days

1 --- to risk to give us 60 days. And the Commonwealth  
2 as a partner would have the opportunity of putting  
3 another \$140 million in the till.

4 Q. Mr. Canfora, just so this Board is clear about  
5 Mr. Simon's role, he has been retained just as a  
6 finder's fee; is that correct?

7 A. Correct.

8 Q. Does he have any role in the actual financing of  
9 the project that you're proposing today?

10 A. No. No.

11 ATTORNEY DOHERTY:

12 Mr. Chairman, I have no further  
13 questions. I would offer him up for Cross  
14 Examination.

15 CHAIRMAN:

16 OEC, do you have any Cross Examination?

17 ATTORNEY PITRE:

18 Only a few.

19 CROSS EXAMINATION

20 BY ATTORNEY PITRE:

21 Q. Mr. Canfora, I know Mr. Doherty asked the  
22 question but I don't know if you answered it. What  
23 are you seeking from Bank of America?

24 A. A executed definitive agreement to assure the  
25 Commonwealth that the financing is there, an executed

1 agreement.

2 Q. So right now, there's no funding for the project,  
3 obviously?

4 A. As of this moment, no. That's why we're asking  
5 for the 60 days to bet on \$145 million bucks.

6 ATTORNEY PITRE:

7 I have no further questions.

8 CHAIRMAN:

9 We're going to defer questions for the  
10 bench until the end. Call your next witness.

11 ATTORNEY DOHERTY:

12 We'll retain all our witnesses in the  
13 back, is that all right? Mr. Chairman, is it all  
14 right if we retain all the witnesses here in the back?

15 CHAIRMAN:

16 Absolutely.

17 ATTORNEY DOHERTY:

18 Mr. Chairman, we'd like to call Rod  
19 Simon now.

20 -----

21 ROD SIMON, HAVING FIRST BEEN PREVIOUSLY SWORN,  
22 TESTIFIED AS FOLLOWS:

23 -----

24 DIRECT EXAMINATION

25 BY ATTORNEY DOHERTY:

1 Q. Mr. Simon, can you please provide the Board with  
2 a brief summary of your professional background and  
3 explain to them who you are?

4 A. Very quickly, just --- I grew up in West Texas in  
5 the cattle feed business with my dad. And so from  
6 that point, I went to school. I played baseball, and  
7 that's where a lot of the things that we're talking  
8 about today stem from, the reason why I came to be  
9 involved in the project. But, we built software, we  
10 also built --- currently, we're in the middle of  
11 building a ---.

12 CHAIRMAN:

13 Keep your voice up, sir. I can't hear  
14 you.

15 A. We're in the middle of building power plants with  
16 renewable energy. Waste energy is --- well, that's  
17 what we're into, as well as we're a GE Technology  
18 partners, the power business. So that's primarily our  
19 business, but we're also in the oil and gas business.  
20 We contract oil and gas drilling as well as operations  
21 in those oil and gas wells.

22 BY ATTORNEY DOHERTY:

23 Q. Can you tell the Board how many power plants you  
24 operate --- own or operate throughout the world?

25 A. We have an interest in 16 power plants, that

1 started in 1988.

2 Q. And in your role in the energy field, have you or  
3 your companies been previously vetted and licensed by  
4 various states and Federal governments as a function  
5 of your ownership?

6 A. Well, we have to because of -- --we have to be  
7 vetted because we go into other countries, and when we  
8 put up the power plants in the country they have to do  
9 background checks. They vet us very well before we go  
10 in.

11 Q. And have you ever been precluded from operating  
12 an energy facility based on any information identified  
13 in your background?

14 A. No.

15 Q. Can you also explain to the Board what is Legado  
16 and your role with Legado?

17 A. Legado Investment Group is a multifamily office.  
18 We put it together about a year ago. We were asked to  
19 come in and invest in what everybody's well known. At  
20 this point we were asked to build a stadium for the  
21 NFL teams in Southern California. As part of that, we  
22 were going to be providing power and construction for  
23 that stadium. So with my other partners, we got  
24 together and we created a company called Legado  
25 Investment Group, legado being a Spanish word for

1 legacy. So it was basically --- because the Oakland  
2 Raiders were involved, it was part of the legacy, was  
3 with Al Davis and what he did there with the NFL.

4 Q. Can you also explain to the Board what your  
5 current status is with discussions and involvement  
6 with the Raiders, the NFL and potentially Major League  
7 Baseball?

8 A. Right now we're just waiting on the NFL to say  
9 where they want to go with putting in a stadium. So  
10 in that part, they were talking about Las Vegas and  
11 some other --- they would prefer to keep it in  
12 Oakland, as far as the Raiders. As far as Major  
13 League Baseball, our goal was always to own or  
14 partially own one of the Major League Baseball teams.  
15 And that goes back to when I used to play back in the  
16 early '80s. And so from that point we have gone after  
17 four teams, the latest was the Miami team. But, you  
18 know, we just got offered to buy into a Southern  
19 California team, about 25 percent, to come back to the  
20 table to that project.

21 Q. Mr. Simon, can you please tell the Board how you  
22 became aware of and involved with this project with  
23 Endeka?

24 A. A fellow who works --- who is part one of the  
25 family office members, he brought us the deal. It was

1 Tom Hutchinson (phonetic), that's who brought us the  
2 project. And we looked at it from the standpoint of  
3 --- not as a --- to being part of the gaming side or  
4 the casino side, but it was what else could be done in  
5 that part of the country. Because I'm in San  
6 Francisco and we do a lot of business down in Oklahoma  
7 and Texas, where we're from. So we were looking at it  
8 from the standpoint we had an opportunity, and  
9 currently in negotiation with sending my water well  
10 servicing equipment over in Ohio, which is right on  
11 the border. Because from what we understand is we  
12 can't take and do any kind of servicing here in this  
13 state. So there's been four new wells that were  
14 drilled on the Ohio border to support what is the  
15 equivalent, which they could explain to you.

16 So we looked at it from the standpoint, well that  
17 was fairly close to the border. We could have the  
18 opportunity to come in and be --- and put renewable  
19 energy over those 250 acres, which is plenty, and  
20 utilize some of that property to build additional  
21 power for that partner.

22 Q. Mr. Simon, as a result of your interest in the  
23 project, did you provide Endeka with any introductions  
24 to financial lenders who you --- who have funded your  
25 projects in the past?

1 A. The answer is yes, and I brought my Merrill Lynch  
2 banker with me.

3 Q. And just to be clear, can you tell the Board  
4 specifically the reasons why you chose not to fund  
5 directly with Endeka?

6 A. Well, I can't have anything to do with any kind  
7 of gaming being an owner of a professional sports  
8 team. And since we're in the middle of trying to get  
9 that done, we don't want to be involved at all in any  
10 kind of gaming with a professional sports team. Now  
11 once you're in and you're a part of that group, it's  
12 different. But when you're trying to get into the  
13 select club there, they won't let you touch anything  
14 around it.

15 Q. Just to be clear, am I correct that you're not  
16 providing any loans to Endeka, any guarantees or  
17 pledging any type of collateral or potential, when  
18 they may have it with Merrill Lynch and Bank of  
19 America?

20 A. We're not providing any of the capital and/or  
21 guarantees.

22 Q. But you have executed and are receiving the  
23 finance sheet; is that correct?

24 A. That is correct.

25 Q. Are there other clear, potential development

1 projects you're exploring with Endeka that are not  
2 related to the casino project at this time?

3 A. No.

4 Q. One last question, Mr. Simon. Would you have  
5 brought this project to your banking contacts if it  
6 did not appeal to you and you did not believe strongly  
7 in the project?

8 A. I would never introduce anybody to my bankers if  
9 I didn't feel like it was worthwhile. Plus, we've  
10 checked you guys out, so we feel confident that we've  
11 got involved, and it makes sense for us.

12 ATTORNEY DOHERTY:

13 Mr. Chairman, I have no further  
14 questions. I'd offer him up for Cross Examination.

15 ATTORNEY PITRE:

16 We have no questions.

17 CHAIRMAN:

18 No questions? The Board has ---?

19 ATTORNEY DOHERTY:

20 Mr. Chairman, we'd call our next  
21 witness, Mr. Jeff Fritz. Attorney O'Riordan will be  
22 questioning Mr. Fritz, if that's all right.

23 -----  
24 JEFFREY FRITZ, HAVING FIRST BEEN PREVIOUSLY SWORN,  
25 TESTIFIED AS FOLLOWS:

1 -----

2 DIRECT EXAMINATION

3 BY ATTORNEY O'RIORDAN:

4 Q. Mr. Fritz, could tell the Board who you are and  
5 what you do and who you work for?

6 A. Yeah, my name's Jeffrey Fitz. I work at Merrill  
7 Lynch in their wealth management division. And Mr.  
8 Simon's been a client of mine since February, March of  
9 this year. And they are currently working on many  
10 deals similar to this, but just different industries.

11 Q. And could you give the Board some examples of the  
12 projects and their magnitude?

13 A. We are currently working on designating --- we've  
14 got the deals but we're working on a large hotel, a  
15 power plant. I can't really disclose too much  
16 information. But a power plant, oil and gas drilling  
17 wells, you know all over.

18 Q. And what about the Endeka project attracted your  
19 attention?

20 A. Well, it was ---.

21 Q. As far as to you at Bank of America and Merrill  
22 Lynch.

23 A. Well, what I find attractive is we're a  
24 substantial lender, and you know this project has a  
25 lot of features to it. You know, it's the last

1 remaining gaming license in the State, it's a 250 acre  
2 parcel, it's at a prime location. So there are ---  
3 you know, I perceive that the County's support is  
4 enticing as well. So you know, there's enough there  
5 to move it up the ladder.

6 Q. And Bank of America and Merrill Lynch, are you  
7 able to provide us with a timeframe in which you think  
8 that you will be able to have all the definitive loan  
9 documents done?

