

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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PUBLIC MEETING

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BEFORE: GREGORY C. FAJT, CHAIRMAN
Raymond S. Angeli, Jeffrey W. Coy, James B. Ginty, Kenneth T. McCabe, Sanford Rivers, and Gary A. Sojka, Keith Welks representing Ex-Officio Member State Treasurer Robert McCord, Ken Senft representing Ex-Officio Member Revenue Secretary Stephen Stetler, and Frank Jurbala representing Ex-Officio Member Secretary Dennis Wolff

HEARING: Friday, August 28, 2009, 10:02 a.m.

LOCATION: Hearing Room One
North Office Building
Harrisburg, PA 17120

WITNESSES: Kevin O'Toole, David Rhen, Claire Yantis, Richard Sandusky, Doug Sherman, Steve Cook, Sean Hannon, Cyrus Pitre, Melissa Powers, Dale Miller, Nan Davenport, Jim Schneller, Marsha A. Sajer, Alan Kohler, Michael Bean
Reporter: Cynthia Piro Simpson

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CHAIRMAN:

Good morning, everybody. If I could ask everyone to please be seated. I'm Greg Fajt, Chairman of the Pennsylvania Gaming Control Board. And just as a housekeeping matter, as we always do, I'd just like to ask everybody to turn off your cell phones, Blackberries and other electronic devices, as they tend to interfere with our communication system. Thank you.

Today we have Frank Jurbala, who's representing Secretary Denny Wolff, our Agricultural Secretary, Keith Welks, who's representing Ex-Officio designee State Treasurer Rob McCord. And I understand Ken Senft is also here, and he's representing Ex-Officio member Revenue Secretary Steve Stetler.

A quorum of the Board is present. Today's proceeding will be called to order. I'd like to ask everyone to stand and join me in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE RECITED

CHAIRMAN:

We have two matters before the Board today in the way of public hearings, which will take

1 place prior to our public meeting. The first matter
2 is a Petition filed by Philadelphia Entertainment &
3 Development Partners, L.P. The Petition seeks
4 approval for additional time to make slots available.
5 There are also three Petitions seeking to intervene in
6 this proceeding, and those will be addressed during
7 the public meeting.

8 The second item in the public hearing
9 will --- addresses a Petition filed by Greenwood
10 Gaming & Entertainment, Inc., which is Philly Park,
11 seeking approval of an Updated and More Detailed Plan
12 for a Permanent Facility.

13 We'll now begin with the public hearing.
14 First, may I have all parties involved in the
15 Philadelphia Entertainment petition come forward? I
16 believe they're already here. Will those who will
17 present evidence relating to this petition stand and
18 be sworn?

19 -----

20 WITNESSES SWORN EN MASSE

21 -----

22 PUBLIC HEARINGS HELD.

23 EXECUTIVE SESSION HELD.

24 CHAIRMAN:

25 Good afternoon. We'll now commence our

1 scheduled public meeting. The first order of business
2 is old business and announcements. By way of
3 announcements, the Board held an executive session on
4 August 27th in accordance with the Sunshine Act. The
5 purpose of the executive session was to discuss
6 personnel-related issues and to conduct quasi-judicial
7 deliberations relating to matters pending before the
8 Board.

9 Additionally, the Board held a second
10 executive session just prior to this meeting. I'd now
11 like a motion to approve the minutes and transcripts
12 of June 17th and the July 15th meetings.

13 MR. SOJKA:

14 Yes, Mr. Chairman. I move that the Board
15 approve the minutes and transcripts of the June 17 and
16 July 15, 2009 meetings.

17 MR. RIVERS:

18 Second.

19 CHAIRMAN:

20 All in favor?

21 AYES RESPOND

22 CHAIRMAN:

23 Opposed? Motion passes. Moving on to
24 new business, I'd like to have Kevin O'Toole, our
25 Executive Director, please come up and provide his

1 regular report.

2 MR. O'TOOLE:

3 Good afternoon, Chairman Fajt, members of
4 the Board. I'll be very brief today, but I would be
5 remiss if I didn't mention that earlier this month, in
6 early August, The Rivers Casino in Pittsburgh had a
7 successful opening as the ninth casino in the
8 Commonwealth of Pennsylvania. And I'd like to express
9 my appreciation to the staff of the Pennsylvania
10 Gaming Control Board who worked extensive hours and
11 put in a great effort to assist the staff at The
12 Rivers, along with personnel from the Pennsylvania
13 State Police (PSP) and the Department of Revenue to
14 ensure a successful opening. And I would also like to
15 extend the staff's appreciation to Commissioner
16 Sanford Rivers and Commissioner Ken McCabe for
17 participating in the opening and ensuring that
18 everything was on course for a timely and a successful
19 opening. Thank you.

20 CHAIRMAN:

21 Thank you, Kevin. Next we'll have Dave
22 Rhen come up for our regular financial update. I
23 should also note, I think Commissioner Angeli was at
24 the opening of The Rivers Casino, too, so thank you,
25 Ray. David?

1 MR. RHEN:

2 Good afternoon. Today's financial report
3 includes fiscal year 2008/'09 budget results through
4 the end of July. Expenditures processed through the
5 end of July total \$31.1 million. Payroll expenditures
6 total \$24.2 million, or 78 percent of total
7 expenditures. And operating expenditures total \$6.8
8 million, or 22 percent of total expenditures.

9 During July, payroll totaled \$1.8
10 million, and operating expenditures were \$368,000.
11 Expenditures for the month totaled \$2.2 million. The
12 largest operating expenditures in July included
13 \$146,000 for rentals and leases, \$63,000 for services,
14 and \$56,000 for other operating expenditures including
15 database searches for background investigations. For
16 the year, the largest categories of operating
17 expenditures are \$2.1 million, or 31 percent of
18 operating expenditures for services, \$2.06 million or
19 30 percent for rentals, \$1.02 million or 15 percent
20 for other operating expenditures, and \$647,000 or ten
21 percent for telecommunications.

22 CHAIRMAN:

23 Do we have any questions? Any questions
24 from members of the Board for Dave? Thank you very
25 much, Dave.

1 Next up is our Director of Human
2 Resources, Claire Yantis. Claire?

3 MS. YANTIS:

4 Good afternoon, Chairman Fajt, Board
5 members. We have two personnel items for your
6 consideration today. First, I want to provide you
7 with an update regarding the motion granted at the
8 July 15th Board meeting relative to the delegation of
9 authority to the Board's Personnel Committee to
10 approve the hiring of two casino compliance
11 representatives at The Rivers Casino.

12 On July 27th, 2009, the Board's Personnel
13 Committee approved the hiring of Kelly Lombardo and
14 William Chuchko. Both Ms. Lombardo and Mr. Chuchko
15 completed the PGCB interview process, background
16 investigation and drug screening and began work with
17 the PGCB on July 29th and August 3rd, respectively,
18 both in time for The Rivers opening. At this time we
19 would ask the Board to consider a motion ratifying the
20 hiring of Ms. Lombardo and Mr. Chuchko.

21 MR. COY:

22 So moved.

23 MR. MCCABE:

24 Second.

25 CHAIRMAN:

1 All in favor ---?

2 MR. COY:

3 Can I ask, those are both replacement
4 positions; right?

5 MS. YANTIS:

6 They were both new positions for the
7 Rivers.

8 MR. COY:

9 New for The Rivers?

10 MS. YANTIS:

11 Correct.

12 MR. COY:

13 Okay.

14 CHAIRMAN:

15 Motion by Mr. Coy, second by Mr. McCabe.

16 All in favor?

17 AYES RESPOND

18 CHAIRMAN:

19 Opposed? Motion passes.

20 MS. YANTIS:

21 Finally, we have before you today a
22 motion to consider the hiring of two Casino Compliance
23 Representatives under the recommendation of Director
24 of Casino Compliance, Tom Sturgeon. First, Ryan
25 Graham is recommended for hire at Presque Isle Downs.

1 Second, Gary Love is being recommended for hire at The
2 Rivers Casino. Both of these individuals have
3 completed the PGCB interview process, background
4 investigation and drug screening. We would ask the
5 Board to now consider a motion hiring Mr. Graham and
6 Mr. Love.

7 MR. COY:

8 Mr. Chairman, I move the Board approve
9 the hiring of the agency staff as proposed on the
10 condition that all employees have completed the
11 necessary background investigation and drug testing.

12 MR. MCCABE:

13 Second.

14 CHAIRMAN:

15 All those in favor?

16 AYES RESPOND

17 CHAIRMAN:

18 Opposed? Motion passes.

19 MS. YANTIS:

20 Thank you.

21 CHAIRMAN:

22 Thank you very much, Claire. Next, we'll
23 move to the Office of Chief Counsel (OCC), Doug
24 Sherman.

25 ATTORNEY SHERMAN:

1 Good afternoon, Chairman Fajt, members of
2 the Board. Our first agenda item relates to a Final-
3 form Regulation which Director of Regulatory Review
4 Richard Sandusky, will present. Richard?

5 MR. SANDUSKY:

6 Good afternoon. The regulation we have
7 for consideration today is the Final-form version of
8 Regulation 125-102. This Regulation was adopted by
9 the Board on March 25th, 2009, as a proposed
10 rule-making and was published in the April 25th
11 Pennsylvania Bulletin with a 30-day comment period.
12 During that comment period, the Board received
13 comments from International Gaming Technology, Downs
14 Racing, LP, Greenwood Gaming and Entertainment and
15 Mountain View Thoroughbred Racing Association. The
16 staff reviewed the comments and has made a couple of
17 minor changes in the Final-form Regulation but did not
18 adopt the principal recommendation of the
19 commentators, which was not to require individuals who
20 are authorized to issue more than \$100 worth of player
21 reward points or credits that could be converted into
22 free slot play from being licensed as Key Employees.
23 The reason why the staff believes it's appropriate for
24 these individuals to be licensed as keys is because
25 the promotional slot play, as it's referred to, is a

1 direct deduction from gross terminal revenue.
2 Therefore, for the financial integrity of gaming, it's
3 important that the Board have these people licensed at
4 this higher level. If there are any questions on the
5 Final-form Regulation, I'd be happy to answer them.
6 If not, I'd ask for a motion for adoption of the
7 Final-form Regulation.

8 CHAIRMAN:

9 Any questions or comments from the Board?
10 If not, I'll entertain a motion.

11 MR. MCCABE:

12 Mr. Chair, I move that the Board adopt
13 Final-form Regulation Number 125-102 and that the
14 Final-form regulation be posted on the Board's
15 Website.

