

PENNSYLVANIA GAMING CONTROL BOARD

PUBLIC MEETING

FRIDAY, FEBRUARY 20, 2009, 10:04 A.M.

NORTH OFFICE BUILDING  
HEARING ROOM 1  
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 DESIGNEE  
OF HONORABLE ROBERT McCORD,  
STATE TREASURER  
KEN SENFT, REPRESENTING STEPHEN STETLER  
ACTING REVENUE SECRETARY

HILLARY M. HAZLETT, REPORTER  
NOTARY PUBLIC

	I N D E X	
	WITNESS	PAGE
1		
2	WITNESS	
3	Frank Donaghue	4
4	Nan Horner	5
5	Eileen McNulty	10
6	David Rhen	10
7	Doug Sherman	13
8	Richard Sandusky	13
9	Steve Cook	19
10	Ray Quaglia	24
11	Marie Jones	41
12	Susan Hensel	69
13	Cyrus Pitre	77
14	Dustin Miller	77
15	Adrian King	81
16	Dale Miller	88
17	James Talerico	101
18	Marie Jones	
19	Adrian King	
20	Ray Quaglia	
21		
22		
23		
24		
25		

1 CHAIRMAN DiGIACOMO COLINS: Morning, everyone. I'm Mary  
2 Colins, Chairman of the Pennsylvania Gaming Control  
3 Board.

4 Would everyone please turn off your cell phones  
5 and your BlackBerries? Thank you.

6 We have with us Keith Welks representing State  
7 Treasurer Robert McCord. I believe Ken Senft, who is  
8 here representing Revenue Secretary Stephen Stetler.

9 I will call the meeting to order. There is a  
10 quorum present. We'll begin with the Pledge of  
11 Allegiance.

12 (Pledge of Allegiance.)

13 CHAIRMAN DiGIACOMO COLINS: By way of  
14 announcement, the Board held an Executive Session on  
15 February 19th in accordance with the Sunshine Act.

16 The purpose of the Executive Session was to  
17 discuss personnel issues, to conduct quasi-judicial  
18 deliberations relating to matters pending before the  
19 Board and to consult with counsel regarding privileged  
20 and confidential agency business.

21 Now, we will move to the issue of transcript  
22 and minutes for approval.

23 May I have a motion, please?

24 COMMISSIONER McCABE: Madame Chair, I move that  
25 the Board approve the minutes and transcript of the

1 January 21st, 2009 meeting.

2 COMMISSIONER RIVERS: Second.

3 CHAIRMAN DiGIACOMO COLINS: All in favor?

4 COMMISSIONERS: Aye.

5 CHAIRMAN DiGIACOMO COLINS: Opposed?

6 That motion carries.

7 New business, please. Our Executive Director's  
8 report?

9 Good morning.

10 MR. DONAGHUE: Good morning, Chairman Colins  
11 and Board members, before I turn it over to our Director  
12 of Compulsive and Problem Gaming for a report, I just  
13 wanted to report to the Board with regard to our opening  
14 team, they've had several meetings with a number of  
15 casinos that will be either opening permanent facilities  
16 this year and/or moving from their temporary to  
17 permanent facilities.

18 They report with regard to the Meadows,  
19 everything continues to be on schedule with a target  
20 date opening date of April 15th and a test date of April  
21 13th.

22 The Sands Casino is moving along well. They  
23 have submitted internal controls to us; and again, they  
24 are on target for May 22nd, the Rivers targeting August,  
25 and Philadelphia Park targeting December.

1           So just with that as a general update, I will  
2           turn it over to Nan Horner.

3           MS. HORNER: Good morning, Chairman and Board  
4           members. March 1st through 7th, 2009 is National  
5           Problem Gambling Awareness Week. I would like to  
6           briefly tell you about the endeavors of the Office of  
7           Compulsive and Problem Gambling for the week, answer any  
8           questions that you may have and then request a  
9           Resolution recognizing Problem Gambling Awareness Week  
10          in Pennsylvania.

11          National Problem Gambling Awareness Week is a  
12          grassroots approach to educate the public and healthcare  
13          professional about problem gambling and to raise  
14          awareness that hope and help are available. This is the  
15          third year that the Board has participated in National  
16          Problem Gambling Awareness Week.

17          We have posted 18 informational documents on  
18          our website that address specific groups such as older  
19          adults, teens, problem gambling in the workplace.

20          We have a hyperlink to an audio documentary  
21          entitled Luck's No Lady. There are four video  
22          frequently asked questions about problem gambling and  
23          Self Exclusion Program. We have a link to a document  
24          called Your First Step to Change, which is a self-help  
25          guide.

1           In order to provide information and assistance  
2 to the public, we will be setting up booths at  
3 Washington Crown Mall in Washington Township on February  
4 26th. We will be in the Mini-Rotunda in the Capitol  
5 Building from 11:00 until 2:00 on Monday, March 2nd. We  
6 will also have a booth in Strawberry Square from 11:00  
7 until 2:00 on Tuesday, March 3rd.

8           We will also provide all Commonwealth employees  
9 a link to this information on our website via an Office  
10 of Administration e-mail message.

11           My office also has facilitated a joint  
12 statement from the Pennsylvania Secretaries of Health,  
13 Revenue, and Agriculture recognizing Problem Gambling  
14 Awareness Week.

15           There is a Governor's Proclamation, also a  
16 House and a Senate Resolution that recognizes Problem  
17 Gambling Awareness Week in Pennsylvania.

18           All of our informational handouts and brochures  
19 are offered to individuals who sign up for the  
20 Self-Exclusion List. As of last evening, 573  
21 individuals have been requested to be placed on the  
22 Self-Exclusion List.

23           We have sent the information to Pennsylvania  
24 prisons, parole offices, probation offices, juvenile  
25 detention centers.

1           All Slot Machine Licensees have copies of the  
2 documents and the Pennsylvania State Police Member  
3 Assistance Programs have the documents as well.

4           We shared them with the Racing Commission,  
5 Pennsylvania Lottery, and also the Pennsylvania  
6 Department of Health.

7           The materials are designed to help educate the  
8 public and healthcare professionals about problem  
9 gambling, the warning signs, and where to call for help.

10           We continue to review published research and  
11 materials in order to establish best regulatory  
12 practices to govern Slot Machine Licensees and to  
13 educate the public about the effects of problem  
14 gambling.

15           At this time, I would like to ask if the Board  
16 would adopt a Resolution recognizing Problem Gambling  
17 Awareness Week in Pennsylvania; and if you like, I can  
18 read the resolution into the record.

19           CHAIRMAN DiGIACOMO COLINS: Yes, please. Would  
20 you?

21           MS. HORNER: Whereas the Pennsylvania Racehorse  
22 Development and Gaming Act (Gaming Act) recognizes, in  
23 part, that the public interest of the citizens of the  
24 Commonwealth and the social effect of gaming shall be  
25 taken into consideration in any decision or order made

1 pursuant to the Gaming Act; and

2           Whereas the Pennsylvania Gaming Control Board  
3 recognized the social effect of gaming when it created  
4 the Office of Compulsive and Problem Gaming to: Conduct  
5 research, develop public outreach efforts, work with the  
6 Pennsylvania Slot Machine Licensees to develop and  
7 implement problem gambling programs at licensed  
8 facilities, administer the PGCB Self-Exclusion Program,  
9 and promote problem gambling education programs in the  
10 Commonwealth; and

11           Whereas the Gaming Act established a special  
12 fund to be known as the Compulsive and Problem Gambling  
13 Treatment Fund and required that all money in the fund  
14 should be expended for programs for public awareness,  
15 prevention, research, assistance, and treatment of  
16 gambling addictions; and

17           Whereas problem gambling is a public health  
18 issue affecting Pennsylvanians of all ages, races,  
19 gender, and ethnic backgrounds in all communities; and

20           Whereas problem gambling is treatable and  
21 treatment is effective in minimizing the harm to  
22 individuals, families, and society as a whole; and

23           Whereas numerous individuals, professionals,  
24 agencies, and organizations in Pennsylvania have  
25 dedicated their efforts to the education of the public



1 about problem gambling and the availability and  
2 effectiveness of treatment; and

3           Whereas promoting gambling awareness is an  
4 opportunity to educate the public and policymakers about  
5 the social and financial issues related to problem  
6 gambling; and

7           Therefore, the Pennsylvania Gaming Control  
8 Board hereby recognizes March 1st through 7th, 2009 as  
9 Problem Gambling Awareness Week and encourages all  
10 citizens to learn more about the signs of problem  
11 gambling and help spread the message about the  
12 availability of treatment.

13           CHAIRMAN DiGIACOMO COLINS: Thank you.

14           May I have a motion?

15           COMMISSIONER RIVERS: Yes. Madame Chairman, I  
16 move that the Board approve Resolution 2009-1-CPG as  
17 presented by the Office of Compulsive and Problem  
18 Gaming.

19           COMMISSIONER GINTY: Second.

20           CHAIRMAN DiGIACOMO COLINS: All in favor?

21           COMMISSIONERS: Aye.

22           CHAIRMAN DiGIACOMO COLINS: Opposed?

23           Motion carries.

24           Thank you very much.

25           MS. HORNER: Thank you.

1           MR. DONAGHUE: Thank you. That concludes our  
2 reports.

3           CHAIRMAN DiGIACOMO COLINS: Eileen McNulty,  
4 please.

5           MS. McNULTY: Thank you, Chairman Colins and  
6 Board members. The first order of business today is the  
7 agency financial report, which will be presented by our  
8 Budget Manager, Dave Rhen.

9           MR. RHEN: Good morning. I'm here today to  
10 report on financial results through January. Through  
11 January, agency expenditures totaled \$16.7 million.  
12 Payroll expenses for January for \$1.9 million, bringing  
13 year-to-date payroll expense to \$12.8 million or 77  
14 percent of total expenses.

15           Operating expenditures for January were  
16 \$463,000. Year-to-date operating expenditure total \$3.9  
17 million or 23 percent of total expenditures.

18           The largest operating expenditures in January  
19 were \$214,000 for rentals, including lease costs for  
20 real estate and pool vehicles; \$121,000 for consultant,  
21 legal, and interagency services; \$47,000 for  
22 telecommunications; and \$26,000 for travel.

23           Year to date, the largest operating  
24 expenditures are \$1.3 million or 33 percent of operating  
25 expenditures for services; \$1.2 million or 31 percent

1 for rentals; \$472,000 or 12 percent for other operating  
2 expenditures including Choicepoint database searches  
3 used for background investigations; \$388,000 or 10  
4 percent for telecommunications; and \$313,000 or 8  
5 percent of operating expenditures for travel.

6 All fiscal year '08-'09 expenditures to date  
7 are in line with available budget levels.

8 Additionally, during January, we recognized  
9 revenue of \$2.1 million earned during the second quarter  
10 of the fiscal year.

11 This revenue was earned from investigations and  
12 proceedings, operation of the gaming lab, license fees,  
13 and other miscellaneous sources.

14 Year to date, the Board has recognized total  
15 revenue of \$6.8 million against anticipated revenue of  
16 up to \$11.1 million.

17 That concludes my report. If you have any  
18 questions, I will be happy to take them.

19 CHAIRMAN DiGIACOMO COLINS: No questions?

20 Good. Continue, please.

21 Thank you very much.

22 MS. McNULTY: Thank you, Chairman Colins. The  
23 next order of business is the new hires. We have today  
24 the proposed hiring of Anthony Pagliaro as the Audit  
25 Manager in Gaming Operations.

1           Anthony is a graduate of the University of La  
2 Verne in La Verne, California with a degree in  
3 accounting and is a Certified Internal Auditor.

4           Anthony possesses over 22 years of auditing  
5 experience, including 5 years of experience with the  
6 Royal Caribbean Cruise Line as a casino auditor and  
7 accounting supervisor.

8           Anthony is currently employed by Avmed,  
9 Incorporated, in Miami, Florida as an auditor. He has  
10 also performed audit functions for the Pacific Gas and  
11 Electric Corporation and Southern California Edison  
12 during his career.

13           In addition to his Certified Internal Auditor  
14 certification, Anthony is proficient in casino  
15 accounting and analysis and Sarbanes-Oxley accounting  
16 standards.

17           The background investigation has been completed  
18 and the drug testing has been finalized.

19           CHAIRMAN DiGIACOMO COLINS: Very good. Thank  
20 you.

21           May I have a motion?

22           COMMISSIONER RIVERS: Yes. Madame Chairman, I  
23 move that the Board approve the hiring of agency staff  
24 as proposed on the condition that the employee has  
25 completed the necessary background investigation and

1 drug testing program.

2 COMMISSIONER SOJKA: Second.

3 CHAIRMAN DiGIACOMO COLINS: Any questions?

4 All in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN DiGIACOMO COLINS: Opposed?

7 Motion carries.

8 MS. McNULTY: Thank you.

9 CHAIRMAN DiGIACOMO COLINS: Thank you very  
10 much.

11 Chief Counsel, please.

12 MR. SHERMAN: Chairman Colins, members of the  
13 Board, the first matter on the agenda for the Office of  
14 Chief Counsel (OCC) is Director of Regulatory Review  
15 Richard Sandusky with a Proposed Regulation and  
16 Final-form Regulation.

17 MR. SANDUSKY: Good morning. The Proposed  
18 Regulation we have for consideration by the Board today  
19 is Regulation No. 125-99.

20 This Proposed Rulemaking contains a variety of  
21 amendments to our regulations, which reflect experience  
22 gained by the Board and our estimation of better ways of  
23 doing things.

24 I won't go through all of the Amendments in  
25 this proposed package, but I will highlight a couple

1 just to give you a little bit of the flavor.

2           Included in this package are changes to Section  
3 461(a)(12), which will codify the practice of our Gaming  
4 Lab of inspecting and certifying all progressive slot  
5 machine systems prior to their use by the playing  
6 public.

7           Also included in this package is our revisions,  
8 which will simplify the Petition process for entities  
9 other than Slot Machine Licensees seeking to possess  
10 slot machines in the Commonwealth.

11           We are also eliminating some of the existing  
12 requirements which the staff believes are not necessary,  
13 specifically audio surveillance capability in the count  
14 room and a reduction to some of the video retention  
15 periods for various activities that are recorded in the  
16 casino.

17           Also included in this package is a revision to  
18 the process for jackpot payouts, which will give  
19 operators a little more flexibility in terms of who may  
20 act as a witness to the jackpot payout.

