

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, David Barasch representing Ex-Officio Stephen Stetler, and Frank Jurbala representing Secretary of Agriculture Russell Redding

HEARING: Wednesday, October 7, 2009

LOCATION: State Museum Auditorium
Harrisburg, PA 17120

WITNESSES: Kevin O'Toole, Claire Yantis, Doug Sherman, Nick A. Rodriguez-Cayro, Susan Hensel, Cyrus Pitre, Steve Cook, Dustin Miller

Reporter: Cynthia Piro Simpson

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CHAIRMAN:

Good morning, everybody. I'm Greg Fajt, Chairman of the Gaming Control Board. Just as a housekeeping matter and as we always do, I'd like to ask everybody to turn off their BlackBerrys, cell phones or other PDAs. They have a tendency to interfere with the communication system that we have. So thank you.

Today we have with us Dave Barrish, ex-officio designee, representing Secretary Steve Stetler, and Frank Jurbala representing Secretary of Agriculture, Russell Redding. So thank you both for joining us today.

Quorum of the Board is present, and today's proceedings are called to order. I'd like to ask everybody to please stand to join me in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE RECITED

CHAIRMAN:

We'll now commence with our regularly-scheduled meeting. The first order of business is old business and announcements. By way of announcements, the Board held an executive session on

1 October 6th, 2009 in accordance with the Sunshine Act.
2 The purpose of the executive session was to discuss
3 personnel issues, litigation matters and to conduct
4 quasi judicial deliberations relating to matters
5 pending before the Board. Moving along to the minutes
6 and transcripts, may I have a motion to approve the
7 minutes and transcripts of August 28th, the 2009
8 meeting?

9 MR. ANGELI:

10 Mr. Chairman, I move that the Board
11 approve the minutes and transcript of the August 28th,
12 2009 meeting.

13 CHAIRMAN:

14 Second?

15 MR. COY:

16 Second.

17 CHAIRMAN:

18 All in favor?

19 AYES RESPOND

20 CHAIRMAN:

21 Opposed? Motion passes. Moving on to
22 new business, I'd like to have Kevin O'Toole, our
23 Executive Director, to please provide his report.
24 Kevin?

25 MR. O'TOOLE:

1 Good morning, Chairman Fajt, members of
2 the Board. This is our first meeting in October, so I
3 would like to report that slot machine revenue at the
4 nine casinos in the Commonwealth rose by almost 30
5 percent when comparing September 2009 with September
6 2008 figures. The two casinos that opened in 2009,
7 The Sands and The Rivers, contributed significantly to
8 that increase. However, when comparing figures for
9 the seven casinos opened during both 2008 and 2009,
10 slot revenue increased by 4.3 percent.

11 I would also like to briefly report that
12 there has been a tremendous amount of activity in the
13 legislature over the last couple of weeks dealing with
14 proposed table game legislation. Our legislative team
15 of Will Danowski, Dan Stambaugh and Catherine Stetler
16 have worked tirelessly to keep everyone at the Board
17 up to date on developments. We all appreciate their
18 work. That concludes my report for today. Thank you.

19 CHAIRMAN:

20 Thank you very much, Kevin. Any
21 questions or comments from the Board?

22 Next up is our Director of Human
23 Resources, Claire Yantis. Claire?

24 MS. YANTIS:

25 Good morning, Chairman Fajt, Board

1 members. We have before you today a motion to
2 consider the hiring of two application developers in
3 the Office of Information Technology, Scott Dowling
4 (phonetic) and Toby Peters are being recommended for
5 hire by Director of IT, Jim Buck, for the Harrisburg
6 office location. Both Mr. Dowling and Mr. Peters have
7 completed the PGCB interview process, background
8 investigation and drug screening.

9 CHAIRMAN:

10 Any questions or comments? May I have a
11 motion?

12 MR. COY:

13 Mr. Chairman, I move the Board approve
14 the hiring of the agency staff as proposed on the
15 condition that all employees complete the necessary
16 background investigation and drug testing.

17 CHAIRMAN:

18 Second?

19 MR. MCCABE:

20 Second.

21 CHAIRMAN:

22 All in favor?

23 AYES RESPOND

24 CHAIRMAN:

25 Opposed? Motion passes. Thank you,

1 Claire.

2 Next is our Office of Chief Counsel, Doug
3 Sherman and Steve Cook.

4 ATTORNEY SHERMAN:

5 Good morning, Chairman and members of the
6 Board. Today the Board has four petitions before it
7 for consideration. These petitions are all scheduled
8 to be considered upon the documentary records. In
9 each case the Board has been provided with a petition,
10 the response of pleading of enforcement counsel and
11 all supporting evidentiary materials. All parties
12 have been notified that their matters will be heard
13 today and have the right to be present to address the
14 Board or answer any questions as would be appropriate.