16 CHAIRMAN:

17 Second?

18 MR. RIVERS:

19 Second.

20 CHAIRMAN:

21 All in favor?

22 AYES RESPOND

23 CHAIRMAN:

24 Opposed? Motion passes. Thank you,
25 Richard.

1 MR. SANDUSKY:

2 Thank you.

3 ATTORNEY SHERMAN:

4 Chairman, today the Board has seven
5 petition-related matters before it for consideration.
6 Two of these matters were heard by the Board earlier
7 today involving the Foxwoods Petition and Greenwood
8 Gaming. The other five Petitions include three
9 Petitions to Intervene in the Philadelphia
10 Entertainment Petition, which requested the additional
11 time to make slots available. And in addition to the
12 three Petitions to Intervene, two others separately.
13 I'll briefly summarize each Petition in the order they
14 arrive.

15 The first Petition for the Board's
16 consideration today is Eastern Pennsylvania Citizens
17 against Gambling and James Schneller's July 7th, 2009
18 Petition to Intervene in the proceedings involving the
19 Philadelphia Entertainment and Development Partners'
20 request for additional time. The OCC has reviewed the
21 Petition to Intervene pursuant to the Board's
22 Intervention Regulation and Pennsylvania case law and
23 has determined that both Eastern Pennsylvania Citizens
24 and Mr. Schneller failed to establish the requisite
25 substantial direct and immediate interest needed to

1 obtain standing or to otherwise qualify for standing
2 to intervene in these proceedings. Based upon these
3 findings, the OCC recommends the Board consider a
4 motion to deny that motion to intervene.

5 CHAIRMAN:

6 Any questions or comments from the Board?
7 If not, may I have a motion?

8 MR. SOJKA:

9 Yes. Mr. Chairman, I'll move that the
10 Board deny the Petition of Eastern PA Citizens ---.

11 CHAIRMAN:

12 I'm sorry. One second. I'm sorry, sir?

13 ATTORNEY SHERMAN:

14 This man here has been instructed to
15 appear at this meeting.

16 CHAIRMAN:

17 I'm sorry. We're not taking any public
18 comment. If you have documents you want to drop ---.

19 ATTORNEY SHERMAN:

20 This is Mr. Schneller, the petitioner.

21 CHAIRMAN:

22 Okay.

23 MR. SCHNELLER:

24 The notice said arguments would be
25 permitted, if possible.

1 CHAIRMAN:

2 Fine. Please come on up.

3 MR. SCHNELLER:

4 Thank you, Chairman and Board members.

5 My name is Jim Schneller. I'm with Eastern
6 Pennsylvania Citizens Against Gambling. We have
7 opposed the licensing of casinos in the eastern half
8 of this state. I won't belabor the point, however,
9 we, of course, claim that we have specifically met the
10 requirement of direct, immediate and substantial, and
11 it's pretty well spelled out in our petition, but I
12 have some additional points.

13 First of all, could I ask, is there a
14 Hearing Officer here? Because this matter is up
15 before the Board and there's been presentation and
16 I've been permitted argument. Should not the Hearing
17 Officer be present?

18 CHAIRMAN:

19 Mr. Sherman?

20 ATTORNEY SHERMAN:

21 Chairman Fajt, the intervention
22 regulations of the Board provide that a proposed
23 intervener, if granted intervention, is permitted to
24 submit documentary materials to the Board, not to
25 participate in the full hearing in person. As a

1 proposed intervener, Mr. Schneller should have, if he
2 didn't, submit any proposed documentary evidence with
3 the Petition to Intervene. It's that Petition to
4 Intervene itself which is presently before the Board.
5 And I would suggest that any argument should really be
6 limited to the issue of whether or not intervention is
7 presented and not go beyond that.

8 MR. SCHNELLER:

9 Thank you. In the way of procedure, we
10 do object that Foxwood has sought to avoid the entire
11 issue of a second location, and we thank the Board for
12 addressing it in your own way and as it related to
13 what they put before you. But however, we object to
14 the fact that by leaving something out of the
15 petition, they may have avoided many aspects of ---.

16 MR. GINTY:

17 Mr. Chairman, that's not going to the
18 issue of intervention. He is intervening.

19 CHAIRMAN:

20 Mr. Schneller, ---.

21 MR. SCHNELLER:

22 I promised myself not to go to any
23 merits, and I will stick to that.

24 We think that besides the elements we've
25 claimed in the petition, we're relying heavily on the

1 ACORN decision --- I'm sorry, the Society Hill versus
2 Pennsylvania --- PGCB. And this, of course, is
3 probably remembered by everyone in the room as the
4 decision that said that casino-free Philadelphia, I
5 believe, was not permitted to participate in an appeal
6 in the Commonwealth Court because they had not sought
7 intervention. Well, we have sought intervention. Are
8 we going to be denied and file an appeal, again
9 denied, on some new level of, well, you tried, but you
10 didn't get anywhere? We've tried to meet all the
11 elements. We've argued them in the petition. And
12 incidentally, the petition is verified and is lengthy.
13 We sought to somewhat combine things together.

14 The other thing that arises out of the
15 Society Hill decision is that the Supreme Court
16 recognizes that immediate interests are many and
17 varied. And besides the points we make throughout the
18 petition and that might be obvious, we feel that there
19 is a balancing of the adjudicative process necessary.
20 Even if it be minimal, you have to have a voice of
21 altruism and at least some degree that's going to
22 raise topics that will be of interest to you and that
23 will perhaps be addressed. The Board has gone
24 headlong into its tasks. However, after four years,
25 it may be time to at least allow an interested and

1 competent organization like ours to do its job. So we
2 would move to, if feasible, to A, ask that the record
3 include the record of not only our intervention
4 request but the record of the Sugarhouse matter,
5 possibly include the entire Philadelphia record, that
6 being a claim on my part and EPCAG'S part, that we
7 participate, giving us participatory --- a reasonable
8 participation that supports aggrievement and that
9 supports intervention.

10 Likewise, we don't believe any other
11 party will be standing up for these issues that we do
12 in any way. And we don't want the Board to think that
13 we are on a rodeo of goodness. There are many
14 down-to-earth, zoning, for instance, issues that need
15 a tougher look at.

16 We would also hope to motion for
17 adjudication of our petition for intervention apart
18 and certainly not see mooted by any vote you take
19 today. In fact, we would hope that you may accept my
20 motion given now that your decision may grant us an
21 intervener status for the duration. This is not as
22 grandiose a request as it may seem at first glance.
23 We seek to avoid further cause of pleadings and there
24 will, no doubt, be petitions coming down the road
25 about Sugarhouse --- excuse me, Foxwoods, and we hope

1 to lend a positive aspect to all of them.

2 We have to say that there's also a level
3 of aggrievement and a level of public concern. And I
4 believe that Section 1202 does mention --- in addition
5 to the habituation aspect it mentions a general public
6 interest that the Board has. And we have to ask you
7 to notice that in support of this claim I'm asking
8 for. Without going to the merits, we do think that
9 our aggrievement and a direct and substantial aspect,
10 of it can be typified by a couple of examples.

11 We are deathly concerned about
12 prostitution and teenage prostitution.

13 MR. COY:

14 Mr. Chairman, point of order.

15 CHAIRMAN:

16 So state your point.

17 MR. COY:

18 Mr. Chairman, I understand the petitioner
19 claims that he's not addressing the merits, but it
20 seems to me he certainly is. And I would ask him to
21 stick to the motion that's before us. And if not, we
22 should proceed to the vote.

23 CHAIRMAN:

24 Mr. Schneller, please stick to the
25 motion. We've read your documents and we ask that you

1 please stick to the argument ---

2 MR. SCHNELLER:

3 Yes.

4 CHAIRMAN:

5 --- and please wrap it up.

6 MR. SCHNELLER:

7 Thank you. We are concerned that the
8 public is being inflicted to a point where there must
9 be some voice to intervene in this matter. We're
10 talking about gambling in a very densely-populated
11 area. And this list goes on --- and insofar as
12 reasons why an intervening party like us can lend much
13 advice, much scope. And we're concerned also that the
14 Act is being confronted on a constitutional basis,
15 unconstitutionality basis at present in more than one
16 action. And we believe that perhaps your decision
17 might be stayed pending that. While we have full
18 respect for the legislature, we don't want to see
19 Sugarhouse --- Foxwoods enjoy any grant of
20 understanding by the Board, where frankly, they've
21 been on notice during their meanderings into Central
22 City of the fact that they were doing such at risk.
23 Actually, I could go on. And our claims are ---

24 CHAIRMAN:

25 Mr. Schneller, please, ---

1 MR. SCHNELLER:

2 --- valid.

3 CHAIRMAN:

4 --- let's wrap it up.

5 MR. SCHNELLER:

6 I'd like to wrap it up by saying that
7 we're astounded that the Mount Airy Casino is in the
8 middle of a commercial shopping area and that this has
9 been encouraged. We, therefore, have more concern and
10 would discuss much of that agreement about this same
11 infliction happening, this Vegas-style, bring the
12 family, et cetera, in Philadelphia.

13 So to conclude, we thank you for your
14 consideration of the petition. As I mentioned, the
15 Board is concerned with much more than a habituation
16 issue. It's a wide-reaching scope of human matters,
17 and Pennsylvania deserves inclusion of an intervener,
18 and this would be a good opportunity. So if you could
19 please grant our petition, we promise meaningful
20 input.

21 CHAIRMAN:

22 Thank you.

23 MR. SCHNELLER:

24 If I could also finally reiterate that we
25 would hope for a grant on the oral request for some

1 sort of term-limited or other lengthier grant of
2 intervention. Thank you.

3 CHAIRMAN:

4 Thank you. Any questions or comments
5 from the Board?

6 ATTORNEY SHERMAN:

7 The matter is --- I don't know there's
8 anything left to be said. The matter clearly is
9 before the Board. You've had the opportunity to look
10 at the Petition for Intervention, along with the
11 various responses in opposition. It's now ripe for a
12 motion.

13 CHAIRMAN:

14 Thank you. May I have a motion?

15 MR. SOJKA:

16 Yes. Mr. Chairman, I move that the Board
17 deny the motion of Eastern PA Citizens Against
18 Gambling to intervene in the Board's proceedings
19 involving Philadelphia Entertainment and Development
20 Partners, LP's Petition for Additional Time to Make
21 Slot Machines Available.

