

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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IN RE: CLOSING ARGUMENTS FOR CATEGORY 2 LICENSE
APPLICATIONS, SUGARHOUSE HSP GAMING, LP

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PUBLIC HEARING

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BEFORE: WILLIAM H. RYAN, JR., CHAIRMAN
Gregory C. Fajt; Annamarie Kaiser; Keith R.
McCall; John J. McNally, III; Anthony
Moscato; David W. Woods; Members
Jennifer Langan, representing Robert
McCord, State Treasurer
Robert Coyne, representing Daniel Meuser,
Secretary of Revenue

HEARING: Tuesday, February, 26, 2014
10:25 a.m.

LOCATION: Pennsylvania Gaming Control Board
Office of Hearings and Appeals
Strawberry Square Complex
2nd Floor
Harrisburg, Pennsylvania 17101

Reporter: Jennifer D. Crawford

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WITNESSES: None

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OPENING REMARKS

By Chairman

9 - 10

CLOSING ARGUMENT

By Attorney Donnelly

10 - 22

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NONE OFFERED

P R O C E E D I N G S

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CHAIRMAN:

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Before we begin, I want to iterate to all Counsel presenting argument today, that we are not accepting evidence today and the presentations will be limited to legal argument. I also want to emphasize that each party making argument is limited to 15 minutes. And we have a timer and the timer will flash yellow when there are two minutes left and red when the argument period --- that is, 15 minutes, are over. And I would ask Counsel to please abide by that, so that we can give everybody the same opportunity to present here this morning.

The order in which we will be doing these arguments is as follows. We will be hearing from the Intervenors first, followed by the Applicants in reverse order of the suitability hearings. For example, since PA Gaming Ventures was chosen by a random drawing to be the first suitability hearing last month in Philadelphia, they will be the last argument heard today.

I would now ask John Donnelly, representing SugarHouse HSP Gaming, LP, an Intervenor in these proceedings, to please come forward. Prior

1 to beginning your argument, Mr. Donnelly, I would ask
2 that you please state and spell your name for the
3 record?

4 ATTORNEY DONNELLY:

5 Thank you. John Donnelly,
6 D-O-N-N-E-L-L-Y. First name, John, J-O-H-N.

7 CHAIRMAN:

8 Thank you, sir. You may proceed.

9 ATTORNEY DONNELLY:

10 Thank you. Fifteen (15) minutes, I
11 don't know that I can ---. I've never been limited
12 like this. It's hard for me, as people know.

13 CHAIRMAN:

14 Try real hard, Mr. Donnelly.

15 ATTORNEY DONNELLY:

16 I will try.

17 OFF RECORD DISCUSSION

18 ATTORNEY DONNELLY:

19 Let me start out with some legal points,
20 first of all, and some history. First of all, I know
21 that there's a question, a legal question as to
22 whether the Board has the authority to hold Staff's
23 hands. I think that's crystal clear. I think any
24 review of Section 1202 and Section 1301 makes that
25 clear. The Board has complete discretion in this

1 matter. And it also has the normal discretions many
2 lawyers on this panel, the discretion of
3 administrative agency would have to interpret its own
4 statute.

5 I don't think 1304 changes that, at all.
6 First of all, as everyone knows there's a lawsuit
7 addressing the reissue issue. My client is not part
8 of that. They're a party, they're a Defendant, but
9 nothing I say is touching on that issue. But that's
10 an issue out there and that's going to be decided.

11 The second thing, the first license was
12 issued. And that was issued to Foxwoods. I'll come
13 back to that. And so, I see no problem with the Board
14 doing what it thinks is in the best interest of the
15 Commonwealth and what is the, quote, best decision to
16 cite all these Applicants.

17 The second thing I want to address is
18 Neil Bluhm. He appeared. He flew in here. He was
19 back in Chicago, watching the proceedings and blowing
20 a cork, and flew out here for a couple reasons. One,
21 because the numbers that were being presented --- and
22 look, Neil knows far more about numbers than I will
23 ever know, that's why I went to law school. But he
24 came out here to address the Board. And why does
25 anyone care about Neil Bluhm?