15 Briefly, the first petition is that of
16 Presque Isle Downs. It's a petition for waiver of
17 fixed seating and for the approval of an additional
18 entrance onto the Gaming floor. Presque Isle is
19 seeking Board approval to convert 56 of its 2,000
20 fixed seats into non-fixed seating, as well as asking
21 the Board to grant the request to convert a fire exit
22 into a new entrance onto the Gaming floor for the
23 purpose of improving ingress and egress. The Office
24 of Enforcement Counsel did not oppose the relief
25 requested, subject to certain conditions, to which

1 Presque Isle has agreed. The conditions have been
2 provided to the Board for their review. Essentially
3 those conditions require the licensee to submit
4 drawings, including dimensions and locations of the
5 non-fixed seating, submit any internal control
6 amendments necessitated by the waiver of the fixed
7 seating and the creation of the new entrance onto the
8 casino floor, and that they show all necessary
9 governmental approvals have been obtained, as well as
10 assuring that the requirements of the Bureau of Gaming
11 Operations, the Bureau of Casino Compliance, and the
12 Office of Compulsive and Problem Gambling have been
13 met before implementation of this plan. In
14 furtherance of the petition, the parties have
15 submitted a stipulation which indicates that a
16 licensed architect has reviewed the plans and rendered
17 a professional opinion that these modifications do not
18 violate any fire or building codes. And additionally,
19 the Director of Land Development for Summit Township
20 has submitted a letter indicating that the township
21 has no objection. Based upon the documentary record,
22 it would be appropriate for the Board now to consider
23 a motion to approve this request.

24 CHAIRMAN:

25 I see we have representatives from

1 Presque Isle here today. Could you please introduce
2 yourself for the record.

3 ATTORNEY RODRIGUEZ-CAYRO:

4 May it please the Board, Nick
5 Rodriguez-Cayro on behalf of MTR Gaming Group and
6 Presque Isle Downs. And I'm joined by Mr. Knight, the
7 president and CEO of Presque Isle Downs.

8 CHAIRMAN:

9 Thank you. Any questions or comments
10 from the Board? I have one question, probably to you,
11 Mr. Knight. We have expressed concern here on the
12 Board in the past about underage Gaming. And when I
13 see entities and facilities that are adding points of
14 egress and ingress, that's an issue that obviously,
15 you know, begs the question about what kind of
16 security you're going to have there. So could you
17 tell us just briefly what you have now in place and
18 what you're going to have at this additional point of
19 entry?

20 MR. KNIGHT:

21 Good morning, Mr. Chairman, members of
22 the Board. First of all, right now, the door is not
23 manned at all. It's an employee entrance, emergency
24 exit, et cetera. Once we do open this door for guest
25 admittance, we will have --- it will be monitored a

1 hundred percent of the time. And when it is open, we
2 will have security there a hundred percent of the
3 time. I'm clearly aware of the sensitivity. I mean,
4 I go through this every day. And even with two and
5 three, you know, security officers, it still is a
6 difficult chore sometimes. So I'm extremely aware of
7 the ramifications, and we will do everything possible
8 to stop the underage.

9 CHAIRMAN:

10 Thank you very much. Any other
11 questions? If not, could I have a motion, please?

12 MR. GINTY:

13 Mr. Chairman, I move that the Board grant
14 Presque Isle Down's petition for waiver of fixed
15 seating and approval of an additional entrance to the
16 Gaming floor as described by the Office of Chief
17 Counsel.

18 CHAIRMAN:

19 Second?

20 MR. MCCABE:

21 Second.

22 CHAIRMAN:

23 All in favor?

24 AYES RESPOND

25 CHAIRMAN:

1 Opposed? The motion passes. Thank you.

2 ATTORNEY SHERMAN:

3 The next petition for the Board's
4 consideration is Tom Brown Contracting, Incorporated's
5 Petition for Removal from the Prohibited Vendor List.
6 On August 14th, 2008, Holdings Acquisition Company
7 filed a sponsored vendor registration application for
8 Tom Brown Contracting, a waterproofing contractor.
9 Subsequently, the company was placed on the Prohibited
10 Vendor List, that would have been on July 15th, 2009,
11 due to the company's failure to cure deficiencies in
12 its application. Tom Brown Contracting filed the
13 present Petition for Removal from the Prohibited
14 Vendor List on August 27th, 2009 and has cured all
15 deficiencies which had previously been noted. At this
16 time the Office of Enforcement Counsel did not object
17 to the relief requested. However, they have suggested
18 that Tom Brown Contracting be required to pay a civil
19 penalty in the amount of \$1,500 as a result of the
20 actions and inactions which caused it to be placed on
21 the Prohibited Vendor List in the first place. The
22 Office of Chief Counsel's review of similar matters
23 confirms other similarly-situated entities which have
24 sought to be removed from the Prohibited Vendor List
25 have been assessed a civil penalty in this amount.

1 The matter is now appropriate for the Board's
2 consideration.

3 CHAIRMAN:

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

6 MR. MCCABE:

7 Yes, Mr. Chair. I move that the Board
8 grant the Petition of Tom Brown Construction for
9 Removal from the Prohibited Vendor's List, as
10 described by the Office of Chief Counsel.

11 CHAIRMAN:

12 Second?

13 MR. RIVERS:

14 Second.

15 CHAIRMAN:

16 All in favor?

17 AYES RESPOND

18 CHAIRMAN:

19 Opposed? Motion passes. Next.

20 ATTORNEY SHERMAN:

21 The next matter is the World of
22 Chantilly's Petition for Removal from the Prohibited
23 Vendor List. Down's Racing had filed a sponsored
24 vendor registration application for the World of
25 Chantilly, which is a supplier of desserts, cakes and

1 pastries. The company was placed on the Prohibited
2 Vendor List in December 2008, again, after failing to
3 cure deficiencies in its application. On August 12th,
4 2009, World of Chantilly filed its Petition for
5 Removal from the Prohibited Vendor List and provided a
6 complete application. OEC, similarly to the prior
7 petition, has filed a response not objecting to the
8 removal but again suggesting that a civil penalty in
9 the amount of \$1,500 is appropriate. Again, that's
10 consistent with what the Board has imposed in other
11 similar matters. And the Office of Chief Counsel
12 recommends that the Board grant the Petition to be
13 Removed from the Prohibited Vendor List, subject to
14 the payment of a \$1,500 civil penalty.

