

PENNSYLVANIA GAMING CONTROL BOARD

PUBLIC MEETING

TUESDAY, FEBRUARY 3, 2009, 1:25 P.M.

STATE MUSEUM AUDITORIUM
HARRISBURG, PENNSYLVANIA

BEFORE:

MARY DiGIACOMO COLINS, CHAIRMAN
RAYMOND S. ANGELI
JEFFREY W. COY
JAMES B. GINTY
KENNETH T. McCABE
SANFORD RIVERS
GARY A SOJKA
KEITH WELKS, EX-OFFICIO REPRESENTATIVE

HILLARY M. HAZLETT, REPORTER
NOTARY PUBLIC

	I N D E X	
	WITNESS	PAGE
1		
2	WITNESS	
3	Frank Donaghue	4
4	Michael Cruz	5
5	Eileen McNulty	13
6	Cory Morowitz	13
7	Doug Sherman	14
8	Richard Sandusky	43
9	Steve Cook	48
10	Cyrus Pitre	59
11	Dustin Miller	59
12	Katie Higgins	61
13	Susan Hensel	66
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 CHAIRMAN DiGIACOMO COLINS: Now, we'll begin our Public
2 Meeting, which I will call to order. Okay. It seems
3 like it is a bit delayed, but we always open our Public
4 Meeting with the Pledge of Allegiance. So we'll do that
5 and then go through the agenda.

6 (Pledge of Allegiance.)

7 CHAIRMAN DiGIACOMO COLINS: Thank you.

8 By way of an announcement, the Board held an
9 Executive Session on February 2nd in accordance with the
10 Sunshine Act. The purpose of the session was to discuss
11 personnel issues, privileged and confidential agency
12 business, and to consult with counsel and other
13 professional advisors to the Board concerning current
14 litigation.

15 The minutes and transcript. May I have a
16 motion to approve the December 18th minutes and
17 transcript?

18 COMMISSIONER ANGELI: Madame Chairman, I move
19 that the Board approve the minutes and transcript of the
20 December 18th Board meeting.

21 COMMISSIONER COY: Second.

22 CHAIRMAN DiGIACOMO COLINS: All in favor?

23 COMMISSIONERS: Aye.

24 CHAIRMAN DiGIACOMO COLINS: Opposed?

25 Motion carries.

1 New business. Executive Director's report,
2 please.

3 MR. DONAGHUE: Good afternoon, Board members.
4 I would like to report on a couple of items today
5 beginning with an update on the revenue trends at the
6 Pennsylvania slot casinos; and then when I am done with
7 my report, Michael Cruz, who is the Director of our
8 Gaming Lab is going to give the Board an update.

9 Last month, again, saw revenues grow comparing
10 the six facilities operating in January of 2008 to the
11 same six operating in January of 2009.

12 That comparison showed an increase of 6.7
13 percent or \$114 million this year compared to \$107
14 million last year.

15 As I have in the past months when making these
16 comparisons, I warn about drawing any concrete
17 conclusions from this increase since the market is
18 obviously still maturing.

19 In addition, another important caveat to those
20 figures is the fact that about 1,500 more slot machines
21 were operating at those facilities last month over the
22 amount in operation in 2008.

23 Pennsylvania gaming market is producing very
24 significant revenues. This includes more than \$72
25 million in tax revenues to the Commonwealth in January,

1 which places total tax revenues generated just for slots
2 play since the initial November 2006 opening at over
3 \$1.5 billion.

4 Another area that I would like to report upon
5 is the release of the 2008 Pennsylvania Gaming Control
6 Board Annual Report.

7 The Annual Report provides the public an
8 opportunity to learn more about the work the agency did
9 in the past year. The report is now available for
10 download in an electronic format, if you go right to our
11 web page.

12 With that, I will turn it over to Michael Cruz,
13 who is going to give an update on the lab.

14 MR. CRUZ: Thank you, Frank.

15 Good afternoon, Chairman Colins, members of the
16 Board. I'm here to give my first quarterly update of
17 the lab's performance for 2009.

18 In particular, I have totals of statistics from
19 2008 that I wish to share with you and go over some of
20 the statistics because we had a pretty good year in
21 2008; and I just want to explain certain items on that
22 report.

23 In your Board packet, you have all of the data
24 that I am going to be going over. For the purposes of
25 the meeting, I'm not going to read all of the numbers

1 for you; but I would like to pinpoint certain aspects
2 that I think should be brought out at this meeting.

3 In particular, in 2008, we reviewed over 8,200
4 items, which include payback percentages, game themes,
5 communication software, system updates, what have you.

6 In comparison in 2007, we reviewed
7 approximately 4,000 items. So it was about 100 percent
8 increase in throughput as far as work done in the lab.

9 Out of that 8,200 items reviewed, we
10 approximately rejected 221 items for various reasons
11 such as payback percentages not meeting the state
12 minimums, communication issues that required
13 reprogramming. So our rejection rate for 2008 was
14 approximately 3 percent of all submitted items.

15 We tend to like to keep that number down
16 because that means that we are doing our previous due
17 diligence and work with the manufacturer so that we get
18 an almost 100 percent product into our lab all of the
19 time because, like I have already stated, the lab is not
20 quality assurance for the manufacturers. Our role is to
21 make sure that the products meet the statute and the
22 regulations.

23 In addition to those numbers, I have one
24 particular number that is not evident in the spreadsheet
25 that I provided to the Board.

1 In the spreadsheet, we do keep track of how
2 many packages were received, submissions. There was
3 approximately 1,177. Package, like, would be a game
4 theme. A typical package averages about 12 reviewable
5 items per submission.

6 We had 219 withdrawn packages last year. Why
7 I'm pointing this specific statistic out is that I have
8 explained to the Board and other staff that we operate
9 our lab on an entirely new and different system where we
10 prioritize games.

11 We do not run a first-in/first-out queue. This
12 allows us to only approve games that are only destined
13 for Pennsylvania casinos and therefore do not waste our
14 time and effort reviewing games that at the end of the
15 day do not get installed.

16 So through this process, we have -- working
17 with manufacturers and casinos, manufacturers have
18 submitted 1,177 packages and have withdrawn 219. That
19 means that is 219 packages that we did not have to
20 review; and if we did review it, based on a
21 first-in/first-out process, they wouldn't have ever been
22 used in Pennsylvania.

23 So taking that as a percentage of total
24 packages submitted, it is about a 19 percent constituent
25 of those total packages submitted.

1 Why this is significant is because I have had a
2 lot of anecdotal evidence based upon how successful our
3 lab has been. This is the first year that I can report
4 to the Board that I have empirical evidence that the
5 methods and processes that we have put in place in our
6 lab has in essence turned around a 19 percent efficiency
7 over running a lab based off a first-in/first-out queue.

8 I am very proud to report that to the Board,
9 meaning that all of the hard work that my staff has done
10 and particularly myself and my management staff in
11 taking it upon ourselves to manage it and to work with
12 the casino properties, work with the manufacturers so
13 that only products that are needed in Pennsylvania get
14 reviewed and approved, are installed in Pennsylvania.

15 So I'm very proud to report that to the Board.
16 That is going to be the summation of my report. I just
17 want to add a couple of other notes about openings for
18 this year.

19 I do have some good news to report that,
20 although it is going to be a very tight timeline for
21 these openings in 2009, I have reason to believe that
22 there are already games being installed at the Meadows
23 in the permanent facility.

24 They expect to have central system equipment
25 installed in a couple of weeks; and as soon as that is

1 installed, my staff can begin to certify the games for
2 operation. So we are looking at a two-month lead time
3 prior to opening.

4 In addition to what Mr. DeSalvio said about the
5 Sands property, they are receiving games by the middle
6 of this month, which is a very good sign that they are
7 on track to meet the deadlines that they proposed.

8 Given those two updates and given my past
9 experience on openings and meeting deadlines, I am very
10 confident that we are on a good track for these openings
11 that are coming up in 2009.

12 That pretty much summarizes the -- my report
13 for this first quarter. If any of the Board members or
14 Chairman have any questions, I will gladly take them.

15 CHAIRMAN DiGIACOMO COLINS: Michael, I don't
16 have a question right now; but I do want to commend you
17 and your staff in the lab for creating a very, very
18 well-respected and fine lab that is producing quality
19 games at a very significant and safe rate.

20 We are confident that the integrity of gaming
21 is very well protected by you and your staff, and I
22 commend you. So thank you.

23 MR. CRUZ: I appreciate that, and I will
24 definitely forward that on to my staff. One of the
25 things I want to emphasize, although we get products

1 out, we do not sacrifice quality for quantity.

2 In essence, we made things more efficient as
3 opposed to cutting corners and that is what I wanted to
4 emphasize and luckily the evidence points straight to
5 it.

6 CHAIRMAN DiGIACOMO COLINS: And we will expect
7 to hear from you on a quarterly basis.

8 MR. CRUZ: Yes. I intend on it.

9 CHAIRMAN DiGIACOMO COLINS: Anything further?
10 Go on.

11 COMMISSIONER GINTY: How large is the staff?

12 MR. CRUZ: We are currently at, I believe, 12.
13 I did lose one staff member to another position, but I
14 have a couple people in the pipeline.

15 COMMISSIONER GINTY: I know that under your
16 leadership, the lab has instituted a number of
17 innovations that other labs are looking at. I hope in
18 your next presentation, you can share those innovations
19 with us.

