

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; Gary A. Sojka; Kenneth T. McCabe (via telephone); Kenneth Trujillo; David Barasch, Deputy Secretary of the Department of Revenue, Representative; Frank Jurbala, representing Russell Redding, Secretary of Agriculture; Keith Welks, Deputy State Treasurer for Fiscal Operations, Ex-Officio Designee

HEARING: Wednesday, February 17, 2010
1:05 p.m.

LOCATION: State Building
Capitol Building - East Wing, Room 8E-B
Harrisburg, PA 17120

WITNESSES: Kevin O'Toole, Claire Yantis, David Rhen, Richard Sandusky, R. Douglas Sherman, Steve Cook, Susan Hensel, Melissa Powers, Katie Higgins, Barry Creany,
Reporter: Cynthia Piro-Simpson

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CHAIRMAN:

I'm Greg Fajt, Chairman of the Pennsylvania Gaming Control Board. And just as a housekeeping matter, as we always do, if everybody could please turn off their cell phones, Blackberries and other PDAs. They tend to interfere with our communication system.

Joining us today, we have Dave Barasch, the Executive Deputy Secretary of the Department of Revenue, representing Acting Secretary C. Daniel Hassell, and Keith Welks, Deputy State Treasurer from Fiscal Operations, representing Treasurer Rob McCord. Thank you, guys. I don't know if Frank Jurbala is here.

UNIDENTIFIED SPEAKER:

He is here.

CHAIRMAN:

Okay. Frank, welcome, Director of Bureau of Markets, representing Russell Redding as the Secretary of Agriculture.

A quorum of the Board is present. I'd like to call today's proceedings to order. As first order of business, please stand for the Pledge of

1 Allegiance.

2 PLEDGE OF ALLEGIANCE RECITED

3 CHAIRMAN:

4 We'll now commence with our scheduled
5 public meeting. The first order of business is old
6 business and announcements. By way of announcements,
7 the Board held an Executive Session this morning in
8 accordance with the Sunshine Act. The purpose of the
9 Executive Session was to discuss personnel matters,
10 pending litigation and to conduct quasi-judicial
11 deliberations relating to matters pending before the
12 Board.

13 I'd also like to announce that the
14 Pennsylvania Gaming Control Board will hold two public
15 hearings in the coming weeks. The first will be on
16 Wednesday, February 24th for the purpose of gathering
17 evidence, including public comment, on the petition
18 submitted by Downs Racing, L.P., operator of the slot
19 machine casino at Mohegan Sun at Pocono Downs.
20 They've submitted a Petition Requesting Authorization
21 to Conduct Table Games. The hearing will be at 10:00
22 a.m. at the Fox Hill Firehouse, 52nd Street in Plains,
23 Pennsylvania. The deadline for registration and
24 receipt of written comments for this hearing is noon
25 on Monday, February 22nd.

1 The second hearing will be held on
2 Thursday, February 25th for the purpose of gathering
3 evidence, including public comment, on a petition
4 submitted by Mount Airy #1, LLC, operator of the Mount
5 Airy Casino Resort in Monroe County, which has also
6 requested authorization to conduct table games. The
7 hearing will begin at 10:00 a.m. at the Paradise
8 Township Municipal Building located at the
9 intersection of Routes 191 and 940 in Cresco,
10 Pennsylvania. The deadline for registration and the
11 receipt of written comments for that hearing is noon,
12 Tuesday, February 23rd.

13 All comments can be mailed to the
14 Pennsylvania Gaming Control Board, P.O. Box 69060,
15 Harrisburg, PA, 17106, attention Board Secretary, or
16 the comments can be faxed to 717-346-8350. Anyone
17 wishing to present oral or written testimony at one or
18 both of the hearings, which will become part of the
19 evidentiary record in the matter, can register on the
20 PGCB website at www.pgcb.state.pa.us.

21 Having made all the announcements, our
22 first item of business is the minutes and the
23 transcript. May I have a motion, please?

24 COMMISSIONER ANGELI:

25 Mr. Chairman, I move that the Board

1 approve the minutes and the transcript of the December
2 9th, 2009 meeting.

3 COMMISSIONER COY:

4 Second.

5 CHAIRMAN:

6 All in favor, aye.

7 AYES RESPOND

8 CHAIRMAN:

9 Opposed?

10 NO RESPONSE

11 CHAIRMAN:

12 Motion passes. Moving on to new
13 business, I'd like to have Kevin O'Toole, our
14 Executive Director, please come forward and submit his
15 report.

16 MR. O'TOOLE:

17 Good afternoon, Chairman Fajt, members of
18 the Board.

19 OFF RECORD DISCUSSION

20 MR. O'TOOLE:

21 I have a very pleasant job responsibility
22 this afternoon. I would like to ask for your support
23 in recognizing the work of Gerry Stoll. Gerry has
24 been employed by the Pennsylvania Gaming Control Board
25 since January of 2006. Right from the beginning,

1 Gerry has proven to be a knowledgeable and dependable
2 employee of the Board. For the past two and a half
3 years, Gerry has served the Board as Senior Supervisor
4 in the Bureau of Casino Compliance.

5 With the departure of Tom Sturgeon at the
6 end of 2009, Gerry has seamlessly assumed the
7 responsibilities of leading the Bureau of Casino
8 Compliance, providing the Executive Director and staff
9 the necessary continuity of support. Gerry's
10 dedication, determination and keen understanding of
11 the casino industry are evident in everything he does.

12 Gerry spent 28 or 29 years as a trooper
13 in the State of New Jersey. Many of those years he
14 was assigned to the Division of Gaming Enforcement.
15 Our outstanding relationship with the Pennsylvania
16 State Police at each of the operating casinos is due
17 certainly in large measure to the ability of Gerry and
18 his experience in criminal law enforcement on the
19 casino arena.

20 It is for those reasons that we are
21 recommending a motion be granted to formally appoint
22 Gerry Stoll to be this agency's Director of Casino
23 Compliance. Thank you.

24 CHAIRMAN:

25 Any questions or comments from the Board?

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

2 COMMISSIONER SOJKA:

3 You certainly can, Mr. Chairman. In
4 recognition of his past service to the Board and his
5 ongoing commitment to the role and function of the
6 Board as a Senior Supervisor with the Bureau of Casino
7 Compliance, I would like to make a motion that we
8 appoint Gerry Stoll as Director of the Bureau of
9 Casino Compliance.

10 CHAIRMAN:

11 Second?

12 COMMISSIONER TRUJILLO:

13 Second.

14 CHAIRMAN:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN:

18 Opposed?

19 NO RESPONSE

20 CHAIRMAN:

21 Motion passes. Thank you, Kevin. And
22 Gerry, thank you for your dedication to the
23 enterprise. And you do a great job for us.

24 MR. STOLL:

25 Thank you very much, sir.

1 CHAIRMAN:

2 Okay. Thank you, Kevin. Next up is
3 Claire Yantis, our Human Resources Director.

4 MS. YANTIS:

5 Good afternoon, Chairman and Board
6 members. We have before you today two motions for
7 consideration. First, we ask that you consider a
8 motion to hire Beau Livesay. Mr. Livesay is being
9 recommended for hire as an Application Support
10 Specialist in our Office of Information Technology.
11 Mr. Livesay has completed the PGCB interview process,
12 background investigation and drug screening, and is
13 being recommended for hire by Director of IT, Jim
14 Buck. As such, I ask that you consider a motion to
15 hire Mr. Livesay as indicated.

16 CHAIRMAN:

17 May I have a motion?

18 COMMISSIONER COY:

19 Mr. Chairman, I move the Board approve
20 the applicant as proposed on the condition that the
21 applicant completed the necessary background
22 investigations and drug testing.

23 COMMISSIONER ANGELI:

24 Second.

25 CHAIRMAN:

1 All in favor?

2 AYES RESPOND

3 CHAIRMAN:

4 Opposed?

5 NO RESPONSE

6 CHAIRMAN:

7 Motion passes.

8 MS. YANTIS:

9 Second, in order to assure full and
10 adequate staffing and training in the Bureau of Casino
11 Compliance to support the regulation of table games,
12 we are in the process of hiring additional staff at
13 each casino location. To date, the Office of Human
14 Resources, in conjunction with staff from the Bureau
15 of Casino Compliance, have conducted numerous
16 interviews and have begun to present recommendations
17 to fill these positions.

18 Understanding the length of time
19 necessary for selected candidates to be fully vetted
20 through the background investigation process, we are
21 asking the Board to consider a motion delegating
22 authority to the Personnel Committee to effectuate the
23 hiring of these individuals as they complete the
24 background process. This delegation of authority is
25 with the understanding that approval of hire would be

1 contingent upon the candidate's successful completion
2 of the background investigation and with the
3 understanding that the Board will ratify those hires
4 at future public Board meetings. We believe this
5 delegation of authority will allow us to make the most
6 efficient use of time in order to ensure that the
7 Bureau of Casino Compliance is in the best possible
8 position to support the regulation of table games.

9 CHAIRMAN:

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

12 COMMISSIONER TRUJILLO:

13 Mr. Chairman, to assure the full and
14 adequate staffing and training of Board personnel in
15 casinos prior to the advent of table games, I move
16 that the Board delegate authority to the Board's
17 Personnel Committee to effectuate the hiring of Casino
18 Compliance representatives upon completion of their
19 investigation and subject to ratification by the full
20 Board at the first meeting following their hiring.