22 MR. ANGELI:

23 Second.

24 CHAIRMAN:

25 All in favor?

1 AYES RESPOND

2 CHAIRMAN:

3 Opposed? Motion passes. Next motion?

4 Thanks, Mr. Schneller.

5 ATTORNEY SHERMAN:

6 Next is the Keystone Redevelopment
7 Partners, which also has filed a Petition Seeking to
8 Intervene in the proceeding of the Philadelphia
9 Entertainment and Development Partners' Petition for
10 additional time. In its petition Keystone states that
11 on December 20th, 2006, after the Board awarded HSP
12 Gaming one of two available slot machine licenses for
13 the City of Philadelphia, the decision as to which
14 applicant received the remaining license was between
15 itself and Philadelphia Entertainment. They argue
16 that based upon the Board's disposition of that
17 matter, that if Foxwoods were to lose its license,
18 that the Keystone Redevelopment Partners would be next
19 in line to get that license. The OCC has reviewed the
20 Keystone Argument and notes that if Foxwoods were to
21 lose the license, it would not automatically follow
22 that Keystone would be awarded the license. At this
23 point in time, Foxwoods possesses the license. The
24 divesting of that license would clearly have to be
25 accomplished pursuant to various due process and

1 appellate rights yet to occur. And as such, Keystone
2 remains a three-year-old disappointed former applicant
3 without a direct and immediate interest in that
4 license.

5 Keystone's interest in a Category 2
6 License available within the City of Philadelphia
7 expired when it was not chosen for the license.
8 Therefore, we suggest that Keystone's position as to
9 its interest in a Foxwoods license at this point in
10 time is a speculative interest and remote. It would
11 be the position of the OCC that the Board consider a
12 motion to deny that petition.

13 CHAIRMAN:

14 Is there anybody here from Keystone
15 Redevelopment Partners who wants to make a very brief
16 statement?

17 ATTORNEY SAJER:

18 I would be pleased to make a very brief
19 statement. Thank you, Chairman.

20 CHAIRMAN:

21 Thank you, Counselor. Please introduce
22 yourself and spell your name for the stenographer.

23 ATTORNEY SAJER:

24 I'm Marsha Sajer, S-A-J, as in Juliet,
25 E-R, K&L Gates, representing Keystone Redevelopment

1 Partners. Chairman Fajt, thank you for your
2 indulgence in allowing me just to address a few
3 points. I have to disagree with Mr. Sherman's
4 analysis of the brief that we submitted in support of
5 our Petition to Intervene in Foxwoods' Motion for an
6 Extension of Time to Make its Slot Machines Available.
7 Quite honestly, we believe that Keystone's interest is
8 substantial, direct and immediate, that no other
9 entity has the same sort of interest that Keystone
10 does in obtaining a Category 2 license in the City of
11 Philadelphia. And most importantly, decisions and
12 actions, Finding of Facts and determinations of law by
13 this Board could and will very likely be binding on
14 Keystone in subsequent proceedings which are
15 reasonably sure to come to pass.

16 I'm accompanied today by Bob Pickus of
17 Trump Entertainment Resorts partly to demonstrate the
18 seriousness of Keystone's interest in this matter. As
19 the Board is aware, Keystone, back in January of 2008,
20 filed a Petition to reopen its application and to
21 reopen Category 2 licensing. That is our strongest
22 basis for seeking intervention in this case because
23 that Petition has not yet been acted upon. Many of
24 the factual and legal issues are overlapping and
25 identical, and therefore, Keystone will probably be

1 bound, as a matter of law, the case, by the Board's
2 actions and determination in this case.

3 Keystone has, since learning of Foxwoods'
4 intentions to seek relocation of its petition, which
5 to us appear to be like a chess player who's holding
6 onto one piece and simultaneously trying to move
7 another, seems that --- required the Board to consider
8 a re-opener in order to permit the two casinos that
9 are now being proposed to compete against each other.

10 Keystone has persistently maintained its
11 involvement in the Board's proceedings with respect to
12 Foxwoods. Keystone has taken other actions
13 independently. You know that Keystone has already
14 made a substantial investment in preparing its initial
15 application. It has continued to maintain its option
16 on the bud (phonetic) site, at which it proposed to
17 build its casino, and has continued to monitor the
18 situation, being aware of the fact that it appears to
19 be increasingly unlikely that Foxwoods will be able to
20 construct its casino in the licensed location and in
21 the format in which it had presented to the Board.

22 Thank you.

23 CHAIRMAN:

24 Thank you very much.

25 ATTORNEY SHERMAN:

1 If there are any former questions, I
2 think Enforcement Counsel, Counsel for Foxwoods or
3 Chief Counsel will be more than happy to entertain
4 them. Otherwise, the matter would be ready for
5 motion.

6 CHAIRMAN:

7 Any questions from the Board? Seeing
8 none, motion?

9 MR. ANGELI:

10 Mr. Chairman, I move that the Board deny
11 Keystone Redevelopment Partners, LLC's Petition to
12 Intervene in the Board's proceedings involving
13 Philadelphia Entertainment and Development Partners,
14 LP's Petition for Additional Time to Make Slots
15 Available.

16 MR. COY:

17 Second.

18 CHAIRMAN:

19 All those in favor?

20 AYES RESPOND

21 CHAIRMAN:

22 Opposed? Motion passes.

23 ATTORNEY SHERMAN:

24 The third intervention petition before
25 the Board today is the Petition to Intervene, seeking

1 amicus curiae status, filed by Senators Farnese and
2 Stack, as well as representatives McGeehan, O'Brien,
3 Taylor and Josephs. In their petition, the
4 legislators argue that because their constituents and
5 they, themselves, are taxpayers and citizens of the
6 Commonwealth who live and/or work within the City of
7 Philadelphia, that they can participate with amicus
8 curiae status. The legislators also contend that they
9 have an interest in making sure that the spirit and
10 the letter of the Gaming Act is carried out. The
11 petition does not seek intervention as a party to the
12 proceeding. The OCC agrees with the legislators that
13 Pennsylvania law provides for their participation in
14 this proceeding as amicus curiae. While the OCC does
15 not believe a Petition to Intervene formally is the
16 appropriate vehicle to seek amicus status and that
17 intervention in this proceeding as a party would not
18 be consistent with the law of the Commonwealth or the
19 Board's regulations, the OCC nevertheless suggests
20 that it would be appropriate for the Board to grant
21 amicus curiae status to the legislators and to accept
22 their written submissions as part of the record in
23 this matter.

24 CHAIRMAN:

25 Are there any petitioners here present

1 that want to offer brief comments? Seeing none, any
2 questions or comments from the Board?

3 MR. COY:

4 Mr. Chairman, I move that the Board grant
5 Senator Stack and Farnese and Representatives
6 McGeehan, O'Brien, Taylor and Josephs amicus status
7 relative to the Petition to Intervene and Philadelphia
8 Entertainment and Development Partners' Petition for
9 Additional Time to Make Slots Available.

10 CHAIRMAN:

11 Second?

12 MR. GINTY:

13 Second.

14 CHAIRMAN:

15 All those in favor?

16 AYES RESPOND

17 CHAIRMAN:

18 Opposed? Motion passes.

19 ATTORNEY SHERMAN:

20 Chairman, to be clear, there was a ---
21 with respect to the legislators, there was a written
22 submission with their petition that they had filed
23 that the Board has granted. They also had filed a
24 supplemental submission. And I want to make it clear
25 on the record that that supplemental submission has

1 been added to the original, such that the Board has
2 had the benefit of the full comments of the
3 legislators.

4 CHAIRMAN:

5 Thank you. Next?

6 ATTORNEY SHERMAN:

7 Next is the --- having decided the
8 Petitions to Intervene, the next matter on the agenda
9 is the Petition of Philadelphia Entertainment and
10 Development Corporation for the extension of time.
11 This is, of course, the petition which we heard at ---
12 starting at ten o'clock this morning. The record on
13 that matter is closed, and it's appropriate for the
14 Board to entertain a motion.

15 CHAIRMAN:

16 Any questions or comments from the Board?
17 I have one. Again, I will reiterate what I said
18 before, that we are taking this motion up. We're
19 going to have a vote. If the vote is a motion to
20 grant the extension of time, I again want to state to
21 the Foxwoods folks that is our intent that that
22 facility be built on the site of the original
23 proposal. We do not want to hear that there are other
24 sites out there that you will look at, either ones
25 you've looked at in the past or the ones you look at

1 in the future. We expect that facility to be a
2 substantially similar facility to what we granted the
3 license on when we first --- or when you first
4 proposed it and when it was voted on by the Board.
5 And again, I cannot be any more emphatic in making
6 those comments.

7 MR. MCCABE:

8 And Mr. Chair, I second those comments.
9 And I plan on voting positively on this. But I want
10 it to be understood, it is specifically for the
11 Columbus site, not for any other sites. Don't waste
12 your time going looking for any other site. Build the
13 casino where you had promised.

14 CHAIRMAN:

15 Any other comments, questions? Entertain
16 a motion?

17 MR. RIVERS:

18 Yes. Mr. Chairman, I also echo your
19 sentiments. I move that the Board grant Philadelphia
20 Entertainment and Development Partners, LP's Petition
21 for additional 24 months to place and operate slot
22 machines at the site previously approved by the Board,
23 subject ---

24 MR. SOJKA:

25 Second. Go ahead.

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MR. RIVERS:

--- to conditions which will be set forth in the Order and adjudicated, will be issued by the Board.

CHAIRMAN:

Second.

MR. SOJKA:

I'll second that.

CHAIRMAN:

All those in favor?

AYES RESPOND

CHAIRMAN:

Opposed? Motion passes. Next?

ATTORNEY SHERMAN:

Next for the Board's consideration is Greenwood Gaming's Petition for Board approval of the updated, more detailed plans for its permanent facility, which they had presented earlier this morning. The record is now closed, and the matter is appropriate for the Board's consideration.

CHAIRMAN:

Are there any questions or comments on the Greenwood Gaming motion for More Detailed Plans for a Permanent Facility? Seeing none, I'll entertain a motion?

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MR. GINTY:

Mr. Chairman, I move the Board grant the petition submitted by Greenwood Gaming and Entertainment as presented at the public hearing earlier today.

CHAIRMAN:

Second?

MR. MCCABE:

Second.

CHAIRMAN:

All those in favor?

AYES RESPOND

CHAIRMAN:

Opposed? Motion passes.

ATTORNEY SHERMAN:

The next petition relates to Chester Downs. Chester Downs is requesting that the Board approve the purchase and redemption by Harrah's Operating Company of a 14 and 52/57th's percent ownership interest in Chester Downs from two separate shareholders. That would be George Miller, Jr. and Kevin Flynn. Mr. Miller and Mr. Flynn currently own in excess of 16 percent interest in Chester Downs, following the purchase and redemption, which is pursuant to an agreement which was before the Board

1 and approved back, I believe, during the fall of 2006.
 2 Each of those individuals will continue to be owners
 3 but with a smaller interest of 2.5 percent. Chester
 4 Downs, as --- I'm sorry, Harrah's, the parent of
 5 Chester Downs, would then own a 95-percent interest.
 6 The Office of Enforcement Counsel (OEC) has reviewed
 7 the proposed transactions, has not filed an objection,
 8 and as a result, the matter is ready for the Board's
 9 consideration.