20 MR. CRUZ: I shall definitely do some research.

21 COMMISSIONER SOJKA: A quick comment and I
22 promise I'm not going to talk about any infinitely
23 unlucky man today.

24 I want to compliment you on your initiative
25 having to do with focusing on games that will have

1 impact in Pennsylvania.

2 I would like to bore in a bit on that
3 statistic. First of all, can we assume that all
4 withdrawn packages that are withdrawn is because of that
5 one reason, they are not going to be used in
6 Pennsylvania?

7 MR. CRUZ: Some packages were most likely
8 withdrawn, not because of that; but it is a
9 significantly high number because of the way we run our
10 queue.

11 What we do is, I work with the manufacturer and
12 casinos to prioritize what we have in our queue. Then
13 probably every three or four months, every quarter, I
14 actually engage the manufacturer and say, this is what I
15 have pending.

16 Certain games have not been called out as
17 priority, reassess your priorities, and if they are not
18 your priority anymore, then please withdraw them from my
19 queue. That is a majority of those 220 or so packages.

20 COMMISSIONER SOJKA: Excellent. I'm assuming
21 then that to submit a package and then have to withdraw
22 it constitutes an expense for the manufacturer that they
23 would like to do away with.

24 So if that is true, can we assume that this
25 initiative that you have taken will in time cause the

1 manufacturers to be aware of this and simply not be
2 sending you material that doesn't have a very high
3 probability of ending up in the Pennsylvania casino?

4 MR. CRUZ: Correct. I think it is a win/win
5 situation for everybody involved. My staff is not
6 spending time on reviewing products that are not
7 destined for Pennsylvania and the manufacturer is not
8 wasting time and money in submitting products to our lab
9 requesting review and getting approval and then not
10 installing them into Pennsylvania casinos. So it is a
11 win/win for everybody.

12 COMMISSIONER SOJKA: Thank you.

13 CHAIRMAN DiGIACOMO COLINS: Okay. Thank you
14 very much.

15 Eileen McNulty, please.

16 MS. McNULTY: Good afternoon, Chairman Colins
17 and Board members. In early January, the PGCB received
18 a report entitled Pennsylvania Regulatory Cost Study
19 from Mr. Cory Morowitz of Morowitz Gaming Advisors, LLC.
20 The report is dated November 14th, 2008.

21 In his correspondence, Mr. Morowitz indicated
22 that his firm had been engaged by seven slot licensees
23 to provide an analysis of state gaming regulatory costs
24 and provided a copy to the Board.

25 Mr. Morowitz asked the Board to contact him if

1 there were any questions regarding the report. As the
2 staff reviewed the report, it became clear that there
3 were a number of questions about the way the study was
4 done and the data in the study.

5 Mr. Morowitz was invited to attend today's
6 meeting to answer questions on his study, which will be
7 posed to him by our Chief Counsel.

8 Mr. Morowitz is a graduate of the Wharton
9 School where he earned his MBA in 1996. He is the
10 Chairman and managing member of Morowitz Gaming
11 Advisors, LLC, a gaming consultancy and Morowitz, LLC, a
12 public accounting firm. He is also a Certified Public
13 Accountant. He is here today to answer your questions.

14 CHAIRMAN DiGIACOMO COLINS: Mr. Morowitz?

15 MR. MICHAEL: Madame Chair, if I could make our
16 appearances.

17 CHAIRMAN DiGIACOMO COLINS: Pardon me? I was
18 saying welcome and I would like you to state your name
19 for the record, if you will.

20 MR. MOROWITZ: Cory Morowitz.

21 CHAIRMAN DiGIACOMO COLINS: Thank you.

22 MR. MICHAEL: I'm sorry, Madame Chair. Lawyers
23 are jumping in again. I'm Guy Michael from Michael and
24 Carol and with me is my partner Michael Carol and this
25 is Ms. Tsingis, T-s-i-n-g-i-s.

1 CHAIRMAN DiGIACOMO COLINS: Very good. Thank
2 you for being here. Mr. Sherman has some questions for
3 some of the information you have provided to us in the
4 report, so I will turn it over to Mr. Sherman.

5 MR. SHERMAN: Good afternoon, Mr. Morowitz. I
6 am Doug Sherman, the Acting Chief Counsel here for the
7 Board.

8 As the Chairman has stated, having received the
9 report shortly after the January 5th date, as staff went
10 through, I think we developed a number of questions
11 trying to clarify our understanding of what the report
12 is, how it was prepared, what assumptions formed the
13 underpinnings of the report, and basically so that we
14 can get a better understanding so we can intelligently
15 use this report hopefully to the benefit of not only the
16 Board but all of Pennsylvania.

17 So with that introduction, could you take us
18 through how you became engaged in this endeavor of
19 preparing the Pennsylvania regulatory cost study?

20 MR. MOROWITZ: We were contacted by
21 representatives of Philadelphia Park and asked to
22 essentially do what is in the report, compile a listing
23 of regulatory costs amongst several jurisdictions and
24 compare them to Pennsylvania on three specific
25 benchmarks, which are mentioned in the report.

1 MR. SHERMAN: Those benchmarks, while you
2 mentioned them, are the regulatory costs per gaming
3 position and just so we can get the definitions out --

4 MR. MOROWITZ: Okay.

5 MR. SHERMAN: -- can you tell us what that
6 means, regulatory cost per gaming position.

7 MR. MOROWITZ: It is the total cost for the
8 regulatory process divided by the number of positions in
9 a jurisdiction, positions being defined as a slot
10 machine is one position and a table game is six
11 positions. So we -- if you have one slot machine and
12 one table, it is seven positions.

13 MR. SHERMAN: And if you had a casino in
14 Pennsylvania with 3,000 machines, that would be 3,000
15 positions. If you had a casino in another jurisdiction
16 with 1,000 slot machines and 5,000 table positions, that
17 would be 6,000 positions?

18 MR. MOROWITZ: Correct. Yes.

19 MR. SHERMAN: So the -- I'm sorry. The second
20 indices that you looked at, the regulatory cost as per
21 gross terminal revenue. Could you explain to us what
22 that indice is?

23 MR. MOROWITZ: It is exactly what you just
24 said. It is the total regulatory cost divided by the
25 total gross revenue for the jurisdiction.

1 MR. SHERMAN: Okay. And the third is
2 regulatory cost per casino employee. Would I be correct
3 that you took the total cost and divided that by the
4 total number of employees?

5 MR. MOROWITZ: Of the -- the operator
6 employees, not regulatory employees.

7 MR. SHERMAN: Right. I'm sorry. So with those
8 three indices, I believe you indicated that Philadelphia
9 Park representatives had approached you.

10 Again, the cover letter, which this was
11 forwarded, indicates that you were retained by seven
12 different casinos?

13 MR. MOROWITZ: That is correct. I believe that
14 they were the coordinator for the group; but ultimately,
15 we were engaged by all seven.

16 MR. SHERMAN: They being Philadelphia Park?

17 MR. MOROWITZ: Yes.

18 MR. SHERMAN: Okay now, I notice in the report
19 you list nine other states --

20 MR. MOROWITZ: Yes.

21 MR. SHERMAN: -- with gaming and you provide
22 various statistics on the gaming cost. Who picked the
23 nine states?

24 MR. MOROWITZ: We picked the nine states based
25 on a couple of criteria. One was we wanted to have New

1 Jersey and Las Vegas in there because they are two of
2 the older jurisdictions and also the two largest
3 jurisdictions, New Jersey is right next door to
4 Pennsylvania so we wanted to -- we felt it was important
5 to have them in there.

6 We picked the other states based on -- mostly
7 based on whether they were regulating just gaming as
8 opposed to whether they had lottery operations or horse
9 racing or some other regulation, regulatory oversight.

10 Then the last thing was based on whether there
11 was data available, not all states had data. So we
12 tried to get as representative a sample as possible.

13 There were no states that we looked at that we
14 didn't put in because we didn't think they would be
15 beneficial. So anything we looked at that we could get
16 data, we used.

17 MR. SHERMAN: Okay. Now, do you know if any of
18 the states that you selected for comparison are
19 slot-machine-only states such as Pennsylvania?

20 MR. MOROWITZ: I would have to look through
21 them, but it is possible.

22 MR. SHERMAN: If I were to tell you that none
23 of the nine states were --

24 MR. MOROWITZ: None of them were. That is
25 correct.

1 MR. SHERMAN: All right. Would that make a
2 difference in terms of in general the positions on
3 average that you would find in a casino?

4 MR. MOROWITZ: In terms of the total number of
5 positions?

6 MR. SHERMAN: Yes.

7 MR. MOROWITZ: Well, again, a position is any
8 place where a patron can be sitting at. So a table
9 typically has six positions. A slot machine has one.
10 So in terms of the number of positions -- I'm
11 not sure if I understand the question. A slot machine
12 has one position.

13 MR. SHERMAN: I guess the question is and
14 excuse me if I, you know, am stumbling a little bit here
15 trying to understand the methodology here.

16 MR. MOROWITZ: Right.

17 MR. SHERMAN: If a casino has table games, they
18 are logically for that table going to have, I think,
19 with your example, six positions whereas a slot machine,
20 a single slot machine would have one position, correct?

21 MR. MOROWITZ: That is correct. When we -- we
22 tried to get data on the states that had slot machines
23 only, specifically, West Virginia, New York; but their
24 regulatory structure we didn't think were -- would
25 provide a -- well, first of all, we couldn't get

1 information because it is buried in their specific
2 states.

3 Like, I think West Virginia is part of the
4 lottery. I think Delaware is part of the lottery. So
5 we couldn't get that information for those. So we
6 provided it for the states that we could. There was no
7 attempt to not show just a slot state because, again,
8 the information wasn't available.