21 OFF RECORD DISCUSSION

22 COMMISSIONER GINTY:

23 Second.

24 CHAIRMAN:

25 All in favor?

1 AYES RESPOND

2 CHAIRMAN:

3 Opposed?

4 NO RESPONSE

5 CHAIRMAN:

6 Motion passes. Thank you, Claire. We'll
7 now have our Budget Director, Dave Rhen, do his
8 presentation.

9 MR. RHEN:

10 Good afternoon. I'm here to report on
11 budget results through the end of January. Through
12 this period, Board expenditures totaled \$15.9 million.
13 This was divided between personnel with \$13.1 million
14 in expenses and operating with \$2.8 million.

15 January expenditures totaled \$2.3
16 million, including personnel expenses of \$1.9 million
17 and operating expenditures of \$403,000. The largest
18 operating expenditure by category for the month was
19 \$196,000 for rentals and leases of real estate,
20 vehicles and office equipment and \$112,000 for
21 services.

22 The largest operating expenditures to
23 date include \$1,249,000 for rentals and leases,
24 \$465,000 for services, \$375,000 for other operating
25 expenses and \$313,000 for telecommunications. That

1 concludes my remarks.

2 CHAIRMAN:

3 Okay. Any questions or comments from the
4 Board? Thank you very much, Dave.

5 MR. RHEN:

6 Thank you.

7 CHAIRMAN:

8 Moving right along, next up is our Chief
9 Counsel, Doug Sherman.

10 ATTORNEY SHERMAN:

11 Good afternoon, Chairman and members of
12 the Board. The first matter to be presented to the
13 Board relates to an authorization to approve ---.

14 CHAIRMAN:

15 Doug, is your mic --- the green light
16 should come on. There you go.

17 ATTORNEY SHERMAN:

18 The first matter to be presented to the
19 Board relates to authorization to approve a temporary
20 reduction in the number of slot machines. The Gaming
21 Act, as recently amended, to authorize tables games to
22 be operated at the Commonwealth's licensed facilities,
23 contemplates that renovations, remodeling and changes
24 to the floor plans will be required by the licensed
25 facilities in order to make room for the anticipated

1 table games on the existing gaming floors.

2 Section 1207 of the Act explicitly
3 provides at Subsection 20 that the Board shall have
4 the power and its duty shall be to approve or
5 authorize an employee of the Board to approve a
6 temporary reduction in the number of slot machines in
7 operation at the licensed facility for the duration of
8 any renovation, remodeling or modification in an area
9 of the licensed facility where slot machines are
10 located, and in addition, to enable the licensed
11 facility to respond to any emergencies which may
12 arise.

13 To this extent, the Board has already
14 received one such request to temporarily reduce the
15 number of machines, and that's by Mohegan Sun at
16 Pocono Downs. In the case of the Mohegan request, the
17 Licensee has proposed temporarily removing 325
18 machines from the floor during the first stage while
19 it renovates and remodels one area of the main floor
20 and its high limit area. They are also seeking to
21 remove some machines in the trackside portion of the
22 casino.

23 Most important about these requests and
24 any that will follow is that the Licensee will be
25 required to reinstall those machines upon the

1 completion of the remodeling or other modifications
2 such that the number of slot machines at the licensed
3 facility when table games commence will be the same as
4 that as of October 1st, 2009. In other words, if the
5 slot machines are moved at this point in time to make
6 space for table games, they must be reinstalled within
7 the facility at a subsequent date so that there's not
8 a net loss of machines.

9 A component of the review by Board staff
10 would be to assure that the removal is indeed
11 temporary, that appropriate security of the machines
12 is provided for while not in use and that a plan is in
13 place to reinstall the machines to assure the
14 availability and continued revenues.

15 To this end, I suggest that a motion
16 would be appropriate for the Board to authorize the
17 Executive Director to receive and approve the request
18 for the temporary reductions in the number of slot
19 machines at a licensed facility, either for the
20 duration of any renovation, remodeling or modification
21 or in order to respond to an emergency.

22 CHAIRMAN:

23 Thank you. Any questions or comments
24 from the Board? If not, could I have a motion?

25 COMMISSIONER SOJKA:

1 I've got one quick question. I just want
2 to make sure --- it's a detail I wasn't fully aware
3 of, and that is, did you just say that this will be
4 temporary as defined by they can't start table games
5 until all those slot machines are back; is that right,
6 because you said it was on the day of?

7 ATTORNEY SHERMAN:

8 There may be some overlap. If I led you
9 to that impression, it's --- we need to make sure that
10 they will be reinstalled in a finite time period.

11 COMMISSIONER SOJKA:

12 Finite, but not necessary absolutely on
13 the day on which table games would start?

14 ATTORNEY SHERMAN:

15 Correct, because there may be some
16 renovations or remodeling continuing after the date
17 of ---.

18 COMMISSIONER SOJKA:

19 That's what I thought, but that's not
20 what I thought I heard. Thank you.

21 ATTORNEY SHERMAN:

22 And I apologize if I misspoke.

23 CHAIRMAN:

24 Any other questions? Could I have a
25 motion, please?

1 COMMISSIONER TRUJILLO:

2 Mr. Chairman, with that clarification,
3 then I move that the Board approve the delegation of
4 authority to the Executive Director to approve
5 temporary modifications to a facility's gaming floor
6 for the purpose of accommodating table games, related
7 construction activities as described by the Office of
8 Chief Counsel (OCC).

9 COMMISSIONER SOJKA:

10 Second.

11 CHAIRMAN:

12 All in favor?

13 AYES RESPOND

14 CHAIRMAN:

15 Opposed?

16 NO RESPONSE

17 CHAIRMAN:

18 Motion passes. Thank you, Doug.

19 ATTORNEY SHERMAN:

20 Our next matter relates to temporary
21 regulations, which Director of Regulatory Review
22 Richard Sandusky will address.

23 CHAIRMAN:

24 Welcome, Richard.

25 MR. SANDUSKY:

1 Good afternoon. What we have before the
2 Board today is Temporary Regulation Number 125-112.
3 And rather than read all 214 pages for the Board
4 today, I'll just simply hit a couple of highlights of
5 what's in this package.

6 CHAIRMAN:

7 Richard, in this age of transparency, I
8 think you ought to read all 212 pages.

9 MR. SANDUSKY:

10 What this regulation does is add a couple
11 of new provisions to Chapter 521, which was in one of
12 the earlier chapters adopted at the last meeting.
13 These two provisions in 521.4 will add a process
14 whereby slot machine Licensees who become certificate
15 holders will have a mechanism that they can file a
16 request with the Board with the Executive Director for
17 the introduction of a new game or new feature to an
18 existing game that is covered in our regulations.

19 We realize that gaming is becoming a very
20 competitive environment here on the east coast, and as
21 they want to respond to the desires and popularity of
22 certain games, there needs to be a process whereby
23 they can bring these games on board prior to the Board
24 actually developing regulations. So, under this
25 mechanism, they'll be able to make that written filing

1 with the Executive Director, provide information
2 related to the rules and where else those games are
3 being used or those features are being used, and the
4 Executive Director would have the authority to
5 authorize the use of that.

6 Additionally and similar to that, for the
7 games that we have developed regulations and as we
8 roll out regulations for internal controls, which are
9 the operating procedures that the casinos must follow,
10 we are also adding a provision, Section 521.5, which
11 would allow them to request waivers of particular
12 requirements. These provisions are virtually
13 identical to existing waiver provisions that we have
14 in Chapters 465(a) and 461(a), which allow the Board
15 to review petitions from a slot machine Licensee where
16 they may decide, through the implementation of new
17 technology, there may be a better way of doing what
18 we've required them to do in the regulations.

19 Also, important for the Licensees in this
20 rulemaking is Chapter 527, which has the training
21 requirements related to dealers. In essence, dealers
22 will have to receive training either at a gaming
23 school or at one of the licensed facilities or will
24 have to show that they have at least six months'
25 experience within the last five years in another

1 gaming jurisdiction. Also as part of this chapter, we
2 have specified the minimum hours of training that need
3 to be provided for each specific game and we have also
4 included a list of items that each slot machine
5 Licensee will have to include in their in-house
6 training programs related to procedures such as
7 opening tables, how wagers are handled, transportation
8 of chips and cards to tables and back to the cage and
9 whatnot.

10 The rest of the rulemaking consists of
11 Chapter 553 related to poker. And I'm using poker in
12 the terms of the non-banked games, which are the games
13 where individuals will play against each other and the
14 house will simply take a rake to cover its costs.
15 Included in our regulations for poker, we have five of
16 the most popular games: seven card stud poker, hold
17 'em poker, Omaha poker, five card draw and five card
18 stud. Also included in this rulemaking in the six
19 additional chapters are the regulations which cover
20 the banked poker games. These are the ones where the
21 players will be playing against the house. And
22 included in this batch are Caribbean stud poker, four
23 card poker, let it ride poker, Pai Gow poker, Texas
24 hold 'em bonus poker and three card poker.

25 Through the publication and adoption of

1 these, we believe the slot machine Licensees will be
2 able to solidify their training programs and begin the
3 actual training of individuals on the games that they
4 will be offering to the public. If there are any
5 questions, I'll be happy to respond to them.
6 Otherwise, we'd ask for a motion to adopt this
7 temporary regulation.