15 CHAIRMAN:

16 Any questions or comments? May I have a
17 motion?

18 MR. RIVERS:

19 Yes. Mr. Chairman, I move that the Board
20 grant the Petition for the World of Chantilly, Inc.
21 for removal from the Prohibited Vendor's List, as
22 described by the Office of Chief Counsel.

23 CHAIRMAN:

24 Second?

25 MR. SOJKA:

1 Second.

2 CHAIRMAN:

3 All in favor?

4 AYES RESPOND

5 CHAIRMAN:

6 Opposed? Motion passes.

7 ATTORNEY SHERMAN:

8 The final petition before the Board is
9 the Richard E. Jacobs Revocable Living Trust and the
10 Jeffrey P. Jacobs Revocable Living Trust Petition to
11 Transfer Ownership Interest in MTR Gaming Group. The
12 Richard E. Jacobs Revocable Living Trust held just
13 over ten percent of the common stock of MTR Gaming
14 Group, which is the parent company of Presque Isle
15 Downs. Pursuant to the terms of the trust upon the
16 death of Richard E. Jacobs, the MTR stock held in the
17 trust was to be distributed to Jeffrey P. Jacobs as
18 part of an estate planning entity, a dropdown from the
19 one trust to the next one. Jeffrey P. Jacobs is
20 licensed by this Board already as a principal.
21 Richard Jacobs died on June 5th, 2009. Accordingly,
22 the common stock held in that first trust, pursuant to
23 that estate planning device, would transfer to the
24 second trust of Jeffrey Jacobs. Again, Jeffrey Jacobs
25 is currently a licensed principal of Presque Isle.

1 He's the sole trustee and beneficiary of that trust.
2 The Office of Enforcement Counsel did not object to
3 the transfer provided, however, that the approval of
4 the transfer be conditioned upon the Jeffrey P. Jacobs
5 Trust obtaining principal licensure. The Office of
6 Chief Counsel concurs in that position, and it's ripe
7 for the Board's consideration.

8 CHAIRMAN:

9 Any questions or comments from the Board?

10 MR. SOJKA:

11 Could I just ask about the current
12 disposition of the stock? Is it in escrow or is it
13 transferred?

14 ATTORNEY SHERMAN:

15 We believe it has actually been
16 transferred by the executor of the estate of the first
17 Mr. Jacobs.

18 MR. SOJKA:

19 The only person that has control of that
20 second trust is a person who's already been licensed.

21 ATTORNEY SHERMAN:

22 Correct. He's already a principal.

23 CHAIRMAN:

24 I have one follow-up to that. Where are
25 we in the licensure of the actual trust? Where in the

1 process is that right now?

2 ATTORNEY RODRIGUEZ-CAYRO:

3 The trust has filed for licensure,
4 Chairman. I don't know where it is on the status at
5 this point.

6 CHAIRMAN:

7 How long ago did you file for licensure?

8 ATTORNEY RODRIGUEZ-CAYRO:

9 I want to guess it was probably four
10 months --- July, four months ago.

11 CHAIRMAN:

12 Okay. Thank you. Any other questions or
13 comments? Could I have a motion, please?

14 MR. SOJKA:

15 Yes. Mr. Chairman, I move that the Board
16 grant the Petition of Richard E. Jacobs Revocable
17 Living Trust to Transfer Interest in MTR Gaming to the
18 Jeffrey Jacobs Trust, as just described by the Office
19 of Chief Counsel.

20 CHAIRMAN:

21 Second?

22 MR. ANGELI:

23 Second.

24 CHAIRMAN:

25 All in favor?

1 AYES RESPOND

2 CHAIRMAN:

3 Opposed? Motion passes. Thank you,
4 Doug. Thank you, Nick.

5 ATTORNEY SHERMAN:

6 The remaining matters for the Office of
7 Chief Counsel, including withdrawals and reports and
8 recommendations, will be presented by Steve Cook,
9 Deputy Chief Counsel.

10 ATTORNEY COOK:

11 Good morning, Mr. Chairman, members of
12 the Board. The Board has received ten unopposed
13 petitions to withdraw applications or surrender
14 licenses, which include requests to withdraw ten
15 principal applications, vendor application or personal
16 history disclosure statements submitted by principals
17 of vendors, as well as two requests to surrender
18 principal licenses associated with a licensed
19 manufacturer. The following individuals and companies
20 are the subject of these petitions: Cahill Controls,
21 Inc.; Corporate Express Office Products, Inc; Joseph
22 B. Fay Company; East Coast Hoist, Inc.; Theodore
23 Harrison; James Kehan, the Michael E. McPhee 2006
24 Irrevocable Phalcon Trust; the Marcus W. McPhee 2006
25 Irrevocable Trust; Sara Lee Food Service; David B.

1 Eberhardt; National Amusements, Inc.; and Sumner
2 Redstone. The Office of Enforcement Counsel has no
3 objections to these withdrawals, therefore these
4 withdrawals would be ripe for consideration of a
5 motion to grant them without prejudice.

6 CHAIRMAN:

7 Any questions or comments from the Board?
8 May I have a motion, please?

9 MR. ANGELI:

10 Mr. Chairman, I move that the Board issue
11 Orders to approve the withdrawals or surrenders as
12 described by the Office of Chief Counsel.