9 MR. SHERMAN: Okay. Have you prepared similar
10 reports for casino operators in other jurisdictions or
11 was this as a first time you --

12 MR. MOROWITZ: The regulatory --

13 MR. SHERMAN: Yes.

14 MR. MOROWITZ: No. We have never done anything
15 on regulatory costs before.

16 MR. SHERMAN: Now, clearly your report portrays
17 a position where Pennsylvania overall costs are higher
18 than the other jurisdictions, some by a larger amount,
19 some by a smaller amount. Would agree with that?

20 MR. MOROWITZ: Yeah, based on the data, yes.
21 Could I just make one comment?

22 MR. SHERMAN: Sure.

23 MR. MOROWITZ: Our report is essentially a
24 compilation of data. We did not make any qualitative
25 judgments in terms of how -- of the reasons why the

1 costs are different in different jurisdictions based on
2 the benchmarks.

3 Simply a compilation of data, which we were
4 hoping would become a tool that you could use to analyze
5 your own operation.

6 MR. SHERMAN: And I think as I expressed, that
7 is why we are, you know, trying to get this information
8 so that we can use it for a tool and figure out where we
9 can make fair comparisons.

10 Now, obviously, Pennsylvania, being a very
11 young jurisdiction, only 7 out of a possible 14 casinos
12 being opened, would you agree that Pennsylvania is still
13 facing a series of ramp-up or start-up costs, which
14 would not be indicative of more established
15 jurisdictions?

16 MR. MOROWITZ: I really can't answer that
17 question because it is not part of what we were engaged
18 to do.

19 The only thing we were engaged to do was
20 compile this data, create the benchmarks. We were not
21 asked to look into the reasons why certain costs were
22 higher or lower.

23 We were not even asked to look at the age of
24 different jurisdictions. So I didn't really study that.
25 It would be unfair for me to provide an opinion on it.

1 MR. SHERMAN: Okay. Would you have an opinion
2 as to whether that would be an appropriate factor to
3 look at if individuals were trying to make an analysis
4 of why the cost may be different?

5 MR. MOROWITZ: Absolutely. Again, we were not
6 asked to make any qualitative judgments. We were asked
7 to compile the data.

8 In any good benchmarking study, it is basically
9 going to provide you with a lot of information that is
10 going to prod you to ask questions. Then you are going
11 to ask why these costs are different than in other
12 jurisdictions. That would be potentially one of the
13 reasons why.

14 MR. SHERMAN: Now, and not to belabor the
15 point, I just want to run through several of these
16 factors.

17 One of the indices, obviously, that we talked
18 about was the regulatory cost per casino employee. Now,
19 when I look at the report, I think you have Pennsylvania
20 at about 4,877 casino employees.

21 In New Jersey for 11 casinos, the number is
22 about 48,000, ten times higher than Pennsylvania. Did
23 you do any analysis to determine whether there was a
24 difference in who was included in casino employees among
25 the jurisdictions?

1 MR. MOROWITZ: These were total employees at
2 each of the -- these are total employees in the
3 industry, not necessarily casino licensed employees.

4 So these were total employees; and again, we
5 were not asked to make any qualitative judgments, just
6 compile the data.

7 MR. SHERMAN: If a casino had a hotel, much
8 like we see in the Las Vegas area, the New Jersey strip,
9 would the casino -- would the hotel employees be
10 included in the total number of employees?

11 MR. MOROWITZ: Yes.

12 MR. SHERMAN: So if in comparison of those
13 situations to Pennsylvania where largely there are not
14 hotels, obviously, you would probably expect
15 Pennsylvania's numbers of employees to be lower,
16 wouldn't you?

17 MR. MOROWITZ: Well, the number of employees is
18 related to the complexity of the property. But, again,
19 we weren't -- I did not make those kind of qualitative
20 judgments because we just compiled the data.

21 So if I had prepared and, you know, known that
22 you would have that question, I would be more prepared
23 to provide an opinion on it.

24 MR. SHERMAN: Sure. I guess my point is, we
25 are confronted with ratios here of regulatory cost

1 versus employees.

2 From our perspective, we're looking at a wide
3 divergence of those ratios. I think from -- again, from
4 our end looking at it, if the number of employees in
5 Pennsylvania is much lower because all of the employees
6 of those other amenities are not included, it is going
7 to affect those ratios and something that obviously in
8 our analysis we have to take into consideration.

9 MR. MOROWITZ: Again, if you use this as a tool
10 and you start to dig into the reasons, that may -- you
11 know, that may be a reason but; and I'm -- correct me if
12 I am wrong, Guy, but I believe that all of the employees
13 in New Jersey are subject to some oversight?

14 MR. MICHAEL: There is either a license or a
15 certification or registration.

16 MR. MOROWITZ: So I think it is a fair
17 comparison.

18 MR. SHERMAN: Now, as I stated Pennsylvania
19 only has 7 of 14 licenses currently out there which have
20 been are actually operating. We have a couple more to
21 come online.

22 Are you aware of any of the other nine
23 jurisdictions that are currently only operating with
24 half of the casinos operating?

25 MR. MOROWITZ: Again, it wasn't part of our

1 engagement. So, I -- you know, if I had a little time,
2 you know to go through my databases, I would be able to
3 answer that, but I can't.

4 MR. SHERMAN: Would you agree that if we were
5 to make the next step of the analysis of the reasons for
6 the cost, that could be a factor?

7 MR. MOROWITZ: That is something you should be
8 studying. Absolutely.

9 MR. SHERMAN: Are you also aware -- I think you
10 note in the study -- I want to make sure that I have the
11 right language, that in talking about the costs in
12 Pennsylvania, quote, primarily due to a dedicated State
13 Police contingent for each casino and a statutory
14 requirement for a central control computer, the addition
15 of these regulatory costs to those of the Gaming Board
16 makes Pennsylvania the state with the highest regulatory
17 costs of the study. Is that a statement out of your
18 report?

19 MR. MOROWITZ: Yes, it is. I think we were
20 trying to provide at least some guidance as to why the
21 costs were higher.

22 MR. SHERMAN: Okay. Are you aware of any other
23 jurisdictions of the nine that were cited that have the
24 requirement of a central control computer system?

25 MR. MOROWITZ: I don't think any of them do.

1 MR. SHERMAN: Okay. So in this case, I think
2 we are looking at about 12 percent of the overall
3 regulatory cost. Would you agree that that would be a
4 significant factor, which may cause a difference in the
5 analysis?

6 MR. MOROWITZ: Again, it is hard for me to
7 provide you with opinions because even though I like to
8 provide my opinion, I wasn't asked to do so in this
9 engagement.

10 MR. SHERMAN: All right. But certainly,
11 something in our analysis that we should be looking at?

12 MR. MOROWITZ: It is definitely something you
13 should look at. Absolutely.

14 MR. SHERMAN: All right. Likewise, the
15 dedicated State Police force on-site at the casinos was
16 about 27 percent of the total regulatory cost. Would
17 that be another factor that would have to be analyzed
18 from our end?

19 MR. MOROWITZ: Yes.

20 MR. SHERMAN: Another matter which occurred to
21 me is that Pennsylvania by statute has a requirement
22 that all licenses, permits, and certifications be
23 renewed on an annual basis.

24 Are you familiar through your experience in
25 overseeing gaming -- in your gaming advisory or through

1 this report, how many other jurisdictions that you have
2 looked at that require annual renewals as opposed to
3 either three or five-year renewals?

4 MR. MOROWITZ: Again, we weren't asked to get
5 into the reasons why the costs were different. We
6 didn't look at that kind of information. In my
7 experience, I would be guessing if I knew which
8 jurisdictions required three or one year.

9 MR. SHERMAN: Would common sense dictate that
10 annual renewals are going to entail greater
11 administrative costs than three or five-year renewals?

12 MR. MOROWITZ: Most likely. You're going to
13 find lots of reasons why the costs are higher.

14 MR. SHERMAN: Right. In each of these --

15 MR. MOROWITZ: My question is, can you change
16 some of those things and make it, you know, better for
17 the industry and still have oversight?

18 MR. SHERMAN: And obviously, from a Gaming
19 Control Board standpoint, some of these factors are
20 required by statute --

21 MR. MOROWITZ: Understood.

22 MR. SHERMAN: -- which are outside of our
23 control.

24 MR. MOROWITZ: Yes.

25 MR. SHERMAN: But nevertheless, I think they

1 all have to be analyzed in terms of coming up with a
2 global view of why the costs are what they are. Some of
3 which can be changed and some which are outside of our
4 control.

5 MR. MOROWITZ: Yes.

6 MR. SHERMAN: One of the things that I wanted
7 to ask you about was you had noted, I think it is on
8 Page 3, Footnote 1, that in Pennsylvania, promotional
9 play is deducted from gross terminal revenue; is that
10 correct?

11 MR. MOROWITZ: I believe that is correct.

12 MR. SHERMAN: And would it be correct that the
13 promotional play extended by casinos is not deducted
14 from gross terminal revenue in other jurisdictions?

15 MR. MOROWITZ: I'm sorry. Repeat that. I was
16 reading.

17 MR. SHERMAN: Okay. First question was
18 actually my statement that the report states that gross
19 terminal revenues in Pennsylvania are deducted from --
20 promotional plays are deducted from gross terminal
21 revenues; is that correct?

22 MR. MOROWITZ: That is correct.

23 MR. SHERMAN: Okay. Are we to presume that
24 from the way you have listed this in the footnote that
25 promotional plays are not traditionally deducted from

1 gross terminal revenues in other jurisdictions?