10 CHAIRMAN:
 11 Any questions or comments from the Board?
 12 Seeing none, I'll entertain a motion.

13 MR. MCCABE:
 14 Mr. Chair, I move that the Board grant
 15 the Petition for Transfer of Interest submitted by
 16 Chester Downs as described by the OCC.

17 CHAIRMAN:
 18 Second?

19 MR. RIVERS:
 20 Second.

21 CHAIRMAN:
 22 All those in favor?

23 AYES RESPOND

24 CHAIRMAN:
 25 Opposed? Motion passes.

1 ATTORNEY SHERMAN:

2 The final petition before the Board today
3 is Western Architectural Service's petition to be
4 removed from the Prohibited Vendor List. On March
5 25th, 2009, after failing to cure deficiencies in its
6 registration application, the Board placed Western
7 Architectural Services on the Prohibited Vendor List.
8 Subsequently, on April 23rd, 2009, Western filed a
9 petition for removal from the list, and that motion is
10 currently --- or petition is currently before the
11 Board. The OEC originally filed a response objecting
12 to the petition based upon Western's failure to
13 provide all required information. The OEC subsequently
14 withdrew that objection, indicating that Western had,
15 indeed, come into compliance with the application
16 process. That matter is now ready for the Board's
17 disposition.

18 CHAIRMAN:

19 Any questions or comments from the Board?
20 If not, could I have a motion, please?

21 MR. RIVERS:

22 Yes. Mr. Chairman, I move that the Board
23 grant the petition for removal of Western
24 Architectural Services from the Prohibited Vendors
25 List, as described by the OCC, upon payment of a

1 \$1,500 civil penalty and all outstanding investigative
2 fees.

3 CHAIRMAN:

4 Second?

5 MR. SOJKA:

6 Second.

7 CHAIRMAN:

8 All those in favor?

9 AYES RESPOND

10 CHAIRMAN:

11 Opposed? Motion passes.

12 ATTORNEY SHERMAN:

13 I'll now turn the table over to Steve
14 Cook, Deputy Chief Counsel, for the remainder of the
15 presentation.

16 CHAIRMAN:

17 Thank you, Doug. Steve?

18 ATTORNEY COOK:

19 Good afternoon, Chairman, members of the
20 Board. The Board has received 11 unopposed petitions
21 to withdraw applications, which include 12 principal
22 applications, vendor applications or personal history
23 disclosure statements submitted by principals of
24 vendors. The individuals subject to these petitions
25 are as follows: C. Rush Barr, Donald Duffy, L.C.

1 Greenwood, Peter J. Duggan, Michael T. Geary, Robert
2 Lawyer, Curt Alan Level, Samuel Long, Anthony
3 McDuffie, Brent Paxton, Bradley Stone and U.S.
4 Foodservice. The OEC has no objection to these
5 withdrawals. As such, the OCC submits them to the
6 Board for consideration of a motion to grant the
7 withdrawals without prejudice.

8 CHAIRMAN:

9 Any questions or comments from the Board?
10 If none, can I have a motion, please?

11 MR. ANGELI:

12 Mr. Chairman, I move the Board grant the
13 withdrawals.

14 CHAIRMAN:

15 Second?

16 MR. COY:

17 Second.

18 CHAIRMAN:

19 All in favor?

20 AYES RESPOND

21 CHAIRMAN:

22 Opposed? Motion passes. Next, Steve.

23 ATTORNEY COOK:

24 Next before the Board for consideration
25 are five reports and recommendations received from the

1 OHA (OHA) relative to one Vendor Certification, one
2 Non-Gaming Employee Registration, two Gaming Employee
3 Permits and one Petition for Relief. These Reports
4 and Recommendations, along with the evidentiary record
5 for each hearing, have been provided to the Board in
6 advance of this meeting. Additionally, in each case
7 the applicant has been notified --- or the petitioner
8 has been notified, excuse me, that the Board is
9 considering the Report and Recommendation today and
10 that they have the right to be present to briefly
11 address the Board. If any of these individuals or
12 their Counsel are present today, they should come
13 forward when their name is announced if they wish to
14 address the Board.

15 The first Report and Recommendation
16 before the Board today pertains to Dwayne Cooper
17 Enterprise, a video surveillance contractor. Dwayne
18 Cooper Enterprises submitted a Vendor Certification
19 Application through Presque Isle Downs after securing
20 business with that facility. In the course of its
21 investigation of this business, the Bureau of
22 Investigations and Enforcement (BIE) recommended
23 denial of Vendor Certification for this entity based
24 upon Dwayne Cooper, the sole shareholder and president
25 of Dwayne Cooper Enterprises, having numerous federal

1 and state tax liens filed against him. The OHA
2 conducted a hearing in this matter on May 5th, 2009,
3 and thereafter kept the record open to receive
4 additional evidence as to the status of Mr. Cooper's
5 tax liens. According to the Report and
6 Recommendation, by May 13th, 2009, all documents
7 necessary to show that Mr. Cooper no longer had
8 outstanding tax delinquencies were filed, and there is
9 now evidence in the record that all taxes have been
10 paid in full since February 2007. Subsequently, the
11 OHA issued a Report and Recommendation recommending
12 that the Board grant Dwayne Cooper Enterprises Vendor
13 Certification. The OEC filed exceptions to the Report
14 and Recommendation, taking the position that even
15 though all tax delinquencies have been paid, Mr.
16 Cooper's past noncompliance with the tax laws should
17 preclude certification of this business. This matter
18 is now ripe for the Board's consideration, so it will
19 be appropriate for the Board to take up the Report and
20 Recommendation. And I would have one additional note.
21 I spoke with the OEC prior to the meeting today and
22 asked them if there was any --- if the Board so chose
23 to agree with the Report and Recommendation and grant
24 Vendor Certification, would there be any other issues
25 to preclude this person with going forward and being

1 certified, or was there any additional investigation
2 that needed to be completed, and I was informed that
3 there were no other issues.

4 CHAIRMAN:

5 Any questions or comments from the Board?
6 If not, may I have a motion?

7 MR. COY:

8 Mr. Chairman, I move the Board issue an
9 Order adopting the Report and Recommendation of the
10 OHA relating to the Vendor Certification of Dwayne
11 Cooper Enterprises as described by the Office of the
12 Chief Counsel.

13 CHAIRMAN:

14 Second?

15 MR. GINTY:

16 Before I second, just a couple of
17 questions. My understanding is that Mr. Cooper, in
18 fact, filed his tax returns. He didn't make payments,
19 but he filed them?

20 ATTORNEY ROLAND:

21 That's correct, sir.

22 MR. GINTY:

23 I also understand that his company ran
24 into some financial difficulties, and he chose to pay
25 employees as opposed to paying the IRS?

1 ATTORNEY ROLAND:

2 That's exactly correct.

3 MR. GINTY:

4 I also understand that there is no ---
5 the IRS did not take any criminal action against Mr.
6 Cooper?

7 ATTORNEY ROLAND:

8 Once again, that's correct.

9 MR. GINTY:

10 I second the motion.

11 CHAIRMAN:

12 Thank you. Just a matter of
13 housekeeping, could you tell the stenographer your
14 name, and spell it for her, please?

15 ATTORNEY ROLAND:

16 Yes. It's Michael Roland, R-O-L-A-N-D,
17 with the OEC. I apologize.

18 CHAIRMAN:

19 We have a motion and a second. All in
20 favor?

21 AYES RESPOND

22 CHAIRMAN:

23 Opposed? Motion passes.

24 ATTORNEY COOK:

25 The second Report and Recommendation

1 before the Board today pertains to Melvin Norman. Mr.
2 Norman sought work as a housekeeper at Harrah's
3 Chester Casino and Racetrack. Related thereto, he
4 submitted a Non-Gaming Employee Application to the
5 Bureau of Licensing on March 31st, 2009. On April
6 9th, 2009, the OEC issued a notice of recommendation
7 of denial of Mr. Norman's application due to non-
8 disclosures on his application. Mr. Norman failed to
9 disclose that he had been arrested 17 times and had 12
10 convictions, one of which is a felony conviction for
11 which he remains on parole. Upon receiving a notice of
12 intent to deny his Non-Gaming Employee Application,
13 Mr. Norman requested a hearing in this matter. The
14 hearing was scheduled for June 18th, 2009. However,
15 despite adequate notice, Mr. Normal failed to appear
16 for the hearing, and it was held in absentia.
17 Subsequent thereto, a Report and Recommendation was
18 issued by the Hearing Officer, recommending that Mr.
19 Norman be denied registration as a Non-Gaming
20 Employee. Based upon Mr. Norman's non-disclosures and
21 the fact that he is currently on parole for a felony
22 offense, the OCC recommends that the Board consider a
23 motion adopting the Report and Recommendation of the
24 OCC and deny this individual --- deny his application.

25

CHAIRMAN:

1 Questions or comments from the Board?

2 Seeing none, may I have a motion?

3 MR. GINTY:

4 Mr. Chairman, I move the Board issue an
5 Order to adopt the Report and Recommendation of the
6 OHA relating to the Non-Gaming Employee Registration
7 of Melvin Norman as described by the OCC.

8 CHAIRMAN:

9 Second?

10 MR. MCCABE:

11 Second.

12 CHAIRMAN:

13 All those in favor?

14 AYES RESPOND

15 CHAIRMAN:

16 Opposed? Motion passes.

17 ATTORNEY COOK:

18 Next before the Board for consideration
19 is a Report and Recommendation relative to the
20 Emergency Suspension of Omar Robinson. Mr. Robinson
21 was employed as a marketing analyst at Harrah's Casino
22 and Racetrack. On November 26th, 2008 Mr. Robinson
23 was charged with theft by unlawful taking, forgery,
24 welfare fraud and unsworn falsifications to
25 authorities. It is alleged that Mr. Robinson

1 converted \$3,000 in public assistance funds for his
2 own purpose. As a result of these criminal charges,
3 the OEC filed an Emergency Suspension request, which
4 was signed by the Acting Executive Director on April
5 30th, 2009. Mr. Robinson was served with that Order
6 on May 1st, 2009. Pursuant to the Board's
7 regulations, Mr. Robinson immediately requested an
8 informal hearing, which was held before the Board's
9 Director of Hearings and Appeals on May 5th, 2009.
10 Following the hearing, the Director of Hearings and
11 Appeals issued an Order continuing the Suspension
12 until further order of the Board. After Review of the
13 Emergency Suspension on June 3rd, 2009, the Board
14 ordered the matter be remanded to Hearings and Appeals
15 to conduct a full evidentiary hearing on the matter
16 and submit a Report and Recommendation on the validity
17 of the Suspension.