21           And finally, we have amended our rules of  
22 practice and procedure to mirror what is in 1 PA Code  
23 Section 3121, which will provide a little bit of  
24 additional flexibility concerning who may represent an  
25 entity in a nonadversarial proceeding before the Board.

1           If there are any questions on this package, I  
2 would be happy to answer them. If not, I would ask for  
3 a motion for adoption of the proposed rule.

4           COMMISSIONER SOJKA: Could I just ask one  
5 question before offering a motion?

6           CHAIRMAN DiGIACOMO COLINS: Of course.

7           COMMISSIONER SOJKA: That is, on several of the  
8 issues that have come forward from our staff having to  
9 do with retention and the audio surveillance, those will  
10 be on the web page and they will be out there for 30  
11 days, if anybody is interested, they can comment on  
12 those, I trust?

13           MR. SANDUSKY: Yes. What we will do is after  
14 the Attorney General has approved the regulation for  
15 form legality, it will be posted on the website and it  
16 will also be published in the Pennsylvania Bulletin.  
17 People will have a 30-day comment period to file public  
18 comments with the Board.

19           COMMISSIONER SOJKA: Fine. Thank you.

20           Madame Chair, I would like to offer a motion,  
21 if I may?

22           CHAIRMAN DiGIACOMO COLINS: Yes. Thank you.

23           COMMISSIONER ANGELI: That --

24           COMMISSIONER SOJKA: Well, I probably --

25           COMMISSIONER ANGELI: Do you want to read the

1 motion?

2 COMMISSIONER SOJKA: It is complex. So I  
3 probably for the record ought to read it in; that is,  
4 that I move that the Board adopt the Proposed Regulation  
5 No. 125-99, which amends all of these Chapters, 439a,  
6 461a, 463a, and 465a, and 499a and that the Board  
7 establish a public comment period of 30 days that the  
8 Proposed Regulation be posted on the Board's website.  
9 Would you second that?

10 COMMISSIONER ANGELI: Yes, I will.

11 COMMISSIONER SOJKA: Thank you.

12 CHAIRMAN DiGIACOMO COLINS: All right. All in  
13 favor?

14 COMMISSIONERS: Aye.

15 CHAIRMAN DiGIACOMO COLINS: Opposed?

16 Motion carries. Thank you.

17 MR. SANDUSKY: Thank you.

18 The second matter we have for Board  
19 consideration is the adoption of a Final-form  
20 Regulation, and that is Regulation 125-95.

21 This was adopted as the Proposed Rulemaking on  
22 September 30, 2008 by the Board and was published in the  
23 Pennsylvania Bulletin on November 29, 2008 with a 30-day  
24 comment period.

25 In response to that publication, we received a



1 comment from International Game Technology supporting  
2 the Proposed Rulemaking. We also received a short  
3 comment from the Independent Regulatory Review  
4 Commission asking for clarification on part of the  
5 Proposed Regulation.

6           What this Final-form Rulemaking will do is  
7 provide standards for the principal place of business  
8 that a supplier is required by Statute to maintain in  
9 the Commonwealth.

10           It will also extend the time period for which a  
11 temporary permit for a key employee -- from 120 days to  
12 180 days.

13           This will avoid having to renew or do a second  
14 temporary permit in the event the investigation has not  
15 been completed within 120 days.

16           As proposed, this regulation would have also  
17 allowed manufacturers, management companies, and junket  
18 enterprises to file a request for a waiver of the  
19 regulatory requirement that they maintain records in the  
20 Commonwealth.

21           After further review and looking closer into  
22 this matter, the staff has recommended that the  
23 Final-form Regulation remove the waiver requirement and  
24 instead delete the requirement for retention of records  
25 in Pennsylvania by these entities.

1           The reason why is that for a manufacturer, for  
2     example, the contracts that it has with the Slot Machine  
3     Licensee will also be maintained by the Slot Machine  
4     Licensee and be here in Pennsylvania and therefore,  
5     easily accessible for the Board to review.

6           Also, if there are any records that they have  
7     pertaining to their Applications and whatnot, that  
8     information will also be available here in the  
9     Commonwealth in our files.

10          Therefore, it not necessary to require them to  
11     maintain records in Pennsylvania. In the event there is  
12     some piece of information that we do not have or a Slot  
13     Machine Licensee may not have on file, the regulation  
14     still requires these entities to provide that  
15     information to the Board at its request.

16          That is the only significant change that we  
17     made between proposed and final. If there are any  
18     questions, we would be happy to respond. If not, we  
19     would request a motion for adoption of the Final-form  
20     Rulemaking.

21                   CHAIRMAN DiGIACOMO COLINS: Any questions.

22                   COMMISSIONER GINTY: I want to clarify  
23     something. Slot Machine Licensees and Suppliers will be  
24     required to maintain --

25                   MR. SANDUSKY: That requirement remains

1 unchanged.

2 CHAIRMAN DiGIACOMO COLINS: May I have a  
3 motion?

4 COMMISSIONER ANGELI: Madame Chairman, since  
5 Commission Sojka was so eloquent in preparing his  
6 motion, I have been forced to create one of my own here.

7 Madame Chairman, I move that the Board adopt  
8 Final-form Regulation No. 125-95 amending Chapters 431a,  
9 435a, 437a, 451a, and 465a and that the Final-form  
10 Regulation be posted on the Board's website.

11 COMMISSIONER COY: Second.

12 CHAIRMAN DiGIACOMO COLINS: All in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN DiGIACOMO COLINS: Opposed?

15 Motion carries.

16 Thank you very much.

17 MR. SANDUSKY: Thank you.

18 MR. SHERMAN: Next up is Steve Cook, Deputy  
19 Chief Counsel for the OCC with withdrawals, reports, and  
20 recommendations.

21 CHAIRMAN DiGIACOMO COLINS: Okay. Let me take  
22 a look.

23 MR. COOK: Good morning, Madame Chairman,  
24 members of the Board. The Board has received 11  
25 Petitions to Withdrawal Applications or surrender

1 licenses or certifications, which include 15 individuals  
2 or entities.

3 Two of these individuals and four of these  
4 entities are parties associated with the proposed Crown  
5 Limited acquisition of the parent company of our  
6 Licensee, Washington Trotting Association.

7 Prior to today's meeting, counsel has asked  
8 that the Board defer consideration of three of these  
9 Petitions or three of these Applications for Withdrawal,  
10 but move forward on three others.

11 Specifically, today, counsel asks that the  
12 Board consider withdrawal of the Genetout No. 6 Trust,  
13 the Custodian Settlement No. 6 Trust, and Custodian  
14 Settlement No. 8 Trust.

15 CHAIRMAN DiGIACOMO COLINS: Again, the request  
16 is for what?

17 MR. COOK: The withdrawal of these three  
18 Trusts; Genetout No. 6, that is G-e-n-e-t-o-u-t,  
19 Custodian Settlement No. 6 Trust, and Custodian  
20 Settlement No. 8 Trust.

21 The Office of Enforcement Counsel (OEC) has no  
22 objection to these withdrawals being without prejudice.  
23 However, today, counsel for the withdrawing parties, as  
24 well as counsel for Washington Trotting Association, who  
25 has objected to the withdraws, and counsel for Crown are

1 here to address this matter.

2 CHAIRMAN DiGIACOMO COLINS: All right. Proceed  
3 and let me ask you the question. The withdrawals are  
4 Petitions for Withdrawal? There have been objections.  
5 There are no objections from Enforcement Counsel, but  
6 there have been -- there has been an objection or a  
7 Petition to intervene and object filed by other parties?

8 MR. COOK: Well, Washington Trotting  
9 Association, these parties that are seeking withdrawal  
10 are parties associated with the purchaser or proposed  
11 purchaser of Cannery, which is the parent company of  
12 Washington Trotting Association.

13 CHAIRMAN DiGIACOMO COLINS: Okay.

14 MR. COOK: It is a Pending Application.  
15 Withdrawals deal with the Pending Application before the  
16 Board.

17 CHAIRMAN DiGIACOMO COLINS: Pending Application  
18 for?

19 MR. COOK: The withdrawals are right now part  
20 of the Crown Application and Crown is seeking to  
21 purchase Cannery, which is the parent company of  
22 Washington Trotting Association.

23 CHAIRMAN DiGIACOMO COLINS: Okay. There is  
24 Applications before the Board for the potential acquirer  
25 of the Cannery and the Meadows pursuant to the change of

1 ownership provisions of the Act; is that correct?

2 MR. COOK: That is correct.

3 CHAIRMAN DiGIACOMO COLINS: Okay. Now, we got  
4 the Petition to Withdraw and you indicated that there  
5 are objections to that. Who are the objectors and how  
6 are they in this procedurally?

7 MR. COOK: Washington Trotting Association has  
8 objected to it. Our regulations require that all  
9 parties of interest to withdraw be notified and  
10 therefore, be allowed to speak to the matter.

11 When the Petitions were withdrawn, Washington  
12 Trotting Association was notified. They filed an  
13 objection to the matter on the theory that the  
14 withdrawal would prejudice the transaction, which is  
15 pending.

16 CHAIRMAN DiGIACOMO COLINS: Okay. So  
17 procedurally, everything is properly before us?

18 MR. COOK: That is correct.

19 CHAIRMAN DiGIACOMO COLINS: Okay. Why don't we  
20 have the Petitioners come forward and the Objectors.  
21 OCC, don't go away. I think probably what we should do  
22 now is hear from -- well, wait. We should hear from you  
23 now, Chief Enforcement Counsel.

24 MR. COOK: If I might intervene for just a  
25 second, one more procedural matter?

1           CHAIRMAN DiGIACOMO COLINS: Yes.

2           MR. COOK: In addition to the objector, Crown,  
3 the public company of which the Petitioner seeking  
4 withdraw are a part --

5           CHAIRMAN DiGIACOMO COLINS: Yes.

6           MR. COOK: -- their counsel is also here. They  
7 have also filed -- they actually made a filing with the  
8 Board not objecting to the proposal but nevertheless  
9 wish to address the Board today on the subject.

10          COMMISSIONER GINTY: Chairman, may I ask a  
11 question before we start with the others?

12          CHAIRMAN DiGIACOMO COLINS: Yes. Of course.

13          COMMISSIONER GINTY: If these parties withdraw,  
14 the Petition for them to withdraw is granted, what does  
15 that do to the Application?

16          MR. COOK: The position of the Bureau of  
17 Licensing at this point is that the Application cannot  
18 proceed without these Applicants.

19          CHAIRMAN DiGIACOMO COLINS: And why?

20          MR. COOK: Because of the ownership interests  
21 of the Petitioners in the company that is seeking  
22 acquisition.

23                 The position of the Bureau of Licensing is that  
24 they are such a vital part or such a large participant  
25 in ownership that they must remain involved.

1           CHAIRMAN DiGIACOMO COLINS: All right. Explain  
2 to us in our meeting right now, what are the ownership  
3 interests, please?

4           MR. QUAGLIA: Your Honor, please. Excuse me.  
5 Ray Quaglia, counsel for the Petitioners. My apologies  
6 for interrupting.

7           We are now getting into highly confidential  
8 information. We would respectfully request that if  
9 there are questions of this nature that they be  
10 conducted in Executive session.

11          CHAIRMAN DiGIACOMO COLINS: Why don't you come  
12 up Mr. Quaglia and let's discuss that issue as to the  
13 regulation dealing with whether or not we break and go  
14 into a confidential session or not. Let's have  
15 discussion about that. Why don't you cite to the Act  
16 and the Regulations, sir? Why don't we give Mr. Quaglia  
17 a seat, too.

18          MR. QUAGLIA: Thank you, everyone.

19          Your Honor, we are making this request pursuant  
20 to the Board's Regulation 441a.7. I believe that it was  
21 proposed. I believe that it is now final, 441a.7.

22          The basis for the request and, in fact, the  
23 basis for the Petitions to Withdraw is that the  
24 Petitioners wish to avoid the public disclosure of  
25 certain private financial information.



1           To the extent that we were going to otherwise  
2 get into on the record the nature and scope of  
3 ownership, etc., that is the very information that the  
4 Petitions have been filed to avoid disclosing.

5           Therefore, we respectfully request that, while  
6 the Board may very well want to get into that, that it  
7 not be done in public forum because as Your Honor is  
8 well aware, when confidentiality is concerned, once the  
9 cat is out of the bag, you can't put it back.

10           CHAIRMAN DiGIACOMO COLINS: Well, sir, we are  
11 not -- I haven't asked any questions, none of us have  
12 asked any questions yet about confidential background  
13 information. That is clear, correct?

14           MR. QUAGLIA: That is correct.

15           CHAIRMAN DiGIACOMO COLINS: The question that I  
16 asked has to do with ownership percentages and the  
17 overall ownership structure.

18           MR. QUAGLIA: That is also correct, Your Honor.  
19 And our position, my client's position is that that  
20 information should be treated confidentiality and in  
21 fact, that is one of the basis for the final --

22           COMMISSIONER GINTY: Let me be clear here.  
23 What you are claiming is that the owners of a license  
24 should be kept confidential?

25           MR. QUAGLIA: Commissioner, what our position

1 is, is that the Petitioners who are private entities,  
2 who have an ownership interest in the License Applicant  
3 do not want their ownership information to be made  
4 public; and that in fact, in order to protect that  
5 right, they are prepared to withdraw from the licensing  
6 process.

7 CHAIRMAN DiGIACOMO COLINS: All right. Then  
8 let me ask for an opinion of counsel on this because the  
9 issues of what is confidential and what must be  
10 disclosed are, I think, addressed in the Statute. Could  
11 you talk to us about that?

12 MR. SHERMAN: Yes, Chairman Colins. On the  
13 confidentiality side, 1206f of the Act would provide  
14 that the information submitted by the Applicant relating  
15 to character and background information certainly would  
16 be confidential.

17 That provision dealing with confidentiality  
18 would not apply to the fact of ownership of a license.  
19 What we have here is a license issued by a  
20 state-created, public body.

21 It has always been the position of the Board  
22 previously, and I see no support in the Act to  
23 differentiate this situation from any others, that the  
24 owners of a license or the Applicants for that public  
25 license do not claim a confidentiality from revealing

1 who it is that ultimately owns or controls or benefits  
2 from that public license.

3 CHAIRMAN DiGIACOMO COLINS: Don't we publish  
4 online our license, the names of all of the ownership  
5 entities and their percentage ownership?