13 MR. COY:

14 Second.

15 CHAIRMAN:

16 All in favor?

17 AYES RESPOND

18 CHAIRMAN:

19 Opposed? Motion passes.

20 ATTORNEY COOK:

21 Next before the Board for consideration
22 are two reports and recommendations received from the
23 Office of Hearings and Appeals relative to one Key
24 Employee License and one Non-Gaming Employee
25 Registration. These reports and recommendations,

1 along with the evidentiary record for each matter,
2 have been provided to the Board in advance of this
3 meeting. Additionally, in each case the applicant has
4 been notified that the Board is considering their
5 Report and Recommendation today and that they have the
6 right to be present to briefly address the Board. If
7 either of these individuals are present today, they
8 should come forward when their name is announced.

9 The first Report and Recommendation
10 before the Board today relates to the withdrawal of
11 William Fox's Key Employee License. On June 13th,
12 2007, Greenwood Gaming & Entertainment, Inc. submitted
13 a Key Employee License application on behalf of
14 William Fox. Mr. Fox, who was employed as a security
15 shift manager at Greenwood, was issued a temporary
16 credential on June 18th, 2007. On November 2nd, 2007,
17 Greenwood filed a petition to withdraw Mr. Fox's
18 application after terminating his employment for
19 undisclosed reasons. On March 14th, 2008, Mr. Fox
20 filed a pleading in the matter, objecting to
21 Greenwood's petition and requesting that the Board
22 hold the withdrawal in abeyance. The Office of
23 Enforcement Counsel thereafter filed an Answer in New
24 Matter recommending that the Board deny Greenwood's
25 petition based on their position that Mr. Fox had a

1 vested interest in his license and his objection to
2 the withdrawal. The matter was then held in abeyance,
3 as requested by Mr. Fox. On June 15th, 2009, after
4 holding the matter in abeyance for more than one year,
5 the Office of Hearings and Appeals initiated
6 proceedings related to this matter. During these
7 proceedings Mr. Fox requested that his application now
8 be withdrawn without prejudice. The Office of
9 Enforcement Counsel did not object to this request in
10 that they had no information which would lead them to
11 take the position that it should be withdrawn with
12 prejudice. As a result, the Office of Hearings and
13 Appeals issued a Report and Recommendation,
14 recommending that the application be withdrawn without
15 prejudice. And the Office of Chief Counsel would
16 support that position.

17 CHAIRMAN:

18 Any questions or comments from the Board?
19 If not, a motion.

20 MR. COY:

21 Mr. Chairman, I move the Board issue an
22 Order adopting the Report and Recommendation of the
23 Office of Hearings and Appeals regarding the key
24 employee license of William Fox, as described by the
25 Office of Chief Counsel.

1 CHAIRMAN:

2 Second?

3 MR. GINTY:

4 Second.

5 CHAIRMAN:

6 All in favor?

7 AYES RESPOND

8 CHAIRMAN:

9 Opposed? Motion passes.

10 ATTORNEY COOK:

11 The second Report and Recommendation
12 before the Board today pertains to David Rietzen, who
13 worked as a bartender at both Philadelphia Park Casino
14 and Harrah's Chester Downs. On February 12th, 2009,
15 the Office of Enforcement Counsel filed an enforcement
16 action requesting that Mr. Rietzen's Non-Gaming
17 Employee Registration be revoked. Mr. Rietzen had
18 been terminated for mishandling monies paid by
19 customers in exchange for beverages at Philadelphia
20 Park, where he worked between November 19th, 2007 and
21 June 27th, 2008. Mr. Rietzen admitted to his
22 mishandling of these monies at Philadelphia Park.
23 After leaving the employment of Philadelphia Park,
24 while the enforcement action against his registration
25 was pending based upon his conduct at that facility,

1 Mr. Rietzen became employed at Harrah's Chester Downs
2 Casino as a bartender. While employed at Harrah's,
3 Mr. Rietzen was found to be conducting cash
4 transactions in a similar manner. After becoming
5 aware of Mr. Rietzen's conduct at Philadelphia Park,
6 Harrah's began to monitor Mr. Rietzen's behavior
7 during his shifts, and surveillance tapes show that
8 Mr. Rietzen was voiding what appeared to be legitimate
9 transactions after accepting payments. As a result,
10 he was interviewed by management at Harrah's, and at
11 the time of the interview he admitted to the conduct.
12 Mr. Rietzen was thereafter terminated by Harrah's. As
13 a result of his conduct at Philadelphia Park, an
14 enforcement action was commenced and a hearing was
15 held on March 19th, 2009 in which Mr. Rietzen appeared
16 and testified on his own behalf. An amended complaint
17 was then filed by the Office of Enforcement Counsel
18 related to his behavior at Harrah's, and a second
19 hearing was held on June 25th, 2009. Mr. Rietzen did
20 not attend that hearing. This matter is now ripe for
21 the Board's consideration. The Report and
22 Recommendation issued by the Office of Hearings and
23 Appeals recommends that his Non-Gaming Employee
24 Registration be revoked for this conduct, and the
25 Office of Chief Counsel would support that position.

1 CHAIRMAN:

2 Any questions or comments from the Board?

3 MR. SOJKA:

4 Just one quick question. Was the
5 management at Harrah's completely unaware of the
6 reason why he was terminated at Philadelphia Park?

7 ATTORNEY COOK:

8 I believe upon hiring him they may have
9 been. They were notified that there was an issue then
10 at Philadelphia Park.