10 A. No, because I am not a decision maker. I am just  
11 the first stop of many, and you know we have a whole  
12 team that we work with of commercial bankers. We have  
13 a whole credit area, we have underwriters. So, you  
14 know, this is just the first step of many hurdles.  
15 But, you know, from what I've seen, I've had some  
16 preliminary discussions with some commercial bankers  
17 and there seems to be some interest.

18 Q. And do you think we can get this done in the next  
19 60 days?

20 A. Well as I mentioned I'm not a decision maker, so  
21 I can't say definitively. But some of the preliminary  
22 discussions we had, you know, there has been interest.

23 ATTORNEY O'RIORDAN:

24 Thank you.

25 CHAIRMAN:

1 Thanks.

2 ATTORNEY PITRE:

3 I have no questions.

4 CHAIRMAN:

5 Call your next witness.

6 ATTORNEY DOHERTY:

7 Thank you, Mr. Chairman. We would call  
8 Mahoning Township Chair, Gary Pezzuolo.

9 -----

10 GARY PEZZUOLO, HAVING FIRST BEEN PREVIOUSLY SWORN,  
11 TESTIFIED AS FOLLOWS:

12 -----

13 DIRECT EXAMINATION

14 BY ATTORNEY DOHERTY:

15 Q. Good morning, Mr. Pezzuolo. Can you please tell  
16 your position to the Board --- or your current  
17 position with Mahoning Township?

18 A. Yeah, I'm the supervisor. I've been on for 19  
19 years at Mahoning Township, and I'm currently the  
20 Chairman of the Board.

21 Q. So you've lived through most of the evolution of  
22 this project?

23 A. Yeah, I started with this project in '04.

24 Q. Can you explain to the Board what recent  
25 developments by way of sewer line development price

1 have been put in place to help support this project  
2 for the Township?

3 A. Yes. Under Governor Rendell, he gave us an \$11  
4 million start to get the sewer lines and a plant built  
5 to get this structure under --- you know, get it  
6 going. And then under Governor --- well, when H2O  
7 became available they gave us \$5 million towards the  
8 project and Governor Corbett gave us  
9 \$7.5 million dollars towards the project which brought  
10 us up to approximately a \$25 million project to get  
11 sewer and water to the site. And that's all in place.

12 Q. And, sir, can you please tell the Board what was  
13 the total cost of that?

14 A. \$25 million.

15 Q. And of that cost, what is currently owed by the  
16 Township?

17 A. The Township currently owes \$10 million for ---  
18 to Penn Devs (phonetic) we owe \$463,000 to H2O and we  
19 owe \$125,000 to PennDOT.

20 Q. And what was the anticipated revenue source that  
21 would have paid for that current bill, or continue to  
22 pay off the current bill?

23 A. Well the casino was the whole reason why we did  
24 the project in the first place, because we had to get  
25 the infrastructure in the ground in order to support

1 that. And that's why we did it. That's where the  
2 revenue would've come from to pay for, you know, the  
3 use. The usage of the facility would've paid for all  
4 the stuff that was done.

5 Q. When you say the facility, the project, if it's  
6 constructed, would generate enough money to satisfy  
7 the ongoing debt obligations for the sewer lines?

8 A. Yes, it would. The economic impact of that, with  
9 the jobs for the Township and with the money that was  
10 --- building permits and everything that was generated  
11 from that would set aside our debt.

12 Q. And can you please explain to the Board, if the  
13 project doesn't come to fruition in the near future,  
14 what will result as a result of this debt and its  
15 relationship to Mahoning Township?

16 A. Well, in October we had a meeting with BCED and  
17 with Penn Devs both, and we were having a hard time  
18 making our payments. Right now, we're taking our  
19 paving money for roads and anything we can get to keep  
20 from defaulting on what we're doing. In October, we  
21 were supposed to have a decision maybe by December or  
22 January about what was happening. And at that point,  
23 we were going to re-sit down with Penn Devs and the  
24 BCED to kind of restructure what we did and try to  
25 figure out how we were going to pay for what we did

1 and what we put in the ground.

2 Q. Sir, would you be in support of a 60-day  
3 extension for this project?

4 A. Yes, we need it badly. We need to get the thing  
5 done however we can get it in order to keep us afloat.  
6 If not, we're in trouble as far as paying our debt  
7 off.

8 Q. And the current projection for the project would  
9 be 18 months, approximately, from the date of the  
10 licensure. If that structure and timeline remained in  
11 place, would that provide enough time to allow you to  
12 continue paying down the debt but also to ensure that  
13 the debt is satisfied once it continues ---  
14 approximately 18 months after the license?

15 A. Yeah. What we did is, in order to bridge a gap  
16 and get a financing in order to make the payments, we  
17 took in a tap-in fee of \$2,500. And we did earmark  
18 that money, we had \$2,500 from 600 residents. And we  
19 kept that money in a reserve account in order --- in  
20 case something like this would happen, that we could  
21 keep paying our bills. But we're running out, we've  
22 got about \$140,000 left. Our payments are roughly, to  
23 run the plant, are \$65 a month, and we're roughly  
24 taking in \$40,000 a month. And we have the highest  
25 fees in the county at \$65 per resident, and there's a

1 lot of low and moderate income people there, so it's a  
2 struggle.

3 Q. So one last question, it's my understanding that  
4 the plant was designed to take at least one-third of  
5 its income --- of its source from the casino; is that  
6 correct?

7 A. It was. Originally the plant was set up to a  
8 160,000 gallon a day plant. We amended it to take in  
9 380,000 gallons a day to accommodate the track and any  
10 development that would've occurred around it.

11 Q. And how many systems are there in Mahoning  
12 Township?

13 A. How many residents?

14 Q. Residents.

15 A. 3,400.

16 ATTORNEY DOHERTY:

17 Thank you. I have no further questions.  
18 I would offer him on Cross.

19 CHAIRMAN:

20 Cross Examination?

21 ATTORNEY PITRE:

22 Just one.

23 CROSS EXAMINATION

24 BY ATTORNEY PITRE:

25 Q. Who made the decision to build a plant and do all

1 the sewer work and run the lines prior to the issuance  
2 of the casino license or the casino even coming under  
3 construction? Who made that decision?

4 A. What made our decision is we were --- we had an  
5 original project of \$11 million. When the casino came  
6 into --- they said that the casino was going to come  
7 to Mahoning Township we met up with the DEP. And they  
8 told us they have an Act 537 for, say, the north ---  
9 south end of the Township where the project would've  
10 been done. They amended that to do the engineering to  
11 give to the Racino, because we were told that it was  
12 coming.

13 And Penn Devs allowed us to use the money without  
14 having an Act 537 in place to do the engineering to  
15 get to the racetrack, because they said it was coming.  
16 And in '08, if they would've given the conditional  
17 license to do this, the money was secured, it was  
18 there. But at the time they did the Rivers and Barton  
19 got the conditional license and Mahoning Township  
20 didn't get it, and at that point, six months after,  
21 the market failed and the funding that was in place  
22 for the project got taken away.

23 ATTORNEY PITRE:

24 Just to correct the record, there was no  
25 conditional license issued to the Rivers or anything

1 of that nature. And the conditional license was not  
2 granted at the time because the background  
3 investigation had not been completed. In fact, the  
4 applications had only been recently filed for that  
5 Category 1 facility, so there was no conditional  
6 license ever issued by the Board as it relates to  
7 Rivers, or in this case the Lawrence County Casino.

8 CHAIRMAN:

9 Do you have other questions?

10 ATTORNEY PITRE:

11 I have no other questions.

12 CHAIRMAN:

13 Call your next witness.

14 ATTORNEY DOHERTY:

15 Thank you, Mr. Chairman. We would call  
16 Attorney Jim Chifulo. Attorney O'Riordan will be  
17 questioning Mr. Chifulo.

18 -----  
19 JIM CHIFULO, HAVING FIRST BEEN PREVIOUSLY SWORN,  
20 TESTIFIED AS FOLLOWS:

21 -----  
22 A. Good afternoon.

23 DIRECT EXAMINATION

24 BY ATTORNEY O'RIORDAN:

25 Q. Mr. Chifulo, could you tell the Board what you do

1 and what your relationship is with the Endeka project?

2 A. I'm a shareholder and director at the Law Firm of  
3 Cohen and Grigsby in Pittsburgh, Pennsylvania, and I  
4 was retained by the County of Lawrence as Special  
5 Finance Counsel and by the Lawrence County Industrial  
6 Development Authority as Bond Counsel. My role at the  
7 law firm is the Chairman of the finance part of our  
8 law firm.

9 Q. And what, if anything, have you done in  
10 connection with the Endeka project specifically in  
11 your role as the Chairman for Lawrence County --- or  
12 as Counsel for Lawrence County excuse me?

13 A. It dates back to, I believe, 2011 when I was ---  
14 when I and my firm were retained to advise the County  
15 on whether there could be a financing that would be  
16 predicated on the stream of income coming from the  
17 racino and be able to leverage that in the form of a  
18 bond issuance, so as to provide a grant from the  
19 Lawrence County Industrial Development Authority to  
20 the developers of the racino project, with the stated  
21 and explicit purpose of making certain that jobs were  
22 created in the County in tourism and in gaming.

23 Q. And is there an amount that's been authorized for  
24 the bond issuance, a ceiling?

25 A. Yes. And I'll have to check it to make sure, but

1 \$82 million is the ceiling that has been authorized,  
2 but there is --- it's very clear from the pro formas  
3 that have been done by Citigroup, the underwriters who  
4 have been engaged in this transaction, that it's  
5 probably closer to a \$50 million raise. And it will  
6 depend on how much capitalized interest and other  
7 costs and fees are associated with raising that money.

8 Q. And is the commitment from Lawrence County to the  
9 Endeka project, is that still in place?

10 A. Yes, it is. That resolution was adopted in 2011,  
11 and I think that you will hear from Commissioner  
12 Vogler that that remains. But certainly it is also  
13 the Lawrence County Industrial Development  
14 Authority's. Their resolutions have been adopted and  
15 it remains as a project that is current and ready to  
16 be funded.