6 MR. SHERMAN: What we do place on the website,  
7 the ownership, and it goes down to a certain level. My  
8 understanding is that level would capture these  
9 entities. So yes, that would be, if granted a license,  
10 they would be published on the website.

11 CHAIRMAN DiGIACOMO COLINS: Doesn't the Statute  
12 require that we publish the names of all Applicants?

13 MR. SHERMAN: Yes.

14 CHAIRMAN DiGIACOMO COLINS: Okay. So I'm going  
15 to turn it over to you in one second, I'm just trying to  
16 go through the process. So we have two issues, the  
17 first issue, the threshold issue now is whether or not  
18 we break for Executive Session to decide these  
19 withdrawal issues outside the public ear; and the second  
20 issue, the second issue we have to get to is whether or  
21 not to allow them to withdrawal.

22 Commissioner McCabe?

23 COMMISSIONER McCABE: My question and concern  
24 is, have we done this before. From my recollection of  
25 all of the hearings we had for all of the Applicants,

1 those were always out in the public who was applying for  
2 the license.

3 MR. SHERMAN: Absolutely, Commissioner. The  
4 precedent would indicate that the only time the Board  
5 has gone to Executive Session would be to consider the  
6 character background information, which is specifically  
7 confidential or other specific financial information of  
8 a proprietary nature not with respect to ownership  
9 interests, per se.

10 COMMISSIONER McCABE: And isn't it general  
11 knowledge that if you apply for this license, just by  
12 applying, that is going to be made public?

13 MR. SHERMAN: That would certainly be my  
14 opinion.

15 CHAIRMAN DiGIACOMO COLINS: Well --

16 MR. QUAGLIA: Your Honor, if I may respond?

17 CHAIRMAN DiGIACOMO COLINS: Yes.

18 MR. QUAGLIA: It has been our experience in  
19 dealing with the staff on this issue, and we have had  
20 our share, it has been -- the rule of thumb has been  
21 that information that is not otherwise in the public  
22 domain is treated and respected as confidential by the  
23 Board.

24 I will submit to you that the information we  
25 are talking about now concerning ownership interests,

1 etc., is not anywhere in the public domain.

2 CHAIRMAN DiGIACOMO COLINS: Well, that has to  
3 do with the issues of whether or not it is proprietary  
4 information.

5 We are talking about basic fundamental  
6 ownership interests, names, identities, and percentages,  
7 which is something that traditionally we do not keep  
8 from the public.

9 At this point, your request is that we break  
10 for Executive session to discuss this matter further; is  
11 that correct, sir?

12 MR. QUAGLIA: That is correct, Your Honor. I  
13 would also note with something that Commissioner McCabe  
14 said that our clients, the Petitioners, are not from  
15 Pennsylvania and in fact, are not United States  
16 residents.

17 They are foreign concerns. They have gaming  
18 experience in other jurisdictions, but not any that make  
19 the disclosure requirements that we make in this  
20 Commonwealth. And that immediately upon realizing the  
21 scope and extent of the disclosure, made the decision  
22 that they would prefer, if we can't reach another  
23 accommodation with the staff and parties, to simply  
24 withdrawal from the process.

25 COMMISSIONER McCABE: Haven't there been

1 newspaper articles where these people live that they  
2 are, in fact, attempting to try to buy these casinos in  
3 the United States and they have been successful in  
4 Nevada -- off the top of my head, I know Nevada.

5           There have been newspaper articles in that  
6 country saying that these people are buying a company, a  
7 casino company in the United States.

8           MR. QUAGLIA: To try to be -- I'm a little  
9 hamstrung, Commissioner, because, again, we are on the  
10 public record; but certainly, it is public knowledge  
11 that the Crown Limited is acquiring the assets of  
12 Cannery Company, the next step down in terms of who  
13 precisely owns what, etc., has not been -- to our  
14 knowledge, has not been publicized anywhere.

15           CHAIRMAN DiGIACOMO COLINS: Mr. -- I have to  
16 say that ownership interests, the disclosure of the  
17 names of owners, their interests are the heart and soul  
18 of transparency required by the Statute and go directly  
19 to the integrity of gaming.

20           You are not talking about keeping confidential  
21 the subject matter of 1206f, which is very specific, you  
22 are talking about something quite different.

23           And I mean, we would -- if this were a  
24 precedent for us, we would be discussing ownership, who  
25 owns what and to what degree in private all the time,

1 and I don't believe the Statute is designed for that to  
2 happen. But I'm prepared to ask the Board if there's a  
3 motion on this or you know --

4 COMMISSIONER ANGELI: Madame Chair, I have one  
5 more question. Would it ever be made public as to who  
6 the owners were?

7 MR. QUAGLIA: I'm sorry, Commissioner? I  
8 didn't get that.

9 COMMISSIONER ANGELI: Would it ever be made  
10 public as to who the owners are?

11 MR. QUAGLIA: That is, harmonizing the salutary  
12 transparency goals of this Board and this Commonwealth  
13 with the legitimate interests of my clients and  
14 maintaining their personal privacy is something we have  
15 actively been trying to work out with the staff and will  
16 continue to work out with the staff.

17 That is the reason why we have withdrawn  
18 certain of the pending withdrawal Applications from the  
19 agenda for today because we are still trying to work out  
20 a mutually acceptable arrangement with the staff.

21 We are proceeding on these three because we  
22 believe we can persuade the staff and the Board that,  
23 with respect to these three Trust entities, that they  
24 will not be required to file in any event and that is  
25 why we are proceeding only on these three today.

1 COMMISSIONER COY: Madame Chair?

2 CHAIRMAN DiGIACOMO COLINS: Yes.

3 COMMISSIONER COY: It seems to me that you sort  
4 of crossed the Rubicon when you applied and that  
5 counsel, whether it was you or someone else, should  
6 probably have advised these folks that once you made the  
7 Application, all things are public.

8 What concerns me today is not simply you and  
9 your clients by this decision but what this -- what  
10 effect it may have on future decisions on the part of  
11 the Board and transparency in this regard.

12 So it is hard for me to make an exception just  
13 because they are not from this country or might not have  
14 known or for whatever reason.

15 MR. QUAGLIA: Your point is well-taken,  
16 Commissioner. I would simply say in response that the  
17 purpose of these Petitions obviously is because it was  
18 not realized at the time; but as soon as it was  
19 realized, the decision was made not to proceed if that  
20 is the price that must be paid and that the only issue  
21 on the table before we get into any questions the Board  
22 may have about background, the only issue is whether to  
23 grant these withdrawal Applications and the Board's  
24 staff approves granting the Withdrawal Applications.

25 In fact, I will note for the record and I have



1 Enforcement Counsel sitting next to me, there is no  
2 suggestion that there is any suitability issue here.  
3 This is solely a matter of privacy, and we have  
4 essentially a Petition to Withdraw to try to avoid all  
5 of this and not to force the Board to --

6 CHAIRMAN DiGIACOMO COLINS: I don't know that  
7 it is that simple. I think the implications of the  
8 withdrawal have to be discussed and disclosed.

9 It all starts from the baseline, which is do we  
10 keep -- do we keep from public view ownership interests  
11 and ownership entity -- the names of ownership entities  
12 and names. I think the Statute says otherwise.

13 COMMISSIONER McCABE: I would like to correct  
14 something you said, too. The staff can't approve their  
15 withdrawals. We have to approve it.

16 They make the recommendation to us, and then we  
17 independently, based on the facts and evidence, make the  
18 decision that we want to make. Even if they make a  
19 recommendation to approve it, we don't have to go with  
20 that. They are not the ones approving. It is us.

21 MR. QUAGLIA: I appreciate that, Commissioner.  
22 I apologize if I suggested otherwise.

23 COMMISSIONER RIVERS: I think once you submit  
24 the Application, the threshold had been crossed. I  
25 think Commissioner Coy made reference to that.

1           I guess I am concerned about with Chief  
2 Enforcement Counsel and Chief Counsel, what are your  
3 opinions at it relates to this request? I would like to  
4 hear from both of you.

5           MR. PITRE: Obviously, we didn't object to the  
6 withdrawal. It is not a withdrawal with prejudice.

7           CHAIRMAN DiGIACOMO COLINS: We are on issue  
8 one. We are on confidentiality.

9           MR. PITRE: As far as the confidentiality  
10 concerns, I think what is at issue right now is whether  
11 or not this should be withdrawn, the Applications are to  
12 be withdrawn.

13           The ramifications of the withdrawals is what is  
14 on the minds of everyone. I think that is what the  
15 other parties would like to speak to; but as far as I am  
16 concerned as far as confidentiality, once an Application  
17 is filed, okay, you know, the ownership interest, it is  
18 up to the attorneys to let their clients know that we  
19 make that information public. I'm more concerned about  
20 the ramifications from these withdrawals.

21           COMMISSIONER RIVERS: Correct me if I am wrong,  
22 is that the threshold has been crossed the moment that  
23 the Application is submitted with the Pennsylvania  
24 Gaming Control Board?

25           MR. PITRE: Yeah, and that Application is still

1 pending until the Board approves the withdrawal of such  
2 Applications.

3 COMMISSIONER RIVERS: So as far as transparency  
4 and our responsibility, then it would not be in our best  
5 interest as we go forward to recognize or accept this  
6 Petition.

7 MR. PITRE: I wouldn't object to it. The  
8 attorney is here, and he can speak to that; but I  
9 wouldn't object to it.

10 COMMISSIONER RIVERS: Go ahead.

11 MR. SHERMAN: I would echo Cyrus' thoughts  
12 that, No. 1, once the Applications are filed and if you  
13 want to be in our game, you have to play by our rules  
14 and that is to make public who it is that owns the  
15 license.

16 That being said, if an individual does not want  
17 to be in the public spotlight as owning one of  
18 Pennsylvania's casinos, I also certainly don't know that  
19 the Board has the ability to make them be a Licensee.

20 CHAIRMAN DiGIACOMO COLINS: Let's -- that is  
21 why from the beginning I have been trying to delineate  
22 what the issues are.

23 The first issue now is the request for an  
24 Executive Session to discuss all of these matters about  
25 withdrawal in private.

1           May I have a motion either to approve or deny  
2 that request? May I have a motion to either approve or  
3 deny that request?

4           COMMISSIONER COY: Well, Madame Chairman, I'll  
5 move that we deny the request.

6           COMMISSIONER SOJKA: Second.

7           CHAIRMAN DiGIACOMO COLINS: All right.

8           Any further conversation or discussion?

9           All in favor?

10          COMMISSIONERS: Aye.

11          CHAIRMAN DiGIACOMO COLINS: Opposed?

12          Motion carries. The matter will not be held in  
13 Executive Session.

14          Now, the next is the issue of the withdrawal.  
15 So we have before us the procedural organization or the  
16 procedural track that it followed.

17          We know we have the Petitioners' petition to  
18 withdraw here. Enforcement Counsel, I'm going to ask  
19 you to state your position with respect to the Petition  
20 to Withdraw and why you have that Petition.

21          Then I'll go through each of the different  
22 parties and get information on the record.

23          You proceed, Cyrus.

24          MR. PITRE: Enforcement Counsel has no  
25 objection to the withdrawals.

1           CHAIRMAN DiGIACOMO COLINS: Why?

2           MR. PITRE: Well, it is within the party's  
3 right to seek a withdrawal of the license. Our only  
4 position would be is that with prejudice or without.

5           We have not found anything to cause the  
6 withdrawal to be with prejudice. Of course, we don't  
7 have a stake as the other parties do in the outcome of  
8 this.

9           So I think it would be more -- I think it would  
10 be better for the other parties to come forward and  
11 state their position.

12          CHAIRMAN DiGIACOMO COLINS: Right. The next  
13 thing I'm going to do is ask each of the parties to have  
14 their counsel come up, state the position, and then I'm  
15 going to finish with Steve Cook giving us Chief  
16 Counsel's opinion of what effect or impact the  
17 withdrawals will have.

18          All right. So let's go with the objectors now.

19          MR. QUAGLIA: Objector --

20          CHAIRMAN DiGIACOMO COLINS: We'll go with the  
21 Petitioners. The objectors come up, though. Come up  
22 and take seats.

23          MR. QUAGLIA: The Regulation to which I believe  
24 Mr. Pitre alluded is 423(a)(5) Application for  
25 Withdrawal which provides specifically request for

1 withdrawal may be filed at any time prior to the Board  
2 taking action on the Application.

3           So this Petition is certainly timely. We are  
4 not aware of any, in effect, good cause requirement or  
5 any other basis for the Board to analyze the reasons why  
6 the withdrawal is being sought nor, consistent with  
7 Mr. Sherman's comment, are we aware of any precedent  
8 anywhere for requiring a party to be licensed against  
9 its will.

10           I mean, our position simply stated is that a  
11 gaming license is a very valuable privilege. It is not  
12 a trap for the unwary and to say if someone filed an  
13 Application and, in effect, we got you and you can't get  
14 out even if you want to, we submit, Your Honor was  
15 concerned about precedent, would be a very dangerous and  
16 poor precedent.

17           COMMISSIONER GINTY: Let me ask a question  
18 again then. You heard counsel's opinion that if these  
19 Petitions are withdrawn either the Application or the  
20 remaining, I guess, Petitioners would be essentially  
21 held in limbo. Are you willing to accept that result?

22           MR. QUAGLIA: Commissioner, to be perfectly  
23 clear, my clients would very much like to see this  
24 transaction go forward and will do everything in their  
25 power to help with that consistent with their protection

1 of their own legitimate rights to privacy.

2 We have been meeting with the staff. We will  
3 continue to meet with the staff. We have specifically  
4 pulled certain Applications from consideration today in  
5 the hope we can reach some accomodation.

6 We believe that at the end of the day these  
7 particular Applicants, these Trusts will not be held to  
8 be required to file under Pennsylvania law; but with  
9 that sort of opening my short answer to your question is  
10 yes, we are prepared to accept the consequences.

11 COMMISSIONER COY: Well, Counselor --

12 CHAIRMAN DiGIACOMO COLINS: Well, tell us what  
13 you anticipate to be the consequences. It will affect a  
14 Licensee in Pennsylvania; will it not?

15 MR. QUAGLIA: Respectfully, Your Honor, I don't  
16 know whether I have an opinion on that. Me nor my  
17 clients are privy to the contract at issue.