11 MR. SOJKA:

12 So the surveillance may have been based
13 on their knowledge of his prior problem?

14 ATTORNEY COOK:

15 Oh, that's what their surveillance was
16 based upon, yes.

17 MR. RIVERS:

18 And who notified them that there was this
19 issue at the other facility?

20 ATTORNEY COOK:

21 I believe we may have or our staff, our
22 BIE.

23 CHAIRMAN:

24 Go ahead, Jim.

25 MR. GINTY:

1 Are there systems in place where if an
2 employee transfers from one casino to another casino
3 that there's going to be some information exchanged
4 between the casinos?

5 ATTORNEY COOK:

6 I understand that as a result of this
7 situation, the BIE and the Office of Enforcement
8 Counsel, if an employee is terminated for a situation
9 such as this at one facility but pending the
10 enforcement action, they will now notify the Bureau of
11 Licensing to make sure that DOL is on notice in case
12 the employee becomes employed at another facility.

13 MR. RIVERS:

14 One more question. Is there a process in
15 place that says the moment an employee leaves the
16 employment of one facility, that the Office of
17 Licensing is referred to?

18 ATTORNEY COOK:

19 I don't know if I understand your
20 question.

21 MR. RIVERS:

22 In other words, if an employee leaves
23 Casino A, does Casino A have a responsibility to
24 notify the Board ---

25 ATTORNEY COOK:

1 Oh, yes, they do. They do.

2 MR. RIVERS:

3 --- that the employee is no longer
4 working?

5 ATTORNEY COOK:

6 They do. They do. Thank you.

7 CHAIRMAN:

8 And I have a follow-up because I do have
9 some concerns about this. I mean, I think what I hear
10 you saying is that this cannot happen in the future;
11 is that correct?

12 ATTORNEY COOK:

13 We've taken appropriate steps to address
14 it, so it should not happen in the future.

15 CHAIRMAN:

16 My suggestion would be that when we have,
17 from now on, an employee that goes from Casino A to
18 Casino B, that Licensing or somebody in the Gaming
19 Control Board make an affirmative move to look at that
20 person's record with the casino that they are leaving
21 to make sure that there's nothing out there that's
22 nefarious or that's going to come back to embarrass us
23 or the casino that they're going to, so that we should
24 make an affirmative step, not just, you know, wait for
25 something to happen, but actually look at their record

1 with the old casino before moving onto --- and Susan,
2 if you want to answer that, you can come on up and
3 address that. Because this is an issue that's going
4 to happen again, I can assure you.

5 MS. HENSEL:

6 We do require terminations to be
7 explained to us upon ---.

8 CHAIRMAN:

9 But this isn't a termination. Say I'm
10 leaving from Casino A to Casino --- and moving to
11 Casino B because I think they caught on to me, I mean,
12 we should make an affirmative step to talk to Casino A
13 about that employee, is there anything out there,
14 before we approve that transfer?

15 MS. HENSEL:

16 We currently get notification of
17 transfers. However, if there is a pending
18 investigatory matter, we can talk about --- it sounds
19 as though appropriate measures have now been put in
20 place to address that part of the issue.

21 CHAIRMAN:

22 Cyrus, do you want to weigh in on that?

23 ATTORNEY PITRE:

24 We're running into a problem with due
25 process. I mean, some things we won't be able to

1 avoid. However, once we send a denial letter to an
2 individual or file an enforcement action against an
3 individual, that's noted in our database that an
4 enforcement action is pending against that individual.
5 So when Licensing pulls up that individual's name,
6 they'll see a pending enforcement action against that
7 individual. Now, because the individual has a pending
8 enforcement action, that doesn't necessarily mean that
9 we're going to be successful in proving whatever it is
10 we have to prove. So now we're skating into that
11 area, are we violating this person's due process and
12 judging them before time. So it's just one of those
13 things that --- I can't promise you it won't happen
14 again. We'll do everything in our best efforts to
15 ensure that it doesn't happen and to, you know, notify
16 Licensing as best we can, but we do denote it in the
17 database. But just because somebody has something
18 pending against them, that's where the problem occurs.

19 CHAIRMAN:

20 I understand.

21 MR. RIVERS:

22 Mr. Chairman?

23 CHAIRMAN:

24 Yes.

25 MR. RIVERS:

1 A question. Is it possible that we ask
2 the facilities to put on their personal applications,
3 the question, do you work or have you worked for
4 another facility, and if so, when, and then that would
5 alert us to that issue, the fact that we have an
6 employee moving from Casino A to Casino B?

7 ATTORNEY PITRE:

8 Oh, we know. We know where the employees
9 are going. That's not the issue. We're well aware.
10 I mean, Licensing is well aware.

11 MR. RIVERS:

12 But if an employee says, I work at Casino
13 A and I resigned two months ago, you talked about due
14 process, I mean, what is the alerting process at
15 Casino B that they're applying to to make sure that we
16 know what happened at Casino A?

17 MS. HENSEL:

18 We receive a notification from a second
19 casino that they're hiring someone that is currently
20 holding a Gaming or Non-Gaming permit. Because we
21 aren't necessarily seeing a new application when an
22 employee transfers because they may have certification
23 or registration that is in force, and they're just
24 taking that from Casino A or Casino B. So in order to
25 have visibility to the movement of those employees, we

1 have put in place a process where we receive
2 notification when a casino hires an employee that has
3 an existing occupation permit or registration.