17 Q. With respect to the bond issuance and  
18 corresponding grant to Endeka, is there any obligation  
19 on the part of Endeka or the Endeka project to repay  
20 those amounts to Lawrence County?

21 A. No, the stream of income that will repay those  
22 bonds is the statutorily provided for income that  
23 comes off the terminal slots and off the table games,  
24 and is the local share that will go to Lawrence  
25 County. And then Lawrence County will fund the

1 Lawrence County Industrial Development Authority.

2 It's very important to know that these bonds are  
3 non-recourse. They're not general obligation bonds,  
4 they are taxable revenue bonds, not general  
5 obligation. And there is no taxpayer money that ---  
6 no ability to pass any of this on to the taxpayers at  
7 all.

8 Q. So neither the taxpayers nor Endeka are going to  
9 suffer an impact as a result of these bonds?

10 A. That is correct.

11 Q. And that is a negative impact?

12 A. I beg your pardon?

13 Q. That is a negative impact, that they're not going  
14 to suffer any negative impact?

15 A. No, they're not going to suffer any negative  
16 impact. They will suffer a positive impact,  
17 certainly.

18 Q. And did you prepare some documents in connection  
19 with these bonds?

20 A. I did.

21 Q. And I would just note for the Board Exhibits 2  
22 and Number 3 are two exhibits, were they prepared by  
23 you?

24 A. Yes. At the request of Attorney Doherty, when  
25 the Enforcement Counsel asked for certain questions to

1 be answered in August of 2014, my firm prepared a  
2 letter answering those questions to Mr. Doherty. And  
3 then I assumed that Mr. Doherty passed those along to  
4 the Board. And ultimately, they were made part of the  
5 record.

6 On another occasion in 2014, we were asked by the  
7 County to again explain the transaction so that all of  
8 the documents were in one place, including all the  
9 resolutions giving rise to the obligations of the  
10 entities, both the County and the Lawrence County  
11 Industrial Development Authority. And we did so, and  
12 that was dated April 10th, 2014. And I assume that's  
13 been entered into the record at one point or another,  
14 as well.

15 Q. And, Mr. Chifulo, I just want to make sure for  
16 certain I understand. Is the taxing authority of the  
17 County, is that standing behind the bonds?

18 A. It is not standing behind the bonds. These bonds  
19 are self-liquidating revenue bonds. The County does  
20 not issue the bonds, so they can't stand behind them.  
21 It is the Lawrence County Industrial Development  
22 Authority. A very important distinction that it is  
23 not the County issuing the bonds.

24 Q. And have you engaged anyone to handle these  
25 bonds, if you know?

1 A. As I said, Citigroup has been engaged. They have  
2 worked through this on a number of occasions. They've  
3 done the pro formas, and we believe that it's about a  
4 three-month timing to --- from the day that that  
5 license is issued to the day that the money can  
6 actually be brought into the mix. We went through a  
7 very, very robust RFP process, it was sent out to 30  
8 different investment bankers and commercial banks.  
9 And the process, which involved the County and the  
10 County IDA, were very --- it was a very well-run  
11 process and it was one that Citi stood out as the ---  
12 Citigroup stood out as the most competent investment  
13 bankers in the process as it related to gaming and  
14 this project in particular.

15 ATTORNEY O'RIORDAN:

16 Thank you, Mr. Chifulo. That's all I  
17 have for this witness.

18 CHAIRMAN:

19 Thank you. Any Cross Examination?

20 ATTORNEY PITRE:

21 Yes.

22 CROSS EXAMINATION

23 BY ATTORNEY PITRE:

24 Q. As it relates to the bond, let's say the casino  
25 gets up and running and everything's going smoothly

1 for about the first few months and all of the sudden,  
2 you know, they start to have a decline in business.

3 A. Okay.

4 Q. Is there a certain amount of revenue stream that  
5 has to exist in order for those bonds to be repaid?

6 A. The way the State statute reads is that that  
7 revenue comes off whether there's business going  
8 through that --- whether that casino's making the  
9 requisite amount of dollars or not. So that I assume  
10 that the reserves that the casino have in place will  
11 pay that revenue stream. That's required under your  
12 statute.

13 Q. What happens if the casino shuts down?

14 A. If the casino shuts down then the next operator,  
15 if there is a next operator, they will pay it.

16 Q. But if there's no operator and the casino shuts  
17 down, who pays it?

18 A. That's just like any other debt, it would be in  
19 default and it would be a determination at that time.  
20 It would be then subject to the insolvency and  
21 bankruptcy statutes, which is no different than a loan  
22 that's made to any business organization or authority  
23 or County entity or Township. It's the same exact  
24 issue, nothing is different.

25 Q. So no matter what happens to this casino, the

1 taxpayers will never be on the hook for paying that  
2 bill?

3 A. That is absolutely, positively right. It will be  
4 the bondholders, who are --- and they went in with  
5 their eyes open. And it's no different than any other  
6 default in a bond financing. But, other than the  
7 general obligation financing, and this is not ---  
8 never has been intended to. And the Commissioners of  
9 Lawrence County, as well as the IDA, were very adamant  
10 about maintaining this gaming non-general obligation  
11 issuance.

12 Q. If there's any default, what's the impact of a  
13 future issuance?

14 A. None whatsoever, because it will not enter into  
15 the default of --- it will not be a part of the  
16 ability to raise general obligation funds, because  
17 there's no impact on the County itself.

18 ATTORNEY PITRE:

19 I have no further questions.

20 CHAIRMAN:

21 Call your next witness.

22 ATTORNEY DOHERTY:

23 Thank you. Mr. Chairman, we'd call  
24 Commissioner Dan Vogler.

25 -----

1 DAN VOGLER, HAVING FIRST BEEN PREVIOUSLY SWORN,  
2 TESTIFIED AS FOLLOWS:

3 -----

4 DIRECT EXAMINATION

5 BY ATTORNEY DOHERTY:

6 Q. Mr. Commissioner, please explain your role with  
7 Lawrence County to the Board.

8 A. Thank you. Good afternoon. I serve as ---  
9 currently serve as the Chairman of the Board of County  
10 Commissioners. I've held office as Commissioner since  
11 the beginning of 2004.

12 Q. So much like Mr. Chifulo, you've lived through  
13 this project?

14 A. From the very beginning, yes, sir.

15 Q. Can you please advise the Board whether the  
16 County's commitment remains as it relates to the bond  
17 that was just discussed by Attorney Chifulo?

18 A. Yes. I can confirm those comments that were  
19 entered into the record just a few moments ago by Mr.  
20 Chifulo, and I appreciate very much that he was able  
21 to elaborate in far greater detail than I would be  
22 able to. There remains a strong commitment on the  
23 part, obviously, of myself and my two current fellow  
24 Commissioners. And I think it would be safe to assume  
25 --- and for those of you who were on the Board a

1 number of years ago, when you came to Lawrence County  
2 and heard testimony from a cross section of our  
3 community and did not hear any negative testimony  
4 during that hearing from any Lawrence County resident.  
5 I would submit that that type of support, that range  
6 of support, that level of support throughout the  
7 community continues today.

8 Q. Commissioner, are you in support of Endeka's  
9 request for a 60-day extension?

10 A. Yes, I am.

11 Q. Can you explain to the Board why and what that  
12 would mean to Lawrence County?

13 A. Well, as to why --- and I'm able to say it now, I  
14 was hoping to say it before I concluded. I do want to  
15 offer my personal appreciation not only to this  
16 current Board, but to your predecessors. You've all  
17 been very patient people, very patient people. Back  
18 home in Lawrence County, we've been very patient.

19 One of the things I looked into prior to coming  
20 in here today was what our current rate of  
21 unemployment is in Lawrence County. The figure in  
22 May, at least, was 6.5 percent, much higher than the  
23 State or national average. We continue to struggle  
24 economically, and we appreciate the efforts of Endeka  
25 because of what we hope will be the end result, the

1 opportunity for, at least initially, the construction  
2 jobs that will result from this project. And then  
3 ultimately the permanent jobs at the facility as well  
4 as the potential for other employment opportunities  
5 from ancillary development that we anticipate will  
6 happen what we've seen in other communities throughout  
7 the State that currently host casinos.

8       So I can give this Board my assurance that the  
9 elected leadership in the County continues to support  
10 this and would support the 60-day extension.

11 Particularly from the standpoint --- again, going back  
12 to this whole concept of patience. We've been patient  
13 for 12 years, we can be patient for 60 more days.

14 Q. And very briefly, can you explain to the Board  
15 recent developments with Shell and how you believe  
16 that would be beneficial --- beneficially impact this  
17 project, should it be brought to fruition?

18 A. I'm sure most of the Board members, if not all of  
19 you, have heard or read about a major announcement on  
20 the part of Royal Dutch Shell relative to the  
21 construction of a cracker facility in Central Beaver  
22 County that will be employing, perhaps, thousands of  
23 construction workers and then ultimately hundreds of  
24 full-time employees at that proposed facility along  
25 the Ohio River.

1           We border Beaver County. Interstate 376 is the  
2 principal connector between Beaver County and Lawrence  
3 County. The drive time, let's say, is from Newcastle  
4 approximately 30 minutes. We feel that we'll benefit  
5 from that, as will the neighboring counties of,  
6 Washington, Allegheny, Butler. But we hope that that  
7 could ultimately benefit the casino itself, you have  
8 more people employed. And once again, the ancillary  
9 development that we hope to see from that, we think  
10 could ultimately benefit, in a positive manner, a  
11 casino in Lawrence County.

12                           ATTORNEY DOHERTY:

13                           Mr. Commissioner, thank you for your  
14 time.

15 A. Thank you.

16                           ATTORNEY DOHERTY:

17                           Mr. Chairman, I have no further  
18 questions. I would offer him up for Cross Examination  
19 at this point.

