COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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PUBLIC MEETING EXCERPT FOR SUGARHOUSE CASINO

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BEFORE: DAVID M. BARASCH, CHAIR
Dante Santoni, Jr., Sean Logan, Richard G. Jewell, Anthony C. Moscato, William H. Ryan, Jr., Kathy M. Manderino, Members, Fred Strathmeyer, representing Russell Redding, Secretary of Agriculture; Jennifer Langan, representing Joseph Torsella, State Treasurer; Robert P. Coyne, representing C. Daniel Hassell, Secretary of Revenue

HEARING: Wednesday, August 9, 2017
10:00 a.m.

LOCATION: PA Gaming Bureau of Hearing & Appeals
303 Walnut Street
Strawberry Square Complex
Harrisburg, PA 17101

Reporter: Bernadette M. Black

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1 A P P E A R A N C E S
2
3 OFFICE OF CHIEF COUNSEL
4 R. DOUGLAS SHERMAN, ESQUIRE
5 Chief Counsel
6 STEVEN S. COOK, ESQUIRE
7 Deputy Chief Counsel
8
9 OFFICE OF ENFORCEMENT COUNSEL
10 CYRUS PITRE, ESQUIRE
11 Chief Enforcement Counsel
12 JOHN CROHE, ESQUIRE
13 Assistant Enforcement Counsel
14 DAVID TEPPER, ESQUIRE
15 Assistant Enforcement Counsel
16 GLEN STUART, ESQUIRE
17 Assistant Enforcement Counsel
18 DUSTIN MILLER, ESQUIRE
19 Assistant Enforcement Counsel
20 SARAH KOLESAR, ESQUIRE
21 Assistant Enforcement Counsel
22 TAMARA HAKEN, ESQUIRE
23 Assistant Enforcement Counsel
24 JAMES ARMSTRONG, ESQUIRE
25 Assistant Enforcement Counsel

1 A P P E A R A N C E S (cont.)
2
3 PA Gaming Control Board
4 P.O. Box 69060
5 Harrisburg, PA 17106-9060
6 Counsel for the Pennsylvania Gaming Control Board
7
8 RICHARD A. SPRAGUE, ESQUIRE
9 BROOKE SPIGLER COHEN, ESQUIRE
10 Sprague & Sprague
11 The Wellington Building
12 135 South 19th Street
13 Suite 400
14 Philadelphia, PA 19103
15 Counsel for SugarHouse Casino
16
17 KEVIN J. MCKEON, ESQUIRE
18 Hawke, McKeon & Sniscak, LLP
19 100 North 10th Street
20 Harrisburg, PA 17101
21 Counsel for Stadium Casino
22
23
24
25

1 A P P E A R A N C E S (cont.)
2
3 SARAH C. STONER, ESQUIRE
4 Eckert, Seamans, Cherin & Mellott, LLC
5 213 Market Street
6 8th Floor
7 Harrisburg, PA 17101
8 Counsel for Mohegan Sun Pocono
9
10
11
12
13
14
15
16
17
18
19
20
21
22
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25

1 I N D E X

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3 DISCUSSION AMONG PARTIES 6 - 18

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

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3 ATTORNEY SHERMAN: The first matter

4 before the Board for consideration today is

5 SugarHouse HSP Gaming's Petition to Intervene in the

6 proceedings on remand regarding the application of

7 Stadium Casino for a Category 2 License. As

8 mentioned, the Board took evidence on the remand

9 matter on July 31st.

10 Prior to the evidentiary hearing,

11 SugarHouse filed a Petition on July 25th, 2017

12 requesting the Board to allow an intervention full

13 party status in the matter of the Supreme Court's

14 partial remand regarding Stadium's licensure.

15 SugarHouse's Petition essentially requested that in

16 the event Market East Associates, who is a party to

17 the remand matter, does not participate and

18 adequately represent SugarHouse's interest in the

19 remand proceedings, that SugarHouse had a right to

20 intervene.