18 The second hearing was held at the
19 Board's OHA on June 16th, 2009. The OHA thereafter
20 issued the Report and Recommendation, which is
21 presently before the Board. It recommends the
22 Suspension of Mr. Robinson continue until at least the
23 pending criminal charges against him are disposed of.
24 The OCC recommends the Board approve this Report and
25 Recommendation, and the matter is now ripe for a

1 motion to that effect.

2 CHAIRMAN:

3 Any questions or comments from the Board?

4 Seeing none, can I have a motion, please?

5 MR. MCCABE:

6 Mr. Chair, I move that the Board issue an
7 Order to adopt the Report and Recommendation of the
8 OHA relating to the Gaming Employee Permit of Omar
9 Robinson as described by the OCC.

10 CHAIRMAN:

11 Second?

12 MR. RIVERS:

13 Second.

14 CHAIRMAN:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN:

18 Opposed? Motion passes. Next.

19 ATTORNEY COOK:

20 The next Report and Recommendation
21 relates to Robert Rose. Mr. Rose submitted a Gaming
22 Employee Permit on April 1st, 2009, seeking work as a
23 security guard at The Rivers Casino. The OEC issued a
24 Notice of Recommendation of Denial on June 2nd, 2009,
25 based upon non-disclosure of Mr. Rose's application,

1 as well as the fact that he was ineligible to hold a
2 Gaming Employee Permit, having been convicted of a
3 felony as recently as 2002, within the Gaming Act's
4 15-year prohibition for licensing or the granting of
5 registration to felons. Additionally, Mr. Rose had
6 been arrested on five other occasions for which he did
7 not disclose. Mr. Rose requested a hearing before the
8 Hearing Officer. The hearing was held on July 16th,
9 2009, in absentia, as Mr. Rose failed to appear
10 despite adequate notice. Based upon the evidence
11 presented at that hearing showing that Mr. Rose's last
12 sentence for a felony conviction ended in December
13 2008, making him ineligible to apply or receive a
14 Gaming Permit until December 2023, the OHA's Report
15 and Recommendation recommends that Mr. Rose's
16 application be denied. The OCC concurs in that
17 recommendation and would ask the Board to take up a
18 motion to that effect.

19 CHAIRMAN:

20 Any questions or comments from the Board?
21 May I have a motion, please?

22 MR. RIVERS:

23 Yes. Mr. Chairman, I move that the Board
24 issue an Order to adopt the Report and Recommendation
25 of the OHA related to the Gaming Employee Permit of

1 Robert Rose, as described by the OCC.

2 MR. SOJKA:

3 Second.

4 CHAIRMAN:

5 All in favor?

6 AYES RESPOND

7 CHAIRMAN:

8 Opposed? Motion passes. Next?

9 ATTORNEY COOK:

10 The final Report and Recommendation for
11 the Board's consideration today pertains to Gregory
12 Rubino & Passport Realty. On February 13th, 2008,
13 Gregory Rubino & Passport Realty filed a Petition for
14 Relief from Statement of Condition 58 of Presque Isle
15 Down's Category I License. Condition 58 states, in
16 part, that to ensure at all times after December 20th,
17 2006 that MTR Gaming Group, Inc. and its affiliates,
18 including Presque Isle Downs, Inc. not enter into or
19 engage in any business activity or transaction with
20 Gregory Rubino or any of his affiliates in the
21 Commonwealth of Pennsylvania. In this matter, the
22 Petitioners, which seek to provide real estate agent
23 services to Presque Isle Downs, have a three-faceted
24 argument. First, that they are being harmed by this
25 condition, both in terms of lost business to Presque

1 Isle Downs and to Mr. Rubino's reputation generally.
2 Second, that Presque Isle Downs is supportive of the
3 Petitioners' desire to have Condition 58 repealed.
4 And finally, that real estate agents are exempt from
5 Vendor Certification, pursuant to the Board's
6 regulations, which excludes certain professional
7 services from certification, and as such, it is
8 inappropriate for the Board to preclude by condition a
9 person practicing an occupation which the Board does
10 not otherwise regulate, even if doing business with
11 the slot machine licensee.

12 A hearing in this matter was held before
13 the Board's OHA on November 25th, 2008, and a Report
14 and Recommendation was issued on January 30th, 2009.
15 In the Report and Recommendation the Hearing Officer
16 makes three separate holdings, first, that the
17 petitioners have standing pursuant to the --- to
18 pursue the request at relief before the Board.
19 Second, that the Petitioners, as real estate agents
20 and a real estate business, are exempt from Vendor
21 Certification under the Board's regulations. And
22 finally, that Presque Isle Downs has freely agreed to
23 Condition 58 on its license, and as a result, the
24 requested relief should not be granted.

25 Subsequent to the issuance of the Report

1 and Recommendation, Mr. Rubino & Passport Realty, as
2 well as the OEC filed exceptions. In the exceptions,
3 the petitioners argued that, in fact, there was
4 evidence on the record that Presque Isle Downs
5 supported the removal of Condition 58 and wished to do
6 business with the petitioners. In its exceptions the
7 OEC takes the position that the Hearing Officer's
8 findings that Vendor Certification Regulations did not
9 apply to real estate agents was overly broad.

10 Upon a thorough review and legal analysis
11 by the OCC, we would recommend that the Board reject
12 the Report and Recommendation, in part, and defer
13 consideration of the remainder of this matter.
14 Specifically, the OCC has concluded that real estate
15 agents are not a professional under Pennsylvania case
16 law, and therefore, real estate agents are not exempt
17 from Vendor Certification requirements of the Board's
18 regulations. As a result, the OCC would recommend
19 that Mr. Rubino & Passport Realty work with Presque
20 Isle Downs in submitting a Certified Vendor
21 Application. Upon a full vetting and investigation of
22 same, if Mr. Rubino is found suitable for
23 certification, the Board can revisit this matter and
24 consider granting the remainder of the relief
25 requested in the petition. Should the Board agree

1 with this course of action, the OCC would also
2 recommend that the Board deny both the Petitioner's
3 and OEC's exceptions to the Hearing Officer's Report
4 and Recommendation. This matter is now ripe for the
5 Board's consideration.

6 CHAIRMAN:

7 Is there any statement from the OEC on
8 this one?

9 ATTORNEY CREANY:

10 Barry Creany from the OEC. The
11 exceptions to the OEC are simply the standing issue,
12 which you've heard a lot of today. In this case, we
13 don't believe that Mr. Rubino has had any immediate
14 injury, and that's based upon the fact that back in
15 December of 2006 he accepted a \$4.2 million buyout
16 agreement in which he agreed to sever his relationship
17 with Presque Isle Downs. At this point the record was
18 clear that Presque Isle Downs was involuntarily joined
19 in the matter and didn't present any evidence that
20 they actively were supporting the striking of the
21 conditions. Therefore, the OEC feels that condition,
22 having been agreed to twice by Presque Isle Downs,
23 should be kept in place.

24 And as to the issue of vendor exemption,
25 it's clear in our regulations that there's a carve-out

1 for specific types --- a specific class of vendors,
2 that it doesn't say or similar types of professions,
3 but it's professions which fit into a class where
4 there was an extensive educational background and also
5 professional certification type of requirements. And
6 we agreed with OCC that that is one that would not
7 include the real estate salesperson.

8 CHAIRMAN:

9 Thank you. Any other comments from Chief
10 Counsel --- Enforcement Counsel? Hearing none, any
11 questions or comments from the Board?

12 MR. RIVERS:

13 I have a question.

14 CHAIRMAN:

15 Commissioner Rivers?

16 MR. RIVERS:

17 You made reference to some document that
18 spells out who professionals are. What document are
19 we making reference to?

20 ATTORNEY COOK:

21 There's Pennsylvania case law that the
22 OCC located, which is directly on point, that
23 indicates that real estate agents do not fall into the
24 category of professional employees. I could probably
25 pull the cite for you.

1 MR. RIVERS:

2 And who are considered professional
3 employees?

4 ATTORNEY COOK:

5 Generally, the test under the
6 Commonwealth's law is the degree of education. An
7 advanced degree is really the trigger, attorneys,
8 doctors, those sorts of things.

9 MR. SOJKA:

10 Engineers.

11 ATTORNEY COOK:

12 Engineers.

13 MR. RIVERS:

14 Is it just engineers or is it
15 professional engineers, who have taken the exam?

16 ATTORNEY COOK:

17 I don't --- that's probably a very fine
18 line. I don't ---.

19 MR. RIVERS:

20 Okay.

21 ATTORNEY COOK:

22 I don't know.

23 MR. RIVERS:

24 Thank you.

25 MR. SOJKA:

1 Can I ask a follow-up question on that,
2 and that is certainly Mr. Rubino must not be the first
3 real estate agent to do business with a casino that
4 this group has licensed. Do we have a past history of
5 exempting real estate agents?

6 ATTORNEY COOK:

7 As I understand it, real estate
8 agents --- the Bureau of Licensing always requires
9 certification or registration as vendors of real
10 estate agents.

11 MR. SOJKA:

12 So there have been no exemptions in the
13 past. And to do so would be to break with our past
14 practice?

15 ATTORNEY COOK:

16 That's correct.

17 CHAIRMAN:

18 Any other questions or comments?

19 MR. GINTY:

20 Just a comment. As Chief Counsel knows,
21 I'm a little uneasy with the standing issue here, but
22 I think the result is certainly acceptable to me. But
23 I do want to note the standing issue. And one of
24 these days, Doug, I'll find out what's bothering me.

25 CHAIRMAN:

1 Thank you. Could I have a motion,
2 please?

3 MR. SOJKA:

4 I can try to craft a motion in this
5 rather complex issue. I think because we have several
6 issues before us, it will have to be multipart. Let
7 me try. And if I get a second, I would be open to
8 friendly amendment. Mr. Chairman, I would move that
9 the Board deny the Report and Recommendation of the
10 OHA regarding Gregory J. Rubino & Passport Realty, as
11 described by the OCC to the degree it recommends that
12 real estate agents are exempt from Vendor
13 Registration. I would further move that the remainder
14 of the matter be tabled until such time, and this is
15 important, Presque Isle Downs submits a Certified
16 Vendor Application on behalf of the petitioner, a full
17 investigation is completed, and the petitioner's
18 application is brought before the Board for approval.
19 Finally, I move that the exemptions filed by the
20 petitioners and the OEC be denied and dismissed.