8 CHAIRMAN:
9 Any questions or comments from the Board?

10 COMMISSIONER TRUJILLO:
11 Mr. Chairman, just a point of
12 clarification.

13 CHAIRMAN:
14 Make sure your light's on.

15 COMMISSIONER TRUJILLO:
16 Oh. Point of clarification I guess not
17 so much on the regulation itself, but the philosophy
18 that you've been using in terms of the games
19 themselves. I think there was some discussion as to
20 for the patron, what is it that the patron can expect
21 with these games as it relates to other jurisdictions?

22 MR. SANDUSKY:
23 What we've tried to do --- and we've
24 looked particularly at neighboring jurisdictions, such
25 as New Jersey, West Virginia and New York. We've

1 looked at the rules that they use governing the play
2 of their games. And what we have done is made the
3 rules for Pennsylvania identical in some cases and
4 with one of two maybe small changes that we've made to
5 address things to make the games a little less
6 complicated.

7 So, from a player's perspective, when you
8 walk into a casino in Pennsylvania, you're not going
9 to be confronted with a totally different version of a
10 game that you're used to playing in New Jersey or
11 perhaps in West Virginia. The rules will be very,
12 very similar. Additionally, in future rulemakings, we
13 will be doing chapters that will require that all of
14 the casinos make the rules for their games available
15 in brochures for the players, but also posted
16 electronically so that before you go to the casino,
17 you're going to be able to look at the rules for Texas
18 hold 'em poker at the Parx Casino and know exactly
19 what it is before you walk in the door.

20 COMMISSIONER TRUJILLO:

21 Thank you.

22 CHAIRMAN:

23 Mr. Sojka?

24 COMMISSIONER SOJKA:

25 Just a quick couple of questions. At the

1 last meeting, we approved a very large volume of
2 proposed rules and approaches. This is also a very
3 large section. Do you anticipate that this continues
4 for a while, or are we near the end of this?

5 MR. SANDUSKY:

6 I only wish we were near the end of this.
7 You will be seeing more temporary regulations at
8 practically every meeting for the next few months.
9 Most importantly, the next things you will be seeing
10 are regulations related to equipment requirements,
11 related to cards, chips and whatnot. And very, very
12 importantly, what we're deep into right now are the
13 regulations for the internal controls.

14 COMMISSIONER SOJKA:

15 Good.

16 MR. SANDUSKY:

17 And those are essential.

18 COMMISSIONER SOJKA:

19 What I'm really getting at is, in your
20 opinion, do you think there's any likelihood that
21 failure to get all the regulations promulgated and
22 passed is going be a bottleneck in getting table games
23 up and running, or will you stay ahead of other
24 things?

25 MR. SANDUSKY:

1 That's our hope and intention, to try and
2 stay ahead of things. We've sequenced what we're
3 bringing to the Board in a manner that we think best
4 matches the casinos' needs in terms of what do I need
5 to know this month, what do I need to know next month,
6 what do I need to know, you know, further down. We've
7 tried to coordinate how we've rolled out the
8 regulations to match their needs so that, you know,
9 they will be in a good position to implement table
10 games as quickly as they desire.

11 COMMISSIONER SOJKA:

12 Thank you.

13 CHAIRMAN:

14 Commissioner Coy?

15 COMMISSIONER COY:

16 Mr. Chairman, I just want to make a point
17 that it's good that the legislature, in the passage of
18 the Act, saw the wisdom in granting the Board the
19 authority to promulgate temporary regulations.
20 Otherwise, we'd be waiting for permanent regs to do
21 all of this, and certainly the industry would be
22 stymied by that procrastination. So, I think the
23 temporary rulemaking authority delegated by the
24 legislature to the Board is now proven to be a good
25 thing.

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CHAIRMAN:

Commissioner Ginty?

COMMISSIONER GINTY:

And I'd like to make another point. The staff has, in fact, been talking with the industry as you've been going through this process.

MR. SANDUSKY:

And we expect that dialogue to be ongoing. I would note today we have just received comments on the temporary regulation packages that we did at the last public meeting. Our intent is to be taking a look at those, and you may see some tweaks to the earlier rulemakings based on those comments.

CHAIRMAN:

Richard, can you --- I have a couple questions, but before I get to those, can you give us an overview on what the interaction has been with Labor and Industry and the Department of Education on the regulation of table game dealer instruction?

MR. SANDUSKY:

Right. As most people are probably aware, but I'll state for the record, Act 1 does have some requirements in it that give a role to the Department of Education and L&I in terms of developing minimum training requirements. We have been working

1 closely with them over the last several weeks to help
2 develop a coordinated set of minimum requirements.
3 What are contained in our regulations today are things
4 that we have discussed and shared with L&I and the
5 Department of Education and which they are in
6 agreement with. Additionally, we do expect quite soon
7 after these regulations are adopted, you will see L&I
8 come out with their minimum guidelines that they're
9 required to do under the Act.

10 CHAIRMAN:

11 Two quick questions. You had mentioned
12 that instructions are going to be required on the
13 website and also in booklet forms as to the operation
14 of table games in the Pennsylvania casinos. Is that
15 requirement necessary before any casino opens for
16 table games, or is that left unstated as of now?

17 MR. SANDUSKY:

18 We haven't written that regulation yet.
19 It will probably be in either the general provisions
20 or the internal control chapters. It's our intention
21 to require that those rules and publications be
22 available prior to. This way people will be able to
23 look at that. We're not going to give them a fixed
24 time period, at least 30 days prior or 90 days prior,
25 because that would be unfair for us to constrain, you

1 know, their opening date based on that. But that is
2 something that we believe the public should have
3 available to it prior to table games starting at any
4 facility.

5 CHAIRMAN:

6 Okay. And my last question, say for the
7 sake of argument that table games get up and running
8 in Pennsylvania in the July, August time frame. At
9 that time, how many traditional table games and poker
10 games will we have provided temporary regulations for?

11 MR. SANDUSKY:

12 I haven't counted, but we've probably got
13 about 16 games. We were careful in looking at the
14 jurisdictions surrounding us to make sure that our
15 casinos would be on a good competitive footing with
16 what's offered in neighboring states. However, we are
17 looking at --- as the slot machine Licensees file
18 their petitions to become a certificate holder, we're
19 looking at the games they want to offer. For example,
20 one of the initial petitions we got had a request for
21 Spanish 21, which is a form of blackjack. We were not
22 initially going to include that in the first rollout,
23 but in light of the request from the casino, we are
24 working on those regs and you'll probably see those at
25 the next meeting.

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CHAIRMAN:

Thank you.

COMMISSIONER TRUJILLO:

I had nothing to do with that, by the way.

CHAIRMAN:

All right. Any other questions? If not, can I have a motion, please?

COMMISSIONER GINTY:

Mr. Chairman, I move that the Board adopt Temporary Regulation Number 125-112, that the Board establish a public comment period of 30 days and that the temporary regulation be posted on the Board's website.

COMMISSIONER SOJKA:

Second.

CHAIRMAN:

All in favor?

AYES RESPOND

CHAIRMAN:

Opposed?

NO RESPONSE

CHAIRMAN:

Motion passes.

MR. SANDUSKY:

1 Thank you.

2 CHAIRMAN:

3 Thank you, Richard.

4 ATTORNEY SHERMAN:

5 Okay. Next, the Board has two petitions
6 before it for consideration. They're both scheduled
7 to be considered upon the documentary record. In each
8 case, the Board has been provided with the petition,
9 the responsive pleading of Enforcement Counsel, any
10 additional pleadings or briefs as well as the
11 supporting evidentiary materials. All parties have
12 been notified that the Board is considering their
13 matter today, and both parties, I see in the back, do
14 have representatives present to answer any questions
15 which the Board may have.

16 The first petition is that of Greenwood
17 Gaming, and it's a Petition for Waiver of the
18 Cashiers' Main Cage, Circulation and Count Room Area
19 Access Requirements. Greenwood is requesting a waiver
20 of the current regulatory requirement which requires
21 that all cashier cage double door entry and exit
22 systems must have the second door controlled by the
23 cashiers' cage personnel. Greenwood is requesting
24 that the second door be controlled by Greenwood's
25 surveillance department. And they submit that this is

1 a safer and more secure method of controlling the
2 second door. Additionally, the Board currently has a
3 regulation in the proposed stage which would permit
4 exactly what Greenwood is proposing now.

5 The Office of Enforcement Counsel (OEC)
6 has not objected to the relief requested provided that
7 Greenwood submits and receives approval of any
8 required amendments to its internal controls and any
9 physical changes requested be approved by the Bureau
10 of Operations and the Board.

11 Based upon the documentary presented, it
12 would be appropriate for the Board to consider a
13 motion to grant the waiver.