2 MR. MOROWITZ: I think in some jurisdictions
3 they are and in some they aren't.

4 MR. SHERMAN: So depending on whether they are
5 or are not, they may increase or decrease the gross
6 terminal revenue --

7 MR. MOROWITZ: Yes.

8 MR. SHERMAN: -- which is being used in the
9 ratios?

10 MR. MOROWITZ: Yes.

11 MR. SHERMAN: So that would have to be another
12 factor to be looked at in coming to any conclusions
13 about some of the ratios?

14 MR. MOROWITZ: Yes.

15 MR. SHERMAN: Now, did you ever --

16 MR. MOROWITZ: Let me just point out that we
17 did -- in the footnote, we added those back and provided
18 different percentages.

19 MR. SHERMAN: Right. And I think what you
20 noted is that if, in fact, those amounts are added back
21 in to be on same footing as the number of the other
22 jurisdictions, Pennsylvania's costs come down.

23 MR. MOROWITZ: They do, not materially; but
24 they do.

25 MR. SHERMAN: Not materially in and of itself

1 because of the promotional play, but in concert with
2 another a number of other factors, it may cause a
3 material decrease when we look at all of these other
4 issues?

5 MR. MOROWITZ: Yeah. Again, I wasn't asked to
6 look at the other issues.

7 MR. SHERMAN: Okay. I think you used a
8 promotional play presumption of 6.5 percent. Do you
9 know how you came up with that number?

10 MR. MOROWITZ: I'm pretty sure that we
11 calculated based on the Pennsylvania Gaming Board's
12 site, the total promotional plays divided into the net
13 revenue and then we assumed that that would be the
14 percentage going forward.

15 MR. SHERMAN: I think what you would find that
16 year-to-date -- I'm sorry. For this last year,
17 promotional plays were actually in excess of 13 percent.
18 And if that was the case, that would -- actually
19 factoring that back into the GTR, that would actually
20 result in a larger reduction than only a 6.5 percent?

21 MR. MOROWITZ: If that is the case, that is not
22 the info that was represented on the site.

23 MR. SHERMAN: Okay. Okay. All right. Now,
24 obviously, Pennsylvania also has a requirement in the
25 statute for an in-house public gaming laboratory. The

1 costs of the operations of the lab are factored into the
2 budget appropriation, which as a portion of regulatory
3 cost are going to result in that number being higher
4 than if Pennsylvania didn't have the required
5 laboratory. Are you aware if any of the other nine
6 agencies, nine states require public gaming labs?

7 MR. MOROWITZ: Some of that information might
8 -- we provided a pretty comprehensive report. The
9 budgets of the jurisdictions are included in the back,
10 and they may be in some of those. I don't have that
11 information off the top of my --

12 MR. SHERMAN: Did you prepare a report other
13 than the one you provided to us?

14 MR. MOROWITZ: No.

15 MR. SHERMAN: When you say a comprehensive
16 report, I didn't know if there was something more.

17 MR. MOROWITZ: No. No. No. I mean, there are
18 several pages of spreadsheets from the data from the
19 states that supports these conclusions.

20 There may be those costs in some; but again, we
21 weren't asked to determine the reasons why the costs
22 were different. We were just asked to provide the
23 compilation of the data.

24 MR. SHERMAN: Again, I don't want to, you know,
25 go beyond just trying to get an understanding of where

1 these facts came from because I think we all recognize
2 in Pennsylvania and probably elsewhere where there are
3 gaming labs, although the funds may be included in the
4 budget amount and appropriated for us, the cost of the
5 lab largely will be billed to the manufacturers of the
6 equipment and not to the casino operators.

7 So the inclusion of those amounts without
8 taking into account that factor of the total regulatory
9 costs may again factor -- have an effect on the
10 regulatory -- on the ratios or the indices being used.

11 MR. MOROWITZ: We would have to look at each
12 individual state and determine if that is the case.
13 Again, it is hard for me to provide you an opinion on
14 something I wasn't asked to look at.

15 MR. SHERMAN: One final area I want to go into
16 is on Page 5 of your report. You have projected
17 historical revenues and positions?

18 MR. MOROWITZ: Yes.

19 MR. SHERMAN: Under key assumptions -- and we
20 have just had hearings earlier today about Category 3
21 Applicants. I see in the report that you have a
22 Category 3 Poconos Applicant listed as coming on the
23 line fiscal year ending June of 2010. Is there any
24 reason that you don't have two Category 3 Applicants?

25 MR. MOROWITZ: It was based on our --

1 combination of our judgment, on discussions with
2 attorneys who are very intimate with this process; and
3 essentially, you know, at the time that we did the
4 report, you know, a feeling that only one of those two
5 would actually open up.

6 MR. SHERMAN: I think clearly what we can see
7 here is that there may be a number, large number of
8 factors which have to be looked at further in order to
9 come to any conclusions in this report. Would you agree
10 with that?

11 MR. MOROWITZ: I couldn't agree more. This was
12 meant to get the ball rolling.

13 MR. SHERMAN: So simply because of the fact
14 that in the report and this is what I think what I want
15 to conclude with, the fact that Pennsylvania may have
16 higher costs as listed in the report that is in raw
17 numbers, am I correct, that you can't come to a
18 conclusion as to or not yet come to a conclusion as to
19 the reasons for those higher costs?

20 MR. MOROWITZ: That is correct. We were not
21 asked to come to a conclusion. We were asked to provide
22 the costs; and essentially, the only conclusion that we
23 came to in the report is that the costs were higher, not
24 the reasons why.

25 MR. SHERMAN: And likewise, did you come to any

1 conclusion as to whether those costs in light of the
2 regulatory and statutory scheme are in any way
3 unreasonable?

4 MR. MOROWITZ: No. We were not asked to come
5 to study that or to provide a conclusion on that.

6 MR. SHERMAN: All right. Thank you.

7 Madame Chairman, I don't have any further
8 questions.

9 CHAIRMAN DiGIACOMO COLINS: Does anyone else
10 have questions?

11 COMMISSIONER GINTY: I have a few. First of
12 all, I am concerned about the only including the Cat 1,
13 and just one Cat 3 Applicant in this. Who suggested
14 that you not include Valley Forge --

15 MR. MOROWITZ: No one suggested that we not.
16 It was based on a number of conversations -- I couldn't
17 even tell you. We must have talked to four or five
18 different people who are out there. We didn't speak to
19 anyone from Valley Forge and this is not in any way kind
20 of a --

21 COMMISSIONER GINTY: You understand --

22 MR. MOROWITZ: It would be on our judgment --

23 COMMISSIONER GINTY: -- one of the casinos that
24 has retained you is opposing the Valley Forge
25 application?

1 MR. MOROWITZ: I --

2 COMMISSIONER GINTY: Don't you think it was a
3 little misleading?

4 MR. MOROWITZ: I was totally unaware of that.
5 It was not what we were asked to do. It was just based
6 on a number of people that that is what would be open.

7 COMMISSIONER GINTY: You used two terms. One
8 is that you were requested to compile data. You also
9 said that you were retained to make comparisons?

10 MR. MOROWITZ: It is part of the compilation
11 process, yes.

12 COMMISSIONER GINTY: Now, do you think these
13 are valid comparisons?

14 MR. MOROWITZ: Yes.

15 COMMISSIONER GINTY: Given the differences in
16 the jurisdictions, statutory responsibilities, and so
17 forth is this apples -- in the old standard, is this
18 apples to apples?

19 MR. MOROWITZ: We weren't asked to determine if
20 it was apples to apples. We were just asked to provide
21 the ratio so that you can then go to the next step and
22 see it is apples to apples. We weren't asked to do
23 that.

24 COMMISSIONER GINTY: Do you know how this
25 report is being used?

1 MR. MOROWITZ: I don't. I was asked to do the
2 report. I provided it to my clients. I am not involved
3 in any other process.

4 COMMISSIONER GINTY: You have not talked to any
5 Legislators?

6 MR. MOROWITZ: I have not.

7 COMMISSIONER GINTY: You know, in all fairness,
8 and this goes to the industry as well, I, for one --
9 this is a personal opinion. I think this is a very
10 distorted report and you know, what I think -- and I
11 appreciate you sharing it with us, by the way; but I
12 think to be fair, you and the industry should make the
13 adjustments so that we have a better understanding of
14 how we compare to other jurisdictions.

15 In other words, you know, we are statutorily
16 required to renew licenses every year. We are
17 statutorily required to have a gaming laboratory, other
18 states are not.

19 We require non-gaming vendors to be licensed or
20 registered. Nevada, for one, does not. That is a
21 considerable -- and there are others. We talked about
22 start-up costs.

23 Are you aware that a lot of the budgetary items
24 that you saw are actually deferred so that the current
25 casinos don't have to pay, you know, the start-up costs,

1 that eventually those costs will be shared by all 14
2 casinos?

3 MR. MOROWITZ: I am aware of that; but again,
4 it wasn't part of this study. It was purely we were
5 asked to provide these ratios so you could be asking
6 these questions.

7 COMMISSIONER GINTY: I'm wondering who is
8 asking those questions.

9 MR. MOROWITZ: You are.

10 COMMISSIONER GINTY: I do think that -- and
11 there are representatives from the industry here. I
12 just think that you owe it not just to the Board but to
13 the Legislature and the citizens of Pennsylvania to come
14 up with a more appropriate study. That is all I have.