21 On July 27th, SugarHouse filed a

22 supplemental, an amended Petition to Intervene,

23 following the filing of Market East prehearing

24 memorandum in which SugarHouse stated the Market

25 East memos shows that the interest to SugarHouse

1 will not be represented and to protect their
2 immediate interest, intervention should be granted.
3 Because the other parties had not yet responded to
4 the SugarHouse Petition, since it was filed just six
5 days before the evidentiary hearing, the Board took
6 evidence at the hearing and held the record open
7 pending consideration of this matter.
8 SugarHouse has twice previously sought
9 to intervene in the Board's licensing proceedings
10 relative to the application of statutory eligibility
11 and suitability criteria to Stadium Casino and has
12 twice been denied by this Board. In both instances
13 the Supreme Court has upheld the Board's actions,
14 the most recent time being on June 20th of 2017 when
15 the court ruled that the law of the case is
16 applicable here and established conclusively that
17 SugarHouse Casino does not have standing to
18 intervene to contest issues of ownership under
19 Section 1330.
20 SugarHouse has argued in its filings
21 that the law of the case does not apply in a
22 subsequent matter constituting exceptional
23 circumstances such as where there's been an
24 intervening change in the controlling law, a
25 substantial change in the facts or evidence giving

1 rise to the dispute in the matter or where the prior
2 holding was already erroneous and would create a -
3 or clearly erroneous and create a manifest injustice
4 if followed.
5 SugarHouse has asserted that there has
6 been a substantial change in circumstances between
7 the original licensing proceedings and this
8 proceeding because Market East has declined to
9 participate and OEC has failed to adequately
10 represent SugarHouse's interest. OEC and Stadium
11 have filed responses objecting to this contention as
12 well as to SugarHouse's Intervention Petition as a
13 whole. The Sugar House Petition, amended Petition
14 and statement along with relevant filings and
15 presentations of OEC and Stadium, including the
16 answers subjecting to both SugarHouse's Petition and
17 amended Petition have been provided to you as part
18 of the record in advance of this meeting.
19 Additionally yesterday, although not
20 contemplated by the Board's regulations, SugarHouse
21 filed an application for leave to file a reply to
22 Stadium's answer as well as the answer itself, which
23 has also been provided to the Board as part of the
24 record. The pleadings in the matter are now closed
25 and it's ready for the Board's consideration. I do

1 note that there are representatives of the parties
2 here today should they desire to provide brief
3 argument to the Board.
4 CHAIRMAN: Thanks, Doug.
5 Well, having heard that summary, the
6 first thing we're going to do as Board is we're
7 going to accept into the record SugarHouse's reply
8 to Stadium's answer on the intervention request. I
9 would not - that that filing is not contemplated
10 normally by the Board's regulations but in this
11 particular case we will grant an exception and
12 accept it and make it part of the record.
13 Having done so, next we will hear from
14 SugarHouse, OEC and Stadium if any of them wish to
15 make a brief comment regarding the Petition to
16 Intervene, specifically each party will be allotted
17 up to five minutes and whoever is speaking I would
18 ask you identify yourself for the court reporter.
19 SugarHouse, you have an opportunity to present five
20 minutes if you wish to.
21 ATTORNEY SPRAGUE: Yes.
22 CHAIRMAN: Before you begin, Mr.
23 Sprague, if you'd identify yourself for the court
24 reporter.
25 ATTORNEY SPRAGUE: Yes, Richard

1 Sprague and with me, Brooke Cohen from my office, on
2 behalf of SugarHouse. And first I want to thank the
3 Chairman and members of the Board for the
4 opportunity to appear and I will comply with that
5 five minutes.
6 CHAIRMAN: Thank you.
7 ATTORNEY SPRAGUE: The basic position
8 that we are stating is that this Board has the duty
9 to see that the law is upheld. And we know the law
10 here requires that a person who owns and has an
11 interest in one casino certain circumstances is
12 limited not to own more than one-third in another
13 casino. It is very easy for somebody to come before
14 this Board and just say I've given a gift to my
15 children. And it's very easy to say that's money of
16 my own.
17 However, I submit that if you really
18 examine the record in this case, and this is with
19 all due respect to my friend Mr. Pitre who I think
20 very highly of in terms of his ability, the
21 inquiries have not been complete. I suggest to you
22 and I will give you some examples of that in order
23 to determine whether there's financial control that
24 exists. And this Board has an absolute obligation
25 before it gives somebody approval for a License to