14 CHAIRMAN:

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

17 COMMISSIONER TRUJILLO:

18 Mr. Chairman, I move that the Board grant
19 Greenwood Gaming's Petition as described by the OCC.

20 COMMISSIONER ANGELI:

21 Second.

22 CHAIRMAN:

23 All in favor?

24 AYES RESPOND

25 CHAIRMAN:

1 Opposed?

2 NO RESPONSE

3 CHAIRMAN:

4 Motion passes.

5 ATTORNEY SHERMAN:

6 The second petition before the Board is
7 that of Washington Trotting Association's Petition for
8 Approval of a Revised Gaming Floor Plan. After seven
9 months of operation in their permanent facility, WTA
10 has averred that market conditions dictate a reduction
11 in the number of machines on their gaming floor.
12 They've indicated that they believe the gaming floor
13 will operate more efficiently with the reduced number
14 of slot machines and that the removal of several
15 leased machines will also significantly reduce
16 operating expenses. In total, it is requested that
17 WTA be allowed a 2.98 percent reduction in machines,
18 which is 111 machines in their case. Additionally,
19 the gaming floor would be reduced by 523 square feet
20 or .39 percent.

21 The second portion of the WTA request is
22 that the Board seal the submitted gaming floor plans
23 because they contain confidential security
24 information.

25 OEC has no objection to the relief

1 requested by WTA, but does recommend that certain
2 conditions be put in place requiring the submission
3 and approval of internal control amendments and a
4 revised slot machine master list, written confirmation
5 from the Department of Revenue that all machines are
6 connected to the central control computer system, and
7 confirmation of adequate video surveillance as well as
8 approval of any amendments to the Compulsive and
9 Problem Gambling Plan and confirmation that all fire,
10 panic and building code requirements have been met.

11 With that explanation, Counsel is present
12 if there are any questions. Otherwise, the matter is
13 ready for the Board's consideration.

14 CHAIRMAN:

15 Any questions or comments from the Board?

16 COMMISSIONER SOJKA:

17 One quick one and it's just from memory,
18 but it strikes me that this particular casino is one
19 of the ones that's had fairly high levels of play per
20 machine. To drop the number of machines, what will
21 this do to that, and will it in any way inconvenience
22 customers that are interested?

23 ATTORNEY JONES:

24 First, good afternoon, Mr. Chairman and
25 Board members. Marie Jones from Fox Rothschild here

1 on behalf of Washington Trotting Association.

2 In answer to your question, currently, at
3 the peak time, there is only approximately 60 percent
4 of the machines being utilized. Since opening the
5 permanent facility, their maximum amount that has been
6 utilized has been 85 percent. In fact, the win per
7 day per unit since July of '09 has decreased by about
8 \$100. WTA is looking to do this to make their
9 facility more in line with the other properties. They
10 do have the highest number of machines in the
11 Commonwealth at this point. They are looking at other
12 ways, too, to revise their floor. Again, this is
13 unrelated to table games. I may be back before you
14 with respect to some revisions to the high limit areas
15 and some additional reductions. But again, this is to
16 save them money and to better utilize the space on
17 their floors.

18 CHAIRMAN:

19 Other questions? Could I have a motion,
20 please?

21 COMMISSIONER ANGELI:

22 Mr. Chairman, I move that the Board grant
23 the petition of the Washington Trotting Association as
24 described by the OCC.

25 COMMISSIONER COY:

1 Second.

2 CHAIRMAN:

3 All in favor?

4 AYES RESPOND

5 CHAIRMAN:

6 Opposed?

7 NO RESPONSE

8 CHAIRMAN:

9 Motion passes.

10 ATTORNEY JONES:

11 Thank you.

12 CHAIRMAN:

13 Thank you.

14 ATTORNEY SHERMAN:

15 Deputy Chief Counsel Steve Cook will be
16 presenting the remainder of the OCC's portion.

17 ATTORNEY COOK:

18 Good afternoon, Mr. Chairman, members of
19 the Board. First would be Withdrawals. The Board has
20 received one unopposed Petition to Withdraw Vendor
21 Application for the Kehm Oil Company. As indicated,
22 this petition was filed and is unopposed to by the
23 OEC, and as a result, if the Board is inclined to
24 grant the Withdrawal, it would be without prejudice.
25 This matter is now ripe for the Board's consideration.

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CHAIRMAN:

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

COMMISSIONER COY:

Mr. Chairman, I move the Board issue
Orders approving the Withdrawal or Surrender of the
license as described by the OCC.

CHAIRMAN:

Second?

COMMISSIONER GINTY:

Second.

CHAIRMAN:

All in favor?

AYES RESPOND

CHAIRMAN:

Opposed?

NO RESPONSE

CHAIRMAN:

Motion passes.

ATTORNEY COOK:

Next before the Board for consideration
are four Reports and Recommendations received by the
Office of Hearings and Appeals (OHA) relative to
Non-Gaming Employee Registrations. These reports and
recommendations, along with the evidentiary record for

1 each hearing, have been provided to the Board in
2 advance of this meeting. Additionally, in each case,
3 the person involved has been notified that the Board
4 is considering their Report and Recommendation today
5 and that they have the right to be present to briefly
6 address the Board. If any of these individuals are
7 present today, I would ask that they come forward when
8 their name is announced.

9 The first Report and Recommendation
10 before the Board today pertains to Peter Clark. Mr.
11 Clark submitted an application to work as an EVS
12 attendant, basically a janitorial position, at
13 Harrah's Chester Casino. On November 23rd, 2009, the
14 OEC issued a Notice of Recommendation of Denial upon
15 Mr. Clark for failure to disclose his entire criminal
16 history as well as the nature of that history.

17 Mr. Clark requested a hearing, and both
18 he and the OEC appeared and presented testimony and
19 evidence before a Hearing Officer of the Board on
20 December 29th, 2009. Part of the presentation in the
21 matter by Mr. Clark provided mitigating evidence
22 explaining Mr. Clark's past criminal conduct, while
23 additional evidence was also provided by Mr. Clark
24 going to the unlikelihood that he would be involved in
25 criminal conduct going forward.

1 The OEC presented evidence as to the
 2 nature and recency of Mr. Clark's criminal
 3 convictions, including the fact that his last arrest
 4 occurred as recently as July 2008. Upon hearing all
 5 of the evidence presented in this matter, the Hearing
 6 Officer issued a Report and Recommendation
 7 recommending that Mr. Clark be approved for a Non-
 8 Gaming Registration.

9 This matter is now ripe for the Board's
 10 consideration, having had an opportunity to review the
 11 Report and Recommendation and the underlying evidence.

12 CHAIRMAN:

13 Is Mr. Clark present? Okay. Questions
 14 and comments from the Board, please?

15 COMMISSIONER GINTY:

16 Mr. Chairman, I'm going to move that the
 17 Board adopt the Report and Recommendation of the OHA
 18 regarding the Non-Gaming Employee Registration of
 19 Peter Clark as described by the OCC, and I would like
 20 to set forth my reasons for doing that. I'm not sure
 21 what the procedure is here. Probably needs a second.

22 COMMISSIONER SOJKA:

23 I would be willing to second that, Mr.
 24 Ginty, with the understanding that this will lead then
 25 to further open discussion on this issue.

1 COMMISSIONER GINTY:

2 Let me make a couple of points here.
3 First of all, the Hearing Examiner, you know, did
4 recommend that Mr. Clark's application be granted.
5 Unlike a number of applicants that we deal with here,
6 Mr. Clark not only appeared before the Hearing
7 Examiner, but he also brought with him a character
8 witness, his case manager, who testified in support of
9 his application.

10 I make my remarks in the context of a
11 serious problem that in my hometown of Philadelphia
12 has been identified by our Mayor as an issue that we
13 have to overcome, and that's one of recidivism. We
14 have a number of people that have had problems with
15 the law for one reason or another, and if they have
16 trouble getting work when they come out and have
17 served their time, paid their debt to society, and
18 they can't find work, the percentage of them that go
19 right back to criminal behavior is very high. And I
20 think particularly as we get closer to bringing two
21 Philadelphia casinos online, it's an issue that we
22 have to understand and deal with. Under the Act, we
23 do have an obligation to provide and encourage
24 employment in this state. My position would be
25 employment for everybody.

1 Mr. Clark had some chemical dependency
2 issues as well as a --- some traumatic injury that
3 occurred back in 2002, not treated until January of
4 '09, which may explain some of his criminal conduct.
5 I am relying very heavily on the Hearing Examiner's
6 Opinion, and I would like to read portions of that.
7 And Steve, it's not strictly in accordance with what
8 Bureau of Investigations and Enforcement's (BIE) case
9 may have been. And so if the Hearing Examiner was
10 wrong on his view of what BIE was arguing, we should
11 correct the record.

12 This is a quote from the Hearing
13 Examiner's report. Based upon Applicant's testimony
14 and my close observations of Applicant's demeanor
15 during the course of the hearing, I find that
16 Applicant has been truthful and forthright with the
17 Board. OEC concurs that this case does not present an
18 issue of nondisclosure. The Hearing Examiner goes on
19 to state, as to the merits of OEC's claim, we must
20 review OEC's denial recommendation, which is based
21 solely on Applicant's three criminal convictions.
22 Specifically, Applicant has three convictions
23 occurring approximately over nine and four years
24 respectively.

25 I won't continue with this, but he does

1 point out that during that time, Applicant was
2 suffering from the effects of a traumatic brain
3 injury. He finds that there was clear and convincing
4 testimony of Applicant concerning his commitment to a
5 successful rehabilitation, present qualifications and
6 suitability, and that these convictions do not
7 represent the current character traits of Applicant.
8 He concludes, Applicant presented compelling evidence
9 of rehabilitation.