15 CHAIRMAN DiGIACOMO COLINS: Commissioner Sojka?

16 COMMISSIONER SOJKA: Just a follow-up on that.
17 And again, I don't wish to appear overly defensive. You
18 have made these compilations. You have made the
19 comparisons.

20 I think you can tell we are taking this
21 seriously and to the degree they could be useful to us
22 and to the end we will do so.

23 But repeatedly, you have talked about this is
24 nothing more than a compilation of data and that it is
25 nothing more than comparisons and there has been a kind

1 of implication that there was no attempt to interpret or
2 get a particular result.

3 I don't wish to appear overly stringent here
4 and I hope I am not being sort of hyperexegetical, but
5 when Mr. Sherman asked you about which states were being
6 excluded or might not be included, you mentioned that
7 you looked at some, they weren't put in, and you assured
8 him that they did not get in there because their results
9 would not be beneficial; and that was your term, sir,
10 beneficial.

11 Beneficial implies that there is some intended
12 result that would be benefited. You said you didn't
13 include it because they were beneficial. Was the intent
14 to make Pennsylvania look more expensive?

15 MR. MOROWITZ: No.

16 COMMISSIONER SOJKA: What did you mean by that
17 word then?

18 MR. MOROWITZ: I was just trying to assure the
19 Board and your counsel that we did not manipulate
20 anything here.

21 We used data that was available to us, and we
22 presented it in this report. There was -- nobody told
23 us this is what we want it to look like. We used our
24 judgment and our -- and analyzed the data that is out
25 there and provided everything that we found.

1 I mean, it is not -- I was just trying to make
2 a statement that, you know, there was nothing that was
3 left out of here that we found and left it out.

4 COMMISSIONER SOJKA: And I understand, it is a
5 questioning thing. You didn't have time to prepare. We
6 all occasionally use words that you've got to back up
7 on. Thank you.

8 CHAIRMAN DiGIACOMO COLINS: Commissioner
9 Rivers?

10 COMMISSIONER RIVERS: Several questions. First
11 of all, when did you start to gather the data used in
12 your report?

13 MR. MOROWITZ: I think we started to gather it
14 sometime around the summer.

15 COMMISSIONER RIVERS: And when did you start
16 analyzing and then when did you write your report?

17 MR. MOROWITZ: The report was completed on
18 November 14th. We had done an earlier report. I don't
19 remember exactly when it was done and then we were asked
20 to update it in November.

21 COMMISSIONER RIVERS: Well, in all of my days
22 and my university work when we looked at reports and
23 evaluations and studies and especially when you were
24 benchmarking, we always try to find comparable items.

25 It seems very clear to me that you did not use

1 comparable items when writing this report. I mean, I
2 think you will say that you were probably not asked to
3 do that; but just out of curiosity as a researcher, why
4 would you not use comparable items when you were doing
5 your benchmarking?

6 MR. MOROWITZ: I think we did use comparable
7 items. We compared to several gaming jurisdictions.
8 The jurisdictions that we couldn't get information for,
9 we didn't use.

10 The jurisdictions that had oversight over other
11 items like horse racing or, you know, other regulatory
12 oversight, we didn't think that those would have been
13 fair representations.

14 COMMISSIONER RIVERS: Why weren't there
15 asterisks indicating that they are not comparable in 100
16 or 85 -- even 100 percent to where Pennsylvania happens
17 to be?

18 MR. MOROWITZ: We weren't asked to provide any
19 kind of an opinion on whether they were comparable. We
20 were asked to compile the data.

21 COMMISSIONER RIVERS: But you drew conclusions
22 from that, correct?

23 MR. MOROWITZ: The conclusions that we drew
24 were basically a regurgitation of what the data said.

25 COMMISSIONER RIVERS: And having not seen the

1 entire report, is there any place in your report that
2 you make a declaration that Pennsylvania, because of a
3 variety of variables, is significantly different than
4 the other entities that you put in the report?

5 MR. MOROWITZ: We did say that. We were
6 trying --

7 COMMISSIONER RIVERS: I'm asking the question.
8 I didn't read the entire report.

9 MR. MOROWITZ: We did say that in one did --
10 which was pointed out, one paragraph that there was a
11 requirement for a central computer system and a
12 dedicated state police. Again, we were trying to point
13 out why the costs were higher --

14 COMMISSIONER RIVERS: Thank you.

15 MR. MOROWITZ: -- in that one respect.

16 CHAIRMAN DiGIACOMO COLINS: Commissioner
17 McCabe?

18 COMMISSIONER McCABE: I agree with some of the
19 questions and comments that have been made. I think we
20 established that this is not really an analysis of the
21 data.

22 All this report is is a compilation of the
23 numbers. You have to understand, we have to weigh --
24 the public -- protect the public and the regulatory
25 costs equally.

1 We will try to do what we can to -- in our new
2 regulatory stage here that we are in to do things more
3 efficient, more cost effective; but also the public
4 demands us to make sure that we regulate the industry to
5 maintain the integrity.

6 We will look at this in the light that we now
7 know. I appreciate you coming because I think it does
8 explain a number of things. This isn't really an
9 analysis of these numbers. This is just a compilation
10 of the numbers.

11 MR. MOROWITZ: That is correct.

12 COMMISSIONER McCABE: Thank you.

13 CHAIRMAN DiGIACOMO COLINS: Commissioner Coy?

14 COMMISSIONER COY: No questions.

15 CHAIRMAN DiGIACOMO COLINS: Commissioner
16 Angeli.

17 COMMISSIONER ANGELI: Just one question.

18 Mr. Morowitz, at any time when you did your
19 study, did you contemplate coordinating with the
20 Pennsylvania Gaming Control Board staff on the
21 conditions on things you could iron out to be able to
22 make your study more efficient or were you not asked to
23 do that?

24 MR. MOROWITZ: Nobody specifically asked me not
25 to. I just didn't.

1 COMMISSIONER ANGELI: Any particular reason?
2 It just seems odd that you wouldn't come back and say,
3 we are doing this study. These are things we are
4 looking at. This is the basis for our study. Do you
5 have any recommendations or any considerations as we do
6 the study to move forward?

7 MR. MOROWITZ: Again, there was publicly
8 available data out there that we based the report on.
9 We weren't asked to come to conclusions. I didn't think
10 this would be the appropriate time. I assumed there
11 would be a Phase 2.

12 COMMISSIONER ANGELI: Okay. Thank you very
13 much.

14 CHAIRMAN DiGIACOMO COLINS: Very good. Any
15 other questions?

16 MR. SHERMAN: No.

17 CHAIRMAN DiGIACOMO COLINS: All right. Thank
18 you. We -- I appreciate you sending the report to me,
19 which the cover letter, I believe, you sent it about
20 three weeks ago, two weeks ago. I appreciate that for
21 us to review it.

22 I appreciate the opportunity to talk with you
23 about it. We have had to be able to question you
24 because we do have some concerns about ending up looking
25 like we are a very expensive jurisdiction.

1 Yet, we feel as we looked at this that there
2 were some underlying questions about some of the
3 premises used in your analysis.

4 I have a feeling from some of the answers that
5 if we plugged in different numbers from different years,
6 we could change the results a bit.

7 So I want to make sure that as we look at this,
8 we are all on the same base, that we are using apples to
9 apples, so to speak, and oranges to oranges to draw
10 conclusions.

11 Thank you. We will hopefully be able to use
12 this as a beneficial tool in evaluating the type of job
13 we are doing. So I appreciate it.

14 MR. MOROWITZ: Thank you. I appreciate your
15 having me here.

16 CHAIRMAN DiGIACOMO COLINS: All right. Let's
17 move on, please. Let's go through these regulations.

18 MR. SHERMAN: First up, Madame Chairman is
19 Richard Sandusky, the Director of Regulatory Review with
20 a proposed regulation.

21 CHAIRMAN DiGIACOMO COLINS: All right. Go on.

22 MR. SANDUSKY: What we have for the Board's
23 consideration today is one Final-form Regulation and
24 that is Regulation No. 125-92.

25 This rulemaking was adopted as a proposed rule

1 by the Board on September 30th of 2008 and was published
2 in the Pennsylvania Bulletin on November 8th of 2008
3 with a 30-day comment period.

4 Comments on this rulemaking were received from
5 Chester Downs and Marina, LLC, Downs Racing, LP,
6 Greenwood Gaming and Entertainment, Inc., HSP Gaming,
7 LP, and Holdings Acquisition Company, LP, Sands Casino
8 Resort, Bethlehem, and Washington Trotting Association,
9 Inc.

10 The Board also received comments on this
11 proposed rulemaking from the Independent Regulatory
12 Review Commission on January 7th of this year.

13 In response to the comments that were received,
14 the staff has proposed two changes to the Final-form
15 Regulation.

16 First, many of the commentators suggested that
17 we add a sample calculation to Subsection (d) that
18 reflects how they are to calculate the increases.

19 We have adopted that suggestion and included
20 the sample calculation, which mirrors how the
21 calculations were done for the December increases under
22 the Clean Indoor Air Act.

23 Second, a number of the commentators asked the
24 Board to include a time period within which it would
25 complete its verification of compliance with the Clean

1 Indoor Air Act.

2 We have done so by adding a 15-day time period
3 within which these requests for changes to the
4 designated smoking areas would be reviewed for
5 compliance with the Clean Indoor Air Act and
6 notification provided to the slot machine licensees.

7 If the Board has any other questions on the
8 Final-form Rulemaking, I would be happy to respond. If
9 not, we would ask for a motion for adoption.