4 MR. RIVERS:

5 So you're saying that if an employee is
6 applying to Casino B, they do not have to fill out
7 another application for Casino B for employment?

8 MS. HENSEL:

9 They have to fill out an employment
10 application, ---

11 MR. RIVERS:

12 That's what I'm talking about.

13 MS. HENSEL:

14 --- but they don't have to fill out a
15 Gaming or ---.

16 MR. RIVERS:

17 I'm not talking about our application.
18 I'm talking about the individual casino's application
19 to indicate that they did work at another facility.

20 CHAIRMAN:

21 Well, they would probably know that
22 because they're already licensed.

23 MR. RIVERS:

24 Licensed.

25 CHAIRMAN:

1 Right.

2 MS. HENSEL:

3 That's right.

4 CHAIRMAN:

5 Okay. All right. Thank you. Back to
6 the issue at hand on David Rietzen. Any other
7 questions or comments from the Board? If not, could I
8 have a motion, please?

9 MR. MCCABE:

10 Yes, Mr. Chair. I move that the Board
11 issue an Order to adopt the Report and Recommendation
12 of the Office of Hearings and Appeals relating to the
13 Non-Gaming Employee Registration of David Rietzen, as
14 described by the Office of Chief Counsel.

15 CHAIRMAN:

16 Second?

17 MR. RIVERS:

18 Second.

19 CHAIRMAN:

20 All in favor?

21 AYES RESPOND

22 CHAIRMAN:

23 Opposed? Motion passes. Next.

24 ATTORNEY COOK:

25 The last matter on the agenda under the

1 Office of Chief Counsel is the emergency suspension
2 related to the Non-Gaming Employee Registration of
3 Ruben Rodriguez-Maisonet. Mr. Rodriguez-Maisonet was
4 issued a Non-Gaming Employee Registration on July
5 22nd, 2009. He's employed as a cook at the Hollywood
6 Casino. The Bureau of Investigations and Enforcement
7 was notified by the Pennsylvania State Police, Gaming
8 Enforcement Office, that on September 25th, 2009 Mr.
9 Rodriguez-Maisonet was arrested and charged with one
10 count of criminal homicide and two counts of
11 aggravated assault, all of which are felonies. As a
12 result of these charges, the Office of Enforcement
13 Counsel filed a request for an Emergency Order of
14 Suspension of Mr. Rodriguez-Maisonet's Non-Gaming
15 Employee Registration on September 28th, 2009, an
16 Order was signed by the Executive Director on that
17 day. Board regulations now require that a Temporary
18 Emergency Order be presented to the Board for a full
19 evidentiary hearing, or in the alternative, that the
20 matter be assigned to the Office of Hearings and
21 Appeals to conduct such a hearing. Thereafter, if
22 it's assigned to the Office of Hearings and Appeals, a
23 Report and Recommendation would be issued. In this
24 case, the Office of Chief Counsel recommends that the
25 Board consider a motion to refer the matter to the

1 Office of Hearings and Appeals to promptly schedule a
2 hearing, and subsequent thereto, to issue a Report and
3 Recommendation. This matter would now be ripe for the
4 Board's consideration.

5 CHAIRMAN:

6 Any questions or comments from the Board?

7 MR. SOJKA:

8 So basically what we need to do then is
9 extend this emergency suspension, and you'll take care
10 of the rest of that?

11 ATTORNEY COOK:

12 We would be --- the motion would be to
13 extend the emergency suspension and refer the matter
14 to Hearings and Appeals for an evidentiary hearing.

15 MR. SOJKA:

16 Okay. All right.

17 CHAIRMAN:

18 May I have a motion?

19 MR. SOJKA:

20 I'd be happy to make that motion. Mr.
21 Chairman, I move that the Board issue an Order to
22 extend the emergency suspension of Ruben
23 Rodriguez-Maisonet's Non-Gaming Employee Registration
24 and that the matter be referred to the Office of
25 Hearings and Appeals for a hearing to determine the

1 validity of the Office of Enforcement Counsel's
2 request for a suspension.

3 CHAIRMAN:

4 Second.

5 MR. ANGELI:

6 Second.

7 CHAIRMAN:

8 All in favor?

9 AYES RESPOND

10 CHAIRMAN:

11 Opposed? Motion passes. Thank you,
12 Steve.

13 ATTORNEY SHERMAN:

14 And that concludes the Office of Chief
15 Counsel report.

16 CHAIRMAN:

17 Thank you, Doug. Next we have Susan
18 Hensel, our Director of Licensing, for her report.

19 MS. HENSEL:

20 Thank you, Chairman Fajt and members of
21 the Board. The first matter for your consideration is
22 the issuance of temporary Key Employee Licenses to 16
23 individuals. Prior to this meeting, the Bureau of
24 Licensing provided you with an Order regarding the
25 issuance of these temporary Key Employee Licenses. I

1 ask that the Board consider the Order approving these
2 licenses.

3 CHAIRMAN:

4 Any questions or comments from
5 Enforcement Counsel?

6 ATTORNEY PITRE:

7 No objection.

8 CHAIRMAN:

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

11 MR. ANGELI:

12 Mr. Chairman, I move that the Board issue
13 an Order to approve the issuance of temporary Key
14 Employee Licenses, as described by the Bureau of
15 Licensing.