10 There is a letter in here from the
11 psychologist who is treating Mr. Clark that asks,
12 please consider Mr. Clark as stable, motivated and
13 committed to his rehabilitation and healthy lifestyle,
14 which includes gainful employment. He has a
15 commitment to a clean and sober lifestyle and has
16 participated fully with all aspects of his treatment
17 program. I would also point out that he has been
18 licensed by the Pennsylvania State Racing Commission.
19 And this is a janitorial job. As the Hearing Examiner
20 finds, Mr. Clark will not be coming in contact, you
21 know, closely with the people who frequent the casino.

22 And again, I go back to, you know, at
23 some point, we are going to have to address, you know,
24 the issue of recidivism. I think the record here and
25 the findings of the Hearing Examiner, you know,

1 support the basis that Mr. Clark is rehabilitated and
2 that he's entitled to an opportunity to work as
3 anybody else.

4 CHAIRMAN:

5 Thank you, Commissioner. Commissioner
6 Sojka?

7 COMMISSIONER SOJKA:

8 Yes. I would first of all like to assure
9 Mr. Ginty that the concern of recidivism does not fall
10 on deaf ears. This is a problem that I'm aware we
11 have. I'm also fully aware that one of the reasons
12 that gaming has come into this state was to provide
13 work opportunities. I'm also very sympathetic with
14 Mr. Clark's efforts at rehabilitation. You know, I
15 think that's probably --- and I will emphasize that,
16 probably a step in the right direction.

17 I'm not in a position to comment about
18 whether or not his alleged, you know, brain injury
19 resulted in his previous criminal behavior. But I
20 come back to the straightforward point that this is a
21 highly regulated and highly scrutinized industry, and
22 we as a Board are charged specifically with protecting
23 the interests of the citizens of the Commonwealth of
24 Pennsylvania. And I would disagree, Mr. Ginty, with
25 the comment that because Mr. Clark is seeking a

1 janitorial position, that he is in some way not in
2 contact with that public that we are charged to
3 protect. We have cases in our own records of persons
4 in janitorial jobs who've been accused of theft and
5 deception of one kind or another. They are in
6 physical contact or could be in physical contact as
7 they work around the gaming floor with patrons going
8 on and off the floor. They empty ashtrays, things of
9 that sort.

10 So, in this case, because of the nature
11 of this industry, if we're going to err, I would err
12 on the side of protecting the public, wishing Mr.
13 Clark no disadvantage, encouraging him to continue to,
14 you know, find a new lifestyle, but perhaps get
15 employment in an industry less carefully regulated at
16 least for a long enough period of time that we could
17 be a bit more certain about the nature of his
18 rehabilitation.

19 CHAIRMAN:

20 Any other questions or comments?
21 Commissioner Trujillo?

22 COMMISSIONER TRUJILLO:

23 Two issues. One is I also certainly
24 believe that we need to give due deference to the
25 findings --- the factual findings of the Hearing

1 Examiner, and I have no doubt about the sincerity of
2 Mr. Clark, and so I don't doubt --- or I don't really
3 quibble with the factual findings.

4 I, like Commissioner Sojka, am troubled
5 by the notion that somebody who has this number of
6 convictions --- we have an individual who has much
7 more of a history of theft and of being convicted than
8 of good work history. And so for me, it's relatively
9 easy --- even though I, too, would like to see him
10 employed, and I applaud all of his efforts. Because
11 the economic development components of the Act are
12 secondary to our primary goal, which is to protect the
13 public in the implementation of gaming, I think that
14 it's incumbent on us to deny him the ability to work
15 in a casino.

16 CHAIRMAN:

17 Any other comments from Commissioners?
18 Given that there's an apparent disagreement on the
19 Board, I'll ask our Board Secretary, Mickey Kane, to
20 do a roll call. And just to be clear, the motion on
21 the floor and the motion that was seconded was to move
22 that the Board issue an Order to adopt the Report and
23 Recommendation, i.e., allow the licensure of Mr. Clark
24 as recommended by the OHA. So, a yes vote will be to
25 allow Mr. Clark to be hired. A no vote will deny that

1 ability. Did I state that correctly, Counsel?

2 ATTORNEY COOK:

3 That's correct.

4 CHAIRMAN:

5 Please proceed with the roll call vote.

6 MS. KANE:

7 Commissioner Angeli?

8 COMMISSIONER ANGELI:

9 No.

10 MS. KANE:

11 Commissioner Coy?

12 COMMISSIONER COY:

13 No.

14 MS. KANE:

15 Commissioner Ginty?

16 COMMISSIONER GINTY:

17 Yes.

18 MS. KANE:

19 Commissioner McCabe?

20 ATTORNEY COOK:

21 Ken?

22 COMMISSIONER MCCABE:

23 I couldn't hear her call me.

24 ATTORNEY COOK:

25 You're being called right now for your

1 vote. A yes vote would approve his licensure and a no
2 vote would be against his licensure.

3 COMMISSIONER MCCABE:

4 I listened to the arguments, and I have
5 to say nay.

6 MS. KANE:

7 Commissioner Sojka?

8 COMMISSIONER SOJKA:

9 No.

10 MS. KANE:

11 Commissioner Trujillo?

12 COMMISSION TRUJILLO:

13 No.

14 MS. KANE:

15 Chairman Fajt?

16 CHAIRMAN:

17 No. The qualified majority has voted to
18 reject the Report and Recommendation, and the motion
19 fails. Next up.

20 ATTORNEY COOK:

21 Next before the Board for consideration
22 is a Report and Recommendation pertaining to Marybeth
23 Ehrhart. Ms. Ehrhart was issued a Non-Gaming Employee
24 Registration on June 16th, 2009 and was employed as a
25 sous chef at The Rivers Casino.

1 The BIE was notified by the Pennsylvania
2 State Police that Ms. Ehrhart was charged on September
3 29th, 2009 with felony theft by unlawful taking and
4 receiving stolen property. In the charging documents,
5 it is alleged that Ms. Ehrhart, during her former
6 employment as a manager of a Golden Corral restaurant,
7 stole \$2,500 in cash from the restaurant's safe.

8 As a result of these charges, the OEC
9 filed a request for an Emergency Order of Suspension
10 of Ms. Ehrhart's Non-Gaming Employee Registration. On
11 October 30th, 2009, the Order was signed by the
12 Executive Director. On November 4th, 2009, the Board
13 referred this matter to the OHA to conduct a full
14 evidentiary hearing and submit a Report and
15 Recommendation on the Order of Emergency Suspension.
16 Ms. Ehrhart attended the November 13th hearing and
17 presented testimony.

18 After the hearing before a Hearing
19 Officer of the Board, Ms. Ehrhart had her preliminary
20 hearing, at which time felony charges were reduced to
21 misdemeanors and she was given the opportunity to
22 enter the Accelerated Rehabilitative Disposition or
23 ARD Program in Fayette County. Once she has completed
24 the ARD Program, the criminal charges will be
25 withdrawn and she will not have a criminal record.

1 As a result of this outcome, Ms. Ehrhart
2 requested that the record in her matter before the
3 PGCB be reopened and that she be allowed to provide
4 additional testimony. This was done on December 21st,
5 2009. The Hearing Officer thereafter issued a Report
6 and Recommendation recommending that her Emergency
7 Suspension be rescinded.

8 The OEC has filed exceptions to the
9 Report and Recommendation, arguing that Ms. Ehrhart's
10 conduct, admissions to that conduct and the pending
11 disposition of her charges render her unsuitable to
12 hold Non-Gaming Registration.

13 Based upon the record and the nature of
14 the crimes alleged as well as the fact that Ms.
15 Ehrhart has not yet completed her ARD, the OCC
16 recommends that the Board consider a motion denying
17 the Report and Recommendation and continuing the
18 suspension of Ms. Ehrhart's Registration.

19 CHAIRMAN:

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

22 COMMISSIONER ANGELI:

23 Mr. Chairman, I move that the Board issue
24 an Order to reject the Report and Recommendation of
25 the OHA regarding the Non-Gaming Employee Registration

1 of Marybeth Ehrhart as described by the OCC.

2 COMMISSIONER SOJKA:

3 Second.

4 CHAIRMAN:

5 All in favor?

6 AYES RESPOND

7 CHAIRMAN:

8 Opposed?

9 NO RESPONSE

10 CHAIRMAN:

11 Motion passes.

12 ATTORNEY COOK:

13 Kyle Haisch is the subject of the next
14 Report and Recommendation before the Board. Mr.
15 Haisch was issued a Non-Gaming Employee Registration
16 on April 14th, 2008 to work as a busser at the Mount
17 Airy Casino Resort. Mount Airy terminated Mr. Haisch
18 on July 30th, 2008.

19 Subsequently, on November 30th, 2008, Mr.
20 Haisch, who was 18 years old at the time, was arrested
21 on 12 felony counts and 6 misdemeanors related to an
22 alleged sexual assault upon a minor female. After his
23 preliminary hearing on January 29th, 2009, five felony
24 and four misdemeanor charges were bound over for trial
25 with the remaining charges dismissed.