1 Well, without Neil Bluhm, the great
2 things that this Board has done wouldn't have
3 happened. And I say this sincerely. I've been on
4 boards and commissions and gaming boards all over the
5 country. No one has done what this group has done and
6 your predecessors. 2005, '06, it started. Lawsuits
7 like crazy. Political opposition. Grand juries.
8 Accusations. Newspapers attacking the Board and the
9 Applicants and the whole concept of gaming. You're
10 now number two market in the country. It's
11 unbelievable. It really is.

12 But Neil Bluhm is a pivotal part of
13 that. And I take a little offense. I've read all the
14 post-hearing memorandums about --- two arguments.
15 Well, Neil Bluhm, he's a crybaby. SugarHouse is a
16 crybaby. They knew there were going to be four
17 casinos when they got into this game. And they're not
18 worthy of, really, consideration.

19 Well, yeah, they did know there were
20 four casinos. And there are four casinos. No one
21 ever imagined --- I didn't imagine and no one who was
22 in this staff at the time, ever imagined that Valley
23 Forge would be resort casino. It is. Moreover, no
24 one understood the complete explosion of the market,
25 and the complete change in the whole gaming market and

1 the competition in this Commonwealth.

2 And we'll go back to Neil personally.
3 I'd ask you all to ask if any of the Applicants before
4 you would do this? After the Supreme Court said,
5 okay, you want a license, he came in and couldn't
6 finance this project --- it's the SugarHouse project.
7 Came back and said, look, the market, there's no
8 financing. He put \$160 million from his own pocket to
9 build that. It would not be here, but for that.

10 There'd be no casinos. Foxwoods went
11 --- couldn't build at all. It was Neil's own money.
12 And that's generated over \$350 million worth of taxes
13 and something like \$28 million to the City. But 350
14 to the State. Neil Bluhm. And he came in and said,
15 I'm going to try to do it and I only will do it with
16 my own money.

17 Pittsburgh, the same thing. The Barden
18 organization went --- they couldn't proceed. I was
19 there. You were there. People were counseling Barden
20 and Neil Bluhm to go bankrupt and take it out of
21 bankruptcy and wipe out all the obligations and wipe
22 out debts, including obligations that Barden had made
23 to the Sports and Exhibition Authority to pay \$7
24 million a year. He didn't do that. I thought it was
25 a mistake. I still think it was a mistake, a

1 financial mistake.

2 Instead, he came in and said I'll build
3 what Barden said he would build. I think I can
4 finance it, I'm not promising it, but I'm going to go
5 out and do everything I can. And I will honor every
6 commitment he made. Nobody financed it, he honored
7 it. And he's paying \$7 million a year to the Sports
8 Authority.

9 Those two anchors, Philadelphia and
10 Pittsburgh, help make this such a great jurisdiction.
11 And I said when I opened, way back when, I'm not
12 beneath flattery, but I mean that without flattering
13 anybody ---. This has been an amazing Board and it's
14 been a pleasure to appear before people --- realistic,
15 get the job done, never compromise integrity.

16 But that's Neil, too. He has never lied
17 to this Board. He's never overstated anything. He's
18 never come in here and fed a bunch of BS to this
19 Board. And so, when he came in here, sometime ago,
20 flew in from Chicago, and told everybody, in Neil's
21 terms, of financial numbers, what is actually going to
22 happen, we have to believe that. It's true. It is
23 what is going to happen.

24 Now, the next question that could come
25 into mind, well, why would all of these other

1 Applicants be so eager to get into this? Well,
2 there's a variety of issues. First of all, I don't
3 think you can understate --- there's ego. There's the
4 desire of human beings to be in the casino industry.
5 It has a lure.

6 There is the colossal human ability to
7 deceive oneself. But there's also economic reasons.
8 You have a propco/opco company in here. You have
9 companies who have management contracts. You have
10 people --- some people have no experience in the
11 casino industry at all, and think that things are
12 going to go well. The casino industry is littered
13 with people who thought things were going to go well.
14 And smart people. Smart people, two of them plowed
15 into Atlantic City not too long ago. A man who bought
16 the resorts and the people that run them.

17 And there are others, not only
18 management companies, so there are some people who are
19 protecting markets, as Neil believed, would make some
20 sense. And there's a bubble in liquidity. There's
21 lots of money around. There's money, high-yield money
22 chasing projects like that. That doesn't mean it's a
23 wise decision, because it isn't.