20                           ATTORNEY PITRE:

21                           I have no questions.

22                           ATTORNEY DOHERTY:

23                           Mr. Chairman, we have no further  
24 witnesses at this time.

25                           CHAIRMAN:

1                   At this point, I'd call upon my fellow  
2 Commissioners for any questions they have. And maybe  
3 --- if there's any for particular witnesses. Mr.  
4 William?

5                   MR. RYAN:

6                   I'm not sure. Who should I --- should  
7 address this? Perhaps to you, Mr. Doherty. You've  
8 talked about 60 days, and a drop dead 60-day date.  
9 How drop dead is it and what's your definition of drop  
10 dead? And how can OEC and how can the Board know that  
11 60 days means 60 days, not 60 days and three hours?

12                  ATTORNEY DOHERTY:

13                  I understand, and maybe it was my fault  
14 for not being clear with that, and I apologize in  
15 advance. One of the ways I would define the 60 days  
16 is an absolute 60 days. And tomorrow, we would be  
17 willing to file a Petition to Withdraw that would  
18 become automatically effective at midnight on the 60th  
19 day that would --- we would waive any request for a  
20 hearing and allow the Board to tag them.

21                  MR. RYAN:

22                  And that would, I would assume, put your  
23 side and the project basically at the mercy of OEC;  
24 correct?

25                  ATTORNEY DOHERTY:

1 That is correct, and Bank of America.

2 MR. RYAN:

3 But your bigger problem would be OEC?

4 ATTORNEY DOHERTY:

5 Yes, we would have to satisfy their need  
6 to have final executed financial documents.

7 MR. RYAN:

8 And ---

9 ATTORNEY DOHERTY:

10 And whatever other ---.

11 MR. RYAN:

12 --- whatever else OEC determined was  
13 necessary.

14 ATTORNEY DOHERTY:

15 Absolutely.

16 MR. RYAN:

17 If not done, that would mean that you're  
18 out of luck?

19 ATTORNEY DOHERTY:

20 Yeah. Correct, Commissioner.

21 MR. RYAN:

22 Can I ask, what is Mr. Procacci's  
23 investment sell for, his out-of-pocket investment  
24 amount?

25 ATTORNEY O'RIORDAN:

1                   Several million dollars, plus the \$50  
2 million in assets he's tied up in backing Federal  
3 credit.

4                   MR. RYAN:

5                   And you are going to depend on financing  
6 for every dime of the rest. Would that be correct?

7                   ATTORNEY O'RIORDAN:

8                   No, we --- actually that came off a  
9 little muddled. Mr. Procacci's total investment would  
10 be \$25 million, he would be putting that up. That  
11 would, under the instruction, as we're talking about  
12 with BOA, that was the mutual reserve fund. And that  
13 would be held, we would have a letter of credit we  
14 would draw down towards the full funding amount. But  
15 Mr. Procacci would be putting up \$25 million.

16                   MR. RYAN:

17                   And what would it be for, sir?

18                   ATTORNEY O'RIORDAN:

19                   And I ---.

20                   MR. RYAN:

21                   What would this reserve fund be utilized  
22 for?

23                   ATTORNEY O'RIORDAN:

24                   Essentially collateral. It would sit  
25 there, and the same thing with when the County money -

1 -- County grant would come in, that would pour into  
2 the reserve fund. It would sit there both as  
3 collateral, but as the first line of defense, as a  
4 backstop for any cost of the loans. So there would be  
5 \$25 million from Mr. Procacci and \$50 million, not  
6 minus expenses, from the County grant.

7 MR. RYAN:

8 That's all I have.

9 CHAIRMAN:

10 Mr. Canfora, I have a question on the  
11 \$205 million project cost estimate. Does that include  
12 contingency?

13 MR. CANFORA:

14 Yes.

15 CHAIRMAN:

16 So that is total dollars out if we can  
17 build this up and running?

18 MR. CANFORA:

19 Yes.

20 CHAIRMAN:

21 Not only the construction costs but  
22 total project costs?

23 MR. CANFORA:

24 Yes.

25 MR. WOODS:

1                   Just a note. Obviously, this is a very  
2 public process. A lot of things were stipulated to  
3 today and put on the record. There's a lot of  
4 documents that we have access to, but this is also  
5 being streamed live so other people who might have an  
6 interest, the public newspapers who are covering this,  
7 and whatnot. Would you please just, in a few short  
8 sentences, tell me who Endeke was at the beginning of  
9 this whole process, who Endeke was when they appeared  
10 before us last year, who Endeke was --- or is, as  
11 they're sitting before us, and who Endeke will be when  
12 the license is granted and will be given to Endeke?  
13 So who are the Principals, and are they --- who were  
14 they, who are they and who will they be?

15                   ATTORNEY DOHERTY:

16                   You can handle this one.

17                   ATTORNEY O'RIORDAN:

18                   I can if we work backwards, I guess.

19 All right. Today the Principals of Endeke are  
20 Procacci Local Gaming, LLC, which is an entity wholly  
21 owned by Mr. Procacci, Procacci Limited Local Gaming  
22 --- or I'm sorry, Procacci Local Gaming is the general  
23 partner of Endeke. Procacci Limited Local Gaming, LLC  
24 is the limited partner, 89.9 percent, and that's  
25 wholly owned by Mr. Procacci.

1           So together, he owns 90 percent of the  
2 partnership interest in Endeka. Ten percent of those  
3 interests are held by AHT, which was the owner of the  
4 land which sold it to Endeka. And so currently  
5 structured, AHT has 10 percent and Mr. Procacci has 90  
6 percent. When we appeared before you last May, Mr.  
7 Procacci was not then an owner of Endeka. At that  
8 point, AHT held 10 percent and Tuxepo GP and Tuxepo  
9 Investors, same sort of structure, held the other 90  
10 percent.

11           That 90 percent was held --- Manny  
12 Stamatakis was Tuxepo GP, and then Tuxepo Investors  
13 was Manny --- it was a group of Philadelphia  
14 businessmen. It was Lou Katz, Ed Snyder, who recently  
15 has passed, former owner Flyers, Manny Stamatakis and  
16 Tom Leonard, attorney with the Obermayer Firm. And  
17 Peter Devall. Thank you. I'm sorry. Going back  
18 before that, Jim?

19           ATTORNEY DOHERTY:

20           That's AHT.

21           ATTORNEY O'RIORDAN:

22           AHT bought the project out of  
23 bankruptcy, so before that, it was American Harness  
24 Track.

25           MR. WOODS:

1           So going forward, is there any change in  
2 what we've perceive to be the ownership of Endeka if  
3 the license was to be granted?

4           ATTORNEY O'RIORDAN:

5           No. Well, with the exception of the  
6 withdrawals, which are before the Board, so we have  
7 the Nannicola members of AHT. They've now withdrawn,  
8 and Mr. Wise, who was proceeding this in March, we  
9 persuaded him, his best actions --- so he stopped the  
10 petition, as well. So there's no anticipated change  
11 in the ownership.

12          MR. WOODS:

13          The current history of this project,  
14 could you tell me which gaming companies had their  
15 hands in the partnership, which actually operates the  
16 casinos?

17          ATTORNEY O'RIORDAN:

18          Before we were involved it was Penn  
19 National and they filed their withdrawal last spring.  
20 And since then, it's been Merit PHL and their  
21 affiliate, Merit Management. They're the only two  
22 gaming companies that I'm aware of that are involved.

23          MR. WOODS:

24          A question for Merit, now. Two things.  
25 One, what does Merrill Lynch think of your company

1 from an investor relations position?

2 MR. CANFORA:

3 It'd probably be a better question to  
4 ask them, but I think I have a pretty good reputation.  
5 In the past, I've worked with both BOA and Merrill  
6 Lynch, specifically when I was in Las Vegas. When I  
7 was President, of course, I also worked with BOA.

8 MR. WOODS:

9 And in your history of building casinos  
10 as Merit Management, I guess, that's officially what  
11 you're going under for the casino?

12 MR. CANFORA:

13 Yes.

14 MR. WOODS:

15 Merit Management is --- there's been a  
16 difficult time getting financing for your other  
17 projects? How does this rank in the world of  
18 financing?

19 MR. CANFORA:

20 When I left --- I formed Merit in 2000,  
21 I had a non-compete. We sold the Empress to Jack  
22 Binion and the Horseshoe. So my first venture to get  
23 around the non-compete in the Act and not retire too  
24 soon, I did some native --- I built a casino in  
25 Bellingham, Washington, and we fully funded it, which

1 was a new venture as far as capital raising, which  
2 gets kind of complicated as far as the native  
3 financing, but we financed it. We actually provided  
4 all the necessary capital, which it's a very  
5 successful casino today.

6 MR. WOODS:

7 Thank you. Last question. At a point  
8 Endeika asked OEC to discontinue any investigations, to  
9 put a halt as I understood it. Why was that done and  
10 what is the status?

11 ATTORNEY DOHERTY:

12 Commissioner, that was done --- you are  
13 correct, that was requested and that was when were  
14 identifying --- when we had really come to loggerheads  
15 with the issue with Kurt Wise. We were honestly  
16 determining whether we could seek additional  
17 financing, replacement financing, for the bonds for  
18 the project, or whether we would simply withdraw.  
19 That's why it was ---.

20 MR. WOODS:

21 And when did you notify OEC that you'd  
22 like to continue?

23 ATTORNEY DOHERTY:

24 Well when we submitted the revised  
25 financing, we haven't notified them yet. It was

1 subject to today, quite honestly.

2 MR. WOODS:

3 And just a question for OEC, then. What  
4 is your status with looking at this project, other  
5 than the recommendation you're making before us today?