21 MR. ANGELI:

22 I'll second that.

23 CHAIRMAN:

24 All in favor?

25 AYES RESPOND

1 CHAIRMAN:

2 Opposed? Motion passes.

3 ATTORNEY COOK:

4 Just one point of clarification before I
5 move on, Mr. Chairman. Our regulations require for
6 Vendor Certification that the applications be
7 submitted pursuant --- or through a licensee. They
8 must be sponsored by a licensee, which ---

9 MR. SOJKA:

10 Right. That's the point.

11 ATTORNEY COOK:

12 --- the Commissioner spoke to. So I just
13 want to make sure the record was clear on that.

14 MR. SOJKA:

15 We really have --- if I may?

16 CHAIRMAN:

17 Absolutely.

18 MR. SOJKA:

19 I think a few things have been
20 accomplished here, in addition to the matter before
21 us, and that is I believe we finally have disposed of
22 the issue of the professional status of real estate
23 agents. And I think we've reinforced the need that it
24 has to be the licensees that make these petitions.

25 ATTORNEY COOK:

1 Correct.

2 CHAIRMAN:

3 Thank you. Next?

4 ATTORNEY COOK:

5 Next on the Board's agenda is a request
6 for the hearing on the validity of an Emergency Order
7 of Suspension. It involves the Non-Gaming Employee
8 Registration of Frank Burbules. Mr. Burbules was
9 issued a Non-Gaming Employee Registration on August
10 20th, 2008, and is employed as a housekeeper at
11 Presque Isle Downs. On June 8th, 2009, the PSP
12 notified the BIE that Mr. Burbules was arrested on May
13 29th, 2009 and charged with one count of forgery, a
14 felony offense. Mr. Burbules allegedly forged his
15 wife's signature without her knowledge on his 2007 tax
16 documents. As a result of these charges, the OEC
17 filed a request for Emergency Order of Suspension of
18 Mr. Burbules' Non-Gaming Employee registration. On
19 July 16th, 2009, the Order was signed by the Executive
20 Director. Board regulations now require that an
21 evidentiary hearing be held by the Board, or in the
22 alternative, that the matter be referred to the OHA
23 for such a hearing in the issuance of a Report and
24 Recommendation. The OCC would recommend that the
25 matter be referred to the OHA for such a hearing and

1 the subsequent issuance of a Report and
2 Recommendation.

3 CHAIRMAN:

4 Any statement from the OEC?

5 ATTORNEY PITRE:

6 No.

7 CHAIRMAN:

8 Any questions or comments from the Board?

9 If not, could I have a motion, please?

10 MR. SOJKA:

11 Yes, Mr. Chairman. I move that the Board
12 issue an Order to extend the Emergency Suspension of
13 Frank Burbules and that the matter be referred to the
14 OHA for a hearing to determine the validity of the
15 OEC's request for Suspension.

16 CHAIRMAN:

17 Second?

18 MR. ANGELI:

19 Second.

20 CHAIRMAN:

21 All in favor?

22 AYES RESPOND

23 CHAIRMAN:

24 Opposed? Motion passes.

25 ATTORNEY COOK:

1 Finally, under the Chief Counsel's report
2 is consideration by the Board of three denials of
3 Gaming Employee Permits or Non-Gaming Employee
4 Registrations, based upon abandoned hearing requests.
5 The individuals implicated are Leonard Jones, Joseph
6 McCrae and Esquiél Torro. The applicants --- each of
7 these applicants have been notified that the Board is
8 hearing these denials today and that they have the
9 right to be present to address the Board. If any of
10 these individuals are, in fact, present today, they
11 should come forward.

12 In each of these cases the OEC issued a
13 Notice of Recommendation of Denial based upon non-
14 disclosures and pending criminal charges. Each of
15 these individuals requested a hearing related thereto
16 and subsequently requested continuances until their
17 underlying criminal matters were disposed of. In each
18 of these cases, the individuals failed to thereafter
19 keep the OHA apprised of the status of their pending
20 criminal charges.

21 On June 19th, 2009, the OHA sent a letter
22 to each of these individuals, advising them that they
23 had ten days to notify the office of the status of
24 their criminal charges and to request to continue to
25 defer their hearing if it was appropriate because the

1 charges were still not disposed of. As of this date,
2 about six weeks later, Hearings and Appeals has not
3 received any update from any of these individuals and,
4 as a result, the OCC recommends that we go forward and
5 deny the applications of each of them.

6 CHAIRMAN:

7 Any statement from the OEC?

8 ATTORNEY PITRE:

9 We support that recommendation.

10 CHAIRMAN:

11 Any questions or comments from the Board?

12 If not, can I have a motion, please?

13 MR. ANGELI:

14 Mr. Chairman, I move the Board issue an
15 Order to adopt the request to deny applications based
16 on the abandoned hearing request as described by the
17 OCC.

18 MR. COY:

19 Second.

20 CHAIRMAN:

21 All in favor?

22 AYES RESPOND

23 CHAIRMAN:

24 Opposed? Motion passes.

25 ATTORNEY COOK:

1 And that concludes the report of the OCC.

2 CHAIRMAN:

3 Thank you, guys. Next we'll have the
4 Bureau of Licensing, represented here today by Sean
5 Hannon, who is the Enterprise Licensing Manager.
6 Welcome, Sean.

7 MR. HANNON:

8 Thank you, Chairman Fajt and members of
9 the Board. I have a number of licensing matters to
10 bring to the Board today. The first matter for your
11 consideration is Principal and Key Employee Licenses.
12 Prior to this meeting, the Bureau of Licensing
13 provided you with a proposed order of 14 Principals
14 and 24 Key Employee Licenses. I ask that the Board
15 consider the order granting these licenses.

16 CHAIRMAN:

17 Any questions or comments from
18 Enforcement Counsel?

19 ATTORNEY PITRE:

20 No objection.

21 CHAIRMAN:

22 Any questions or comments from the Board?
23 If not, a motion, please?

24 MR. COY:

25 Mr. Chairman, I move the Board approve

1 the Order as described by the Bureau of Licensing.

2 CHAIRMAN:

3 Second?

4 MR. GINTY:

5 Second.

6 CHAIRMAN:

7 All in favor?

8 AYES RESPOND

9 CHAIRMAN:

10 Opposed? Motion passes.

11 MR. HANNON:

12 Next, I have provided the Board with a
13 list of 22 Key Employee withdrawals for approval. I
14 ask that the Board consider the Order approving the
15 list of Key Employee withdrawals.

16 ATTORNEY PITRE:

17 No objection.

18 CHAIRMAN:

19 Questions from the Board? May I have a
20 motion, please?

21 MR. GINTY:

22 Mr. Chairman, I move that the board issue
23 an Order to approve the withdrawal of Key Employee
24 Applications, as described by the Bureau of Licensing.

25 MR. MCCABE:

1 Second.

2 CHAIRMAN:

3 All in favor?

4 AYES RESPOND

5 CHAIRMAN:

6 Opposed? Motion passes.

7 MR. HANNON:

8 The next matter for your consideration is
9 the issuance of Temporary Key Employee Licenses to 123
10 individuals. Prior to this meeting, the Bureau of
11 Licensing provided you with an Order regarding the
12 issuance of Temporary Key Employee Licenses. I ask
13 that the Board consider the Order approving these
14 licenses.

15 ATTORNEY PITRE:

16 No objection.

17 CHAIRMAN:

18 Questions from the Board? May I have a
19 motion, please?

20 MR. RIVERS:

21 Yes. Mr. Chairman, I move that the Board
22 issue an Order to approve the issuance of Temporary
23 Key Employee Licenses as described by the Bureau of
24 Licensing.

25 MR. SOJKA:

1 Second.

2 CHAIRMAN:

3 All in favor?

4 AYES RESPOND

5 CHAIRMAN:

6 Opposed? Motion passes.

7 MR. HANNON:

8 Next is the gaming and Non-Gaming Permits
9 and Registrations. Prior to this meeting, the Bureau
10 of Licensing provided you with a list of 630
11 individuals, including 318 initial and 312 renewals,
12 who the Bureau has granted occupation permits to, and
13 477 individuals who the Bureau has granted
14 registrations to under the authority delegated to the
15 Bureau of Licensing. I ask that the Board adopt a
16 motion approving the Order.

17 CHAIRMAN:

18 Enforcement Counsel?

19 ATTORNEY PITRE:

20 No objection.

21 CHAIRMAN:

22 Questions from the Board? Motion,
23 please.

24 MR. SOJKA:

25 Mr. Chairman, I move the Board issue an

1 Order to approve the license of Gaming Permits and
2 Non-Gaming Registrations as described by the Bureau of
3 Licensing.

4 MR. ANGELI:

5 Second.

6 CHAIRMAN:

7 All in favor?

8 AYES RESPOND

9 CHAIRMAN:

10 Opposed? Motion passes.

11 MR. HANNON:

12 In addition, we have recommendations of
13 denial for two gaming and three Non-Gaming Employees.
14 Prior to this meeting, the Bureau of Licensing
15 provided you with the Orders addressing these
16 applicants the BIE has recommended for denial. In
17 each case the Applicant failed to request a hearing
18 within the specified time period. I ask that the
19 Board consider the Order denying the Gaming and Non-
20 Gaming Applicants.

21 ATTORNEY PITRE:

22 We support our recommendations as
23 written.

24 CHAIRMAN:

25 Questions from the Board? If not, a

1 motion, please.

2 MR. ANGELI:

3 Mr. Chairman, I move that the Board issue
4 an Order to approve the denial of Gaming Permits and
5 Non-Gaming Registrations as described by the Bureau of
6 Licensing.

7 MR. COY:

8 Second.

9 CHAIRMAN:

10 All in favor.

11 AYES RESPOND

12 CHAIRMAN:

13 Opposed? Motion passes.

14 MR. HANNON:

15 We also have withdrawal requests for
16 gaming and Non-Gaming Employees. In each case the
17 employee is no longer required due to such
18 circumstances as the employee accepting a job with a
19 different employer, the job offer being rescinded or
20 the employee failing to report to work. The Board has
21 delegated authority to the Bureau of Licensing to
22 approve routine gaming and Non-Gaming Employee
23 withdrawal requests provided the Bureau regularly
24 presents a list of withdrawals to the Board for
25 approval. I have provided the Board with a list of 73

1 withdrawals for approval. I ask that the Board
2 consider the Order approving the list of withdrawals.