18 CHAIRMAN DiGIACOMO COLINS: I'm sorry,  
19 Commissioner Coy. I interrupted you.

20 COMMISSIONER COY: In your previous statement a  
21 moment ago, you referenced unwary Applicants?

22 MR. QUAGLIA: Yes.

23 COMMISSIONER COY: Who trapped these people  
24 into applying?

25 MR. QUAGLIA: I'm sorry, Commissioner. I

1 didn't get that.

2 COMMISSIONER COY: You said these people were  
3 trapped as unwary Applicants. Didn't you say that?

4 MR. QUAGLIA: I used the phrase a trap for the  
5 unwary, meaning that someone could otherwise walk into  
6 the situation without appreciating --

7 COMMISSIONER COY: So they were very willing  
8 and aware. You were using a metaphor as it were?

9 MR. QUAGLIA: Willing and aware, I mean, as I  
10 had noted, they had been licensed in other  
11 jurisdictions; but those jurisdictions do not, for  
12 better or worse, do not have the specific, stringent  
13 transparency requirements of Pennsylvania.

14 They were not aware of the specific  
15 requirements of Pennsylvania at the time of the  
16 Application.

17 COMMISSIONER COY: I guess someone should have  
18 told them?

19 COMMISSIONER GINTY: Could you repeat the  
20 stringent requirements of Pennsylvania?

21 CHAIRMAN DiGIACOMO COLINS: What are the  
22 requirements you are referring to? What is the specific  
23 requirement?

24 MR. QUAGLIA: The specific requirements, Your  
25 Honor, of the Board's maintaining a public file for



1 Applicants, which certain information is available for  
2 anyone who wants to see it; the Board's website  
3 disclosure and the like.

4 CHAIRMAN DiGIACOMO COLINS: And the requirement  
5 for the Licensee and Trust, correct?

6 MR. QUAGLIA: Certainly, yes.

7 MS. JONES: He is allowing me to go first.

8 CHAIRMAN DiGIACOMO COLINS: Miss Jones?

9 MS. JONES: Good morning, Chairman Colins,  
10 Board members. Marie Jones from Fox Rothschild here on  
11 behalf of Washington Trotting Association (WTA).

12 Simply put, we are objecting to the Petitions  
13 being ruled on today. This matter arises in connection  
14 with a Notice of Proposed Transfer of Interest filed by  
15 WTA on December 11th, 2007, seeking permission to  
16 transfer the indirect ownership interest of WTA to  
17 affiliates of Crown, Limited.

18 WTA faces substantial prejudice if the  
19 Petitioners are allowed to withdraw their Application  
20 unless either the Board determines that the proposed  
21 transfer can be granted without Petitioners becoming  
22 licensed or some other consensual arrangement can be  
23 reached.

24 Since the filing of the Petitions in November  
25 and December, we have heard that there have been some

1 meetings involving Crown, the Petitioner, and the Board  
2 staff and potentially some progress made as to a  
3 solution that would be acceptable to the parties and  
4 also not stand in the way of Crown becoming licensed and  
5 the transfer being granted.

6           However, you also understand that these  
7 discussions are ongoing and that there has not been a  
8 definitive resolution to this matter.

9           Obviously, if there is no resolution and the  
10 Applications are left to withdraw, WTA faces significant  
11 prejudice.

12           Seller representatives of WTA have not been  
13 allowed to attend these meetings and that has been  
14 because there have been issues regarding  
15 confidentiality.

16           At this juncture, we are told that Petitioners'  
17 counsel plans to submit additional information to the  
18 Board staff on Monday that will contain some form of a  
19 proposed resolution.

20           WTA believes that the Board's decision should  
21 come after that submission and after there is time to  
22 review it.

23           These Applications have been on file since  
24 April or May, and the Board staff and BIE have spent  
25 considerable time and resources in processing and

1 investigating these Applications.

2 We are not aware of any prejudice that would  
3 occur by delaying this decision as to the Petitioners.  
4 However, there could be prejudice on behalf of WTA if  
5 they are granted today because we do not know what the  
6 result is at this point. Rather than decide --

7 CHAIRMAN DiGIACOMO COLINS: Can I interrupt for  
8 one second. You're talking about prejudice. You're  
9 talking about litigation, aren't you?

10 You're basically talking about a private deal  
11 and the possibility of litigation among parties to that  
12 deal, correct?

13 MS. JONES: At this point, that is a  
14 possibility. There is --

15 CHAIRMAN DiGIACOMO COLINS: WTA still has the  
16 license in Pennsylvania.

17 MS. JONES: Correct.

18 CHAIRMAN DiGIACOMO COLINS: You still have the  
19 facility and it is running, correct?

20 MS. JONES: Correct.

21 CHAIRMAN DiGIACOMO COLINS: All right.

22 COMMISSIONER GINTY: Let me follow-up on that.  
23 I'm not quite sure what you are asking us to involve  
24 ourselves in here. You have a contract with Crown to  
25 purchase WTA?

1 MS. JONES: Correct.

2 COMMISSIONER GINTY: Are you asking us to  
3 involve ourselves in that contractual relationship?

4 MS. JONES: Absolutely not. We are asking you  
5 to withhold deciding these Petitions today until a  
6 resolution with respect to a licensing issue can be  
7 decided by and discussed with staff. We're not asking  
8 you to become involved in the contract itself.

9 CHAIRMAN DiGIACOMO COLINS: But the -- the  
10 Resolution would be either to allow them to withdraw or  
11 to force them to stay in as Applicants.

12 MS. JONES: We are not asking for a decision as  
13 to forcing them into staying in as Applicants. We  
14 are --

15 CHAIRMAN DiGIACOMO COLINS: Are we forcing them  
16 to stay in as Applicants?

17 MS. JONES: We are merely asking for a deferral  
18 until such time as all of the issues are thoroughly  
19 looked at by all of the parties.

20 MR. COOK: Madame Chairman, if I might  
21 intervene? I believe the Petitioners are of the  
22 position that they have -- they can support the theory  
23 by which these Petitioners do not need to be licensed.  
24 That is ultimately what is at issue.

25 The proposal that Miss Jones is talking about

1 would be a proposal that they would present to us by  
2 which they are hoping the outcome would be a staff  
3 decision that these Petitioners wouldn't need to be  
4 licensed under our scheme.

5 COMMISSIONER GINTY: And the withdrawal of this  
6 Petition, if it were granted, would be without  
7 prejudice?

8 MR. COOK: That is true. Yes.

9 CHAIRMAN DiGIACOMO COLINS: Thank you.

10 COMMISSIONER GINTY: So they could repetition?

11 MR. COOK: They could reapply.

12 COMMISSIONER GINTY: They could reapply?

13 MS. JONES: They could reapply but that would  
14 -- there is a timing issue here under the purchase  
15 agreement that is subject to termination on March 31st.

16 There are certain limitations, and the last  
17 hurdle, again, getting back to the contract issue, the  
18 last hurdle is, in fact, the Board's approval. We  
19 would, of course, like to see everything move forward as  
20 quickly as possible.

21 COMMISSIONER McCABE: Well, if we delay this  
22 decision, our next meeting is not until March 25th.  
23 Will, Mr. Quaglia, your client be harmed if we delay in  
24 making a decision on this withdrawal?

25 MR. QUAGLIA: I'm sorry. Commissioner, the

1 question is would my client be harmed if the Board in  
2 effect holds the three Trust Petitions in abeyance  
3 before the next Board meeting? Although that would not  
4 be our preference, we would not be harmed by that.

5 COMMISSIONER ANGELI: Excuse me. This is still  
6 the single issue of ownership; is it not? I mean, there  
7 is only one issue here; that is, the release of the  
8 information on ownership.

9 What we are saying is there is a possibility  
10 under our Rules and Regulations that the structure will  
11 be such that that provision will be removed because of  
12 an ownership situation or the design of ownership; is  
13 that correct?

14 MR. COOK: That is the argument that has been  
15 raised. It has not yet been supported by legal  
16 authority.

17 CHAIRMAN DiGIACOMO COLINS: I thought the issue  
18 was whether or not the Trusts have to be licensed. And  
19 under our Statute, what the nature of the ownership  
20 percentages are, first, whether or not they are Trusts  
21 and if they are, if they are deemed to be Trusts, they  
22 have to be licensed if they have an ownership interest  
23 that is excess of, what, 5 percent.

24 MR. COOK: Right.

25 CHAIRMAN DiGIACOMO COLINS: Aren't those the

1 two issues? Is it not your position that, No. 1, they  
2 are not Trusts? Tell me your positions with respect to  
3 those two issues.

4 MR. QUAGLIA: Well, Your Honor --

5 CHAIRMAN DiGIACOMO COLINS: I mean, have I  
6 broken it down to what the issues are here or not?

7 MR. QUAGLIA: I don't want to speak out of  
8 school. My colleague, Mr. Kraus, can be in position --

9 CHAIRMAN DiGIACOMO COLINS: Someone has to  
10 answer my question. The question is here on the record.  
11 Someone answer it, please.

12 MR. KRAUS: Madame Chairman, Commissioners.  
13 Your question, please?

14 CHAIRMAN DiGIACOMO COLINS: It was a two-part  
15 question. Doesn't it all boil down to whether or not  
16 the Trusts, in fact, have to be licensed pursuant to our  
17 Statute? So the issue is whether or not they are  
18 Trusts; and if they are Trusts, they have to be  
19 licensed, does the ownership interest exceed 5 percent;  
20 is that correct?

21 If they were Trusts, if they were Trusts where  
22 the ownership interest is less than 5 percent, they do  
23 not have to be licensed, correct?

24 MR. COOK: That is correct.

25 CHAIRMAN DiGIACOMO COLINS: So there are two

1 issues there.

2 MR. COOK: There would be at least a third  
3 issue, the beneficiary of those Trusts, whether those  
4 persons or people would need to be licensed as well.

5 MR. KRAUS: Madame Chairman, we have been  
6 dancing around this. Obviously, the issue here is  
7 confidentiality and that is what this has all been  
8 about.

9 We believe that we have a right to withdrawal;  
10 and therefore, there may be consequences. There may be  
11 consequences in litigation to the parties. There may be  
12 consequences to the Applications. There may not be.

13 We believe we have a strong position that we  
14 can -- that these Applications can go forward without  
15 these Applicants.

16 We believe that we will be able to convince the  
17 staff through a brief that we will be filing early next  
18 week with them. We hope to work together as we have  
19 been for the first few weeks.

20 CHAIRMAN DiGIACOMO COLINS: The bottom line is,  
21 you need time. You need time to produce this  
22 information to our staff.

23 MR. KRAUS: Even if we found at the end of the  
24 time that the staff said, no, we don't agree. We would  
25 still be asking before you for this withdrawal.



1           CHAIRMAN DiGIACOMO COLINS: Okay. So then this  
2 matter -- you need time to produce this information that  
3 supports your position?

4           MR. KRAUS: No. I'm sorry. I will repeat  
5 that. Even if the staff were not to agree with us and  
6 said, no, these Applicants have to be licensed --

7           CHAIRMAN DiGIACOMO COLINS: Right.

8           MR. KRAUS: -- for the other Petition to be  
9 granted, the change of control to be granted, we would  
10 still be before you seeking withdrawal because we have a  
11 right to withdrawal before the Applications are issued  
12 -- before the Applications have been ruled upon.

13           We would still be here because of the privacy,  
14 which is now 100 years old or something like that, is  
15 much more important to our clients than anything that  
16 might happen because they withdraw.

17           CHAIRMAN DiGIACOMO COLINS: Mr. Kraus, I guess  
18 I'm not following you. If you are saying you're going  
19 to produce information in the form of a brief that  
20 supports the position that your clients do not have to  
21 be licensed in Pennsylvania and if staff agrees with  
22 that, then doesn't that solve all of your clients'  
23 issues?

24           MR. KRAUS: Yes. All I said was our client has  
25 sought now since late November and early December with

1 two different Petitions to have this hearing. It has  
2 been put off and put off. Our client has said, we have  
3 a right to withdrawal. We would like to exercise our  
4 rights.

5 CHAIRMAN DiGIACOMO COLINS: Well, we're waiting  
6 for you --

7 MR. KRAUS: That does not mean that we will not  
8 work with all parties to try to get a resolution. Also,  
9 as I have represented to Cyrus Pitre, it does not mean  
10 that BIE can't have any information they need. BIE can  
11 ask for information from Applicants and non-Applicants  
12 that is not an issue.

13 COMMISSIONER McCABE: Does your client realize  
14 that if they withdraw, they cannot profit or have  
15 anything to do with the casino in Pennsylvania?

16 MR. KRAUS: No. If they withdraw and they are  
17 required to be licensed -- not if they are not licensed  
18 -- your concept and problem that we are having is the  
19 concept under foreign law of what these entities are and  
20 how they operate and who has to be licensed is exactly  
21 the discussions that we have.

22 We had a two-hour meeting with your staff on  
23 Tuesday and it was a very robust meeting. We have some  
24 issues. Hopefully, we will resolve them all.

25 Again, even if they didn't resolve them. Our

1 clients' need for privacy is more important than  
2 anything else.

3 COMMISSIONER GINTY: Let me ask a question.  
4 Quite frankly, I'm not sure we should get involved  
5 between the two parties here. I quite frankly don't see  
6 that as a role with the Board.

7 At the same time, it seems a cleaner resolution  
8 of this if you work with the staff over the next few  
9 weeks on whether or not these individuals have to be  
10 licensed or whether the, you know, Trust standing alone  
11 is sufficient and then come back to us and we will make  
12 a ruling on whether that is the case. If we rule that  
13 against you, then you can withdraw your Petitions.

14 CHAIRMAN DiGIACOMO COLINS: Well, then, may I  
15 have a motion to table?

16 COMMISSIONER ANGELI: Madame Chairman, I have a  
17 question.

18 COMMISSIONER GINTY: Well, I mean, you had  
19 mentioned you didn't have a problem with --

20 MR. QUAGLIA: Actually, Commissioner and  
21 Chairman, this goes back to your -- with respect to your  
22 proposed motion, I have received authority just now to  
23 consent on behalf of the Petitioners to table the  
24 Pending Application.

25 CHAIRMAN DiGIACOMO COLINS: Then let's have a

1 motion to table it to the next --

2 COMMISSIONER COY: Well, we are reserving the  
3 right to comment.

4 COMMISSIONER ANGELI: Make a motion.

5 CHAIRMAN DiGIACOMO COLINS: Go ahead. Please,  
6 comment.

7 COMMISSIONER COY: I just want to -- I haven't  
8 heard anyone allege that you did not -- your clients do  
9 not have the right to withdraw.