1 make sure that the law is complied with.
2 Now I know there's argument that we
3 have no standing. I'd like to bring to the Board's
4 attention a case of mine from many years ago,
5 Sprague v. Casey which is where the Republican and
6 Democratic Parties agreed on a certain process for
7 selection of judges. Under the normal rules for
8 standing, just a private citizen would not have
9 standing to appear. But in this case since both
10 parties were aligned, the Supreme Court had the
11 opinion, and it's referred to in our papers, but I
12 think this language is important.
13 The Supreme Court said in this case, this
14 is where the two parties were aligned. So, the
15 issue was who can be heard to object. In this case
16 we believe, said the Supreme Court, that the special
17 circumstances involved warrant the grant of standing
18 to Petitioner under the exception articulated in a
19 particular case. And I say that principle applies
20 here.
21 Who is it that has appeared in front
22 of you who was asked to obtain the emails that
23 existed in terms of what was the planning, what was
24 the consideration from the original plan to then
25 changing it to a gift in this case? What's the

1 source of money? I bring to your attention that
2 Stadium was asked but frankly did not answer what
3 was the exact source of the funds. And I would read
4 to you when that question was asked in front of you
5 on July 31st.
6 Do you know, or does Mr. Manoukian
7 know, the source that he will utilize to make that
8 $34 million gift? Answer, he has the financial
9 resources available to do so for multiple sources.
10 That's no answer. And I could go on with other
11 examples. This case calls for what we ask for in
12 our papers that we filed. Somebody should have the
13 right to take depositions, depositions of the sons
14 in this case whether these are sons who when their
15 father says jump will jump. If I dare say President
16 Trump had given -.
17 CHAIRMAN: Mr. Sprague, you have 30
18 seconds, please.
19 ATTORNEY SPRAGUE: Pardon?
20 CHAIRMAN: Try to wrap it up. We're
21 getting down to 30 seconds.
22 ATTORNEY SPRAGUE: I'm sorry, my -.
23 ATTORNEY COHEN: Thirty (30) seconds.
24 ATTORNEY SPRAGUE: Four minutes have
25 gone by?

1 CHAIRMAN: Oh, yeah. Five minutes
2 have gone by, sir.
3 ATTORNEY SPRAGUE: My basic position,
4 and I ask for this Board to reconsider, there really
5 has not been the thorough examination of the parties
6 in this case, getting their e-mails and opportunity
7 to take discovery. That is what is required.
8 Thank you.
9 CHAIRMAN: Thank you very much.
10 OEC, do you have an argument or wish
11 to make a presentation to the Board?
12 ATTORNEY PITRE: Cyrus Pitre,
13 P-I-T-R-E. Chief Enforcement Counsel. In brief
14 response, the Office of Enforcement Counsel (OEC)
15 believes that SugarHouse sole purpose in this
16 intervention - seeking this intervention is to do
17 the job of this Board, to do the job of the OEC, to
18 attempt to do the job of the Bureau of
19 Investigations and Enforcement (BIE) and to make the
20 arguments on behalf of Market East that it does not
21 feel that Market East is presenting.
22 While I am not overly insulted by
23 those overtures I think that it's - it borders on
24 complete arrogance to think that this Board, that my
25 office, that the BIE would not be doing its job in

1 ensuring that all Applicants and Licensees comply
2 with the Act. 1330 is very simple, the Supreme
3 Court has spoken, they've given additional - a
4 different definition of financial interest. Quite
5 frankly, Stadium is in a much better position for us
6 to ensure that they comply than it - than some of
7 the owners of SugarHouse own parts of SugarHouse and
8 Rivers. Because we'll have to ensure that they
9 comply with that new definition also.
10 So, while I understand Mr. Sprague's
11 position, I completely disagree with that position.
12 I believe it's our job to ensure that the Act is
13 complied with. We plan on doing that. The License
14 has not been issued. It's simply been awarded.
15 Before that License is issued we will ensure that
16 the sources of funds come from an independent means
17 as Mr. Manoukian testified.
18 We've completed the background
19 investigation. We've done a couple of background
20 investigations of Mr. Manoukian and I have no reason
21 to doubt that if need be he can independently
22 provide that gift. Our job is to ensure that the
23 source of - it's a trace of source of that gift and
24 we plan on doing that.
25 So, with that I would - I would urge