3 ATTORNEY PITRE:

4 No objection.

5 CHAIRMAN:

6 Questions from the Board? If not, a
7 motion, please.

8 MR. COY:

9 Chairman, I move the Board issue an Order
10 approving the withdrawal of Gaming and Non-Gaming
11 Employees.

12 CHAIRMAN:

13 Second?

14 MR. GINTY:

15 Second.

16 CHAIRMAN:

17 All in favor?

18 AYES RESPOND

19 CHAIRMAN:

20 Opposed? Motion passes.

21 MR. HANNON:

22 We have four Orders regarding vendors.

23 The first is to certify the following 11 vendors,

24 Amtrend Corporation, Apex Advertising, Century Steel

25 Erectors Company, Limited, Eisenhower Mills,

1 Incorporated, GM McCrossin, Incorporated, Haines &
2 Kibblehouse, Incorporated, Handwork Site Construction,
3 R.R. Pucci & Associates, Incorporated,
4 SimplexGrinnell, LP, Universal Printing Company, LLC
5 and W.W. Glass, LLC. I ask that the Board consider
6 the Order approving these vendors for certification.

7 ATTORNEY PITRE:

8 No objection.

9 CHAIRMAN:

10 Questions from the Board? If not, a
11 motion?

12 MR. GINTY:

13 Mr. Chairman, I move the Board issue an
14 Order to approve the applications for Vendor
15 Certification as described by the Bureau of Licensing.

16 MR. MCCABE:

17 Second.

18 CHAIRMAN:

19 All in favor?

20 AYES RESPOND

21 CHAIRMAN:

22 Opposed? Motion passes.

23 MR. HANNON:

24 Next, the Bureau of Licensing provided
25 you with an Order and an attached list of 65

1 registered vendors. I ask that the Board adopt a
2 motion approving the Order registering these vendors.

3 ATTORNEY PITRE:

4 No objection.

5 CHAIRMAN:

6 Any questions from the Board? If not, a
7 motion, please.

8 MR. MCCABE:

9 Mr. Chair, I move that the Board issue an
10 Order to approve the application for Vendor
11 Registration as described by the Bureau of Licensing.

12 MR. RIVERS:

13 Second.

14 CHAIRMAN:

15 All in favor.

16 AYES RESPOND

17 CHAIRMAN:

18 All opposed? Motion passes.

19 MR. HANNON:

20 The Bureau of Licensing provided you with
21 Orders, the approvals of which would result in the
22 following four vendors being added to the Prohibited
23 Vendors List, Forest Drilling, LLC, Fusion Floors,
24 Incorporated, Northeast Fireproofing & Installation,
25 Incorporated, Taylor International Corporation. These

1 vendors have done business with a slot machine
2 operator licensee or applicant but have failed to
3 submit or complete an application. I ask that the
4 Board consider the Orders adding the named vendors to
5 the Prohibited Vendors List.

6 CHAIRMAN:

7 Any questions from Enforcement Counsel?
8 Any questions from the Board? If not, a motion?

9 MR. RIVERS:

10 Yes. Mr. Chairman, I move that the Board
11 issue an Order to approve the addition of vendors to
12 the Prohibited Vendor List as described by the Bureau
13 of Licensing.

14 MR. SOJKA:

15 Second.

16 CHAIRMAN:

17 All in favor?

18 AYES RESPOND

19 CHAIRMAN:

20 Opposed? Motion passes.

21 MR. HANNON:

22 I have provided you with a draft Order to
23 declare Melchiorre, Incorporated, doing business as
24 Warner Chrysler Jeep, Vendor Registration Application
25 abandoned. Melchiorre, Incorporated has indicated to

1 the Bureau of Licensing that it is no longer in
2 business, and therefore no longer needs a Vendor
3 Registration. I ask that the Board consider the Order
4 declaring Melchiorre's application abandoned.

5 ATTORNEY PITRE:

6 No comments.

7 CHAIRMAN:

8 Questions from the Board? Seeing none,
9 may I have a motion, please?

10 MR. SOJKA:

11 Chairman, I move that the Board approve
12 the Order declaring Melchiorre, Inc.'s Vendor
13 Registration abandoned, as described by the Bureau of
14 Licensing.

15 MR. ANGELI:

16 Second.

17 CHAIRMAN:

18 All in favor?

19 AYES RESPOND

20 CHAIRMAN:

21 Opposed? Motion passes.

22 MR. HANNON:

23 Finally, I've provided you with an Order,
24 a Proposed Order, declaring the Progressive Gaming
25 International Corporation's Manufacturer Application

1 abandoned. Under the Board's regulations an applicant
2 can be declared abandoned if the applicant has failed
3 to cure application deficiencies in a time specified
4 by the Bureau of Licensing. In addition, under Bureau
5 of Licensing policy, an application is eligible to be
6 declared abandoned if there has not been any activity
7 on the application for a period of six months and if
8 the OEC does not object to the abandonment
9 designation. Once an application is declared
10 abandoned, the applicant may reapply at any time. In
11 this case, the Progressive Gaming International
12 Corporation's application has been inactive for more
13 than six months. The applicant was notified its
14 application would be declared abandoned and was given
15 the opportunity to cure its deficiencies or withdraw
16 its application. Progressive has done neither. As a
17 result, I ask that the Board consider the Order
18 declaring the application abandoned.

19 ATTORNEY PITRE:

20 No objection.

21 CHAIRMAN:

22 Questions from the Board? May I have a
23 motion, please?

24 MR. SOJKA:

25 Mr. Chairman, I move that the Board

1 approve the Order declaring Progressive Gaming
2 International Corporation's Manufacturer Renewal
3 Application abandoned as described by the Bureau of
4 Licensing.

5 MR. ANGELI:

6 Second.

7 CHAIRMAN:

8 All in favor?

9 AYES RESPOND

10 CHAIRMAN:

11 Opposed? Motion passes.

12 MR. HANNON:

13 That concludes the Bureau of Licensing's
14 presentation.

15 CHAIRMAN:

16 Thank you, Sean. Cyrus, Enforcement ---
17 Chief Enforcement Counsel is next.

18 ATTORNEY PITRE:

19 We have six matters for the Board ---
20 that requires the Board's attention today. The first
21 matter is to consider the Revocation or Suspension of
22 Ms. Audrey Barr. Melissa Powers will present that
23 matter to the Board.

24 MS. POWERS:

25 Thank you. Good afternoon.

1 CHAIRMAN:

2 Could you please spell your name for the
3 stenographer?

4 MS. POWERS:

5 Melissa Powers, P-O-W-E-R-S.

6 CHAIRMAN:

7 Thank you.

8 MS. POWERS:

9 The first matter before you is that of
10 Audrey Barr. On May 7th, 2009, OEC filed a complaint
11 for Revocation against Ms. Barr for failure to
12 maintain suitability. Ms. Barr did not respond to the
13 Complaint within 20 days, therefore her right to a
14 hearing has been waived and the facts alleged in the
15 Complaint deemed admitted. On July 21st, 2009, OEC
16 filed a request for default judgment. At this time,
17 OEC would ask that the Board revoke the Gaming
18 Employee Permit of Audrey Barr.

19 CHAIRMAN:

20 Any questions or comments from the Board?
21 May I have a motion, please?

22 MR. ANGELI:

23 Mr. Chairman, I move the Board issue an
24 Order to approve the Revocation of the Gaming Employee
25 Permit of Audrey Barr as described by the OCC.

1 MR. COY:

2 Second.

3 CHAIRMAN:

4 All in favor?

5 AYES RESPOND

6 CHAIRMAN:

7 Opposed? Motion passes. Thank you.

8 MR. MILLER:

9 Good afternoon, Chairman Fajt, members of
10 the Board. Dustin Miller on behalf of the OEC,
11 M-I-L-L-E-R.

12 The next request for Revocation involves
13 Jenise Barber. Ms. Barber had been employed as a
14 server at Harrah's Chester Downs Casino and registered
15 as a nongaming employee. The OEC filed an Enforcement
16 Complaint to revoke Ms. Barber's nongaming employee
17 registration for failing to comply with federal or
18 state laws on May 21st, 2009. The enforcement
19 Complaint was properly served upon Ms. Barber to the
20 address listed on her application by both certified
21 and first class mail. Ms. Barber did not respond to
22 the filing in any way. Due to Ms. Barber's failure to
23 respond, the averments in the Enforcement Complaint
24 are deemed to be admitted as fact and the right to a
25 hearing has been waived.

1 On July 14th, 2009 the OEC filed a
2 request to enter judgment upon default. The matter is
3 now before the Board to consider the Revocation of Ms.
4 Barber's Non-Gaming Employee Registration.

5 CHAIRMAN:

6 Any questions or comments from the Board?
7 Motion, please?

8 MR. COY:

9 Mr. Chairman, I move the Board issue an
10 Order approving the Revocation of the Non-Gaming
11 Employee Registration of Jenise Barber as described by
12 the OEC.

13 CHAIRMAN:

14 Second?

15 MR. GINTY:

16 Second.

17 CHAIRMAN:

18 All in favor?

19 AYES RESPOND

20 CHAIRMAN:

21 Opposed? Motion passes.

22 MS. POWERS:

23 The next matter before you is that of
24 Patrick McCann. On June 9th, 2009 the OEC filed a
25 Complaint for Revocation against Mr. McCann for

1 failure to comply with federal or state laws and
2 failure to maintain suitability. Mr. McCann did not
3 respond to the Complaint within 20 days, therefore his
4 right to a hearing has been waived and the facts
5 alleged in the Complaint deemed admitted. On July
6 23rd, 2009 OEC filed a request for default judgment.
7 At this time, OEC would ask that the Board Revoke the
8 Non-Gaming Employee Registration of Patrick McCann.

9 CHAIRMAN:

10 Questions or comments from the Board? If
11 none, motion?

12 MR. GINTY:

13 Mr. Chairman, I move the Board issue an
14 Order to approve the Revocation of the Non-Gaming
15 Employee Registration of Patrick McCann as described
16 by the OEC.

17 MR. MCCABE:

18 Second.

19 CHAIRMAN:

20 All in favor?

21 AYES RESPOND

22 CHAIRMAN:

23 Opposed? Motion passes.

24 MS. POWERS:

25 The next matter before you is that of

1 Cassandra Williams. On May 26th, 2009 OEC filed a
2 Complaint for Revocation against Ms. Williams to
3 revoke her Non-Gaming Employee Registration due to her
4 failure to maintain suitability. Ms. Williams did not
5 respond to the Complaint within 20 days, and
6 therefore, pursuant to Board regulations, all facts
7 alleged in the Complaint are deemed admitted. The OEC
8 filed a request for default judgment on July 22nd,
9 2009. And at this time, OEC would ask that the Board
10 revoke Cassandra Williams' Non-Gaming employee
11 Registration.

12 CHAIRMAN:

13 Any questions or comments from the Board?
14 If not, could I have a motion, please?

15 MR. MCCABE:

16 Mr. Chair, I move that that Board issue
17 an Order to approve the Revocation of the Non-Gaming
18 Employee Registration of Cassandra Williams as
19 described by the OEC.