16 MR. COY:

17 Second.

18 CHAIRMAN:

19 All in favor?

20 AYES RESPOND

21 CHAIRMAN:

22 Opposed? Motion passes.

23 MS. HENSEL:

24 We also have withdraw requests for Key
25 Employee Applications. In each case the application

1 is no longer required due to such circumstances as the
2 employee accepting a job with a different employer,
3 the job offer being rescinded or the employee failing
4 to report to work. For today's meeting I have
5 provided the Board with a list of 14 withdrawals for
6 approval and I ask that the Board consider the Order
7 approving those withdrawals.

8 CHAIRMAN:

9 Any questions or comments from
10 Enforcement Counsel?

11 ATTORNEY PITRE:

12 No objection.

13 CHAIRMAN:

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

16 MR. GINTY:

17 Mr. Chairman, I move that the Board issue
18 an Order to approve the withdrawal of Key Employee
19 Applications, as described by the Bureau of Licensing.

20 MR. MCCABE:

21 Second.

22 CHAIRMAN:

23 All in favor?

24 AYES RESPOND

25 CHAIRMAN:

1 Opposed? Motion passes.

2 MS. HENSEL:

3 Next are Gaming and Non-Gaming Permits
4 and Registrations. Prior to this meeting, the Bureau
5 of Licensing provided you with a list of 72
6 individuals, including 33 initial and 39 renewals who
7 the Bureau has granted Occupation Permits to and 49
8 individuals who the Bureau has granted Registrations
9 to under the authority delegated to the Bureau of
10 Licensing. I ask that the Board adopt a motion
11 approving the Order.

12 CHAIRMAN:

13 Any questions from Enforcement Counsel?

14 ATTORNEY PITRE:

15 No objection.

16 CHAIRMAN:

17 Any questions from the Board? If not,
18 could I have a motion, please?

19 MR. COY:

20 Mr. Chairman, I move the Board issue an
21 Order approving the issuance of Gaming Permits and
22 Non-Gaming Registrations, as described by the Bureau
23 of Licensing.

24 MR. GINTY:

25 Second.

1 CHAIRMAN:

2 All in favor?

3 AYES RESPOND

4 CHAIRMAN:

5 Opposed? Motion passes.

6 MS. HENSEL:

7 In addition, we have withdrawal requests
8 for Gaming and Non-Gaming Employee applications. In
9 each case the occupation permit or registration is no
10 longer required. For today's meeting I have provided
11 the Board with a list of 18 withdrawals for approval.
12 I ask that the Board consider the Order approving
13 those withdrawals.

14 CHAIRMAN:

15 Any questions from Enforcement Counsel?

16 ATTORNEY PITRE:

17 No objection.

18 CHAIRMAN:

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

21 MR. MCCABE:

22 Yes, Mr. Chair. I move that the Board
23 issue an Order to approve the withdrawal of Gaming and
24 Non-Gaming Employee applications, as described by the
25 Bureau of Licensing.

1 CHAIRMAN:

2 Second?

3 MR. RIVERS:

4 Second.

5 CHAIRMAN:

6 All in favor?

7 AYES RESPOND

8 CHAIRMAN:

9 Opposed? Motion passes. Next, Susan.

10 MS. HENSEL:

11 Finally, we have two Orders regarding
12 vendors. The first is to certify the following three
13 vendors: Binsky & Snyder, LLC; Development Management
14 Associates, LLC; and Joseph Waring. I ask that the
15 Board consider the Order approving these vendors for
16 certification.

17 CHAIRMAN:

18 Any questions from Enforcement Counsel?

19 ATTORNEY PITRE:

20 No objection.

21 CHAIRMAN:

22 Okay. Any questions from the Board? If
23 not, could I have a motion, please?

24 MR. RIVERS:

25 Yes. Mr. Chairman, I move that the Board

1 issue an Order to approve the applications for vendor
2 certification, as described by the Bureau of
3 Licensing.

4 CHAIRMAN:

5 Second?

6 MR. SOJKA:

7 Second.

8 CHAIRMAN:

9 All in favor?

10 AYES RESPOND

11 CHAIRMAN:

12 Opposed? Motion passes.

13 MS. HENSEL:

14 The Bureau of Licensing also provided you
15 with an Order and an attached list of 17 registered
16 vendors. I ask that the Board adopt a motion
17 approving the Order registering those vendors.

18 ATTORNEY PITRE:

19 No objection.

20 CHAIRMAN:

21 Thank you. Any questions from the Board?

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

23 MR. SOJKA:

24 Mr. Chairman, I move that the Board issue
25 an Order to approve the applications for vendor

1 registration, as described by the Bureau of Licensing.

2 MR. ANGELI:

3 Second.

4 CHAIRMAN:

5 All in favor?

6 AYES RESPOND

7 CHAIRMAN:

8 Opposed? Motion passes. Thank you,
9 Susan.

10 MS. HENSEL:

11 Thank you. That concludes the Bureau of
12 Licensing's presentation.

13 CHAIRMAN:

14 Great. Thank you. Cyrus Pitre, our
15 Chief Enforcement Counsel is next. Cyrus?

16 ATTORNEY PITRE:

17 We have two matters for the Board's
18 consideration today. The first involves the
19 revocation of Mr. Kevin Mitchell. If Mr. Kevin
20 Mitchell is present, I ask that he come forward.
21 Dustin Miller will be presenting that matter for the
22 Board.