10 I think the question, as far as I am concerned  
11 and that I am still troubled by, is why this isn't in  
12 the light of day?

13 I mean, I just -- I'm -- that is what I would  
14 need to have answered at that -- at the next step,  
15 whatever that is, because I continue to think when the  
16 Application was made, they gave up the right to privacy.

17 COMMISSIONER ANGELI: I have a question. If  
18 you were allowed to withdraw without prejudice, would  
19 you go back and restructure and come back into this  
20 structure with something that would meet the conditions  
21 of the Application?

22 MR. KRAUS: Commissioner, we have been working  
23 for the last two weeks literally full time to try to  
24 figure out how to reconfigure, how to restructure, how  
25 do to do anything that would allow the Crown Application

1 to go forward and still respect the rights of privacy.  
2 That is -- yes, we would consider almost anything.

3 COMMISSIONER ANGELI: Madam, I move that we  
4 table this so we would have further discussion with  
5 information that can be provided at a future date.

6 COMMISSIONER McCABE: Second.

7 CHAIRMAN DiGIACOMO COLINS: All in favor?

8 COMMISSIONERS: Aye.

9 CHAIRMAN DiGIACOMO COLINS: Opposed?

10 Motion carries.

11 All right. We'll put it on the next meeting,  
12 which is March 25th.

13 MS. JONES: Thank you.

14 CHAIRMAN DiGIACOMO COLINS: Thank you very  
15 much.

16 MR. QUAGLIA: Thank you very much.

17 CHAIRMAN DiGIACOMO COLINS: Where are we?

18 Very good.

19 MR. COOK: Next on the agenda are a number of  
20 withdrawals that are not objected to by any party.

21 COMMISSIONER McCABE: You're sure?

22 MR. COOK: I'm positive. They would all be  
23 withdrawals without prejudice and they are withdrawals  
24 of Key Employees, Principals, and Vendors.

25 The names of the individuals and entities are

1 as follows: Travis Beckwith, Brian Viercinski, Michele  
2 Malmgren, Joseph LaNasa, III, J.L. Serengeti Management,  
3 LLC, Russell Brooke Dunn, InfoGenesis, Inc., Roadway  
4 Stabilization, Incorporated, and CDW Corporation.

5 These withdrawals are submitted by the OCC and  
6 seeking a motion to approve without prejudice.

7 CHAIRMAN DiGIACOMO COLINS: May I have a  
8 motion?

9 COMMISSIONER COY: Madame Chair, I move that  
10 the Board issue Orders to approve the Withdrawals or  
11 surrenders as described by the OCC with the one varying  
12 exception.

13 COMMISSIONER GINTY: Second.

14 CHAIRMAN DiGIACOMO COLINS: All in favor?

15 COMMISSIONERS: Aye.

16 CHAIRMAN DiGIACOMO COLINS: Opposed?

17 Motion carries.

18 MR. COOK: Next before the Board for  
19 consideration is a Report and Recommendation received  
20 from the Office of Hearings and Appeals relative to  
21 Terry Christian, a gaming permit holder.

22 The Report and Recommendation along with the  
23 evidentiary record has been provided to the Board prior  
24 to today's meeting.

25 Additionally, Mr. Christian has been notified

1 that the Board is considering his Report and  
2 Recommendation today and that he has the right to be  
3 present to address the Board.

4 If Mr. Christian is present today, he should  
5 come forward.

6 The Report and Recommendation of the OHA  
7 recommends that the Withdrawal Application submitted on  
8 behalf of Mr. Christian be granted with prejudice.

9 According to the Report and Recommendation,  
10 Mr. Christian who served as a Player Service  
11 Representative at Philadelphia Park conspired with at  
12 least one other person to improperly alter personal  
13 identification numbers on player account cards, which  
14 were provided to him by such other persons.

15 Based on Mr. Christian's actions and his  
16 failure to appear for the Administrative Hearing in this  
17 matter to object to this action, the OCC recommends that  
18 the Board accept the Recommendation of the OHA and  
19 approve the withdrawal of Mr. Christians's Application  
20 with prejudice.

21 COMMISSIONER GINTY: So moved.

22 CHAIRMAN DiGIACOMO COLINS: May I have a  
23 second?

24 COMMISSIONER McCABE: Second.

25 CHAIRMAN DiGIACOMO COLINS: All in favor?

1 COMMISSIONERS: Aye.

2 CHAIRMAN DiGIACOMO COLINS: Opposed?

3 Motion carries.

4 MR. COOK: Next on the agenda is a matter  
5 regarding WTA's transfer from its temporary facility to  
6 its permanent facility.

7 As the Board is aware, WTA is in the process of  
8 preparing for a transfer of its gaming operations into a  
9 permanent facility and it is contemplated that this  
10 transfer will begin in March and be completed by  
11 mid-April.

12 In the course of this transfer of operations,  
13 it is contemplated that matters may arise including but  
14 not limited to the approval of transitional floor plans  
15 that may require Board approval.

16 Consistent with past Board practice and  
17 precedent, the OCC believes it would be appropriate that  
18 the full Board nominate certain members for delegated  
19 authority to act on the Board's behalf for matters  
20 relating to the transfer and opening of WTA's permanent  
21 facility.

22 CHAIRMAN DiGIACOMO COLINS: Very good. Is  
23 there a motion?

24 COMMISSIONER COY: Madame Chair, I move that  
25 the Board approve the delegation of authority as



1 described by the OCC and that the authority so delegated  
2 on behalf of the Board be conveyed upon our esteemed  
3 colleagues, Commissioners Rivers and McCabe.

4 COMMISSIONER ANGELI: Second.

5 CHAIRMAN DiGIACOMO COLINS: All in favor?

6 COMMISSIONERS: Aye.

7 CHAIRMAN DiGIACOMO COLINS: Opposed?

8 Motion carries.

9 CHAIRMAN DiGIACOMO COLINS: Thank you very  
10 much.

11 MR. COOK: Next on the agenda is an Emergency  
12 Suspension. The Board has before it today for  
13 consideration the matter of the Emergency Suspension of  
14 Non-Gaming Employee Registrant Andrew Kelly.

15 Mr. Kelly was issued a Non-Gaming Employee  
16 Registration on June 18th, 2008 for a position as an EVS  
17 Attendant at Harrah's Chester Casino and Racetrack.

18 Subsequently, the Bureau of Investigation and  
19 Enforcement was notified by the Pennsylvania State  
20 Police that an arrest warrant had been issued and  
21 Mr. Kelly was arrested on February 7th, 2009 and charged  
22 with two felony and five misdemeanor counts relating to  
23 an assault.

24 The OEC filed a request for an Emergency  
25 Suspension of Mr. Kelly's Non-Gaming Registration on

1 February 13th, 2008 and an Emergency Suspension Order  
2 was signed by the Acting Executive Director on that same  
3 date.

4 Board regulations require that the Temporary  
5 Emergency Order be presented to the Board for a hearing  
6 or, in the alternative, assigned to the OHA to conduct a  
7 hearing as to the validity of the Emergency Suspension.

8 The OCC recommends that the Board consider a  
9 motion to refer the matter to the OHA, to promptly  
10 schedule a hearing, and subsequent thereto issue a  
11 Report and Recommendation as to the validity of the  
12 Emergency Suspension. We would also ask that the  
13 interim Emergency Suspension Order remain in place.

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

16 COMMISSIONER ANGELI: So moved.

17 COMMISSIONER RIVERS: Second.

18 CHAIRMAN DiGIACOMO COLINS: All in favor?

19 COMMISSIONERS: Aye.

20 CHAIRMAN DiGIACOMO COLINS: Opposed?

21 Motion carries.

22 MR. SHERMAN: That concludes the presentations  
23 by the OCC on the business.

24 COMMISSIONER SOJKA: Madame Chair, could I  
25 direct an additional set of questions to counsel while

1 we have him before us?

2 CHAIRMAN DiGIACOMO COLINS: Certainly.

3 COMMISSIONER SOJKA: Mr. Sherman, could I ask  
4 you a couple questions that might lead to clarification  
5 of some issues that have been in the press and our  
6 technical, legal nature that do involve issues of  
7 ethics? I just would like your opinion in a public  
8 setting about what these issues really mean.

9 There have been several articles finding fault  
10 with some of our former employees who are lawyers  
11 working in law firms that are in one way or another  
12 involved in the casino industry in Pennsylvania.

13 I am not a member of the legal profession and  
14 some of the Commissioners are not as well. So we are  
15 not entirely familiar with the regulations of the legal  
16 profession in Pennsylvania.

17 What we are being told is that lawyers are, in  
18 fact, different in this regard, in that it is understood  
19 that the Statute is not intended to be, as was said in  
20 one of the articles, a Farm Club for the casino  
21 industry.

22 At the same time, we're told that the Supreme  
23 Court rather than the Legislature or any laws that it  
24 passes are responsible for controlling the practice of  
25 law in Pennsylvania.

1           Could you help me better understand that  
2 situation and be sure of it so I know that I'm on the  
3 right side of this issue?

4           MR. SHERMAN: Sure. First, Commissioner Sojka,  
5 when you say lawyers are different from the rest of us,  
6 I'm sure you mean that in a positive way.

7           COMMISSIONER SOJKA: I mean that in a very  
8 charitable way.

9           COMMISSIONER GINTY: No, you don't.

10          MR. SHERMAN: The provision that has given rise  
11 to the news articles and some of the controversy is  
12 under Section 1201(h)(13) of the Act, which provides  
13 that no employee of the Board or individual employed by  
14 an independent contractor whose duties substantially  
15 involve licensing, enforcement, or development or  
16 adoption of regulations or policy under this part shall  
17 accept employment with an Applicant or licensed entity  
18 or its affiliates, intermediaries, subsidiaries.

19          What we see here is -- and that somewhat  
20 parrots the concept, is the State Ethics Act that  
21 prevents an employee of a higher level within any  
22 Government Agency from making a jump to private industry  
23 where there might be an appearance that you are  
24 switching sides or using something for an unfair  
25 advantage.

1           When we come to how that is applied to  
2 attorneys, however, there comes in -- we come into a  
3 conflict with the Pennsylvania Constitution, which  
4 states that the Pennsylvania Supreme Court shall be the  
5 sole regulator of the practice of law.

6           Now, in the past, there have been several cases  
7 starting with -- it was Judge Wager versus the State  
8 Ethics Commission a number of years ago who contested  
9 the Application of the State Ethics Act ban as to his  
10 practice of law when he left the bench to go back to  
11 private practice.

12           In that case, the Supreme Court had stated the  
13 practice of law in Pennsylvania was exclusively  
14 regulated by the Supreme Court and the Code of  
15 Professional Conduct is established to provide the  
16 oversight of the practice of law.

17           Later, I think it was in about 2003, the  
18 Supreme Court, again, encountered that in the case of  
19 Shalless versus State Ethics Commission. We heard the  
20 Shalless case. Attorney Shalless was a Department of  
21 Revenue attorney who then wanted to go and practice tax  
22 law.

23           The Ethics Commission initially banned her from  
24 doing that, issued an opinion that she could not do it  
25 under the bar of the Ethics Act.

1           It was appealed and, again, the State Supreme  
2 Court said no, the Ethics Act restriction does not apply  
3 and cannot be applied to the practice of law.

4           The same theory was applied by the Commonwealth  
5 Court in the Gmerek case, which Mr. Gmerek left the  
6 state as a lobbyist and the Commonwealth Court provided  
7 an extensive analysis as to lobbying activities  
8 performed by a lawyer often involved in the practice of  
9 law. Therefore, again, it is the Rules of Professional  
10 Conduct.

11           To that extent, the Supreme Court in the Rules  
12 of Professional Conduct, it is Rule 1.11 entitled  
13 Special Conflicts of Interest for former and current  
14 Government officers and employees, addressed the  
15 standard of conduct which attorneys must abide by if  
16 they leave Government practice and go to work in the  
17 private sector or for another entity.

18           And so specifically, what 1.11 provides is  
19 except as law may otherwise expressly permit, a lawyer  
20 who has formerly served as a public officer or employee  
21 of the Government; one, is subject to Rule 1.9(c) and in  
22 a very general sense 1.9(c) says, you can't use  
23 information of a confidential nature that you obtained  
24 in your Government service to the benefit of another  
25 client.

1           Two, shall not otherwise represent a private  
2 client in connection with the matter in which the lawyer  
3 participated personally and substantially as the public  
4 employee.

5           Then it goes into provisions that if the lawyer  
6 is disqualified from participating in a particular  
7 matter, all lawyers in his firm are disqualified from  
8 participating in that matter.

9           It really provides some safeguards.  
10 Interestingly, the Supreme Court in the -- I think it is  
11 the comment to Rule 1.9, specifically acknowledges that  
12 there is an interest in the Government to obtain good,  
13 sound, legal talent.

14           If you put such restrictions on those attorneys  
15 coming to Government practice that they then cannot go  
16 out into the private sector, you are going to defeat the  
17 purpose of getting good, legal talent.

18           COMMISSIONER SOJKA: In that case, you would  
19 suggest that the Court might, in fact, be suggesting  
20 that a Farm Club status for a Government agency might be  
21 appropriate?

22           MR. SHERMAN: I wouldn't use the Farm Club  
23 sense.

24           COMMISSIONER SOJKA: I am quoting that from  
25 someone else.

1           MR. SHERMAN: And what the Court said actually,  
2 is the comment to Rule 1.11 was on the other hand, the  
3 rules governing lawyers presently and formerly employed  
4 by the Government agency shall not be so restrictive as  
5 to inhibit transfer of employment to and from the  
6 Government.

7           The Government has a legitimate need to attract  
8 highly qualified lawyers as well as to maintain high  
9 ethical standards.

10           A former Government lawyer is disqualified from  
11 particular matters -- is disqualified only from  
12 particular matters in which the lawyer participated  
13 personally and substantially.

14           I mean, when you look at what the case law is,  
15 how these provisions have been interpreted, I think it  
16 is pretty clear -- pretty good educated guess that the  
17 Supreme Court would give the same type of treatment to  
18 the provision in 1201(h)(13) that they have given to the  
19 similar provision in the Ethics Act.