24 Now, how do they overcome that? How do
25 they present to the Board? There's only two ways to

1 it. We all know --- it's, you know, what basic
2 economics is. I'm going to grow the market. The
3 numbers are, in my opinion, absurd. From \$322 million
4 to \$518 million of new gaming revenue, some
5 cannibalized, but additional revenue that these folks
6 will have. I'll come to the cannibalization later.

7 As Wendy said, and Neil said, and Steve
8 Rittvo said, who's from the Innovation Group, there
9 aren't any new gamers out there. They've been found.
10 They've been searched out. They've been --- you know,
11 if they try to hide, Wendy Hamilton breaks into their
12 house and finds them. And so, do the other people
13 from Harrah's and everybody else. They've been found.
14 They've been found by us. They've been found by
15 Atlantic City. That pie is not going to expand.
16 Whatever they tell you, is not going to happen. That
17 pie is not going to expand anywhere near what people
18 are suggesting.

19 Let's take a look at the numbers.
20 SugarHouse does --- last year, \$265 million. \$265
21 million gross gaming revenue. You have Applicants
22 saying they're going to do \$518 million. Almost
23 double that. But as Steve Rittvo said, I don't know
24 where these numbers are coming from. I don't know how
25 people can come up with these numbers. Steve said one

1 to three percent growth in the market. And after the
2 SugarHouse expansion, which comes on board in
3 September of 2015, and apropos of your question, Mr.
4 Fajt, that the --- well, we'll be back to that.
5 That's progressing. It's awaiting a key permit.

6 So, one to three percent. What all of
7 these Applicants have said average over, is they're
8 going to grow the market 23 percent. That's what they
9 say overall average. We'll see. You've got Rittvo,
10 Innovation Group, works for the Commonwealth, came in
11 here and said my numbers are almost always onboard.
12 And the Commonwealth relies on him. And you have the
13 Applicant's 23 percent.

14 Let's cut the baby in the middle. Let's
15 say it's 10 percent, which it will not be. But say
16 the market grows 10 percent. Well, that means that
17 the market in the Philadelphia area is about 1.16
18 billion. So, 10 percent's \$100 million, give or take.
19 If they miss their growth by \$100 million, which they
20 would if it's not 23 percent, if it's 10 percent, it'd
21 be more than 100. But if they miss that, then all of
22 a sudden, they don't have \$100 million more.

23 Now, what do they do? I don't
24 understand big numbers. So, I tried to knock it down
25 to something people would understand. Let's assume

1 you had a salary of \$265,000. And you've got a
2 mortgage, you've got kids going to school and you've
3 got obligations and car payments, and all the things
4 that we have. All of a sudden, you have \$100,000.
5 And your boss says to you, well, you know, I thought I
6 was going to do great. I got to cut you back
7 \$100,000. Same numbers.

8 What do you do? You get in severe
9 financial meltdown. And these organisms, which are
10 casinos, want to live. And they do what we saw. We
11 saw what happened when Valley Forge opened and the
12 market went down \$8 million. When Valley Forge took
13 virtually all of this revenue from cannibalization,
14 they do two things. And there's only two things that
15 they can do. They engage in predatory marketing
16 programs and they start giving away business. Or they
17 do something like Valley Forge did. They cut their 10
18 or whatever --- I think it's 10 --- their entry fee.
19 And you ended up with, I think, the biggest fine
20 you've ever given.

21 But they had to live. So, they tried to
22 do something to live. Look at Revel. And I know
23 people say, oh, that's why you say they're old hat.
24 But it's economics. This isn't old hat, new hat. In
25 Revel, the market says you're done. Morgan Stanley

1 took a billion dollar bath and walked away. The State
2 of New Jersey wanted to complete it, so they
3 subsidized the completion of that casino. They gave
4 them tax breaks to come in and complete that casino.

5 They completed it. It's busted again.
6 And, on top of that, they did the same thing.
7 Predatory marketing. Last summer, they had this
8 marketing plan, that we'll give you back all your of
9 your winnings. And that killed all the other casinos.
10 That's what will happen. This market will not grow.
11 It will not grow 23 percent. I don't think it will
12 grow 10 percent. I think it will grow the one to
13 three percent, that Rittvo said. And when there's no
14 food supply out there, the natives go out and raid
15 their friends and their neighbors and the people in
16 the other tribes who do have food. And that comes to
17 cannibalization. That is what's going to happen
18 because there's no place else to turn.