6 ATTORNEY PITRE:

7 There is no status. I mean, as far as  
8 we're concerned our work is complete. If the Board  
9 grants them an extension, we will begin that work  
10 again. We've done some preliminary review of Legado,  
11 so, and Mr. Simon spoke to its formation, which was  
12 very recent. It has no history in gaming. So as far  
13 as we're concerned, we're standing by our  
14 recommendation of denial in this instance.

15 MR. WOODS:

16 And if indeed they came forward with a  
17 proposal for financing within 60 days, how long do you  
18 believe --- I think we asked you this question a year  
19 ago and you thought a minimum of six months at that  
20 time, to review the Principals and the financing.  
21 What would you anticipate would be the future after  
22 the 60 days of your work?

23 ATTORNEY PITRE:

24 Well, that would depend what was  
25 submitted. I mean, if we were expecting --- the last

1 time we weren't expecting any new individuals or  
2 entities and we didn't know until the time that they  
3 filed that there were a new individuals, a new entity,  
4 in this non-traditional financing. If we're looking  
5 at the individuals that we have on the record today as  
6 being part of the project and straight bank financing  
7 with no bells or whistles, a minimum of 90 days.

8 MR. WOODS:

9 Thank you. I have no other questions.

10 MR. MCCALL:

11 Thank you, Mr. Chairman. You'll have to  
12 bear with me. A lot of my questions have been  
13 answered, so I have to go through my scribbling here.  
14 So the 60 days --- again, the 60 days is just on the  
15 financials. You'll have to do a background check, and  
16 you're saying at minimum 90 days.

17 ATTORNEY PITRE:

18 You're looking, just for the FIU review,  
19 it would be 90 days. Then we have reports, and I'm  
20 sure there will be some questions. Okay? So if  
21 you're looking for when the Board will receive this,  
22 next spring.

23 MR. MCCALL:

24 And that's with full cooperation, of  
25 course, again, by ---?

1                   ATTORNEY PITRE:

2                   That's with full cooperation.

3                   MR. MCCALL:

4                   Full cooperation.

5                   ATTORNEY PITRE:

6                   No ---.

7                   MR. MCCALL:

8                   And no stonewalling, no changing, no  
9 anything, that's ---?

10                  ATTORNEY PITRE:

11                  No hold back, no saying I'll get this to  
12 you, I'll get this to you and then partial  
13 submissions.

14                  MR. MCCALL:

15                  I got it. On the financing, again I  
16 just --- you know, \$205 million seems like just not  
17 enough money to build a full-fledged casino. And as  
18 proposed, a one-mile racetrack plus all the amenities  
19 that go with that harness racing track as well, the  
20 back track and the stables. Is \$205 million enough to  
21 do this project?

22                  MR. CANFORA:

23                  Well, we believe so. I mean, we have a  
24 breakdown by line item, with some --- remember, the  
25 infrastructure, there's been a lot of money sent on

1 this site, moving dirt. With Centaur, we've spent a  
2 lot of money moving dirt. The sewer and water was  
3 another few million. It was millions of dollars to  
4 get the sewer line, as Gary mentioned. Utilities is  
5 always a big party expense.

6 The site also, from the Centaur drawings  
7 to the AHT to this progression, has been also moved  
8 around to minimize even moving more dirt. But you  
9 know, it's a big piece of property so the site  
10 improvement --- there was a lot of value engineering  
11 done on that.

12 MR. MCCALL:

13 And engineering for transportation,  
14 ingress, egress, stop lights, all of the accesses of  
15 an address?

16 MR. CANFORA:

17 Correct. There's been a lot of work by  
18 the civil engineering group to figure that, all the c  
19 ore drilling's been done. Again, there's been a  
20 tremendous amount of money spent on this, both soft  
21 and hard costs. There's been like \$15 million spent  
22 to date, but a lot of it was lost on legal or soft  
23 costs, but there's been also some tangible products.

24 MR. MCCALL:

25 Mr. Simon, just a couple questions for

1 you. Did I hear or understand that you said that you  
2 partially own a sports team? Can you tell us what  
3 sports team that is that you partially own?

4 MR. SIMON:

5 No, I don't own it.

6 MR. MCCALL:

7 Oh, you're trying to own it?

8 MR. SIMON:

9 Hoping to own.

10 ATTORNEY DOHERTY:

11 Yeah, it's right here. Step up for a  
12 minute.

13 CHAIRMAN:

14 Yeah, sit up there, sir.

15 MR. SIMON:

16 We have been trying to own a Major  
17 League Baseball team, and we've been doing that since  
18 the mid-'90s.

19 MR. MCCALL:

20 Well, and then here's where I think I  
21 need to be really educated because I'm a little  
22 confused. There's a letter of intent that we  
23 reforwarded from Doherty Hayes, and you are in this  
24 letter of intent agreeing that Legado will proved full  
25 financing for Endeka.

1                   MR. SIMON:

2                   Right.

3                   MR. MCCALL:

4                   Doesn't that ---?

5                   MR. SIMON:

6                   Well, we were under the understanding we  
7 were not going to have to fill out any kind of Gaming  
8 License at all.

9                   MR. MCCALL:

10                  OEC. Will he have to do gaming license?

11                  MR. SIMON:

12                  Likely so, but we're not involved in  
13 that project, we're a lender..

14                  ATTORNEY PITRE:

15                  If you are --- I wasn't going to go get  
16 in a back and forth but, in our opinion yes.

17                  ATTORNEY DOHERTY:

18                  And Commissioner, I don't mean to  
19 interrupt, I apologize.

20                  CHAIRMAN:

21                  Sure.

22                  ATTORNEY DOHERTY:

23                  There was an additional document that  
24 was executed yesterday that was made part of the  
25 record that it supplements what you have in front of

1 you.

2 MR. SIMON:

3 Right.

4 ATTORNEY DOHERTY:

5 And the terms would be in final form.  
6 It also says that today, July 13th, that Legado was  
7 aware of the licensing requirements associated with  
8 its proposed involvement with this project and is  
9 willing to comply with the Pennsylvania Gaming Control  
10 Board's regulatory and licensing requirements.

11 MR. SIMON:

12 Yeah.

13 ATTORNEY DOHERTY:

14 And that's your letter, so proving your  
15 point. He would have to be vetted, and that would  
16 exclude you then ---

17 MR. SIMON:

18 From baseball.

19 ATTORNEY DOHERTY:

20 --- from baseball.

21 MR. SIMON:

22 And we won't do that, we won't fill out  
23 the documentation. We're not going to be involved in  
24 it.

25 CHAIR:

1 For the financing for this project?

2 MR. SIMON:

3 Right. For the application.

4 CHAIR:

5 For the application?

6 ATTORNEY PITRE:

7 He's saying he's not filling out an  
8 application, so ---.

9 MR. MCCALL:

10 Are you aware on the local share that  
11 there has been a court case filed with the courts that  
12 is challenging the local share money, and that if in  
13 fact, the casinos win that court case, that the local  
14 shared money that Lawrence County and Mahoning  
15 Township is hoping for could cause them to default?  
16 And I know that's a question that we don't know the  
17 answer to definitively.

18 But it is something that you have to  
19 take into consideration, since that provision in the  
20 law is now currently being challenged, that local  
21 share funding. And what impact would that have on  
22 Mahoning Township and Lawrence County?

23 ATTORNEY DOHERTY:

24 Well, I mean, I don't presume to speak  
25 for the County or the Township, but I believe the

1 funding, as you heard earlier, is not conditioned upon  
2 the receipt of the grant.

3 MR. MCCALL:

4 That's the \$50 million for ---

5 ATTORNEY DOHERTY:

6 Right.

7 MR. MCCALL:

8 --- the bond.

9 ATTORNEY DOHERTY:

10 Yeah.

11 MR. MCCALL:

12 But what I'm saying is that there were  
13 in part infrastructure enhancements made on that  
14 property that, I think, relies on some local share  
15 money. Am I correct in assuming that?

16 ATTORNEY CHIFULO:

17 I'll be happy to ---.

18 ATTORNEY DOHERTY:

19 Attorney Chifulo?

20 ATTORNEY CHIFULO:

21 Yes, sir. I believe the question that  
22 you're asking is what happens if there is no \$50  
23 million that is granted, and what happens to the  
24 project? I need to understand the question so I could  
25 answer it, just so I ---.

1                   MR. MCCALL:

2                   No, I'm talking about the local share  
3 money. I was under the impression that Mahoning  
4 Township was relying on the local share money that the  
5 casinos would be providing. There's a two percent  
6 local share up to a \$10 million minimum that they pay  
7 to the local entity for whatever they may ---.

8                   ATTORNEY CHIFULO:

9                   And what Mr. Pezzuolo testified to is if  
10 the local share is not there, then it will likely  
11 default on its obligation. But the local share is not  
12 there if the casino is not built, yeah. So, that's --  
13 - that is the ---. That's the impact that Mr. ---  
14 Supervisor Pezzuolo did testify to.

15                   MR. MCCALL:

16                   No, that ---. And I guess for the  
17 record, I'm just saying that regardless of what's  
18 built or not, there may be a court case that  
19 jeopardizes that money anyway.

20                   ATTORNEY CHIFULO:

21                   But it would jeopardize it in all the  
22 casinos in ---.

23                   MR. MCCALL:

24                   Yeah, all of them, in all the ---.

25                   ATTORNEY CHIFULO:

1 Including Pittsburgh and Bethlehem.

2 MR. MCCALL:

3 Exactly, all of them. Yeah. Mr. Simon,  
4 I have a couple more questions I just wanted to ask  
5 you again. I'm sorry. Can you tell us who the  
6 officers and directors are of Legado Investment Group?