20           COMMISSIONER SOJKA: I certainly would not  
21 disagree with your interpretation about what the Court  
22 might do.

23           What opportunities would be available to this  
24 Board if the suggestion came to us that we should, in  
25 fact, test that hypothesis? Do we have any means by



1 which we could do that in the first place?

2 MR. SHERMAN: The Act itself does not provide  
3 an enforcement mechanism against the individual. The  
4 Board certainly has jurisdiction over a Licensee such  
5 that if the Board knew that a Licensee was improperly --  
6 or employing somebody and there was a conflict of  
7 interest, the Board's action would be against the  
8 Licensee in that account.

9 COMMISSIONER GINTY: Who would have  
10 jurisdiction over the individual?

11 MR. SHERMAN: The individual? It would be a  
12 referral to the Supreme Court Disciplinary Board, if the  
13 attorney was practicing in Violation of Rules --

14 COMMISSIONER GINTY: We clearly, under the  
15 Statute, don't have jurisdiction over an individual who  
16 someone might think was violating the Statute. Wouldn't  
17 that be the Attorney General that would have to seek to  
18 enforce that or try and enforce that?

19 MR. SHERMAN: I think there is the provision at  
20 Section 1512 of the Act, I believe, dealing with --  
21 1512, which is financial and employment interest speaks  
22 about employment of executive level public employees and  
23 public officials who are party officers by a licensed  
24 entity.

25 In that case, again, there's no differentiation

1 for lawyers or counsel; but in that case, it provides  
2 that executive-level public employees, who include  
3 Deputy Secretaries of the Commonwealth, employees of the  
4 Executive Branch with discretionary powers, executive  
5 level people in counties or municipalities that received  
6 distribution of public funds or -- and again, public  
7 officers being the Government, Lieutenant Governor,  
8 members of the cabinet, Treasurer, Auditor General,  
9 Attorney General, along with members of the House of  
10 Representatives or the Senate.

11 If they were to accept employment, there's  
12 actually criminal penalties that can attach to those  
13 individuals who would accept that employment. Again,  
14 whether those criminal penalties can attach to lawyers  
15 or not is another question.

16 COMMISSIONER GINTY: I just note in that  
17 Section 1512(a)(1) regarding employment of public  
18 officials, legislators, etc., it starts with the  
19 qualification that except as may be approved by Rule or  
20 Order of the Pennsylvania Supreme Court. I assume that  
21 encompasses everything you have been telling us?

22 MR. SHERMAN: I would certainly interpret it  
23 that way, yes.

24 COMMISSIONER GINTY: So anyone that would ask  
25 us to do something about this would be contrary to what

1 the legislative language and intent was?

2 MR. SHERMAN: I think the common law rules set  
3 down by the Supreme Court in the Shalless case and the  
4 other case certainly would dictate that the statutory  
5 prohibitions don't apply to the practice of law, but  
6 rather the Rules of Professional Conduct are the guiding  
7 rules.

8 So long as the attorney's conduct doesn't  
9 violate those rules, there really isn't anything that  
10 the Board can do.

11 CHAIRMAN DiGIACOMO COLINS: And the Statute  
12 acknowledges that, to follow up with what Commissioner  
13 Ginty just said?

14 MR. SHERMAN: Except it may be provided by Rule  
15 and Order of the Supreme Court.

16 COMMISSIONER SOJKA: That is very helpful in  
17 helping us understand what has been in the press about  
18 lawyers.

19 There was one related and additional issue  
20 about a nonlawyer being employed. Again, I think --  
21 where I'm having -- where I would like to have absolute  
22 clarity is, one, what recourse would be available to  
23 this Board if it felt anything was amiss; and two, is  
24 the -- is the Statute not quite clear that that  
25 prohibition relates only to Pennsylvania Licensees at

1 this time? Is that not correct?

2 MR. SHERMAN: To the Licensee and its  
3 affiliates, that would be the ownership structure of the  
4 licensed entity, that is correct.

5 COMMISSIONER SOJKA: Yes. But there would be  
6 -- there's no problem with former employees of this  
7 agency getting employment in their -- in their line of  
8 work so long as they are not working for a Licensee in  
9 Pennsylvania or part of that structure?

10 MR. SHERMAN: That would appear to be the  
11 logical reading of the Statute.

12 COMMISSIONER SOJKA: And then even if there  
13 were, our redress is limited to referral to some other  
14 agency?

15 MR. SHERMAN: Or to the Licensee to --

16 COMMISSIONER SOJKA: If, in fact, we could find  
17 a Licensee that was in violation?

18 MR. SHERMAN: Correct.

19 COMMISSIONER GINTY: Since we are on the  
20 subject, can I make one more point? 1512(a)(1) is about  
21 as broad a sweep as to who has -- is restricted from  
22 being employed by a Slot Machine Licensee, Manufacturer  
23 Licensees, Supplier Licensees, and so forth.

24 It is so broad that my reading of it would be  
25 all public officials. It says all executive level

1 public officials, public employees, party officers, I'm  
2 not sure what a party officer is; but it also refers to  
3 public official.

4 Under definition of public officials includes  
5 Legislators and it extends to their immediate family as  
6 well. Am I correct in my reading?

7 MR. SHERMAN: That is correct. It is to those  
8 public officials, executive level public employees, and  
9 members of their immediate families.

10 COMMISSIONER SOJKA: This has all been very  
11 helpful. Thank you.

12 CHAIRMAN DiGIACOMO COLINS: Thank you.  
13 Susan Hensel?

14 MS. HENSEL: Thank you, Chairman Colins and  
15 members of the Board. I have a number of licensing  
16 matters to bring before you today.

17 The first matter for your consideration is Key  
18 Employee Licenses. Prior to this meeting, the Bureau of  
19 Licensing provided you with a Proposed Order for 30 Key  
20 Employee Licenses. I ask that the Board consider the  
21 Order granting these licenses.

22 CHAIRMAN DiGIACOMO COLINS: May I have a  
23 motion?

24 COMMISSIONER RIVERS: Yes. Madame Chairman, I  
25 move that the Board issue an Order to approve the

1 issuance of Key Employee Licenses as described by the  
2 Bureau of Licensing.

3 COMMISSIONER SOJKA: Second.

4 CHAIRMAN DiGIACOMO COLINS: All in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN DiGIACOMO COLINS: Opposed?

7 Motion carries.

8 MS. HENSEL: The Bureau of Licensing also  
9 provided you with an Order regarding the issuance of  
10 Temporary Key Employee Licenses of 82 individuals. I  
11 ask that the Board consider the Order approving these  
12 licenses.

13 COMMISSIONER SOJKA: So moved.

14 COMMISSIONER COY: Second.

15 CHAIRMAN DiGIACOMO COLINS: All in favor?

16 COMMISSIONERS: Aye.

17 CHAIRMAN DiGIACOMO COLINS: Opposed?

18 Motion carries.

19 MS. HENSEL: Next are Gaming and Non-Gaming  
20 Permits and Registrations. Prior to this meeting, the  
21 Bureau of Licensing provided you with a list of 284  
22 individuals, who the Bureau has granted occupation  
23 permits to and 74 individuals who the Bureau has granted  
24 registrations to under the authority delegated to the  
25 Director of Licensing. I ask that the Board adopt a

1 motion approving the Order.

2 COMMISSIONER COY: So moved.

3 COMMISSIONER McCABE: Second.

4 CHAIRMAN DiGIACOMO COLINS: All in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN DiGIACOMO COLINS: Opposed?

7 Motion carries.

8 MS. HENSEL: In addition, we have

9 Recommendations of Denial for two Gaming employees.

10 Prior to this meeting, the Bureau of Licensing provided  
11 you with Orders addressing these Applicants, who the BIE  
12 has recommended for denial.

13 In each case, the Applicant failed to request a  
14 hearing within the specified time period. I ask that  
15 the Board consider the Order denying the Gaming and  
16 Non-Gaming Applicants.

17 CHAIRMAN DiGIACOMO COLINS: Motion?

18 COMMISSIONER COY: So moved.

19 COMMISSIONER GINTY: Second.

20 CHAIRMAN DiGIACOMO COLINS: All in favor?

21 COMMISSIONERS: Aye.

22 CHAIRMAN DiGIACOMO COLINS: Opposed?

23 Motion carries.

24 MS. HENSEL: We also have Withdrawal Requests

25 for Gaming and Non-Gaming Employees. In each case, the

1 Occupation Permit or Registration is no longer required  
2 due to such circumstances as the employee accepting a  
3 job with a different employer, the job offer being  
4 rescinded, or the employee failing to report to work.

5 For today's meeting, I have provided the Board  
6 with a list of nine withdrawals for approval and ask  
7 that the Board consider the Order approving those  
8 withdrawals.

9 COMMISSIONER GINTY: So moved.

10 COMMISSIONER COY: Second.

11 CHAIRMAN DiGIACOMO COLINS: All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN DiGIACOMO COLINS: Opposed?

14 Motion carries.

15 MS. HENSEL: In addition, we have four Orders  
16 regarding Vendors. The first is to certify the  
17 following seven vendors, Brandon Berg Industry Services  
18 Company, Dectronics, Inc., Green Valley Landscaping,  
19 Inc., JC Ehrlich Company, Inc., Keystone Contractors,  
20 Inc., Schuff Steel Company, and Sterling Glass-Dual  
21 Pane, Inc. I ask that the Board approve the Vendors for  
22 Certification.

23 COMMISSIONER McCABE: So moved.

24 COMMISSIONER SOJKA: Second.

25 CHAIRMAN DiGIACOMO COLINS: All in favor?



1 COMMISSIONERS: Aye.

2 CHAIRMAN DiGIACOMO COLINS: Opposed?

3 MS. HENSEL: Next, the Bureau of Licensing  
4 provided you with an Order and an attached list of 32  
5 Registered Vendors. I ask that the Board adopt a motion  
6 approving the Order registering these Vendors.

7 CHAIRMAN DiGIACOMO COLINS: May I have a  
8 motion?

9 COMMISSIONER RIVERS: So moved.

10 COMMISSIONER SOJKA: Second.

11 CHAIRMAN DiGIACOMO COLINS: All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN DiGIACOMO COLINS: Opposed?

14 Motion carries.

15 MS. HENSEL: The Bureau of Licensing also  
16 provided you with Orders, the approval of which would  
17 result in the following five vendors being added to the  
18 Prohibited Vendor List; Advanced Home and Business  
19 Systems, Bernard Hodes Group, Cleveland Menu Printing,  
20 Inc., CTM Brochure Display, McCluster and Odborn Waste  
21 Removal.

22 These Vendors have done business with a Slot  
23 Machine Operator, Licensee, or Applicant but have failed  
24 to submit an Application or failed to complete an  
25 Application. I ask that the Board consider the Orders

1 adding the named Vendors to the Prohibited Vendors List.

2 COMMISSIONER SOJKA: And every one of those is  
3 simply because they failed to finish the Application?  
4 There have been no findings of fact or anything of that  
5 sort?

6 MS. HENSEL: Correct. I believe in this case,  
7 one of the Vendors failed to complete the Application  
8 and four failed to submit Applications at all.

9 COMMISSIONER SOJKA: So moved.

10 COMMISSIONER COY: Second.

11 CHAIRMAN DiGIACOMO COLINS: All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN DiGIACOMO COLINS: Opposed?

14 Motion carries.

15 MS. HENSEL: I also have provided you with a  
16 proposed Order declaring Cadillac Jack Manufacturer  
17 Application as abandoned.

18 Under the Board's Regulations, an Application  
19 can be declared abandoned if the Applicant has failed to  
20 cure Application deficiencies in the time specified by  
21 the Bureau of Licensing.

22 In addition, under the Bureau of Licensing's  
23 policy, an Application is eligible to be declared  
24 abandoned if there has been no activity on the  
25 Application for six months or more and if the OEC does

1 not object to the abandoned designation.

2           Once the Application is declared abandoned, the  
3 Applicant may reapply at any time. In this case, the  
4 Cadillac Jack Application has been inactive for more  
5 than six months.

6           The Applicant was notified that its Application  
7 would be declared abandoned and was given the  
8 opportunity to either cure its deficiencies or withdraw  
9 the Application. Cadillac Jack has done neither. As a  
10 result, I ask that the Board consider the Order  
11 declaring the application abandoned.

12           COMMISSIONER ANGELI: So moved.

13           COMMISSIONER COY: Second.

14           CHAIRMAN DiGIACOMO COLINS: Is there any  
15 objection?

16           MR. PITRE: There's no objection.

17           CHAIRMAN DiGIACOMO COLINS: What is your  
18 question, please?

19           COMMISSIONER McCABE: Have all of their bills  
20 been paid? Do they owe us any money?

21           MS. HENSEL: Yes, their bills have been paid.

22           CHAIRMAN DiGIACOMO COLINS: What is the effect  
23 of the abandonment with respect to whether or not they  
24 can come back?

25           MS. HENSEL: They can reapply at any time. It

1 gets rid of a stale Application, what has become a stale  
2 Application.

3 CHAIRMAN DiGIACOMO COLINS: Okay. All in  
4 favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN DiGIACOMO COLINS: Opposed?

7 Motion carries.

8 MS. HENSEL: Similarly, I have provided you  
9 with a Draft Order declaring Jenny Lee Bakery, Inc.'s,  
10 Vendor Registration Application as abandoned. Jenny Lee  
11 Bakery is no longer in business and therefore is unable  
12 to complete the registration process. I ask that you  
13 consider the Order declaring that Application abandoned.

14 MR. PITRE: And there is no objection.

15 CHAIRMAN DiGIACOMO COLINS: Thank you.

16 Motion, please.

17 COMMISSIONER COY: So moved.

18 COMMISSIONER GINTY: Second.

19 CHAIRMAN DiGIACOMO COLINS: All in favor?

20 COMMISSIONERS: Aye.

21 CHAIRMAN DiGIACOMO COLINS: Opposed?

22 Motion carries.

23 MS. HENSEL: Finally, there are two Orders  
24 denying Vendor Applications. In each case, the Vendors  
25 were notified that their Applications would be

1 recommended for denial and were given an opportunity to  
2 request a hearing. Neither Vendor requested a hearing  
3 within the specified time period.

4 I ask that the Board consider the Orders  
5 denying the Applications for Smith Blacktopping, Inc.,  
6 an Applicant for Vendor Registration, and Corporate  
7 Glass, Inc., an Applicant for Vendor Certification.