1 As a result of these charges,
2 notwithstanding that Mr. Haisch had not been employed
3 by a Pennsylvania casino since July 30th, 2008, the
4 OEC filed an enforcement action seeking revocation of
5 his registration based upon the nature of Mr. Haisch's
6 charges and his failure to inform the Board of same.
7 The OHA scheduled a hearing for this matter on
8 December 22nd, 2009. Despite being served with
9 notice, neither Mr. Haisch nor his attorney appeared
10 at the hearing, which was conducted in his absence.

11 After hearing the evidence, the Hearing
12 Officer concluded that due to Mr. Haisch's arrest and
13 pending charges and his failure to notify the Board of
14 same, that his registration should be revoked. The
15 OCC concurs with the Hearing Officer and recommends
16 that the Board adopt the Report and Recommendation and
17 revoke Mr. Haisch's Gaming --- or I'm sorry,
18 Non-Gaming Registration.

19 This matter is now ripe for the Board's
20 consideration.

21 CHAIRMAN:

22 Thank you. Any questions or comments
23 from the Board? If not, could I have a motion,
24 please?

25 COMMISSIONER SOJKA:

1 Yes, Mr. Chairman. I move that the Board
2 issue an Order to adopt the Report and Recommendation
3 of the OHA regarding the Non-Gaming Employee
4 Registration of Kyle Haisch as just described by the
5 OCC.

6 CHAIRMAN:

7 Second?

8 COMMISSIONER TRUJILLO:

9 Second.

10 CHAIRMAN:

11 All in favor?

12 AYES RESPOND

13 CHAIRMAN:

14 Opposed?

15 NO RESPONSE

16 CHAIRMAN:

17 The motion passes.

18 ATTORNEY COOK:

19 The final Report and Recommendation which
20 was to be heard by the Board today is that of Jason
21 Schwab. However, in preparing for this meeting, the
22 OCC came into some information which appears to
23 indicate that Mr. Schwab has been arrested on a
24 criminal charge, and in fact, may have entered a
25 guilty plea at this point. As a result of that

1 information, we think it would be appropriate that the
2 matter be referred back to the OHA to reopen the
3 record.

4 CHAIRMAN:

5 So noted. Thank you, Steve. Thank you,
6 Doug.

7 ATTORNEY SHERMAN:

8 That concludes our report.

9 CHAIRMAN:

10 Thank you. Next up is Susan Hensel, our
11 Director of Licensing. Welcome, Susan.

12 MS. HENSEL:

13 Thank you, Chairman Fajt and members of
14 the Board. The first matters for your consideration
15 are renewals of Manufacturer Licenses for Ainsworth
16 Game Technology Limited, Aruze Corporation, which is
17 now doing business as Universal Entertainment
18 Corporation, and Atlantic City Coin and Slots Service
19 Company.

20 The BIE has completed its investigation
21 and the Bureau of Licensing has provided you with
22 renewal background investigation and suitability
23 reports for each of these Licensees. No issues were
24 identified by either the BIE or Licensing that would
25 preclude renewal of these Manufacturer Licenses. I

1 have provided you with draft Orders and ask that the
2 Board consider the renewal of each license separately,
3 beginning with Ainsworth Game Technology Limited.

4 CHAIRMAN:

5 Any questions or comments from
6 Enforcement Counsel?

7 ATTORNEY PITRE:

8 No comments. We join in the approval of
9 these licenses.

10 CHAIRMAN:

11 Make sure that mic's on.

12 ATTORNEY PITRE:

13 No comments, but we join in the request
14 for the approval of these applications.

15 CHAIRMAN:

16 Thank you. Any questions or comments
17 from the Board? Could I have a motion, please?

18 COMMISSIONER ANGELI:

19 Mr. Chairman, I move the Board approve
20 the Manufacturer License of Ainsworth Game Technology
21 Limited as described by the Bureau of Licensing.

22 COMMISSIONER COY:

23 Second.

24 CHAIRMAN:

25 All in favor?

1 AYES RESPOND

2 CHAIRMAN:

3 Opposed?

4 NO RESPONSE

5 CHAIRMAN:

6 Motion passes.

7 MS. HENSEL:

8 Next would be Aruze Corporation, also
9 known as Universal Entertainment Corporation.

10 CHAIRMAN:

11 Any questions or comments from
12 Enforcement Counsel?

13 ATTORNEY PITRE:

14 Request approval.

15 CHAIRMAN:

16 Thank you. Comments from the Board?
17 Could I have a motion, please?

18 COMMISSIONER COY:

19 Mr. Chairman, I move the Board approve
20 the Manufacturer License of Aruze Corporation as
21 described by the Bureau of Licensing.

22 CHAIRMAN:

23 Second?

24 COMMISSIONER GINTY:

25 Second.

1 CHAIRMAN:

2 All in favor?

3 AYES RESPOND

4 CHAIRMAN:

5 Opposed?

6 NO RESPONSE

7 CHAIRMAN:

8 Motion passes.

9 MS. HENSEL:

10 And finally, Atlantic City Coin and Slot
11 Service Company.

12 ATTORNEY PITRE:

13 And we'd also recommend approval of that
14 application.

15 CHAIRMAN:

16 Thank you. Questions from the Board?
17 Could I have a motion, please?

18 COMMISSIONER GINTY:

19 Mr. Chairman, I move that the Board
20 approve the Manufacturer License of Atlantic City Coin
21 and Service Company as described by the Bureau of
22 Licensing.

23 COMMISSIONER COY:

24 Second.

25 CHAIRMAN:

1 All in favor?

2 AYES RESPOND

3 CHAIRMAN:

4 Opposed?

5 NO RESPONSE

6 CHAIRMAN:

7 Motion passes.

8 MS. HENSEL:

9 The next matter for your consideration is
10 the issuance of temporary licenses. Prior to this
11 meeting, the Bureau of Licensing provided you with an
12 Order regarding the issuance of temporary licenses for
13 2 Principals and 47 Key Employees. I ask that the
14 Board consider the Order approving these licenses.

15 ATTORNEY PITRE:

16 No objection.

17 CHAIRMAN:

18 Thank you. Questions from the Board?
19 Could I have a motion, please?

20 COMMISSIONER COY:

21 Mr. Chairman, I move the Board issue an
22 Order approving the issuance of the Temporary
23 Principal and Key Employee Licenses as described by
24 the Bureau of Licensing.

25 CHAIRMAN:

1 Second?

2 COMMISSIONER SOJKA:

3 Second.

4 CHAIRMAN:

5 All in favor?

6 AYES RESPOND

7 CHAIRMAN:

8 Opposed?

9 NO RESPONSE

10 CHAIRMAN:

11 Motion passes.

12 MS. HENSEL:

13 Next are Gaming and Non-Gaming Permits
14 and Registrations. Prior to this meeting, the Bureau
15 of Licensing provided you with a list of 126
16 individuals, including 55 initial and 71 renewals, who
17 the Bureau has granted occupation permits to, and 76
18 individuals who the Bureau has granted registrations
19 to under the authority delegated to the Bureau of
20 Licensing. I ask that the Board adopt a motion
21 approving the Order.

22 ATTORNEY PITRE:

23 No objection.

24 CHAIRMAN:

25 Thank you. Comments from the Board?

1 Could I have a motion, please?

2 COMMISSIONER SOJKA:

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

7 CHAIRMAN:

8 Second?

9 COMMISSIONER TRUJILLO:

10 Second.

11 CHAIRMAN:

12 All in favor?

13 AYES RESPOND

14 CHAIRMAN:

15 Opposed?

16 NO RESPONSE

17 CHAIRMAN:

18 Motion passes.

19 MS. HENSEL:

20 In addition, we have recommendations of
21 denial for two Gaming and one Non-Gaming Employees.
22 Prior to this meeting, the Bureau of Licensing
23 provided you with Orders addressing these applicants
24 who the BIE has recommended for denial. In each case,
25 the applicant failed to request a hearing within the

1 specified time period. I ask that the Board consider
2 the Order denying the Gaming and Non-Gaming
3 applicants.

4 ATTORNEY PITRE:

5 We'd recommend that the applicants be
6 denied also.

7 CHAIRMAN:

8 Questions from the Board? Could I have a
9 motion, please?

10 COMMISSIONER TRUJILLO:

11 Mr. Chairman, I move that the Board issue
12 Orders to deny the Gaming Permits and Non-Gaming
13 Employee Registrations as described by the Bureau of
14 Licensing.

15 COMMISSIONER ANGELI:

16 Second.

17 CHAIRMAN:

18 All in favor?

19 AYES RESPOND

20 CHAIRMAN:

21 Opposed?

22 NO RESPONSE

23 CHAIRMAN:

24 Motion passes.

25 MS. HENSEL:

1 We also have a Proposed Order denying the
2 Gaming Service Provider Certification Application of
3 PMT Contracting Company, Inc. and Maurice Abdalla, a
4 qualifier of PMT Contracting. I should point out that
5 Gaming Service Provider is the new designation under
6 the amended Gaming Act for what was known as vendors.
7 PMT Contracting Company, Inc. and Mr. Abdalla failed
8 to request a hearing despite being advised by the OEC
9 that their applications would be recommended for
10 denial. I ask that the Board consider the Order
11 denying the applications of PMT Contracting Company,
12 Inc. and Maurice Abdalla.