7 MR. SIMON:

8 Yes, myself and Jeff Black, my oil and  
9 gas attorney, so ---.

10 MR. MCCALL:

11 You're the ---? It's just the two of  
12 you? So, who is Inashay (phonetic) Washington?

13 MR. SIMON:

14 I ---.

15 MR. MCCALL:

16 Inashay Washington? He filled letters  
17 of incorporation and development on Legado's behalf.

18 MR. SIMON:

19 Jeff Black handled all the legal ---.

20 MR. MCCALL:

21 Do you know the phone number for Legado  
22 Investment in your Oklahoma City office?

23 MR. SIMON:

24 On my speed dial.

25 MR. MCCALL:

1 Well, the reason why I asked --- you  
2 know, I went online. There are a number of companies.  
3 Legado Investment Group, Rural Hospital Acquisition,  
4 Kevin Miller, P.C., CPA Tax Counselors, Office.Com,  
5 SOS P2BL pages all with the same address, every one of  
6 those. So, is it a virtual office with no phone  
7 number? What's going on? There's like nine entities  
8 that have the same address as your Oklahoma City  
9 address. Is ---?

10 MR. SIMON:

11 It's a commercial building. Our  
12 attorney's offices are in the building.

13 MR. MCCALL:

14 There's an actual office and an actual  
15 phone number? You'll provide that to us; correct?  
16 So, all these other offices ---? What is the office?  
17 What is the address of your ---? Is it 355 North  
18 West 58th Street, Suite 1000?

19 MR. SIMON:

20 Yes, that's ---.

21 MR. MCCALL:

22 Well, there's nine other entities that  
23 have that same address.

24 MR. SIMON:

25 I understand. Jeff represents more than

1 our company, as well, so they might be using that  
2 address. I don't know.

3 MR. MCCALL:

4 And you're located in San Francisco,  
5 Oklahoma City and out of Delaware; correct?

6 MR. SIMON:

7 Not Delaware. I live in San Francisco.

8 MR. MCCALL:

9 I get that. Yeah, I'm sorry. It's  
10 Wyoming where I was --- where you're ---.

11 MR. SIMON:

12 We probably filed in Wyoming.

13 MR. MCCALL:

14 You're incorporated in Wyoming; correct?

15 MR. SIMON:

16 That's correct.

17 MR. MCCALL:

18 Can you tell us what assets ---? What  
19 are your current assets of Legado?

20 ATTORNEY DOHERTY:

21 Commissioner, my request is that that be  
22 confidential, as it relates to the direct assets of  
23 the individual.

24 MR. MCCALL:

25 I think that's all my questions, Mr.

1 Chairman. Thank you.

2 CHAIRMAN:

3 Commissioner Fajt?

4 MR. FAJT:

5 Thank you, Mr. Chairman. Mr. O'Riordan,  
6 I'll start with you. Can you explain ---? And I know  
7 we talked about the financing, the \$205 million.  
8 Where specifically does that come from?

9 ATTORNEY O'RIORDAN:

10 \$205 million essentially will be drawn  
11 down from the Bank of America and Merrill Lynch credit  
12 line.

13 MR. FAJT:

14 And you have not started to negotiate  
15 the terms of that credit agreement as of yet; correct?

16 ATTORNEY O'RIORDAN:

17 Just the overall picture.

18 MR. FAJT:

19 So, again, to make sure I understand it,  
20 you believe that Bank of America and Merrill Lynch  
21 will provide you with the \$205 million credit  
22 facility?

23 ATTORNEY O'RIORDAN:

24 It's a business model that Mr. Simon has  
25 used in his relationships, and we're going to track

1 that business model there by putting our equity into  
2 the reserve fund and ---.

3 MR. FAJT:

4 All right. I don't want to get into  
5 that. I want to stay focused on the \$205 million.  
6 I'm not ---. I don't want to get into credit  
7 facilities. It muddies the water. \$205 million, your  
8 understanding and our understanding, it is coming from  
9 Bank of America/Merrill Lynch?

10 ATTORNEY O'RIORDAN:

11 Yes.

12 MR. FAJT:

13 Does that \$205 million ---? From that  
14 \$205 million, then --- am I correct in assuming that  
15 \$66 million will be paid to Pennsylvania for licensing  
16 fees?

17 ATTORNEY O'RIORDAN:

18 Yes, that is included.

19 MR. FAJT:

20 All right. Let's keep the math simple.  
21 Let's just say it's \$65 million. We now have \$140  
22 million left. We're on the same page?

23 ATTORNEY O'RIORDAN:

24 Yep.

25 MR. FAJT:

1                   Mr. Doherty or Mr. O'Riordan, I next  
2 want to move into the facility itself. How many slot  
3 machines do you intend to open?

4                   ATTORNEY O'RIORDAN:

5                   I believe the number is 1,500 that would  
6 be there.

7                   MR. FAJT:

8                   1,500? And how many table games do you  
9 intend to open?

10                  ATTORNEY DOHERTY:

11                  The answer to your question is 34 ---  
12 38.

13                  MR. FAJT:

14                  Thirty-eight (38)? How many restaurants  
15 will be in the combined track/casino?

16                  ATTORNEY O'RIORDAN:

17                  As planned currently, there will be a  
18 buffet, coffee shop, steakhouse type of facility.

19                  MR. FAJT:

20                  So, is that three different facilities?

21                  ATTORNEY O'RIORDAN:

22                  It's three different venues.

23                  MR. FAJT:

24                  Three different venues? Okay. And the  
25 size of the track, I think Commissioner McCall had

1 said earlier, is a one mile track; correct?

2 ATTORNEY O'RIORDAN:

3 That's correct.

4 ATTORNEY DOHERTY:

5 Correct.

6 MR. FAJT:

7 And will the track have a grandstand?

8 ATTORNEY O'RIORDAN:

9 Yes, sir.

10 MR. FAJT:

11 And what is the capacity --- anticipated  
12 capacity of the grandstand?

13 ATTORNEY O'RIORDAN:

14 I don't have the exact number on that.  
15 It'd be in the middle of ---.

16 MR. FAJT:

17 Well, let me ask you the next question.  
18 You can look for it. What about the back side? What  
19 will be the composition of the back side? Will there  
20 be barns? Will there be housing?

21 ATTORNEY DOHERTY:

22 No barns.

23 MR. FAJT:

24 No barns?

25 ATTORNEY DOHERTY:

1 No barns.

2 MR. FAJT:

3 So, ---.

4 ATTORNEY O'RIORDAN:

5 It's a ---.

6 MR. FAJT:

7 An in and out facility.

8 ATTORNEY O'RIORDAN:

9 I'm sorry?

10 MR. FAJT:

11 In and out facility?

12 ATTORNEY O'RIORDAN:

13 Yes.

14 ATTORNEY DOHERTY:

15 Yes.

16 MR. FAJT:

17 So, they will arrive. The jockeys,  
18 owners arrive with their horses, run the race and  
19 leave?

20 ATTORNEY O'RIORDAN:

21 Correct.

22 MR. FAJT:

23 I think even in an in and out facility  
24 in Pennsylvania, I mean, there is some infrastructure  
25 required.

1                   ATTORNEY DOHERTY:

2                   But there's also a full paddock.

3                   MR. FAJT:

4                   So, there's a full paddock? Okay. But  
5 no barns? Here's my concern. We're now getting down  
6 to \$140 million, which will be a full casino, three  
7 restaurants, 1,500 table games, 30 --- or 38 table  
8 games, 1,500 slot machines, 3 restaurants, the  
9 building of a one mile racetrack, paddocks on the back  
10 side, maybe a grandstand, maybe not and all the  
11 amenities that go with a casino for \$140 million. Do  
12 you have any idea what the average cost of our casinos  
13 are in Pennsylvania when they were initially built?

14                   MR. CANFORA:

15                   We have estimates of ranges depending on  
16 the food and beverage facilities, depending on the  
17 back of the house ---.

18                   MR. FAJT:

19                   And what are your numbers?

20                   MR. CANFORA:

21                   You know, anywhere from \$250 to \$500 a  
22 square foot.

23                   MR. FAJT:

24                   And again, I didn't ---.

25                   MR. CANFORA:

1 Which is ---.

2 MR. FAJT:

3 I don't have the ---. I'm just trying  
4 to get the exact numbers.

5 MR. CANFORA:

6 It's a big range depending on the type  
7 of structure and the land that it's sitting on.  
8 There's so many different elements that we had our  
9 general contractor, the project manager, look at. We  
10 have it line item by line item where we assign a cost  
11 per square foot. Obviously, an office space is less  
12 than a restaurant, so we've introduced a program and  
13 did them by line item.

14 And the --- obviously, the contingency,  
15 and then you work backwards. As you'd be in this, you  
16 obviously have to be competitive. You have to open up  
17 a casino's going to be competitive, and then our  
18 internal back stops are, you know, how big a loading  
19 dock storage area. And we had also back --- we had  
20 also had the contingency warehousing offsite. But if  
21 we're short, well, we can give this facility a life,  
22 because once you give it a life, you have to live  
23 within this number.

24 And then, you know, part of the other  
25 things --- there was discussions with third party

1 venues that are very interested in the --- on the food  
2 and beverage venue, because we think we need a strong  
3 food and beverage venue to compete with Mahoning. And  
4 then when you go out to a casino, you need good food.  
5 So, you know, it's been discussed quite intensely.

6 MR. FAJT:

7 I will tell you that I don't know of any  
8 facility in Pennsylvania that's been built --- a  
9 casino, full build-out, restaurants, track, back side,  
10 grandstand --- that's been built for \$140 million. I  
11 can tell you that I do know for a fact that there are  
12 a number of casino-only facilities in Pennsylvania  
13 that are in the \$500 million plus range --- a casino-  
14 only facility. Then I say, you know, let's --- you  
15 mentioned the word be competitive, or the words, be  
16 competitive.

17 You have the Rivers to the south. You  
18 have Presque Isle to the north. You have Ohio Gaming  
19 to your west, and I see a facility for \$140 million,  
20 which I have grave concerns about being an adequate  
21 facility --- being a safe facility, for that matter.  
22 And I look at the competition, and I say, how is that  
23 facility for \$140 million going to be competitive?  
24 Mr. O'Riordan, did I hear you say that Mr. Wise came  
25 into the funding picture in early November of 2015?