20 MR. RIVERS:

21 Second.

22 CHAIRMAN:

23 All in favor?

24 AYES RESPOND

25 CHAIRMAN:

1 Opposed? Motion passes.

2 ATTORNEY PITRE:

3 Next we have two Consent Agreements for
4 your consideration. We ask that representatives from
5 Mohegan Sun please come to the table.

6 CHAIRMAN:

7 And again, Counsel, could you give your
8 name to our stenographer, and then we'll get to you
9 guys in a second.

10 ATTORNEY DAVENPORT:

11 Good afternoon. My name is Nan
12 Davenport. I'm the Deputy Chief Enforcement Counsel
13 for the OEC.

14 MR. BEAN:

15 My name is Michael Bean from Mohegan Sun.
16 That's B, as in boy, E-A-N.

17 ATTORNEY KOHLER:

18 And I am Alan Kohler with Eckert Seamans,
19 representing Mohegan Sun at Pocono Downs.

20 ATTORNEY DAVENPORT:

21 Today we have for the Board's
22 consideration two Consent Agreements between the OEC
23 and Downs Racing, LP, doing business as Mohegan Sun at
24 Pocono Downs. According to Section 12078 of the Act,
25 each licensed gaming entity shall prohibit persons

1 under 21 years of age from operating or using slot
2 machines. The regulations provide that an individual
3 under 21 years of age, whether personally or through
4 an agent, may not operate, use, play or place a wager
5 on a slot machine in a licensed facility.

6 Section 1518(a)(13) of the Act provides
7 that it shall be unlawful for a person under 18 years
8 of age to be permitted in the area of a licensed
9 facility where slot machines are operated. The
10 regulations further provide that an individual under
11 18 years of age may not enter the gaming floor of a
12 licensed facility.

13 Following a series of meetings between
14 Downs Racing, the Bureau of Consumer Compliance and
15 the OEC to discuss the incidents that are subject to
16 the Consent Agreements today, Downs Racing revised the
17 security staffing plan in order to prevent underage
18 individuals from entering the gaming floor. All
19 entrances to its gaming floor are either staffed or
20 cordoned off at an annual cost of approximately
21 \$225,000 in labor. In addition, Downs Racing has
22 purchased seven additional identification scanning
23 devices at a cost of approximately \$7,700 to scan
24 driver's licenses and photographic identification and
25 electronically record and store all the pertinent

1 information.

2 The first Consent Agreement before you
3 involves incidents between October 20th, 2008 and
4 March 18th, 2009, where 4 individuals under the ages
5 of 18 accessed the gaming floor before being
6 apprehended by security, in violation of 58 Pa.C.
7 Section 513(a)(2)(a). As set forth in the Consent
8 Agreement, the parties have agreed that within five
9 days of the Board's Order, Downs Racing shall pay a
10 civil penalty in the amount of \$48,000.

11 As set forth in the second Consent
12 Agreement, between August 11th, 2008 and March 14th,
13 2009, 11 individuals under the ages of 21 years of age
14 gained access to the gaming floor and played slot
15 machines before being apprehended by security, in
16 violation of 58 Pa.C. 513(a)(2)(b). The parties have
17 agreed that within five days of the Board's Order
18 approving the Consent Agreement, Downs Racing shall
19 pay a civil penalty in the amount of \$49,500. The OEC
20 recommends the Board approve the Consent Agreements.

21 CHAIRMAN:

22 Any questions or comments from the Board?
23 I actually have a question. The infractions up until
24 I think the second motion, the gambling-related
25 individuals that ceased on March of 2009, as I

1 understand it from Enforcement Counsel, the casino put
2 in a new mechanism in place to prevent that type of
3 underage gambling at that time. Do I hear your
4 comments correctly?

5 ATTORNEY DAVENPORT:

6 That is correct. They have cooperated
7 with us fully and implemented measures to try and
8 prevent further incidences of this nature.

9 CHAIRMAN:

10 And have there been any incidences of
11 this nature since March of 2009?

12 ATTORNEY DAVENPORT:

13 Yes, there have.

14 CHAIRMAN:

15 How many have there been?

16 ATTORNEY DAVENPORT:

17 I believe there have been five that
18 were ---.

19 MR. BEAN:

20 There have been several. And Mr.
21 Chairman, what I'd like to add to that is that from
22 the time that we began adding the staff at ---.

23 CHAIRMAN:

24 Can you speak up a little bit?

25 MR. BEAN:

1 From the time that we began adding the
2 staff at each of the entrances, it took a little bit
3 of time for us to staff up and get the personnel in
4 place. And we've worked with Enforcement Counsel ---
5 as part of our working with Enforcement Counsel to get
6 that in place, I believe several of, you know, those
7 incidents occurred.

8 CHAIRMAN:

9 When was the last incident?

10 MR. BEAN:

11 I'm not exactly sure, Mr. Chairman.

12 CHAIRMAN:

13 I will say just from my standpoint, we
14 take this very seriously. There were questions raised
15 of Mohegan Sun when your license was originally
16 issued, questions about was the gaming floor secure?
17 The representations made at that time were that it
18 was. Obviously not true. We will closely monitor
19 this. This fine is, while you know, some would
20 consider it significant, it will go up. And again,
21 this Board takes underage gambling, underage drinking
22 at the facilities, underage access to the facilities
23 extremely seriously. And I want you to send a message
24 to your management that it will not be tolerated. And
25 whatever you need to do --- we respect the additional

1 monies that you've spent to hire additional personnel.
2 That's a step in the right direction. But we cannot
3 have continued breaches of that security. You're an
4 anomaly. We've had other breaches in other casinos
5 but not nearly to the extent that you folks have
6 experienced. Any other questions?

7 MR. GINTY:

8 When can we expect the next Complaint?

9 ATTORNEY DAVENPORT:

10 We're reviewing the matter.

11 CHAIRMAN:

12 Can I have a motion?

13 MR. RIVERS:

14 Yes. Mr. Chairman, I'm going to combine
15 both motions together, one dealing with the
16 18-year-olds and under and the other dealing with the
17 18 to 21. I move that the Board approve the Consent
18 Agreements between the OEC and Mohegan Sun at Pocono
19 Downs and consistent with the terms of the Consent
20 Agreement that Mohegan Downs shall pay within five
21 days of this Order a civil penalty totaling for both
22 offenses \$97,500.

23 CHAIRMAN:

24 Is there a second?

25 MR. SOJKA:

1 Second.

2 CHAIRMAN:

3 All in favor?

4 AYES RESPOND

5 MR. MCCABE:

6 On the motion, Mr. Chairman, ---

7 CHAIRMAN:

8 Yes.

9 MR. MCCABE:

10 --- I intend to vote for it, but I just
11 want to say, you've got a beautiful facility. A lot
12 of people talk about it and comment favorably about
13 it. You need to fix this problem. I agree with the
14 Chairman; you need to get it fixed ---

15 MR. BEAN:

16 Yes, sir.

17 MR. MCCABE:

18 --- or there won't be any use in having a
19 beautiful facility.

20 MR. BEAN:

21 Yes, sir.

22 CHAIRMAN:

23 With that in mind, let's do the roll call
24 again. All in favor of the motion?

25 AYES RESPOND

1 CHAIRMAN:

2 Opposed? Motion passes. Thank you.

3 MR. BEAN:

4 Thank you.

5 ATTORNEY PITRE:

6 That concludes our business.

7 CHAIRMAN:

8 Thank you, Cyrus. Thank you for your
9 staff. And let me just make a comment, and then I'll
10 finish up with final housekeeping matters. Today was
11 an interesting meeting, obviously, with the protesters
12 here. And you know, it makes for a tough meeting. It
13 makes for a little raucous environment in here. But
14 you know, we live in the United States of America, and
15 that's what makes our country great, that you know, we
16 were tolerant. We allowed the protesters. We tried
17 to keep the meeting going. At times that, you know,
18 became a little uncertain, but you know, they overall
19 conducted themselves with decorum. We got through it.
20 And so I want to thank all of our staff for the great
21 job you did in preparing us for this meeting and also
22 for your patience and the security and things like
23 that. So thank you very much.

24 ATTORNEY PITRE:

25 And Mr. Chairman, we'd like to thank you

1 for being so tolerant and understanding and allowing
2 the protesters to do their thing.

3 CHAIRMAN:

4 As I commented to the Commissioners in
5 executive session, I don't have any children, but
6 today's meeting tested my patience almost like it's
7 never been tested before. But as I said, we got
8 through it. That concludes --- first of all, let me
9 have a motion to conclude the meeting.

10 MR. MCCABE:

11 So moved.

12 CHAIRMAN:

13 Second?

14 MR. RIVERS:

15 Second.

16 CHAIRMAN:

17 All in favor?

18 AYES RESPOND

19 CHAIRMAN:

20 Opposed? None. The motion passes. That
21 concludes today's business.

22 Looking ahead, the Gaming Control Board
23 will hold a hearing on Wednesday, September 16th, 2009
24 to gather evidence, including public comment, on the
25 Category I Slot Machine Operator's License in Chester

1 Downs and Marina operating at Harrah's Chester. The
2 hearing will begin at 10:00 a.m., Chester City Hall
3 Council Chambers, Second Floor, 1 Fourth Street, in
4 Chester, Pennsylvania. Citizens' groups, community
5 groups and elected officials wishing to present oral
6 or written testimony which will become part of the
7 evidentiary record in that matter can now register by
8 clicking on a special link on the homepage of the
9 Gaming Control Board Website. The deadline for
10 registration and receipt of written comments is noon,
11 Monday, September 14th. Comments can also be mailed
12 and postmarked no later than September 14th to the
13 Gaming Board offices at P.O. Box 69060, Harrisburg,
14 17106, attention to the Board Secretary, or they can
15 get faxed to her at 717-346-8350.

16 In closing, our next scheduled public
17 meeting will be held on September 23rd in the State
18 Museum at 10:00 a.m. Thank you.

19 * * * * *

20 MEETING CONCLUDED AT 2:30 P.M.

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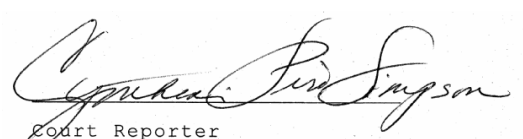
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CERTIFICATE

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I hereby certify that the foregoing proceedings,
hearing held before Chairman Fajt was reported by me on
08/28/2009 and that I Cynthia Piro Simpson read this
transcript and that I attest that this transcript is a true
and accurate record of the proceeding.



Cynthia Piro Simpson
Court Reporter