13 ATTORNEY PITRE:

14 OEC would recommend denial of those
15 applications.

16 CHAIRMAN:

17 Questions from the Board? Could I have a
18 motion, please?

19 COMMISSIONER ANGELI:

20 Mr. Chairman, I move that the Board issue
21 an Order to approve the denial of the Vendor
22 Application as described by the Bureau of Licensing.

23 COMMISSIONER COY:

24 Second.

25 CHAIRMAN:

1 All in favor?

2 AYES RESPOND

3 CHAIRMAN:

4 Opposed?

5 NO RESPONSE

6 CHAIRMAN:

7 Motion passes.

8 MS. HENSEL:

9 Next we have Withdrawal Requests for
10 Gaming and Non-Gaming Employees. In each case, the
11 Occupation Permit Registration is no longer required
12 due to such circumstances as the employee accepting a
13 job with a different employer or the job offer being
14 rescinded. For today's meeting, I have provided the
15 Board with a list of 11 Withdrawals for approval and I
16 ask that the Board consider the Order approving these
17 Withdrawals.

18 ATTORNEY PITRE:

19 No objection.

20 CHAIRMAN:

21 Comments from the Board? If not, a
22 motion, please?

23 COMMISSIONER COY:

24 Mr. Chairman, I move the Board issue
25 Orders approving the withdrawal of Gaming Permits and

1 Non-Gaming Employee Registrations as described by the
2 Bureau of Licensing.

3 CHAIRMAN:

4 Second? Is there a second?

5 COMMISSIONER GINTY:

6 Second.

7 CHAIRMAN:

8 All in favor?

9 AYES RESPOND

10 CHAIRMAN:

11 Opposed?

12 NO RESPONSE

13 CHAIRMAN:

14 Motion passes.

15 MS. HENSEL:

16 Finally, there is an Order to declare as
17 abandoned Upper Room, Inc., which is doing business as
18 G-Zus Wear's, Gaming Service Provider Registration
19 Application. Records indicate that this Gaming
20 Service Provider ---. That's G, dash, Z-U-S, Wear.
21 Records indicate that this Gaming Service Provider
22 filed an application even though it received
23 compensation below the threshold requiring it to file.
24 After filing its application, the Gaming Service
25 Provider failed to submit required documentation after

1 being given notice of the deficiencies and an
2 opportunity to cure the deficiencies. Under our
3 regulations, the Board has the authority to declare an
4 application abandoned if the applicant fails to
5 provide information necessary to cure application
6 deficiencies. I ask that the Board consider the Order
7 declaring Upper Room, Inc.'s application abandoned.

8 CHAIRMAN:
9 Enforcement Counsel?

10 ATTORNEY PITRE:
11 I'm fine with it.

12 CHAIRMAN:
13 Okay. Commissioner Coy notes that this
14 is Ash Wednesday, so how appropriate that we entertain
15 this or not.

16 COMMISSIONER COY:
17 Not necessarily.

18 CHAIRMAN:
19 Right. Any questions from the Board?
20 Could I have a motion, please?

21 COMMISSIONER GINTY:
22 Mr. Chairman, I move that the Board issue
23 an Order to approve the abandonment of Upper Room,
24 Inc.'s Vendor Registration Application as described by
25 the Bureau of Licensing.

1 CHAIRMAN:

2 Second?

3 COMMISSIONER TRUJILLO:

4 Second.

5 CHAIRMAN:

6 All in favor?

7 AYES RESPOND

8 CHAIRMAN:

9 Opposed?

10 NO RESPONSE

11 CHAIRMAN:

12 Motion passes.

13 MS. HENSEL:

14 Thank you. That concludes the Bureau of
15 Licensing's presentation.

16 CHAIRMAN:

17 Thank you, Susan. Next up is our
18 Enforcement Counsel, Cyrus Pitre, and his staff.

19 ATTORNEY PITRE:

20 We have three matters for the Board's
21 consideration this afternoon. The first matter
22 involves a Consent Agreement between Washington
23 Trotting and the OEC. I ask that Counsel for
24 Washington Trotting please come to the table, and we
25 can begin.

1 ATTORNEY POWERS:

2 Chairman Fajt, members of the Board, my
3 name is Melissa , Assistant Enforcement Counsel.

4 Today we have for the Board's
5 consideration a Consent Agreement between the OEC and
6 Washington Trotting Association, Incorporated, doing
7 business as the Meadows Racetrack and Casino. The
8 agreement pertains to a series of events that occurred
9 between June 22nd and August 31st, 2009 wherein three
10 patrons of the Meadows manipulated slot machines in
11 order to claim false jackpots.

12 Meadows failed to follow its approved
13 internal controls in that it improperly enabled a
14 double up soft option on a slot machine, failed to
15 investigate multiple jackpot variances on 15 different
16 gaming days and paid a jackpot to a patron other than
17 the winning patron.

18 Following a series of discussions between
19 Meadows, Bureau of Casino Compliance and OEC, Meadows
20 terminated the slot technician and the slot attendant
21 involved in each incident. They also issued written
22 warnings to the revenue analysts and a final written
23 warning to the revenue audit manager involved.

24 Meadows' internal audit department
25 performed a Slot Risk Assessment audit to determine

1 ways to improve its procedures and to ensure a similar
2 situation does not occur in the future. They also
3 implemented new training and procedures for the
4 accounting, surveillance and slot departments. They
5 also held advanced training for the revenue audit
6 department. In addition, the parties have agreed that
7 within five days of the Board's Order, Meadows shall
8 pay civil penalty in the amount of \$48,900.

9 OEC recommends that the Board approve the
10 Consent Agreement as presented today.

11 CHAIRMAN:

12 Any questions or comments from the Board?
13 Commissioner Sojka?

14 COMMISSIONER SOJKA:

15 Well, again, this is an issue that comes
16 up over and over again. I have no quibble at all with
17 this kind of Consent Agreement, but we seem regularly
18 to come down to the issue of struggling with the
19 amount that's to be paid as a kind of fine.

20 And I realize that there are several
21 issues on the table here. First of all, I understand
22 that the --- again, the citizens of Pennsylvania did
23 not lose any tax money that was due them in this
24 process. So, that's point number one. Two, it's
25 clear that actions have been taken to try to eliminate

1 this sort of thing happening again in the future.
2 Penalties have been meted out to those who may have
3 been responsible. And I understand that this casino
4 has been very cooperative throughout the
5 investigation, but I think it might be worthwhile if
6 you took just a moment to tell us all just why you
7 came up with that number, because I could imagine
8 either a small or a bigger number. And I'd like to
9 get this to the point where these things become more
10 or less regularized.

11 ATTORNEY PITRE:

12 When we first started this whole
13 regulatory facet of the Board's job, we looked at, at
14 that time, the fines that New Jersey alleviated over
15 its 25-plus-year history. We then took into
16 consideration the tax rate that our Licensees would
17 pay and adopted --- I wouldn't say a fine structure,
18 but adopted somewhat of a formula that would alleviate
19 the tax rate that our Licensees are paying in
20 comparison to the tax rate the New Jersey's casinos
21 were paying, and based upon that, came with an
22 approximate of how much the fines should be.

23 Now, granted, most --- all of New
24 Jersey's fines are pretty much on the record. Here
25 we're just getting started. We're starting out. A

1 lot of the fines may be something new that's never
2 occurred in New Jersey, but we always take into
3 consideration --- especially with underage gaming.
4 For example, across the board in New Jersey, it's
5 usually a \$10,000 fine, okay, for an underage gamer.
6 But that's an underage gamer who New Jersey --- the
7 regulators fine on the floor where there's no
8 self-reporting and there's no, I got to say, duty to
9 self-report those things. Here our casinos self-
10 report virtually --- I always tell them it's better
11 for you to tell us than for us to find out and you
12 didn't tell us, because if you don't tell us and we
13 find out, then obviously, we're going to take that
14 into consideration when coming up with a fine. But if
15 you tell us and you're forthright with it and you
16 basically work with us every step of the way, then we
17 take all those mitigating circumstances into
18 consideration when we come up with a fine.

19 In this instance, once it was discovered,
20 Meadows worked with us hand in hand. They did the
21 audit assessment. They sent us a copy of it. Okay.
22 They provided us every piece of surveillance we
23 requested. When we pointed certain things out to
24 them, they were quick to take action against those
25 employees. There were some things that they were not

1 even aware that occurred, but after we reviewed the
2 information, we brought it up to them and then they
3 reviewed it and said, you're right. And then there
4 were some things that we thought might have occurred
5 that they said, no, this didn't occur, this is the
6 explanation for this, and we agreed with them.

7 So, this has been a back and forth
8 situation. And I can tell you that I know it's a new
9 jurisdiction, so we are struggling to find a happy
10 medium with all of this, but usually if there's a lot
11 of cooperation, there's no hiding the ball, and
12 they're willing to make the necessary corrective ---
13 take the necessary corrective measures, we take all
14 that into consideration when coming up with a fine.

15 COMMISSIONER SOJKA:

16 Well, that is helpful. And I think the
17 issue --- I think we're both agreeing that this is a
18 regulatory environment that is in the process of
19 maturing and evolving. And every instance is going to
20 be, to some extent, anecdotal. It's going to have its
21 own special twists and turns.