1                   ATTORNEY O'RIORDAN:

2                   That's when he made his first proposal.  
3 He had been introduced. Mr. Long had a previous  
4 relationship with him. He was introduced to Mr.  
5 Canfora sometime either in September or October and  
6 made his first proposal to finance the casino. And  
7 when I say proposal, we received it from his counsel  
8 sometime in November.

9                   MR. FAJT:

10                  So, we give you a six month extension in  
11 May --- May 20th, I think, to be exact. You know,  
12 three months, four months go by before a financier  
13 even arrives on the scene, and then you try to  
14 complete a deal within two months' time knowing that  
15 the six month clock is ticking.

16                  ATTORNEY O'RIORDAN:

17                  I certainly didn't mean to make the  
18 impression that Mr. Wise was the only financier we  
19 were talking to. We received a good number of  
20 proposals, so I mean, it was a funnel. We talked to a  
21 bunch of different institutions and individuals. That  
22 funnel came down. We received a number of proposals.  
23 We looked at those and vetted those, and eventually it  
24 was decided to go with Mr. Wise.

25                  MR. FAJT:

1           Cyrus, a question for you and your team.  
2 We had heard before from Mr. Doherty and the Endeka  
3 team that, you know, at least they presented that the  
4 delay in this project has been over financing and that  
5 the request for six additional months was basically to  
6 go out and consummate a deal with Bank of America ---  
7 60 days. Yeah, 60 days. I'm sorry, to consummate a  
8 deal with Bank of America and Merrill Lynch.

9           Are there non-finance documents and  
10 other issues related to Endeka, Mr. Procacci, Merit  
11 --- any other folks currently in the deal that haven't  
12 been fully vetted, fully addressed and fully complied  
13 with as far as licensing goes in your office?

14                     ATTORNEY PITRE:

15           We have a number of the agreements that  
16 need to be completely redrafted. We have some  
17 agreements that we've been trying to get them to  
18 correct to ensure that the property is fully being  
19 transferred and ownership of Endeka truly lies with  
20 Mr. Procacci. That's been ongoing for a while with  
21 the Tuxepo entities, so we have ---. We do have some  
22 agreements of that nature that need to be worked out.  
23 As far as suitability, background investigations ---.

24           If we're talking about only individuals  
25 that are remaining, I don't anticipate any other

1 suitability issues. There might be one minor issue  
2 that we can fix with a condition, but I'm not  
3 anticipating any major suitability issues as far as  
4 the general background of the individuals involved.

5 MR. FAJT:

6 Thank you.

7 MR. STRATHMEYER:

8 I believe the Department of Ag ---.

9 ATTORNEY PITRE:

10 Yeah, I mean, I think Ag is going to  
11 talk about it. The Race Horse Commission Order calls  
12 for a \$170 million ---

13 MR. STRATHMEYER:

14 Yes.

15 ATTORNEY PITRE:

16 --- racetrack?

17 MR. STRATHMEYER:

18 That's correct.

19 ATTORNEY PITRE:

20 So, you know, it's \$170 million just for  
21 racing.

22 CHAIRMAN:

23 And what I'd like to do is just --- do  
24 you have any other questions that you wanted to put  
25 in, Mr. Strathmeyer?

1                   MR. STRATHMEYER:

2                   Just some questions as to how Endeka is  
3 planning on addressing the racing with the Board.

4 CELL PHONE RINGS

5                   MR. STRATHMEYER:

6                   And again, I realize this is the Gaming  
7 Control Board's meeting, but there is the half of the  
8 Racing Commission. And I just wondered what  
9 consideration was being done out there on your behalf,  
10 because there were deadlines to be met. And if Cyrus  
11 is correct, then it's going to take ---. You're  
12 asking for 60 days, and there's 90 more days, and  
13 early spring is what Cyrus is saying.

14                   I question how you're going to move the  
15 25 percent completed on the racetrack by June 21 of  
16 '17. So, it's just a question that I think needs to  
17 be out there, as Mr. Fajt has also brought up several  
18 items that kind of fall right in line with how we're  
19 going to meet the Racing Commission's Order that was  
20 placed by Chairman Minnick. So, I just wanted to  
21 maybe get that out there in public, as well.

22                   ATTORNEY O'RIORDAN:

23                   I guess first, with respect to \$170  
24 million, it's \$170 million not just for the track.  
25 It's for the entire facility.

1                   MR. STRATHMEYER:

2                   But no, less than ---. But if you're  
3 down to --- as Commissioner Fajt says, you're now down  
4 to \$140 million, because the rest of it's in licensing  
5 and other fees. Then you're still less than the \$170  
6 million, at least in my math.

7                   ATTORNEY O'RIORDAN:

8                   But we included the --- you know, a  
9 racetrack facility in licensing. You couldn't have a  
10 racetrack without the licenses.

11                   MR. STRATHMEYER:

12                   All right.

13                   ATTORNEY O'RIORDAN:

14                   The licensing fee was part and parcel.  
15 With respect to the Harness Commission Order, I think  
16 we're pretty much in the same position with the  
17 Harness Racing Commission as we are here today. And  
18 if the one thing that we encounter, we'll need to  
19 reach out to the Commission, as well.

20                   MR. STRATHMEYER:

21                   I just wanted to make sure that was  
22 brought up. Thank you, Mr. Chairman.

23                   CHAIRMAN:

24                   Do the Commissioners have any further  
25 questions? Any ---?

1                   MR. JEWELL:

2                   Mr. Canfora, the --- in follow up to the  
3 line of Commissioner Fajt, that is the reliance on  
4 your \$205 million and now reduced by the initial  
5 things, your reliance is going to have to be not only  
6 with the commercial part of this, but in the first  
7 instance, you know, the lenders are going to have to  
8 be satisfied over the next 60 days. They're going to  
9 have to look at this and see, is this thing viable?

10                   And so I'd like to hear you give us a  
11 little more comfort about your numbers as to the  
12 commercial viability, because you're going to have to  
13 do that in the first instance with the lenders. And  
14 of course, those involved brought in here, Mr.  
15 Procacci and others, have to be satisfied, too.

16                   MR. CANFORA:

17                   That's a fair question. I mean, the 60  
18 days is progressive. There's no doubt about it, and  
19 we have to do a lot of work in a very short period of  
20 time. We're not shy in --- when we say something's  
21 going to work, and --- but there are Ts to cross and  
22 Is to dot. Then we'd work on the financing and these  
23 hiccups, but your answer is absolutely correct.

24                   We have a data site, and we talked to  
25 ---. We were all talking earlier with Merrill, with

1 --- on how, if granted, their team and our team are  
2 going to work at lightning speed, because as we know,  
3 once attorneys get involved, no pun intended, but it  
4 slows things down. I'm an operator, not an attorney.  
5 We see smiles, but it's the truth. So, we're going to  
6 have to work around the clock.

7                   And if Merrill Lynch ensures that we can  
8 do it and also the state ensures that we can do it, we  
9 have a team that's out there that's going to do it if  
10 you grant the 60 days. It's a lot of work for a very  
11 short period of time, but we think it's worth that  
12 last shot.

13                   MR. JEWELL:

14                   So, you're giving some comfort there  
15 that you can sustain what you were going to promise at  
16 the end of 60 days. Again, how comfortable are you  
17 with that number?

18                   MR. CANFORA:

19                   The ---.

20                   MR. JEWELL:

21                   That's my only question.

22                   MR. CANFORA:

23                   Well, like I said, what we've always  
24 done when we deal with square foot for the  
25 architect's, you know, you have blocks. That's what

1 you do. There's a block. There's a block. There's  
2 20,000 square feet, there's 30, here's 20. We've  
3 always said, look, you open up, you have to have 1,500  
4 machines; right? Great air conditioning. The word  
5 safety is not --- would never even enter my mind.

6           You cannot build a building and get a  
7 certificate of occupancy without the right safety  
8 structure, so safety is not even on the list. We  
9 would have to be the safest casino, but we have to  
10 compete. And that goes to the interior design. That  
11 goes into the structure of the signs being hung up.  
12 You have the right weight limitations. The list goes  
13 on and on, where you put the wiring. And we have  
14 spent quite a bit of time on VEing to value engineer  
15 the inside.

16           And we did get off and running with the  
17 site itself, because at one time that site number was  
18 up there, like, at \$27 million just to get the site  
19 approved. And me, by moving the casino around, picked  
20 up a lot of money by the soil, and then we picked up a  
21 lot of --- well, money in the project for the sewer,  
22 water and all that stuff. The other thing was the  
23 third party on the restaurants, we wanted to control,  
24 let's say, the buffet.

25           But we want a third party to go in and

1 put their money on the FF and Es. We've got to put  
2 the binding --- you know, we have to get a letter of  
3 intent from the restaurateurs in the local area that  
4 can say, I can afford this and this, because I ---  
5 again, I believe you just can't open the box up. You  
6 have to have the amenities, especially when you're the  
7 last in the line, which is kind of what we did up in  
8 Bellingham.

9                   We were the last facility to open up,  
10 and it was the same MO, you have to compete. So,  
11 we've been ---. I took my mother a couple months ago  
12 to Mahoning and spent a day and a few bucks on the  
13 slot --- you know, on the machines and walked around  
14 and looked at their facility as a competitor. I'm  
15 sure they're ---. I'm sure that's normal, competitors  
16 going inside and out. We're not Rivers. Just to make  
17 that clear, we're not Rivers.

18                   We're not on the river, number one,  
19 which was an extremely expensive place to build.  
20 We're not ---. Our whole marketing perspective is not  
21 a Rivers customer base. We're --- going to downtown  
22 Pittsburgh on a Saturday night is not the Lawrence  
23 County MO, you know, as far as customers. So, we  
24 believe we're going to get that Ohio in that  
25 rectangular --- or we think on Interstate 80.