1 the Board to not allow SugarHouse to intervene
2 because it serves no role other than to do the job
3 of my office, the Bureau and this Board. Thank you.
4 CHAIRMAN: Thank you, Cyrus.
5 Stadium have a presentation?
6 ATTORNEY MCKEON: Yes, Chairman.
7 Good morning, Mr. Chairman, Board
8 members. My name is Kevin McKeon. That's,
9 M-C-K-E-O-N, and I'm appearing today on behalf of
10 Stadium Casino, LLC. I just have some brief
11 comments to supplement Mr. Pitre's.
12 As you can imagine, we - and know from
13 our papers, we oppose SugarHouse's intervention. We
14 oppose SugarHouse's intervention for essentially two
15 reasons. The first was well summarized by my
16 colleague Mr. Sherman. He gave the procedural
17 history of SugarHouse's attempts to intervene in
18 this proceeding and this Board has decided twice and
19 the Supreme Court has decided twice that SugarHouse
20 doesn’t have the appropriate interest in the 1330
21 issue to intervene and to the extent to the
22 attenuated extent that it might, that interest is
23 represented by OEC and by others, including Market
24 East. SugarHouse is - so, the Supreme Court has
25 held clearly that the law of this case is that

1 SugarHouse does not get to intervene on the 1330
2 issue.
3 So, SugarHouse's point now is grasping
4 onto the straw of footnote 21 of the Supreme Court's
5 opinion in SugarHouse 2 in which is in a scholarly
6 way indicated that a lot of the case doctrine is not
7 absolute. So, Mr. Sprague's point is that something
8 has changed, the facts have changed. But the short
9 answer to that is nothing has changed. OEC is just
10 as involved now as it has always been. We had the
11 hearing on July 31st. OEC was very active. Mr.
12 Sprague asked who can be heard to object. Well, we
13 know that Market East has objected and Market East
14 filed a brief and I'd like if I have the opportunity
15 to make a few comments later in the presentation on
16 that.
17 But the fact of the matter is OEC has
18 fulsomely represented the Board's interest and the
19 Commonwealth's interest and has inquired into all
20 the questions that need to be inquired into that the
21 Supreme Court sent back to the Board and is now a
22 remand. There's the question what is the source of
23 the funds. Well, as Mr. Pitre well said, first of
24 all, the Board knows very well the source of Mr.
25 Manoukian's funds. They monitor Mr. Manoukian's

1 funds on a regular basis and to the extent that
2 there would be any question, the Board is going -
3 OEC is going to follow up with that with the
4 licensure.
5 So, really there - nothing has
6 changed. There are no questions to answer and I
7 would just conclude my presentation on this with
8 what the Supreme Court said in SugarHouse 1 which is
9 the Board doesn't need SugarHouse to quote, remind
10 the Board of the need for it to consider these
11 questions, closed quotes. Thank you.
12 CHAIRMAN: Thank you very much.
13 Small technical point, Doug. Market
14 East here to comment on the intervention?
15 ATTORNEY SHERMAN: Market East did not
16 file anything and with respect to the intervention
17 it would be our position that they have not actively
18 participated and therefore would not be entitled to
19 be heard with respect to the intervention as opposed
20 to the second issue on the merits.
21 CHAIRMAN: Thank you.
22 Are there any questions or comments
23 from the Board on this intervention question? None?
24 Now the pleadings are closed and we've
25 heard the arguments, may I have a motion on this

matter?

MR. SANTONI: Mr. Chairman, I move that the Board deny SugarHouse HPS Gaming LP's amended Petition to Intervene.

MR. JEWELL: Second.

CHAIRMAN: All in favor?

AYES RESPOND

CHAIRMAN: All opposed?

The motion's adopted. An Order and Adjudication on this matter will be issued in the coming days. Thank you very much.

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• EXCEPRT CONCLUDED

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CERTIFICATE

I hereby certify that the foregoing proceedings, excerpt of a hearing held before Chairman Barasch was reported by me on 8/9/17 and that I, Bernadette M. Black, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.

Bernadette M. Black

Bernadette M. Black,
Court Reporter