22 But again, my hope would be --- I heard
23 you mention, for example, a formula that you have sort
24 of in place because, for example, taxation's lower in
25 New Jersey, higher here. That's the first I've heard

1 that come into play as we talk about assessing these
2 fines. I guess what I would hope for eventually would
3 be enough, if you will, case history that if a
4 violation occurs, an operator might ahead of time have
5 a pretty good notion of just about what they're going
6 to owe, in other words, that it would be a
7 regularized, well understood process and not one where
8 every time we sort of come in and scratch our heads
9 and wonder where the number came from.

10 ATTORNEY PITRE:

11 That will occur hopefully over time.
12 Again, we're a young jurisdiction, so that's the hope
13 over time. I don't think we're ever going to be in a
14 position where they're going to know the exact dollar
15 amount, but it's not ---. I mean, we enter into these
16 conversations with them early on, so they pretty much
17 know what to expect. And again, these are Consent
18 Agreements where they agree to pay this.

19 ATTORNEY SOJKA:

20 They agree.

21 ATTORNEY PITRE:

22 I mean, if they disagree, then obviously,
23 we're at a hearing.

24 ATTORNEY SOJKA:

25 Uh-huh (yes). Okay. Well, that's fine.

1 Thank you.

2 CHAIRMAN:

3 Any other questions?

4 COMMISSIONER TRUJILLO:

5 Mr. Chairman, just following up on
6 Commissioner Sojka's point. My view on these issues
7 is that you really have to have not just a comparative
8 analysis, but really a philosophy of --- kind of like
9 a philosophy of compensation. What is it you're
10 trying to accomplish with the fines? Because as
11 Enforcement Counsel, it's about conduct and it's about
12 not necessarily conduct of individuals, but of
13 entities. And so in developing --- and you're right.
14 One of the disadvantages is that we're young as a
15 regulatory organization, but it's also an advantage,
16 and that is that we can make our own history. And so
17 I would --- as this develops, I guess I would ask that
18 you also give some thought --- and I know you do, but
19 I think it's important really to be able to articulate
20 beyond the comparative component of it the philosophy
21 of what it is that we're trying to accomplish with the
22 fines. And I know it's going to take some time to do
23 that, but that's something that I think would be very
24 useful.

25 ATTORNEY PITRE:

1 The number one goal is to bring the
2 Licensee into compliance. That's the number one goal.
3 The fine is really an afterthought. The number one
4 goal in the initial response is to bring the Licensee
5 into compliance and to make sure they understand how
6 they're not in compliance, because if they're not in
7 compliance ---. I mean, I could fine them every day
8 of the week, but if they don't understand what they're
9 doing wrong or where the shortfall is, it's no way
10 that they can correct it. So, the number one goal is
11 to bring them into compliance.

12 And we do that in various ways. I mean,
13 we also issue warning letters on a constant basis. We
14 have compliance conferences with them. But when
15 there's something that rises to the level where I say
16 they should know better, then the fine comes into
17 play. But the number one goal is to always bring them
18 into compliance.

19 ATTORNEY TRUJILLO:

20 Thank you.

21 CHAIRMAN:

22 Any other questions or comments? Could I
23 have a motion, please?

24 COMMISSIONER COY:

25 Sure. Mr. Chairman, I move the Board

1 issue an Order approving the Consent Agreement between
2 the OEC and Washington Trotting Association as
3 described by the OEC.

4 COMMISSIONER SOJKA:

5 Second.

6 CHAIRMAN:

7 All in favor?

8 AYES RESPOND

9 CHAIRMAN:

10 Opposed?

11 NO RESPONSE

12 CHAIRMAN:

13 Motion passes.

14 ATTORNEY POWERS:

15 Thank you.

16 CHAIRMAN:

17 Thank you.

18 ATTORNEY PITRE:

19 Next we have a Consent Agreement with
20 Gaming Service Provider Applicant Unity Foods. I
21 don't believe that Counsel for Unity Foods is here
22 today, but the Consent Agreement is before the Board
23 for the Board's consideration. We have Deputy Chief
24 Barry Creany to present OEC's portion.

25 ATTORNEY CREANY:

1 Good afternoon, Chairman, Commissioners.
2 I spoke with Counsel for Unity Foods yesterday when I
3 was coming. Andrews Jenkins of Thorp, Reed &
4 Armstrong has represented them since September of last
5 year and was, for the purpose of conserving some
6 resources to the client, unable to make it today. But
7 they're in accord with the proposed Consent Agreement
8 we have with this vendor. It's a vending machine
9 company that did business with one of our Licensees in
10 Erie and had a very small amount of business.

11 In August of this year, they filed a pro
12 se withdrawal petition, and at the same time, filed to
13 become a Registered Vendor. At that point, we filed
14 an objection based upon two positions. One, there was
15 costs due. Roughly \$7,300 was due as well as we had
16 an objection regarding a concern that had not been
17 resolved with the applicant in the background.

18 At that point in time, Thorp, Reed &
19 Armstrong came in to represent Unity Foods and its
20 three Principals, and they filed an Amended Petition
21 which had a request for declaratory relief. In
22 response to that, Enforcement Counsel filed a
23 preliminarily motion relative to that request for
24 declaratory relief, and it became a protracted type of
25 case. We had a preliminarily conference, and at that

1 point in time, off the record from the Hearing
2 Officer, we started to talk about each party's
3 objective. Enforcement Counsel wanted this company
4 not to do business in Pennsylvania with the PGCB
5 Licensees, and they were willing to go that route.
6 But to get there, we had a proposal where they're
7 going to have the same sanctions as if they would be
8 under a restriction without having to go through
9 litigation to determine their suitability or, you
10 know, deny the application.

11 So, in essence, we have that agreement
12 before you today. It has a restriction of this
13 Licensee doing business for five years with the PGCB
14 Licensees. They also are not allowed to file any
15 applications for registration or for a certification,
16 and they'll pay the costs of \$7,439. They've already
17 wound down business with the only Licensee they did
18 business with in the state. And upon Board's approval
19 of the consent, they'll withdraw their pleadings, in
20 effect, abandon their application. And at that point,
21 we'd ask the Board to consider approval of this
22 Consent Agreement and Stipulation of Settlement. Any
23 questions I'd be glad to entertain as well.

24 CHAIRMAN:

25 Any questions or comments from the Board?

1 If none, could I have a motion, please?

2 COMMISSIONER SOJKA:

3 I'll try. I'm going to try to understand
4 what that was. Mr. Chairman, I will move that the
5 Board issue an Order to approve the Consent Agreement
6 between the OEC and Unity Foods as Mr. Creany just
7 described.

8 COMMISSIONER ANGELI:

9 Second.

10 CHAIRMAN:

11 All in favor?

12 AYES RESPOND

13 CHAIRMAN:

14 Opposed?

15 NO RESPONSE

16 CHAIRMAN:

17 Motion passes.

18 ATTORNEY PITRE:

19 Next for the Board's consideration is a
20 Revocation of a Non-Gaming Employee Registration.
21 This is Steven Torres. If Mr. Torres is present, I
22 ask that he come forward. Katie Higgins will present
23 OEC's portion.

24 CHAIRMAN:

25 Mr. Torres present? Please proceed.

1 ATTORNEY HIGGINS:

2 The last matter before the Board today is
3 that of Steven Torres. On December 8th, 2009, the OEC
4 filed a Complaint for Revocation of Mr. Torres'
5 Non-Gaming Registration due to his failure to maintain
6 suitability. Mr. Torres did not respond to the
7 complaint within 30 days, and therefore, pursuant to
8 Board regulations, all facts alleged in the complaint
9 are deemed admitted.

10 The OEC filed a request for default
11 judgment on January 22nd, 2010, and at this time, the
12 OEC would ask that the Board revoke Mr. Torres'
13 Non-Gaming Registration.

14 CHAIRMAN:

15 Any questions or comments from the Board?
16 Could I have a motion, please?

17 COMMISSIONER ANGELI:

18 Mr. Chairman, I move that the Board issue
19 an Order to approve the revocation of the Non-Gaming
20 Employee Registration of Steven Torres as described by
21 the OCC.

22 COMMISSIONER COY:

23 Second.

24 CHAIRMAN:

25 All in favor?

1 AYES RESPOND

2 CHAIRMAN:

3 Opposed?

4 NO RESPONSE

5 CHAIRMAN:

6 Motion passes. Thank you, Cyrus.

7 ATTORNEY PITRE:

8 Thank you.

9 CHAIRMAN:

10 Melissa, Barry and Katie, thank you.

11 This concludes today's business. In closing, our next
12 scheduled public meeting will be held on Wednesday,
13 March 3rd in the PUC Keystone Building, Hearing Room
14 One. Any final comments from the Board? If not,
15 could I have a motion to adjourn?

16 COMMISSIONER ANGELI:

17 So moved.

18 CHAIRMAN:

19 Second?

20 COMMISSIONER COY:

21 Second.

22 CHAIRMAN:

23 Thank you very much. Thank you,
24 Commissioner McCabe. Meeting is adjourned.

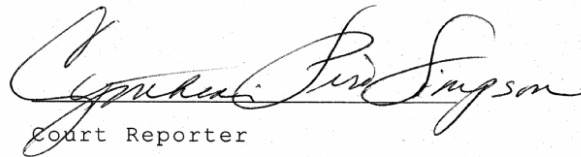
25 * * * MEETING CONCLUDED AT 2:20 P.M. * * *

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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 02/17/2010 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