23 CHAIRMAN:

24 Is Mr. Mitchell present? Please proceed.

25 ATTORNEY MILLER:

1 Good morning, Chairman Fajt, members of
2 the Board. There is one matter relating to revocation
3 from a vendor employee before the Board today. The
4 records pertinent to this matter have been provided to
5 the Board in advance of this meeting. Upon
6 notification of the complaint filed to revoke the
7 registration of the individual named in the complaint,
8 the individual chose not to respond to the matters set
9 forth in the complaint. In addition, the applicant
10 has been notified that the Board is considering his
11 revocation today and that he has the right to be
12 present to address the Board.

13 Mr. Mitchell is employed by Preventive
14 Cleaning, LLC and registered as a Non-Gaming Employee.
15 The Office of Enforcement Counsel filed an enforcement
16 complaint to revoke Mr. Mitchell's Non-Gaming Employee
17 Registration for failing to maintain his suitability
18 on August 4th, 2009. The enforcement complaint was
19 properly served upon by Mr. Mitchell by both certified
20 and first-class mail. Mr. Mitchell did not respond to
21 the filing in any way. Due to Mr. Mitchell's failure
22 to respond, the averments in the enforcement complaint
23 are deemed to be admitted as fact and his right to a
24 hearing has been waived.

25 On September 25th, 2009, the Office of

1 Enforcement Counsel filed a request to enter judgment
2 upon default. The matter is now before the Board to
3 consider the revocation of Mr. Mitchell's Non-Gaming
4 Employee Registration.

5 CHAIRMAN:

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

8 MR. GINTY:

9 Mr. Chairman, I move that the Board issue
10 an Order to approve the revocation of the Non-Gaming
11 Employee Registration of Kevin Mitchell, as described
12 by the Office of Enforcement Counsel.

13 CHAIRMAN:

14 Second?

15 MR. MCCABE:

16 Second.

17 CHAIRMAN:

18 All in favor?

19 AYES RESPOND

20 CHAIRMAN:

21 Opposed? Motion passes. Next?

22 ATTORNEY MILLER:

23 At this time the Office of Enforcement
24 Counsel has a Consent Agreement prepared for the
25 Board's approval. The Consent Agreement is between

1 the office of Enforcement Counsel and Chester Downs &
2 Marina, LLC, doing business as Harrah's Chester Casino
3 & Racetrack. This Consent Agreement arises from an
4 incident that occurred on August 24th, 2008. On that
5 date, certain members of Harrah's Chester's Security
6 Department failed to ensure the physical safety of a
7 patron, in violation of Harrah's Chester's approved
8 internal controls, the Act and the regulations
9 promulgated there under. The actions of these members
10 of the Security Department exposed the patron to
11 potential physical injury and personal embarrassment.
12 As a result of their actions, the security personnel
13 responsible for this violation were terminated from
14 their positions at Harrah's Chester. Also, while the
15 Bureau of Investigation and Enforcement were
16 investigating this incident, the investigation was
17 hampered by Harrah's Chester's analog-based
18 surveillance system. On September 22nd, 2009 the
19 parties entered into a Consent Agreement to settle
20 this matter. The terms of the agreement included a
21 provision that Harrah's Chester shall institute
22 policies and provide training to its employees to
23 prevent future incidents of this nature from
24 occurring. And also, Harrah's Chester shall pay a
25 total fine of \$45,000 for violating their internal

1 controls. By this agreement Harrah's Chester also
2 agreed to upgrade its surveillance system to digital
3 format. Harrah's Chester has already complied with
4 this portion of the Consent Agreement. Bill Downey,
5 Counsel for Chester Downs & Marina, LLC, is in
6 attendance today to answer any questions you may have
7 regarding this matter. Otherwise, it would be
8 appropriate for the Board to entertain a motion to
9 approve this Consent Agreement.

10 CHAIRMAN:

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

13 MR. ANGELI:

14 Mr. Chairman, I move the Board approve
15 the Consent Agreement between the Office of
16 Enforcement Counsel and Chester Downs & Marina, LLC.

17 CHAIRMAN:

18 Second?

19 MR. COY:

20 Second.

21 CHAIRMAN:

22 All in favor?

23 AYES RESPOND

24 CHAIRMAN:

25 Opposed? Motion passes. Thank you,

1 gentlemen.

2 MR. RIVERS:

3 Mr. Chairman, may I ask a question,
4 please?

5 CHAIRMAN:

6 Yes, absolutely.

7 MR. RIVERS:

8 Does anyone on our staff know that ---
9 are there any other facilities that are using analog
10 equipment versus digital or is this the last one?

11 ATTORNEY PITRE:

12 It's the last one.

13 MR. RIVERS:

14 Thank you.

15 CHAIRMAN:

16 Thank you. Good question. Thank you
17 very much, gentlemen.

18 MR. RIVERS:

19 Okay. That concludes our meeting.
20 Looking ahead, the Board will hold its next public
21 meeting on Wednesday, October 21st, 2009, at 10:00
22 a.m. The meeting will also be held here, in the State
23 Museum Auditorium. Any final comments or questions
24 from anybody on the Board? May I have a motion to
25 adjourn?

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MR. ANGELI:

So moved.

MR. RIVERS:

Second.

CHAIRMAN:

The meeting is adjourned. Thank you.

* * * * *

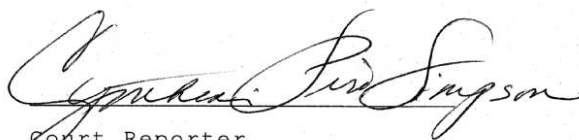
MEETING CONCLUDED AT 10:45 A.M.

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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chairman Fajt was reported by me on 10/07/2009 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.



Court Reporter