10 CHAIRMAN DiGIACOMO COLINS: Commissioner Sojka?

11 COMMISSIONER SOJKA: If I may, I have a couple
12 of questions. One, this rulemaking, of course, deals
13 specifically with the issue of changes in the amount of
14 space on a gaming floor that can be dedicated to
15 smoking?

16 MR. SANDUSKY: Correct.

17 COMMISSIONER SOJKA: Of course, the operative
18 step is to make a comparison between existing smoking
19 and nonsmoking areas and to look at the difference
20 between them and then propose a change based on those
21 numbers?

22 MR. SANDUSKY: Yes, that is what the Clean
23 Indoor Air Act permits the licensees to do.

24 COMMISSIONER SOJKA: It is reasonable to
25 assume, is it not, that the mix of slot machines or

1 games in either a smoking or nonsmoking area when
2 compared to the other could certainly influence the
3 outcome?

4 MR. SANDUSKY: I would agree with that
5 statement.

6 COMMISSIONER SOJKA: Is it your understanding
7 that in the statute or in this regulation that you are
8 proposing that this Board has any authority or any
9 right, if you will, to question the mix of machines that
10 are in either the smoking or nonsmoking area?

11 MR. SANDUSKY: I think it is clear from the
12 provisions in our Act and also in the Clean Indoor Air
13 Act, the Board does not have the authority to prescribe
14 for the slot machine licensees which machines they place
15 in which area.

16 If that had been the intent of the General
17 Assembly, they could have included language along those
18 lines; but they did not.

19 COMMISSIONER SOJKA: And again, if I may just
20 state the obvious then, if there would be a desire to
21 challenge the outcome of this regulation, given the
22 statute the way it is written and given the Clean Air
23 Act, the way it is written, this Board would not be the
24 place to come if you wanted to have a different outcome?

25 MR. SANDUSKY: That is correct. I do not

1 believe the Board has any discretion in this area. It
2 falls solely with the General Assembly.

3 CHAIRMAN DiGIACOMO COLINS: Any other
4 questions?

5 COMMISSIONER RIVERS: Yes.

6 Mr. Sandusky, to your knowledge, has any casino
7 gerrymandered their floor to affect what Commissioner
8 Sojka asked as relates to high volume machines placed in
9 the smoking area?

10 MR. SANDUSKY: I have not personally reviewed
11 the changes that were made on each of the gaming floors.
12 I will say that I did review the drawings that came in
13 from the casinos.

14 Most of the casinos did not designate numerous
15 different areas to try and pick out, you know, just
16 their high volume machines and designate those as
17 smoking.

18 Most of the smoking areas that were picked are
19 contiguous areas for the convenience of their patrons;
20 and also, I believe to make enforcement a little bit
21 easier.

22 Having said that, they clearly did have the
23 discretion to put -- you know, to pick the contiguous
24 area that may have had a majority of their higher volume
25 machines.

1 COMMISSIONER RIVERS: But to your knowledge, no
2 one did that?

3 MR. SANDUSKY: Not to my personal knowledge.

4 COMMISSIONER RIVERS: Thank you.

5 CHAIRMAN DiGIACOMO COLINS: All right. Thank
6 you.

7 May I have a motion?

8 COMMISSIONER COY: Yes. Madame Chair, I am
9 glad to move that the Board adopt Final-form Regulation
10 No. 125-92 amending Chapters 441a and 467a and that the
11 Final-form Regs be posted on the Board's website.

12 COMMISSIONER GINTY: Second.

13 CHAIRMAN DiGIACOMO COLINS: All in favor?

14 COMMISSIONERS: Aye.

15 CHAIRMAN DiGIACOMO COLINS: Opposed?

16 Motion carries.

17 Thank you.

18 MR. SANDUSKY: Thank you.

19 MR. SHERMAN: Next up is Steve Cook, Deputy
20 Chief Counsel, to present a number of Licensing
21 Withdraws, Petitions, and other matters.

22 MR. COOK: Good afternoon, Madame Chairman,
23 members of the Board.

24 Today, the Board has before it four Petitions
25 for its consideration. Two of these Petitions were

1 heard before the Board earlier today during the Public
2 Hearing; specifically, the Sands Bethworks Petition for
3 Additional Time to Make Slot Machines Available to Play
4 and the Sands Petition to request a delay in
5 construction of certain aspects of its projects.

6 The other two matters, Downs Racing's Petition
7 for exemption from front-of-house credentials on some of
8 the employees and Shuffle Master Incorporated's Petition
9 seeking approval of the Vegas Star Roulette machine,
10 were the subject of full evidentiary hearings
11 previously.

12 All of the parties to these Petitions have been
13 notified that the Board is considering these matters
14 today and have the right to be present to address the
15 Board.

16 I'll briefly summarize each Petition. The
17 first Petition before the Board is that of Downs Racing.
18 Downs' Petition requests an exemption from the
19 regulatory requirement that Board-issued credentials be
20 worn by certain of its employees.

21 Downs Racing proposes that employees be
22 required to carry but not continuously display their
23 Board issued credentials.

24 Downs Racing avers in its pleadings and in its
25 arguments that permanent display of credentials on the

1 uniform of employees detracts from the appearance of the
2 employees and furthermore, Downs Racing argues that such
3 a display of credentials puts the employees at risk of
4 releasing certainly potentially sensitive information
5 that is contained in the credentials, including full
6 names and dates of birth.

7 Lastly, Downs Racing contends that the display
8 of the credentials for certain employees, like chefs and
9 waitresses, poses a hindrance and possibly a safety
10 concern to the performance of certain job duties. This
11 matter is now before the Board for its consideration.

12 CHAIRMAN DiGIACOMO COLINS: All right. Any
13 questions or comments regarding --

14 COMMISSIONER GINTY: Madame Chairman, I'm very
15 sympathetic in a lot of respects with the Petition by
16 Downs Racing.

17 However, at our last session, I indicated that
18 this is asking for an exemption from a regulation that
19 the Board adopted some time ago. At issue here are 58
20 positions in casinos.

21 I just don't think this is the way that this
22 Board should be doing business. I think we ought to
23 have a uniform standard that all casinos can abide by.

24 So I'm going to request that we defer action on
25 the Petition and instruct the staff to meet with

1 industry representatives and look into amending the
2 regulation.

3 COMMISSIONER McCABE: I'll second that.

4 CHAIRMAN DiGIACOMO COLINS: Well, I want to
5 comment that I think that as we have characterized
6 ourselves numerous times as a start-up jurisdiction.

7 I do think rather than piecemeal waivers and
8 piecemeal changes, I do think it is worth our while to
9 take a look at this issue more globally and have our
10 staff reach out.

11 I'm in agreement with this. So, if there's a
12 -- if your motion is to table this and there's a second,
13 all in favor?

14 COMMISSIONERS: Aye.

15 CHAIRMAN DiGIACOMO COLINS: Opposed?

16 But the purpose of tabling is that staff will
17 reach out to everyone to evaluate what, if any, type of
18 changes we have to embark on on this credentialing
19 requirement. Thank you.

20 Next, Shuffle Master, the motion.

21 MR. COOK: The next matter for the Board's
22 consideration, Shuffle Master's Petition seeking
23 approval of the Vegas Star Roulette slot machine for
24 operation in the Commonwealth.

25 This matter was heard by the Board on December

1 18th, 2008 at a Public Hearing in which substantial
2 evidence was received.

3 The record remained open after that hearing;
4 and on January 21st, 2009, the Board, again, conducted a
5 public discussion of the topic of Vegas Star's approval
6 for play including testimony by Michael Cruz, Director
7 of the PGCB Gaming Lab.

8 Briefly, Shuffle Master is the holder of a
9 Manufacturer License in the Commonwealth and produces
10 among other products Vegas Star, a simulated video game
11 allowing multiple gamers to place simultaneous bets on
12 the outcome of a single, simulated roulette result.

13 Shuffle Master avers that Vegas Star is a slot
14 machine as defined by the Act. The PGCB has tested a
15 fully functioning prototype of Vegas Star, as well as
16 other regulated equipment and has not raised any
17 material exception nor has it imposed any extraordinary
18 condition as a predicate to the machine's approval by
19 the Board.

20 The record in this matter, I believe, can now
21 be closed and the matter can be considered by the Board.

22 CHAIRMAN DiGIACOMO COLINS: Very good.

23 Is there a motion?

24 COMMISSIONER GINTY: I move that the Petition
25 by Shuffle Master seeking approval of Vegas Star

1 Roulette slot machine for operation in the Commonwealth
2 of Pennsylvania, OHA Docket No. 42719, be approved.

3 COMMISSIONER COY: Second.

4 COMMISSIONER RIVERS: Madame Chairman, before
5 we vote, I would like go on the record, at the last
6 meeting, I was very much opposed to the Shuffle Master.

7 After conferring with individuals in the
8 industry and finding out that this is a very popular
9 game, a game in which the industry thinks it will help
10 change their population, demographics, and is a positive
11 marketing tool, I basically now say I can support this.

12 CHAIRMAN DiGIACOMO COLINS: All in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN DiGIACOMO COLINS: Opposed?

15 Motion carries.

16 Very good. All right. Our next matter that we
17 will consider will be the Petition for -- Sands
18 Bethworks Petition for Ruling that Cause Exists to Relax
19 or Modify Licensing Condition No. 51; is that correct?

20 MR. COOK: That is correct. There are two
21 Sands' matters. We can handle that one first. That was
22 the subject of the Public Hearing earlier today
23 obviously, and I believe now the Board can consider the
24 matter.