1           We think long term, Interstate 80 is  
2 just the east-west corridor. But if we think of the  
3 250 acres in the long term once we're up in running.  
4 But we can make this more of a destination to  
5 withstand the circle even with other states. So, but  
6 to answer your question specifically, we've got a lot  
7 of work to do. We're willing to roll our sleeves up  
8 and do it, give it that one last shot.

9           And then --- and if we can't satisfy the  
10 group here, then Lawrence County knows we did our  
11 best. We did our best, but we think it's worth a  
12 shot.

13           MR. JEWELL:

14           Thank you, sir.

15           CHAIRMAN:

16           I just have ---.

17           MR. RYAN:

18           May I ask one question before you begin,  
19 Mr. Chairman?

20           CHAIRMAN:

21           Sure.

22           MR. RYAN:

23           Mr. Canfora, you're an experienced man  
24 in this business. Isn't it true, perhaps, that Penn  
25 National's building a racino in Ohio has made your

1 financing task close to impossible?

2 MR. CANFORA:

3 Well, first of all, close to impossible  
4 is not fair, because we have interest here today.  
5 There has been ---. I want to make this clear. So,  
6 one thing we talked about --- we did have a commitment  
7 letter, although we made the choice --- the wrong  
8 choice to go with Wise and Group, we had an AB5 that  
9 was ready, willing and able to do it. We had a rate  
10 out of Arizona that we've done business with.

11 And because of our concern with  
12 licensing and AB5s and timing and all this stuff,  
13 well, we thought we made the right choice. So, to  
14 answer the question, there has been interest as far as  
15 you size of the property alone. This property, at one  
16 time, was --- Centaur was 400 and some million dollars  
17 without Penn National and talks with them. So, you  
18 know, from my old days --- not to compare to Las  
19 Vegas, because I'm not.

20 But there, may the best man win. You go  
21 to a casino, and then you go next door. You go to a  
22 casino, you go to a casino, and there isn't these  
23 restraints where you have, well, a limited amount with  
24 12 and 13 casinos in the State of Pennsylvania. So,  
25 we're not afraid to compete, but in order to compete,

1 has to ---. As you mentioned, it has to be a fair  
2 product.

3                   So, there has been a lot of interest.  
4 There are some equity funds, hedge funds that are  
5 interested, but the formula of the model with, you  
6 know, wanting 13, 15 percent, your first child, your  
7 second child and your retirement and everything else,  
8 it just doesn't pan out for the risk. And what I  
9 promised Joe Procacci is we're not just going to take  
10 money. You know, this has to be a sound, economic  
11 move for the Commonwealth and for the risk of the  
12 capital being put up.

13                   So, that kind of confines you in what  
14 the size of the project is. Can you put the project  
15 together with what we have and with the numbers that  
16 are currently out there?

17                   MR. RYAN:

18                   Thank you, sir.

19                   CHAIRMAN:

20                   I just have one last question. I think  
21 it was Mr. Fitz from Merrill Lynch. Obviously, you  
22 guys haven't made any conclusive agreements to proceed  
23 or not proceed with the financing, but you --- I  
24 presume you've done some amount of due diligence to  
25 date, and you're probably hearing up here a certain

1 amount of skepticism about building a facility that is  
2 both a racetrack and a casino that is going to be able  
3 to compete with what the now existing competition is  
4 for \$140 million. And I'm just kind of wondering what  
5 Merrill Lynch's thoughts are to date. How much more  
6 due diligence do you think you're going to need before  
7 you can commit to this?

8 MR. FITZ:

9 I haven't done any due diligence yet.  
10 It's very, very early in the stage, and there's no  
11 reason to put man hours behind it until this gets  
12 approved or disapproved.

13 CHAIRMAN:

14 Thank you. Thank you. With no other  
15 questions, we're going to --- oh.

16 MS. LANGAN:

17 I have one question.

18 CHAIRMAN:

19 I'm sorry.

20 MS. LANGAN:

21 And then, this is for the attorney ---  
22 I'm sorry. I'm terrible with names. The attorney  
23 from Cohen and Grigsby?

24 ATTORNEY CHIFULO:

25 Yes.

1                   MS. LANGAN:

2                   I'm just having a little trouble  
3 understanding the bond. So, the Redevelopment  
4 Authority of Lawrence County is going to back the bond  
5 to the County; is that correct?

6                   ATTORNEY CHIFULO:

7                   They're going to issue the bonds.

8                   MS. LANGAN:

9                   They're going to issue the bonds?

10                  ATTORNEY CHIFULO:

11                  Yes.

12                  MS. LANGAN:

13                  Whose credit is up on these bonds,  
14 Lawrence County's credit or the Redevelopment  
15 Authority?

16                  ATTORNEY CHIFULO:

17                  It's just as in any other industrial  
18 development bond. The credit of the ---. The money  
19 that's flowing the local share, from the two streams  
20 of income, is the money behind it. There's no credit  
21 analysis. There are net zero lenders in any --- and  
22 in this case, net zero grantor in this case.

23                  MS. LANGAN:

24                  So, the credit of any entity wouldn't be  
25 at issue whether you could sell the bonds or not,

1 currently?

2 ATTORNEY CHIFULO:

3 No, no, no. Absolutely not. It has all  
4 to do with the stream of income that will come off  
5 this --- off of this project.

6 CHAIRMAN:

7 Is that it? Well, we're going to take a  
8 recess. I can't say how long we'll deliberate. We'll  
9 see if we can come to some sort of conclusion, and  
10 we'll be back.

11 ATTORNEY DOHERTY:

12 Thank you, Mr. Chairman.

13 BRIEF RECESS TAKEN

14 CHAIRMAN:

15 We're now back in public session. We're  
16 now back on the record in public session. I would  
17 note for the record that the Board just adjourned a  
18 little while ago to deliberate on this Endeka matter.  
19 And before we proceed ---.

20 CELL PHONE RINGS

21 CHAIRMAN:

22 All right. All seven members of the  
23 Board being back here --- as I said, we were  
24 deliberating, along with Mr. Moscato by phone. And  
25 we're now back to proceed. Before we proceed, I just

1 want to note for the record that this has been a  
2 torturous process. I, on behalf of the Commission,  
3 thank all the participants, both OEC and Endeka, for  
4 the extreme professionalism and patience that  
5 everybody's shown through a long afternoon of  
6 testimony, argument and deliberation.

7                   And with that said, I note that the  
8 motion seeking that various documents in this record  
9 be treated as confidential, and they're going to take  
10 this request under advisement and direct Endeka and  
11 OEC to file redacted documents, if that's necessary.  
12 And may I have a motion to --- on the OEC's  
13 Recommendation of Denial and/or Abandonment of the  
14 Endeka Entertainment Category 1 Application? Oh, I'm  
15 sorry.

16                   ATTORNEY SHERMAN:

17                   Yes.

18                   CHAIRMAN:

19                   I'm sorry. I should've let you speak  
20 first.

21                   ATTORNEY SHERMAN:

22                   No, it's okay, Chairman. It's your  
23 show.

24                   CHAIRMAN:

25                   Yeah, we're all tired.

1                   ATTORNEY SHERMAN:

2                   As you've noted, the OEC's motion to  
3 Deny or Declare Abandoned Endeka Entertainment, LP's  
4 Category 1 Application is before the Board. This  
5 Board has received not only the Petition and the  
6 answer, the full record of Endeka which has been  
7 developed over years before this Board. It is --- and  
8 the history of the Endeka Application clearly is in  
9 the record.

10                   All the pleadings, the stipulation of  
11 the parties, the exhibits and the testimony and  
12 argument entered into before the Board here today.  
13 The Board is now in a position where you're ready to  
14 accept a motion based upon that full record.

15                   CHAIRMAN:

16                   And as I covered, the plan today is that  
17 every matter should be treated as confidential. Is  
18 there anything that needs to be said on the matter?

19                   ATTORNEY SHERMAN:

20                   No. No, and it's incumbent upon the two  
21 parties to come up with a public version of those  
22 documents.

23                   CHAIRMAN:

24                   Well, Counsel agreed to that; right?

25                   ATTORNEY PITRE:

1 Yes.

2 ATTORNEY DOHERTY:

3 Yes, Mr. Chairman. We can do --- I can,  
4 work with that.

5 CHAIRMAN:

6 I just want to make sure we're all on  
7 the same page. All right. Then may I have a motion  
8 on the OEC's recommendation?

9 MR. WOODS:

10 Mr. Chairman, I move that the Board  
11 issue an Order to grant the OEC's Recommendation of  
12 Denial of Endeka Entertainment, LLP's Category 1  
13 Application and that the Board will issue an  
14 adjudication to outline its rationale in this matter.

15 MR. FAJT:

16 Second.

17 CHAIRMAN:

18 All in favor?

19 ALL AYES

20 CHAIRMAN:

21 All opposed? The motion is adopted.  
22 Thank you all. That concludes today's meeting. Our  
23 next scheduled public session will be held on  
24 Wednesday, August 10th. The meeting will begin at ten  
25 o'clock on that day. Are there any final comments or

1 observations from the Board or Ex-Officio members? If  
2 not, may I have a motion to adjourn the meeting?

3 MR. FAJT:

4 So moved, Mr. Chairman.

5 MR. JEWELL:

6 Second.

7 CHAIRMAN:

8 All in favor?

9 ALL AYES

10 CHAIRMAN:

11 All opposed? The motion's adopted.

12 Thank you all very much.

13 \* \* \* \* \*

14 MEETING CONCLUDED AT 3:48 P.M.

15 \* \* \* \* \*

16

17

18

19

20

21

22

23

24

25

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

CERTIFICATE

I hereby certify that the foregoing proceedings,  
hearing held before Chairman Barasch was reported by  
me on 7/13/16 and that I, Danielle Obert, read this  
transcript, and that I attest that this transcript is  
a true and accurate record of the proceeding.

  
-----

Danielle Obert,  
Court Reporter