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

10 COMMISSIONER GINTY: So moved.

11 COMMISSIONER McCABE: Second.

12 CHAIRMAN DiGIACOMO COLINS: All in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN DiGIACOMO COLINS: Opposed?

15 Motion carries.

16 MS. HENSEL: That concludes the Bureau of  
17 Licensing's presentation.

18 CHAIRMAN DiGIACOMO COLINS: Thank you very  
19 much.

20 Enforcement Counsel?

21 MR. PITRE: Enforcement Counsel has three  
22 matters to present to the Board.

23 MR. DUSTIN MILLER: Dustin Miller on behalf of  
24 the OEC. There are three matters relating to revocation  
25 of casino employees before the Board today.

1           With respect to each, the record pertinent to  
2 each matter has been provided to the Board in advance of  
3 this meeting.

4           Upon identification of the complaints filed to  
5 revoke the registrations of the individuals named in the  
6 Complaint, none of the individuals chose to respond to  
7 the matter set forth in the complaints.

8           In addition and in each case, the Applicants  
9 have been notified that the Board is considering their  
10 revocation today and that they have the right to be  
11 present to address the Board.

12           If any of the individuals are present today,  
13 they should come forward when their name is announced.

14           The first matter is Hanunah Brightwell. The  
15 OEC filed an Enforcement Complaint to revoke Ms.  
16 Brightwell's Non-Gaming Employee Registration for  
17 failing to comply with Federal or State laws on December  
18 10th, 2008.

19           The Enforcement Complaint was served upon  
20 Miss Brightwell to the address listed on her  
21 Application.

22           Miss Brightwell did not respond to the filing  
23 in any way. Due to Miss Brightwell's failure to  
24 respond, the averments in the Enforcement Complaint are  
25 deemed to be admitted as fact and her right to a hearing

1 has been waived.

2 On January 23rd, 2009, the OEC filed a request  
3 to enter Judgment Upon Default. The matter is now  
4 before the Board to consider the revocation of Ms.  
5 Brightwell's Non-Gaming Registration.

6 CHAIRMAN DiGIACOMO COLINS: May I have a  
7 motion?

8 COMMISSIONER McCABE: So moved.

9 COMMISSIONER RIVERS: Second.

10 CHAIRMAN DiGIACOMO COLINS: All in favor?

11 COMMISSIONERS: Aye.

12 CHAIRMAN DiGIACOMO COLINS: Opposed?

13 Motion carries.

14 MR. DUSTIN MILLER: The next request for  
15 revocation involves Joshua Greene. The OEC filed an  
16 Enforcement Complaint to revoke Mr. Greene's Non-Gaming  
17 Employee Registration for failing to comply with Federal  
18 or State laws on December 8th, 2008.

19 The Enforcement Complaint was served upon  
20 Mr. Greene to the address listed on Mr. Greene's  
21 Application. Mr. Greene did not respond to the filing  
22 in any way.

23 Due to Mr. Greene's failure to respond, the  
24 averments in the Enforcement Complaint are deemed to be  
25 admitted as fact and his right to a hearing has been

1 waived.

2 On January 23rd, 2009, OEC filed a request to  
3 Enter Judgment upon Default. The matter is now before  
4 the Board to consider the revocation of Mr. Greene's  
5 Non-Gaming Registration.

6 CHAIRMAN DiGIACOMO COLINS: May I have a  
7 motion?

8 COMMISSIONER RIVERS: So moved.

9 COMMISSIONER SOJKA: Second.

10 CHAIRMAN DiGIACOMO COLINS: All in favor?

11 COMMISSIONERS: Aye.

12 CHAIRMAN DiGIACOMO COLINS: Opposed?

13 Motion carries.

14 MR. DUSTIN MILLER: The final request for  
15 revocation involves John Strowbridge. The OEC filed an  
16 Enforcement Complaint to revoke Mr. Strowbridge's  
17 Non-Gaming Employee Registration for failing to comply  
18 with Federal or State laws on September 16th, 2008.

19 The Enforcement Complaint was served up to  
20 Mr. Strowbridge at the address listed on  
21 Mr. Strowbridge's Application.

22 Mr. Strowbridge did not respond to the filing  
23 in any way. Due to Mr. Strowbridge's failure to  
24 respond, the averments in the Enforcement Complaint are  
25 deemed to be admitted as fact and his right to a hearing



1 has been waived.

2 On January 26th, 2009, the OEC filed a request  
3 to enter judgment upon default. The matter is now  
4 before the Board to consider the revocation of  
5 Mr. Strowbridge's Non-Gaming Registration.

6 CHAIRMAN DiGIACOMO COLINS: May I have a  
7 motion?

8 COMMISSIONER SOJKA: So moved.

9 COMMISSIONER ANGELI: Second.

10 CHAIRMAN DiGIACOMO COLINS: All in favor?

11 COMMISSIONERS: Aye.

12 CHAIRMAN DiGIACOMO COLINS: Opposed?

13 Motion carries. Thank you.

14 MR. DUSTIN MILLER: Thank you.

15 CHAIRMAN DiGIACOMO COLINS: Last matter on the  
16 agenda, Category 3's update. Do we have counsel for  
17 either of the Applicants? I see Mr. King. Mr. King, do  
18 you want to come up?

19 These were on our last agenda, and I wanted to  
20 bring it back for an update to see where you were on the  
21 issues involving financial commitment to the property.

22 MR. KING: Good morning, members of the Board,  
23 Adrian King from Ballard Sphar on behalf of the Valley  
24 Forge Convention Center Partners.

25 An update on where they were since, I guess, it

1 was the February 10th meeting. A couple of things,  
2 first off, we have been working extremely closely with  
3 Board staff, with Mr. Miller, Mr. Grad, and others  
4 providing further information.

5 First, about the Delaware Valley Real Estate  
6 Investment Fund or DVREIF that we talked to you about  
7 last meeting.

8 We have provided specific information about the  
9 eight partners of DVREIF, all of which are Taft-Hartley  
10 Union Pension Funds, all of which have substantial  
11 assets, 7 of the 8 in excess of \$100 million each in  
12 terms of their assets. That is an important  
13 distinction.

14 I believe Commissioner Coy asked a question  
15 with respect to licensure under Section 433(a)(6) of the  
16 regs.

17 Certainly, the staff has made no recommendation  
18 with respect to whether licensure of the lender would be  
19 required under the Regs but assets is certainly part of  
20 that test. These are all longstanding, well-established  
21 union funds.

22 We have also provided substantial information  
23 or additional information -- I should say not  
24 substantial -- about members of the syndicate that  
25 DVREIF works with to also assemble funds.

1           Again, these are all very well-established  
2 entities of Union Labor Life Insurance Company, which is  
3 a very large union-based insurance company, and  
4 Amalgamated Bank, which has \$4 billion worth of assets  
5 and there are others which we provided information on.

6           In short, we believe we have established --  
7 well, let me say one other thing. We have also provided  
8 information about some of the projects that DVREIF has  
9 been part of recently.

10           You may have seen or it may have been provided  
11 to you in an article in the Philadelphia Inquirer last  
12 Sunday, which just coincidentally ran and talked about  
13 DVREIF.

14           It talked about this fund and other  
15 labor-related financial sources being sort of a bright  
16 spot in the economy. Where they have funds available,  
17 they are making those funds available and they are  
18 putting them on the street. The reason why they are  
19 doing that is because they want to keep their members  
20 working.

21           Obviously, they focus on the Delaware Valley  
22 region, so not all of you are familiar with some of  
23 their projects, but one of the projects I see out my  
24 window every day, which is on Ritten House Square where  
25 they are building a very substantial, new condominium

1 apartment tower at 10 Ritten House Square.

2 They also have been funding construction of  
3 another hotel out in the King of Prussia, but the bottom  
4 line we are trying to point out here is that this fund  
5 is very active and continues to be extremely interested  
6 in this project.

7 COMMISSIONER GINTY: How many jobs,  
8 construction jobs?

9 MR. KING: For this, Commissioner Ginty, it  
10 will be about 150 jobs; and I know that doesn't sound as  
11 much as the Cat 1's or Cat 2's, but remember, we are  
12 retrofitting our existing property.

13 COMMISSIONER GINTY: And anticipating how many  
14 employees would be hired for full-time once it is up and  
15 running?

16 MR. KING: 350. We have also, as you know, we  
17 had previously revealed interest on the part of Penn  
18 National Gaming. I wanted to make clear in a submission  
19 I made to staff on Wednesday, you know, the reason that  
20 we provided the information was to show that there is a  
21 high level of interest in this project.

22 We have DVREIF very interested. We now have  
23 Penn National Gaming very interested. In fact, I have  
24 provided staff with another correspondence from Penn  
25 National that I received about 7:00 a.m. this morning.

1           There was a Board meeting of Penn National  
2 yesterday, and they have put some additional information  
3 on the table that they are willing to provide \$50  
4 million of mezzanine financing, that would be  
5 second-lien financing for the project.

6           They would also be interested in acquiring a  
7 one-third interest. I think you knew that from the last  
8 time I was here, and would also be interested in  
9 managing of gaming operations.

10           They would also as part of that require  
11 Mr. Lubert to put \$10 million of equity into the  
12 project. I'm also here to tell you that Mr. Lubert has  
13 authorized me to tell you that that is something that he  
14 would do.

15           Obviously, the staff just got this  
16 correspondence; and I know they are digesting it. The  
17 bottom line here is despite the economic climate that I  
18 know you are all aware of and you are dealing with  
19 practically at every meeting, although, fortunately, I  
20 see we haven't had any Licensees coming in today to say  
21 they want to stop building this component or that  
22 component of their project.

23           Despite this situation, this project remains  
24 very, very strong. There is a strong level of interest  
25 out here. It is really ready to go, and I know you

1 continue to wrestle with how do you proceed with these  
2 Applications.

3 I will tell you that I don't have a very  
4 exciting life and on Wednesday night around midnight, I  
5 was in front of my TV watching PCN watching --

6 COMMISSIONER GINTY: You really don't have a  
7 life.

8 CHAIRMAN DiGIACOMO COLINS: Someone has  
9 sleeping issues.

10 MR. KING: Well, I couldn't resist; and I  
11 wanted to watch the Madame Chairwoman testify in front  
12 of the House Budget Committee.

13 I know that you were wrestling with whether to  
14 proceed with the Cat 3's with their financing as is.  
15 There is a recognition of the economic climate and what  
16 do you do.

17 I acknowledged at our last meeting that you  
18 don't want to run into a situation like we had in  
19 Pittsburgh where the financing isn't in place.

20 We talked about at the last meeting whether  
21 licensure with contingents in permanent financing is a  
22 possibility.

23 I will say this to you: Maybe the Cat 3's  
24 don't have the same positions as a Cat 1 or a Cat 2; but  
25 these are jobs nonetheless. These are 150 construction

1 jobs. These are 350 permanent jobs.

2 We are all watching with great attention the  
3 Stimulus Bill. Madame Chairman spoke with great pride  
4 about the work that the Board has done in creating this  
5 industry that has created, I think the number was,  
6 around 9,600 jobs since its inception.

7 I think what I am here to say to you is here is  
8 a project that if we are given the green light, we can  
9 be moving very quickly in giving Pennsylvanians  
10 employment opportunities.

11 I have heard the numbers about how many people  
12 have been applying at the Sands and the other facilities  
13 that are coming online.

14 You know how important this is. We want to be  
15 given that opportunity as well. We believe we can get  
16 this financing nailed down if we have licensure of some  
17 form in place.

18 We want to move forward. We want to give these  
19 job opportunities. You have Mr. Lubert who is already  
20 licensed. You are very familiar with him through his  
21 involvement in the Pittsburgh transaction.

22 You may see involvement in this transaction by  
23 Penn National, someone who you are also extremely  
24 familiar with and comfortable with.

25 This is a strong project. It is ready to come

1 out of the gate. We can be up and running probably in,  
2 you know, six to eight months because we are  
3 retrofitting an existing facility.

4 It could be more revenue that is generated for  
5 the Commonwealth for all of the various purposes. We  
6 wanted to give you that update, but we wanted to implore  
7 the Board to make a decision.

8 We are eager to move forward, and we believe  
9 that we can continue to add, contribute both in the form  
10 of employment and the form of revenue.

11 I can answer any questions, but that is what I  
12 wanted to at least report and say to you today.

13 CHAIRMAN DiGIACOMO COLINS: Thank you.

14 Any questions?

15 COMMISSIONER SOJKA: Are you telling us that in  
16 terms of solid documentation about the availability of  
17 funding the situation, despite the fact that new  
18 entities have now been named, the situation has not  
19 changed since the last meeting where we discussed these  
20 issues?

21 MR. KING: I would answer that in two ways --

22 MR. DALE MILLER: Let me say -- this is Dale  
23 Miller on behalf of the OEC. I think when we left the  
24 meeting the last time, we had the names of the possible  
25 lenders. In this case, it was DVREIF, the Delaware



1 Valley folks and some of the other people they were  
2 going to talk to to invest in this project.

3 When we last left this, I think the Board was  
4 concerned whether or not we had taken a closer look at  
5 those lenders, whether we had sufficient information to  
6 do that so that we could report to you that if those  
7 lenders were to be given the opportunity to participate  
8 in this project, that they -- it was a good chance they  
9 would find suitable and so on.

10 Since that last meeting, we requested of Valley  
11 Forge through Mr. King information that would allow us  
12 to take a closer look at these entities.

13 Mr. King has provided us that information. He  
14 and I have talked a number of times and he has discussed  
15 this with Jim Talerico, our Financial Investigation Unit  
16 Supervisor.

17 We have the information that we need. We have  
18 taken a closer look at those entities and Mr. Talerico  
19 is certainly prepared to offer to the Board the results  
20 of that closer look.

21 So I think since the last Board meeting, those  
22 things have been accomplished and you know, we can at  
23 least give some opinion with the information we have of  
24 the lenders.

25 COMMISSIONER SOJKA: Okay. So there could be

1 additional information on the lenders.

2           Mr. King, is there any indication that the  
3 lenders that we may hear more about have provided you  
4 with more, if you will, concrete documentation about  
5 their willingness to support the project?

6           MR. KING: Well, if we can go back and if  
7 compare where we are right now with the Category 3's to  
8 where you would have been at this point in time with the  
9 Cat 1's and Cat 2's, the difference really is in the  
10 form of a commitment letter as opposed to a highly  
11 confident letter.