19 And the cannibalization --- the people
20 have said the total cannibalization would be \$90 to
21 \$220 million. That's what all the Applicants
22 estimate. Rittvo and Innovation Group, back in the
23 2011 gaming report, said it was going to be 86 to 87.
24 So, here's the numbers you have.

25 The Applicants themselves say, we're

1 going to take 90 to 220 out --- cannibalization out of
2 the market. Rittvo, back in 2011 said it would be 86,
3 87. And that was assuming a high-growth rate, which
4 we don't have. And out of that cannibalization, \$36
5 to \$114 million is supposed to come out of
6 SugarHouse's hide, depending on who you listen to.
7 \$36 to \$114 million.

8 Sugarhouse can't survive that. As Mr.
9 Bluhm said, the property won't be worth its debt
10 anymore. And there are other numbers that will, when
11 this devastating withdraw of money from the other
12 operators comes, there are other effects as Wendy
13 talked about. Layoffs and cutting back charities and
14 all those kind of things.

15 But that can be quantified, too. Every
16 one of these Applicants came in and said there's an
17 multiplier effect. If we earn a dollar, it's worth a
18 \$1.80 or it may be \$2, because other people buy them.
19 But there's a reverse multiplying effect. If you take
20 money away from SugarHouse, they spend \$17 million
21 locally. The multiplier effect of that will be \$20
22 million, \$30 million that won't be spent. And every
23 other casino will have the same problem.

24 Cannibalization, if it's in the city, as
25 Wendy said, pick your poison. It's right next door to

1 us almost. It's the Stadium. Over 30 percent of the
2 market comes from the Stadium area. So, they're like
3 Butch Cassidy and the Sundance Kid on the mountain.
4 They're either going to get shot by the guys after
5 them and they're going to jump in the river and die
6 from the fall or drown. It doesn't matter. Pick your
7 poison.

8 What do we want? What are we asking?
9 And by the way, all these numbers, even our own
10 statistics, our own government, and SugarHouse, back
11 in 2005, '06, wildly overestimated the numbers. If
12 you go back to the Suitability Report and the Task
13 Force Reports, they were talking about 6,000 slot
14 machines in Philadelphia. And even with 6,000 to win
15 per unit was projected to be higher than it is with
16 SugarHouse's 1,600.

17 Projections don't mean beans. It's a
18 bunch of hooey. We talked about the facts, what will
19 happen. What I ask you to do is stay your hand. I
20 ask you to do --- to wait at the barebones minimum
21 until the legislation completes its study. One of the
22 newspapers, I don't remember which one it was, called
23 us a Cassandra. That drove me to Wikipedia, to see
24 what that meant.

25 And Cassandra was a goddess who was

1 cursed. She was a prophet and her prophecies were
2 always true. But that wasn't her curse. Her curse
3 was no one believed her. She was cursed with no one
4 will believe your prophecies. So, maybe we are a
5 Cassandra. We know what's going to happen. We're in
6 the market. We see the numbers. You know what's
7 going to happen.

8 I don't think anybody up here or anyone
9 in this room believes this growth in marketing, lack
10 of cannibalization. We do know --- it's like the
11 Frost poem. There's two roads. There's the easy
12 road, a diversion ---.

13 CHAIRMAN:

14 Mr. Donnelly. Thank you very much.

15 ATTORNEY DONNELLY:

16 I'm done. I would just say one thing.
17 We asked you to take the hard road. The hard road is
18 not to take the quick fee and so on. And protect the
19 long run interests in the Commonwealth. Thank you
20 very much.

21 CHAIRMAN:

22 Thank you, sir.

23 * * * * *

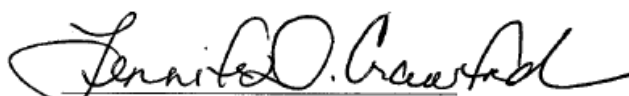
24 HEARING CONCLUDED AT 10:43 A.M.

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CERTIFICATE

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I hereby certify that the foregoing proceedings, hearing held before Chairman Ryan was reported by me on 2/26/2014 and that I Jennifer Crawford read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.


Court Reporter