25 CHAIRMAN DiGIACOMO COLINS: All right. Do we

1 have a motion as to that Petition?

2 COMMISSIONER SOJKA: Madame Chair, I can make
3 an effort to make such a motion. It is, of course,
4 being made on the spot, and I would simply, again, state
5 the obvious that I would welcome friendly amendment by
6 other members of the Board to try to put this in the
7 best possible form.

8 I make a motion that the Petition be granted
9 and that the time period to complete the Petitioner's
10 project be conditioned subject to ongoing review and
11 oversight by the Board as follows:

12 That the Petitioner is to meet monthly and
13 provide status reports to the Board's Financial
14 Suitability Task Force for the purpose of allowing the
15 Task Force to evaluate the Petitioner's progress in
16 securing financing to complete this project.

17 And then two, using the information provided to
18 the Board staff, the Board at the appropriate time will
19 set a hearing to consider setting -- to setting
20 Petitioner's completion date for the project with the
21 expectation that the project will be completed as
22 originally proposed.

23 COMMISSIONER McCABE: Second.

24 CHAIRMAN DiGIACOMO COLINS: Any comments or
25 questions?

1 All in favor?

2 COMMISSIONERS: Aye.

3 CHAIRMAN DiGIACOMO COLINS: Opposed?

4 That motion carries. Thank you.

5 MR. COOK: The last matter, Madame Chairman,
6 for the Board's consideration is Sands' Petition for
7 Additional Time to Make Machines Available for Play;
8 specifically, their request and extension until August
9 7th, 2009.

10 This was also the subject of a hearing earlier
11 today and is ripe for the Board's consideration.

12 CHAIRMAN DiGIACOMO COLINS: May I have a
13 motion, please?

14 COMMISSIONER RIVERS: Yes. Madame Chairman, I
15 move that the Board approve the Petition submitted by
16 Sands Bethworks, LLC, as described by the Office of
17 Chief Counsel.

18 CHAIRMAN DiGIACOMO COLINS: May I have a
19 second?

20 COMMISSIONER SOJKA: Second.

21 CHAIRMAN DiGIACOMO COLINS: All in favor?

22 COMMISSIONERS: Aye.

23 CHAIRMAN DiGIACOMO COLINS: Opposed?

24 Motion carries.

25 Thank you.

1 MR. COOK: Next on the agenda are withdrawals
2 by Principal Key Employees and Vendors. The Board has
3 received nine unopposed Petitions to Withdraw
4 Applications or Surrender Licenses or Certifications,
5 which included 12 individuals or entities consisting of
6 the following:

7 The Key Employee License surrender of Charles
8 Courtney.

9 The Key Employee Application Withdrawals of
10 Jonathan Nicolais, Jennifer Supiot, and Joseph Taylor.

11 The Principal Withdrawal Application of John C.
12 Mascaro, Sr.

13 The Principal License Surrenders of James
14 Pierpont Baker, Gladys Bettis, Larry McCrae, and William
15 Robinson, Jr.

16 The Principal Renewal Application Withdrawal of
17 Stephen Morro.

18 The Vendor Certification Application Withdrawal
19 of North American Video, Incorporated.

20 And the Vendor Registration Application
21 Withdrawal of Robertson Heating Supply Company.

22 The OCC submits these 12 withdrawals to the
23 Board for consideration of a motion to grant the
24 Petitions without prejudice.

25 The Office of Enforcement Counsel has reviewed

1 the Petitions and has no objections.

2 COMMISSIONER ANGELI: Madame Chair, I move that
3 the Board issue Orders to approve the withdrawals or
4 surrenders as described by the OCC.

5 COMMISSIONER COY: Second.

6 CHAIRMAN DiGIACOMO COLINS: All in favor?

7 COMMISSIONERS: Aye.

8 CHAIRMAN DiGIACOMO COLINS: Opposed?

9 Motion carries.

10 MR. COOK: The last matter before the Board
11 from the OCC is the Report and Recommendation received
12 from the Office of Hearings and Appeals (OHA) relative
13 to Michelle Boger, an Applicant for a Non-gaming
14 Registration.

15 The Report and Recommendation along with the
16 evidentiary record has been provided to the Board in
17 advance of this meeting.

18 Additionally, Miss Boger has been notified that
19 the Board is considering this Report and Recommendation
20 today and that she has a right to be present to address
21 the Board.

22 If Miss Boger is present today, she should come
23 forward.

24 The underlying facts as described in the Report
25 and Recommendation are as follows:

1 Miss Boger sought work as a food and beverage
2 counter attendant at the Hollywood Casino, Penn National
3 Race Course.

4 On February 12th, 2008, the OEC issued a Notice
5 of Recommendation of Denial due to Miss Boger having
6 pending charges of aggravated assault, simple assault,
7 recklessly endangering another person, and endangering
8 the welfare of a child.

9 On June 26th, 2008, Miss Boger pled guilty. An
10 administrative hearing was held before the Board's OHA
11 on December 16th 2008.

12 Subsequently, a Report and Recommendation
13 recommending that Miss Boger be denied a Non-gaming
14 Employee Registration was issued on December 30th, 2008.

15 The OCC recommends that the Board consider a
16 motion adopting the Report and Recommendation of the OHA
17 and Miss Boger's application.

18 CHAIRMAN DiGIACOMO COLINS: May I have a
19 motion, please?

20 COMMISSIONER COY: Madame Chair, I move that
21 the Board issue an Order adopting the Report and
22 Recommendation of the OHA to deny the Non-gaming
23 Employee Registration of Michelle Boger.

24 COMMISSIONER GINTY: Second.

25 CHAIRMAN DiGIACOMO COLINS: All in favor?

1 COMMISSIONERS: Aye.

2 CHAIRMAN DiGIACOMO COLINS: Opposed?

3 Motion carries.

4 MR. SHERMAN: That concludes the report of the
5 OCC.

6 CHAIRMAN DiGIACOMO COLINS: Chief Enforcement
7 Counsel?

8 MR. PITRE: First matter for your consideration
9 today is a Consent Agreement, which will be presented by
10 Dustin Miller. I would ask that if Mr. Thomas Izzo is
11 present that he would come forward.

12 MR. MILLER: Madame Chairman, members of the
13 Board, at this time, the OEC has a Consent Agreement
14 prepared. The Consent Agreement is between the OEC and
15 Thomas Izzo.

16 Mr. Izzo is employed as a Security Guard at
17 Harrah's Chester Downs and Casino. He applied for a
18 renewal of his Gaming Employee Permit on March 6th,
19 2008.

20 During the background investigation of
21 Mr. Izzo, the Bureau of Investigations and Enforcement
22 (BIE) became aware from the Pennsylvania Department of
23 Revenue that Mr. Izzo was not compliant with his tax
24 responsibilities as required by Title 58, Pennsylvania
25 Code, Section 435(a)(1)(1).

1 On May 28th, 2008, a Notice of Recommendation
2 of Denial was sent to Mr. Izzo by the OEC due to his
3 noncompliance with the Department of Revenue.

4 Subsequently, the OEC received notification
5 from the Department of Revenue that a mistake had been
6 made and that Mr. Izzo had been tax compliant.

7 However, since Mr. Izzo had failed to request a
8 hearing on the matter, his Renewal Application was
9 forwarded to the Board for denial.

10 In fact, his application was denied by the
11 Board on August 29th, 2008. Mr. Izzo appealed the
12 Board's decision due to the error regarding his taxes to
13 the Commonwealth Court and the OCC entered into a joint
14 stipulation with Mr. Izzo to remand the Order to OHA to
15 reevaluate Mr. Izzo's application for this Gaming
16 Permit.

17 When the OEC reevaluated Mr. Izzo's
18 application, it found no objectionable material in
19 Mr. Izzo's background investigation.

20 The OEC entered into this agreement with
21 Mr. Izzo to waive his right to a hearing at the OHA and;
22 in exchange, the OEC would recommend that the Board
23 rescind its Order of August 29th, 2008 denying
24 Mr. Izzo's Renewal Gaming Permit Application, and also
25 recommend Mr. Izzo for licensure at this time.

1 At this time, the OEC asks the Board to ratify
2 its Consent Agreement with Mr. Izzo.

3 CHAIRMAN DiGIACOMO COLINS: May I have a
4 motion, please?

5 COMMISSIONER COY: Madame Chair, I move that
6 the Board approve the Consent Agreement between the BIE
7 and Thomas Izzo as described by the OEC.

8 CHAIRMAN DiGIACOMO COLINS: May I have a
9 second?

10 COMMISSIONER GINTY: Second.

11 CHAIRMAN DiGIACOMO COLINS: All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN DiGIACOMO COLINS: Opposed?

14 Motion carries.

15 MR. PITRE: Next, we have three revocations or
16 suspensions for the Board's consideration.

17 CHAIRMAN DiGIACOMO COLINS: Okay. Thank you.

18 MS. HIGGINS: Madame Chairman, members of the
19 Board, Katie Higgins for the OEC.

20 The first matter is that of David Michael
21 Gonzalez. On December 4th, 2008, the OEC filed an
22 Enforcement Action Complaint seeking the revocation of
23 the Non-gaming Registration of Mr. Gonzalez.

24 The Complaint alleges that Mr. Gonzalez, who
25 was originally hired as a maintenance worker at Mohegan

1 Sun Casino but was terminated for not showing up for his
2 first day of work, was charged March 27th, 2008 in
3 Luzerne County with one count each of simple assault,
4 recklessly endangering another person, terroristic
5 threats, disorderly conduct, DUI, and public
6 drunkenness.