12           In neither situation at this point in the  
13 process would you actually have necessarily, maybe in  
14 some cases, but in my experience, you wouldn't walk in  
15 with, you know, here it is the loan agreement, you know,  
16 in terms of the operative documents which document the  
17 transaction, that generally has always followed after  
18 licensure.

19           So the differentiation that we have is between  
20 a highly confident letter and a commitment letter. I  
21 think that -- so to answer your question, do I have  
22 something more than a highly confident letter from  
23 either Penn National or from DVREIF? No, I do not.

24           But I think what I am also telling you and I  
25 think what Mr. Lubert spoke to and what my colleague,

1 Marie Jones, spoke to on behalf of Fernwood is given the  
2 situation, the lenders are not willing to -- the lenders  
3 want to see licensure. So we have sort of a chicken and  
4 the egg problem, which comes first.

5           And that is -- that is basically where we are.  
6 I think that is why we are asking for licensing  
7 contingent on nailing down the permanent financing  
8 within a reasonable period of time.

9           COMMISSIONER SOJKA: With the understanding  
10 that if you make that request and it should be granted,  
11 I'm not suggesting it would be. With a fixed time  
12 limit, failure to meet that limit would be the  
13 equivalent of a denial and that would essentially put  
14 the entity out of the game.

15           MR. KING: I think if that is the result, that  
16 is the result; but I think we feel strongly enough that  
17 we can move forward under those circumstances.

18           COMMISSIONER SOJKA: Just in the name of  
19 completeness, let me explore one more possibility, you  
20 are asking us to consider a contingent license so that  
21 the lender could go forward. That puts the burden, if  
22 you will, on us.

23           One other possibility would be that we could  
24 shift the burden back the same way and say, we would  
25 consider a license if we got contingent financing.

1           Could you produce that?

2           MR. KING: Well, let me ask you just so I'm  
3 clear, contingent in what sense?

4           COMMISSIONER SOJKA: If they gave you a firm  
5 commitment contingent on your receipt of a license,  
6 would that be expensive for you or your clients?

7           MR. KING: I think it could be very expensive,  
8 yes.

9           COMMISSIONER SOJKA: Okay. So that is not  
10 likely to be -- so you are saying basically, we're down  
11 to this issue. We are either going to move forward or  
12 not move forward on the basis of who is going to provide  
13 a contingency?

14          MR. KING: I would agree with you.

15          CHAIRMAN DiGIACOMO COLINS: Well, I mean, don't  
16 you have to pay for the money anyway? You have to pay  
17 for the money, right?

18          MR. KING: Absolutely.

19          CHAIRMAN DiGIACOMO COLINS: And you're saying  
20 the cost of getting that letter preceding the closing is  
21 the extra cost to you, right?

22          MR. KING: Yes.

23          CHAIRMAN DiGIACOMO COLINS: There is an extra  
24 cost?

25          MR. KING: Yes.

1           CHAIRMAN DiGIACOMO COLINS: You get the letter;  
2 and then you go to closing, you're asking for the  
3 license and then you go to closing, correct?

4           MR. KING: Yes.

5           CHAIRMAN DiGIACOMO COLINS: What does the  
6 commitment cost?

7           MR. KING: Well, I think -- let's just take the  
8 Fernwood example, I saw it was in excess of, I think,  
9 around \$150,000.

10          COMMISSIONER GINTY: Miss Jones, do you want to  
11 join us up here?

12          CHAIRMAN DiGIACOMO COLINS: Yes.

13          MS. JONES: Sure. Hello, everyone. The term  
14 sheet from Fernwood was approximately 185,000. To get  
15 committed financing, it would be approximately one  
16 million dollars.

17                 We chose not at that time to get committed  
18 financing because we did not know when a decision would  
19 be made.

20                 Obviously, if we receive a license that is  
21 contingent upon us getting financing within X number of  
22 months, that cost goes down substantially.

23                 We have a better ability to work with the  
24 various lenders and move forward, hopefully, as quickly  
25 as we can.

1           That is why we, like Valley Forge, believe that  
2           issuing the license contingent upon financing within a  
3           certain amount of time puts us both in a better position  
4           to go out to the financial markets.

5           COMMISSIONER GINTY: How much total financing  
6           are you seeking?

7           MS. JONES: Sixty-five million.

8           COMMISSIONER GINTY: Let me ask the question  
9           just so I get all of the numbers. How many construction  
10          jobs do you anticipate?

11          MS. JONES: Approximately 100, and 82 full-time  
12          jobs at the facility, not including additional jobs in  
13          the other parts of the facility.

14          COMMISSIONER GINTY: And how long to get up and  
15          running?

16          MS. JONES: Approximately six months.

17          COMMISSIONER SOJKA: So we are looking at all  
18          of this sitting in the balance, the jobs, the revenue,  
19          the projects; and we're waiting to see if you can come  
20          forward and hand us a letter, either of you, or some  
21          documentation that says you have essentially a guarantee  
22          of financing, that, again, then brings our investigative  
23          people into play as to the quality of these lenders?

24                 I'm not putting you folks off but I want to  
25          deal with this other issue first.

1           Do you see -- can either of you predict that  
2 that kind of documentation might be forthcoming any time  
3 soon short of our giving you some form of a license or  
4 are you just stuck?

5           MR. KING: I will say that I think we are  
6 stuck. What my client is telling me and I think my  
7 client has considerable experience in the financial  
8 world, in this current economic environment, there are  
9 no guarantees anymore.

10           I presume maybe that you could get a guarantee  
11 if you wanted to spend millions of dollars to get one,  
12 but that doesn't make sense, that essentially doesn't  
13 make the project -- that kills the project.

14           If you're going to go to that level of expense  
15 to buy a guarantee, that is money you are not going to  
16 put into the project itself. That is going into the  
17 banks. So that is really the problem that we have here.

18           For us, I think the fact that we have two  
19 strong parties, you know, this interest is a great sign;  
20 but it is not like 2006 where there were people lining  
21 up to put money into gaming projects.

22           It is not happening anymore; and if you look at  
23 all of the first-tier lenders, you know, Morgan  
24 Stanley's, those folks who were writing letters in 2006,  
25 they're gone. They're not even in the game anymore. So

1 that is really the problem we are in.

2 COMMISSIONER RIVERS: Mr. King, that is part of  
3 the problem that we are confronted with. The fact that  
4 if you look at 2006 and look at 2009, there is  
5 significant difference. We took some, quote -- we took  
6 the information they provided us at face value; and by  
7 your own admission, look what happened in Pittsburgh.

8 We thought we had a very solid, solvent  
9 individual. It didn't come to fruition. The same thing  
10 could happen again. So this is why we're in a quandary.  
11 We are looking for a stronger foundation than what we  
12 had before. That is part of our fiduciary  
13 responsibility.

14 MR. KING: If I could just respond, I  
15 understand that completely; and I think I tried to  
16 acknowledge that in the last meeting, that I think that  
17 your response there is acknowledging that there is an  
18 issue, which everyone understands that there is an  
19 issue, the Board is not going to be put into that kind  
20 of a position again; but, if you acknowledge the issue  
21 up front and we put a contingency in place and we come  
22 through with the financing lined up and locked in, then  
23 we move forward.

24 I'll just make two other quick points. The  
25 leader of my project, Mr. Lubert, as you know was part



1 of the team that came in and helped put Pittsburgh back  
2 on the right track.

3 In my case, you are dealing with someone who  
4 has a track record and who I think, you know, should be  
5 recognized for that.

6 COMMISSIONER RIVERS: As you talk about  
7 Pittsburgh, the one thing they did come to the table  
8 with were firm commitments. They brought us letters,  
9 commitments saying that they had the funding. It wasn't  
10 any speculation on our part at that time.

11 MR. KING: Well, I would even say things in the  
12 financial markets have even gotten worse in the several  
13 months since -- I guess that was last September or  
14 October?

15 COMMISSIONER COY: And I guess -- Madame Chair?

16 CHAIRMAN DiGIACOMO COLINS: Yes. Yes.

17 COMMISSIONER COY: I guess my opinion is  
18 because things have gotten worse and because the economy  
19 has nose-dived as we all know it has, I think it would  
20 require the Board to have a more firm financial  
21 commitment than we might have had before.

22 COMMISSIONER GINTY: I would disagree.

23 COMMISSIONER SOJKA: I would disagree with that  
24 as well.

25 COMMISSIONER COY: I don't think I was quite

1 done. It is fine to disagree, but I think it is also  
2 fine to offer an alternate opinion. That is all I was  
3 doing.

4 MR. KING: If I can say one other thing and I  
5 will let Marie speak, I'm sorry. This Board has a lot  
6 of different fiduciary duties. It has to take all of  
7 them very seriously, and I understand that.

8 I would just ask that you also give  
9 consideration to your duties under the Act, the Act  
10 specifically talks about creating jobs, economic  
11 development.

12 CHAIRMAN DiGIACOMO COLINS: That is what we are  
13 trying to balance.

14 COMMISSIONER SOJKA: That is what we are  
15 struggling with.

16 CHAIRMAN DiGIACOMO COLINS: That is why there  
17 is a struggle concerning whether or not we should sort  
18 of change our posture from what it was in the licensing  
19 of the other entities to accommodate the realities of  
20 this new world and this economic world.

21 While we struggle with that, I think that it  
22 would be helpful to us if you moved forward trying to  
23 enhance the level of commitment that you have. I think  
24 that that is how you should be spending your time now.

25 COMMISSIONER SOJKA: I would also suggest that

1 we might -- that would have made life very easy had both  
2 of you come here with the documentation we were hoping  
3 for, we would be beyond this point.

4 I'm concerned from what I think I have heard  
5 both of you say that we may be at an impasse and that  
6 this may, in fact, de facto, be a permanent holding  
7 pattern.

8 I don't know that we are prepared today as a  
9 Board to give you a kind of contingent license; but I  
10 think it behooves us to at least consider that at some  
11 point.

12 I want you to be aware that my reason for doing  
13 that is to put this risk firmly back in your court, and  
14 that is, I'm quite serious about a drop-dead date for  
15 the kind of documentation we're talking about and I mean  
16 drop dead if it is not there, it would mean essentially  
17 a denial of the Application and all that goes with that,  
18 which would essentially mean no more Application within  
19 five years.

20 If we don't do something like that or somebody,  
21 you don't or we don't to break this logjam, I think we  
22 are in this situation for an indefinite time; and I  
23 don't think that is in anyone's benefit.

24 CHAIRMAN DiGIACOMO COLINS: We are committed to  
25 jobs in Pennsylvania. We are committed to the integrity

1 of gaming. We are committed to increasing revenue.

2 We need the Applicants to be committed to the  
3 extent that they meet our requirements; and at this  
4 point, as I said --

5 COMMISSIONER GINTY: Can I make a comment?

6 CHAIRMAN DiGIACOMO COLINS: Absolutely. Go  
7 ahead.

8 COMMISSIONER GINTY: I agree with Commissioner  
9 Sojka. I agree with what you said Madame Chairman. I'm  
10 well aware what the financial situation is today.

11 I am also aware of what the economic situation  
12 is, and we are looking at 250 good, solid, construction  
13 jobs here.

14 We are looking at nearly 400 permanent jobs in  
15 an environment where people are getting laid off. These  
16 are good jobs. We could have them up and running in six  
17 to eight months.

18 I mean, I think it is a -- I think we have two  
19 fine Applicants. I think you both made cases where, you  
20 know, Mr. Lubert is well known in the community and the  
21 financial community. Penn National, we have worked  
22 with. Certainly, the unions have it.

23 Miss Jones, I have been impressed every time  
24 your clients have been up before us; and I just think  
25 it's a shame that we can't close on this.

1           CHAIRMAN DiGIACOMO COLINS: I have to tell you,  
2 I think the merging of the union funding and the  
3 creation of jobs for the project is really very  
4 creative. It suits a lot of the different aspects of  
5 the mandates of the Statute.

6           We need to put -- you need to put it together  
7 with the staff so that we can really know that the  
8 commitment will satisfy all of the expectations of the  
9 Board for both of these Applications. We need to do it  
10 sooner rather than later. We will bring you back for  
11 the next meeting.

12           COMMISSIONER SOJKA: Next meeting?

13           CHAIRMAN DiGIACOMO COLINS: Mr. Talerico?

14           COMMISSIONER SOJKA: We should find out maybe  
15 what they found out about the potential lenders in case  
16 there is something we should know about.

17           MR. DALE MILLER: You want to address both  
18 Applicants since they are at the table.

19           CHAIRMAN DiGIACOMO COLINS: Yes.

20           MR. TALERICO: Fine. Madame Chairman, members  
21 of the Board, my name is James Talerico. I am  
22 Supervisor for the BIE's Financial Investigative Unit.

23           BIE's Financial Investigative Unit has  
24 completed a financial analysis of the two proposed  
25 financial institutions, CIT, Capital Securities, LLC,

1 and its parent CIT Group for the Bushkill Group,  
2 Incorporated, and Delaware Valley Real Estate Investment  
3 Fund, DVREIF, for Valley Forge Convention Center,  
4 Partners, LP.

5 The two Category 3 Applicants have received and  
6 submitted copies of highly competent letters from each  
7 of their proposed debt financiers.

8 Our objective was to determine from an analysis  
9 of financial information provided to and reviewed by my  
10 staff that each financial institution had the financial  
11 wherewithal to provide the proposed debt financing to  
12 their respective Category 3 Applicants.

13 The results of our analyses concluded that as  
14 of today, both financial institutions possessed the  
15 financial wherewithal to provide the requested debt  
16 financing to their respective Category 3 Applicants, but  
17 we do not have a commitment letter.

18 COMMISSIONER SOJKA: Thank you.

19 CHAIRMAN DiGIACOMO COLINS: Come on back on  
20 March 25th please; and in the meantime, please continue  
21 to be in close contact with the staff.

22 Again, there has been a lot of time and effort  
23 expended in these Applications. Let's see it get  
24 finalized. Thank you.

25 MR. KING: Thank you.

1 MS. JONES: Thank you.

2 CHAIRMAN DiGIACOMO COLINS: Thank you very  
3 much. We are going to adjourn. That concludes our  
4 business. Thank you. The next meeting is March 25th.

5 (The meeting concluded at 12:06 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

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.

5

6

7

Hillary M. Hazlett, Reporter  
Notary Public

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25