7 According to the Police Criminal Complaint, the
8 charges stemmed from an incident where Mr. Gonzalez
9 fired shots into a parking lot full of people.

10 The Complaint was sent via certified and
11 regular U.S. Mail on December 4th, 2008. The Complaint
12 was sent to the address provided by Mr. Gonzalez on his
13 original application, and because he has failed to
14 respond to the Complaint within 20 days, all facts
15 alleged are deemed admitted.

16 At this time, we would ask that David Michael
17 Gonzalez's Non-gaming Registration be revoked.

18 CHAIRMAN DiGIACOMO COLINS: Was this a casino
19 parking lot?

20 MS. HIGGINS: No, it was not.

21 CHAIRMAN DiGIACOMO COLINS: Okay. Thank you.

22 May I have a motion?

23 COMMISSIONER McCABE: Madame Chair, I move that
24 the Board issue an Order to approve the Revocation of
25 the Non-gaming Employee Registration of David Gonzalez

1 as described by the OEC.

2 COMMISSIONER RIVERS: Second.

3 CHAIRMAN DiGIACOMO COLINS: All in favor?

4 COMMISSIONERS: Aye.

5 CHAIRMAN DiGIACOMO COLINS: Opposed?

6 Motion carries.

7 MR. MILLER: The next matter is the revocation
8 of Non-gaming Employee Registration of Nicholas
9 Gorewich. Mr. Gorewich had been employed as a valet
10 parker at Philadelphia Park Casino and registered as a
11 Non-gaming Employee.

12 On March 4th, 2008, Mr. Gorewich in his job
13 duties removed a temperature gauge from a patron's
14 vehicle during the course of his employment.

15 The patron noticed the missing gauge and
16 reported the incident to the facility. Upon being
17 questioned, Mr. Gorewich admitted to removing the
18 temperature gauge.

19 Mr. Gorewich was terminated on March 5th, 2008.
20 Mr. Gorewich never reported this incident to the Gaming
21 Control Board staff.

22 On December 9th, 2008, the OEC filed an
23 Enforcement Complaint to revoke Mr. Gorewich's
24 Non-gaming Registration.

25 The Complaint was filed -- was served by both

1 First Class Mail and Certified Mail. A return receipt
2 was received by the OEC on December 15th, 2008 showing
3 that Mr. Gorewich had received the Enforcement
4 Complaint.

5 He did not respond to the Complaint; and
6 therefore, the facts alleged are conclusively
7 established.

8 Given Mr. Gorewich's clear violation of the Act
9 and the Regulations, the OEC asks the Board to revoke
10 Mr. Gorewich's Non-gaming Employee Registration.

11 Based upon the undisputed facts of record, it
12 would be appropriate for this Board to entertain a
13 motion to consider and grant the requested relief.

14 CHAIRMAN DiGIACOMO COLINS: Motion, please?

15 COMMISSIONER RIVERS: Yes. Madame Chair, I
16 move that the Board issue an Order to approve the
17 revocation of the Non-gaming Employee Registration of
18 Nicholas Gorewich as described by the OEC.

19 COMMISSIONER SOJKA: Second.

20 CHAIRMAN DiGIACOMO COLINS: All in favor?

21 COMMISSIONERS: Aye.

22 CHAIRMAN DiGIACOMO COLINS: Opposed?

23 Motion carries.

24 MS. HIGGINS: The last enforcement action today
25 is that of Brenda Krum. On December 11th, 2008, the OEC

1 filed an Enforcement Action Complaint seeking the
2 revocation of the Non-gaming Registration of Brenda
3 Krum.

4 The Complaint alleges that on July 9th, 2008
5 Miss Krum was charged by the Pennsylvania State Police
6 with criminal attempt, theft by unlawful taking.

7 The charges stem from an incident where
8 Miss Krum, who was employed as a counter attendant at
9 Hollywood Casino, took a cordless drill valued at \$265
10 that belonged to electricians that were working at the
11 casino.

12 The Complaint was sent via Certified Mail on
13 December 11th, 2008 and was received by Miss Krum on
14 December 16th, 2008.

15 Miss Krum has failed to respond to the
16 Complaint within 20 days; and therefore, pursuant to
17 Board Regulations, all facts alleged are deemed
18 admitted.

19 At this time, the OEC would ask that Miss
20 Krum's Non-gaming Registration be revoked.

21 CHAIRMAN DiGIACOMO COLINS: May I have a
22 motion, please?

23 COMMISSIONER SOJKA: Yes. Madame Chairman, I
24 move that the Board issue an Order to approve the
25 revocation of the Non-gaming Employee Registration of

1 Brenda Krum as just described by the OEC.

2 COMMISSIONER ANGELI: Second.

3 CHAIRMAN DiGIACOMO COLINS: All in favor?

4 COMMISSIONERS: Aye.

5 CHAIRMAN DiGIACOMO COLINS: Opposed?

6 Motion carries.

7 MR. PITRE: Thank you very much.

8 CHAIRMAN DiGIACOMO COLINS: Thank you.

9 Susan Hensel, please.

10 MS. HENSEL: Thank you, Chairman Colins and
11 members of the Board. I have three licensing matters
12 for you this afternoon. First, for your consideration
13 are Key Employee Licenses.

14 Prior to this meeting, the Bureau of Licensing
15 provided you with a proposed Order for three Key
16 Employee Licenses.

17 I ask that the Board consider the Order
18 granting these licenses.

19 COMMISSIONER McCABE: Madame Chair, I move that
20 the Board issue an Order to approve the issuance of
21 Principal and Key Employee Licenses as described by the
22 Bureau of Licensing.

23 COMMISSIONER RIVERS: Second.

24 CHAIRMAN DiGIACOMO COLINS: All in favor?

25 COMMISSIONERS: Aye.

1 CHAIRMAN DiGIACOMO COLINS: Opposed?

2 Motion carries.

3 MS. HENSEL: Next, we have two Orders regarding
4 vendors. The first is to certify the following 11
5 vendors: Commercial Flooring Systems of Pennsylvania,
6 Inc., Diversified Business Forms, Frank J. Zatolla
7 Construction, Inc., G. Weinberger Company, Gaga
8 Marketing, LLC, Golden Triangle Construction Company,
9 Inc., Lane Leward, LLC, Lemanex Corporation, Mascaro
10 Construction Company, Panzina Enterprises, Inc., and
11 Preventive Cleaning, LLC.

12 I ask that the Board approve the vendors for
13 certification.

14 CHAIRMAN DiGIACOMO COLINS: May I have a
15 motion?

16 COMMISSIONER RIVERS: Yes. Madame Chair, I
17 move that the Board issue an Order to approve the
18 applications for vendor certification as described by
19 the Bureau of Licensing.

20 COMMISSIONER SOJKA: Second.

21 CHAIRMAN DiGIACOMO COLINS: All in favor?

22 COMMISSIONERS: Aye.

23 CHAIRMAN DiGIACOMO COLINS: Opposed?

24 Motion carries.

25 MS. HENSEL: The Bureau of Licensing also

1 provided you with Orders, the approval of which would
2 result in the following nine vendors being added to the
3 Prohibited Vendors List: Aducat Outdoor Advertising,
4 Advantage Steel and Construction, LLC, Bassue
5 Technology, Inc., Initial Electronics, Inc., Calwell
6 Corporation, Parker Consulting, Profast Commercial
7 Flooring, Inc., SID Tool Company, Inc., and Speciality
8 Flooring Systems, Inc.

9 These vendors have done business with a Slot
10 Machine Operator, Licensee, or Applicant but have failed
11 to complete their applications. Once on the Prohibited
12 Vendor List, no Slot Machine Licensee or Applicant may
13 do business with the vendors.

14 I ask that the Board consider the Order adding
15 the named vendors to the Prohibited Vendor List.

16 CHAIRMAN DiGIACOMO COLINS: May I have motion?

17 COMMISSIONER SOJKA: Yes. Madame Chair, I move
18 that the Board issue an Order to approve the addition of
19 vendors to the Prohibited Vendor List as described by
20 the Bureau of Licensing.

21 COMMISSIONER ANGELI: Second.

22 CHAIRMAN DiGIACOMO COLINS: All in favor?

23 COMMISSIONERS: Aye.

24 CHAIRMAN DiGIACOMO COLINS: Opposed?

25 Motion carries.

1 MS. HENSEL: That concludes the Bureau of
2 Licensing's presentation.

3 CHAIRMAN DiGIACOMO COLINS: Thank you.

4 Thank you very much. That concludes our
5 business.

6 Our next meeting will be Friday, February 20th,
7 10:00 a.m., North Office Building, Hearing Room 1.

8 Motion to adjourn, please?

9 COMMISSIONER COY: So moved.

10 CHAIRMAN DiGIACOMO COLINS: Second.

11 All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN DiGIACOMO COLINS: Motion carries.

14 Thank you.

15 COMMISSIONER RIVERS: You're just not going to
16 acknowledge the Steelers?

17 Oh, please. I'll turn it over to Commissioner
18 Rivers.

19 COMMISSIONER RIVERS: That's okay. I want to
20 hear the words come out of your mouth.

21 COMMISSIONER McCABE: Go Steelers.

22 CHAIRMAN DiGIACOMO COLINS: I acknowledge the
23 Steelers great victory for Pennsylvania.

24 (The meeting concluded at 2:50 p.m.)

25

1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the notes
3 taken by me on the within proceedings and that this is a
4 correct transcript of the same.

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Hillary M. Hazlett, Reporter
Notary Public

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