

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

* * * * *

PUBLIC MEETING

* * * * *

BEFORE: GREGORY C. FAJT, CHAIRMAN

James B. Ginty; Raymond S. Angeli; Jeffrey
W. Coy; Kenneth T. McCabe; Gary A. Sojka;
Kenneth Trujillo (via teleconference);
David Barasch, Deputy Secretary of the
Department of Revenue, Representative;
Keith Welks, Deputy State Treasurer for
Fiscal Operations, Ex-Officio Designee;
Michael Dillon, representing Russell
Redding, Secretary of Agriculture

HEARING: Tuesday, March 16, 2010
1:06 p.m.

LOCATION: Temple University - Harrisburg Campus
Room 246/248 Lecture Hall
Strawberry Square, 303 Walnut Street
Harrisburg, PA 17101

WITNESSES: Kevin O'Toole, David Rhen, Richard
Sandusky, Susan Hensel

Reporter: Alicia R. Brant

Any reproduction of this transcript is prohibited
without authorization by the certifying agency.

A P P E A R A N C E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHIEF COUNSEL:

R. DOUGLAS SHERMAN, ESQUIRE

CHIEF ENFORCEMENT COUNSEL:

CYRUS PITRE, ESQUIRE

DEPUTY CHIEF COUNSEL:

STEPHEN S. COOK, ESQUIRE

ASSISTANT ENFORCEMENT COUNSEL:

MICHAEL ROLAND, ESQUIRE

ASSISTANT ENFORCEMENT COUNSEL:

MELISSA POWERS, ESQUIRE

ASSISTANT ENFORCEMENT COUNSEL:

KATHLEEN HIGGINS, ESQUIRE

PA Gaming Control Board

P.O. Box 69060

Harrisburg, PA 17106-9060

COUNSEL FOR PENNSYLVANIA GAMING CONTROL BOARD

MARK HALPERN, ESQUIRE

Halpern & Levy, PC

1204 Township Line Road

Drexel Hill, Pennsylvania 19026

COUNSEL FOR ELGEE SAVAR, INC.

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OPENING REMARKS

By Chairperson Fajt 4 - 5

PRESENTATION

By Mr. O'Toole 5 - 8

By Mr. Rhen 8 - 9

By Mr. Sandusky 9 - 13

By Mr. Sherman 13 - 21

By Attorney Cook 21

By Mr. Sherman 22 - 26

By Attorney Halpern 27 - 35

By Attorney Roland 36 - 40

DISCUSSION AMONG PARTIES 40 - 50

PRESENTATION

By Attorney Hensel 50 - 57

By Attorney Powers 58 - 59

By Attorney Higgins 60 - 64

DISCUSSION AMONG PARTIES 64 - 67

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN:

We'll now commence with our regularly-scheduled public meeting. The first order of business is old business and announcements. By way of announcements, the Board held an executive session on March 15th, and just prior to this meeting, in accordance with the Sunshine Act. The purpose of the executive session held yesterday was to discuss personnel matters, pending litigation, and to conduct quasi-judicial deliberations relating to matters pending before the Board. Today's executive session was held to conduct quasi-judicial deliberations relative to the two hearings that we held earlier today.

I'd also like to announce that the Pennsylvania Gaming Control Board will continue to hold additional table games-related public hearings. Each casino must petition the Board, requesting authorization to conduct table games, and related to those petitions there are public-input hearings, as well as public hearings, held before the Board, such as we had earlier today. Information pertaining to these hearings can be viewed by logging on to the

1 Gaming Control Board's website at
2 www.pgcb.state.pa.us, or you may contact the Board's
3 Secretary, Mickey Kane, at 346-8325.

4 Our next item of business is approval of
5 the minutes and transcript from the February 17th
6 Board Meeting. May I have a motion?

7 MR. MCCABE:

8 Yes, Mr. Chair. I move that the Board
9 approve the minutes and transcript of the February
10 17th, 2010 meeting.

11 MR. SOJKA:

12 Second.

13 CHAIRMAN:

14 All in favor?

15 AYES RESPOND

16 CHAIRMAN:

17 Opposed?

18 NO RESPONSE

19 CHAIRMAN:

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

24 MR. O'TOOLE:

25 Good afternoon, Chairman, members of the

1 Board. As we heard earlier this morning, our first
2 two public meetings for Petitions for Table Game
3 Operations Certificates, the industry certainly
4 appears excited about the opportunity to commence
5 table games. And the Board is equally excited about
6 being able to participate in the regulation of that
7 activity. With two public hearings in place, we have
8 an additional eight, because effective yesterday, ten
9 petitions have been filed. That includes the nine
10 operating casinos, plus SugarHouse. So for our
11 meetings April 7th, April 29th, and I believe our
12 first meeting in May, we will continue to have public
13 meetings on those petitions.

14 We are also in the middle of reviewing
15 and approving training plans. One casino is up and
16 running with their training. Each casino has their
17 own discretion as to when they want to begin training
18 of new dealers. But those plans, three of them have
19 been approved. Several more will be approved this
20 week. And we should have all of the training plans
21 approved, probably by the end of next week. Later on
22 this afternoon, you'll have an update on regulations,
23 at least those that are being asked to be promulgated
24 today. We'll have further regulations at our next
25 several meetings, as well. So that's the update on

1 table games. If you have any questions, I'd be glad
2 to answer them.

3 CHAIRMAN:

4 Any questions? I have one quick one,
5 Kevin. On the table games schools that the casinos
6 are conducting, I know you and I were up at Mount
7 Airy, and they're affiliated with, I think it was
8 Northampton Community College.

9 MR. O'TOOLE:

10 Correct.

11 CHAIRMAN:

12 Are the other casinos that are offering
13 table games training --- are they certified by the
14 Department of Education, or how does that work for
15 those other casinos?

16 MR. O'TOOLE:

17 The colleges that several of the casinos
18 are partnering with are community colleges. And they
19 are already accredited universities, colleges or
20 universities. So they have the accreditation. What
21 they need to do is to develop a curriculum that meets
22 the curriculum guidelines of the Department of Labor
23 and Industry, and develop a syllabus that is
24 consistent with the minimum training requirements that
25 the Board has promulgated. In addition to Mount Airy

1 partnering with Northampton, I believe that the Sands
2 is also partnering with Northampton. And I believe
3 that the Meadows is also partnering with a community
4 college. There may be more down the road. But prior
5 to the approval of the training plans, myself and my
6 staff are making site visits to the locations, to
7 ensure that they have appropriate equipment for
8 training purposes. And the other requirements are
9 being reviewed for those training plans.

10 CHAIRMAN:

11 Thank you very much. Next up is our
12 budget manager, Dave Rhen. Welcome, Dave.

13 MR. RHEN:

14 Thank you. Good afternoon. I'm here
15 today to provide updated expenditure reports through
16 February. Through the month our expenses were \$18.04
17 million. This consisted of \$14.9 million for
18 personnel and \$3.1 million for operations. For the
19 month of February, expenditures totaled \$2.1 million.
20 This total included personnel expenses of \$1.8 million
21 for the month's two payrolls, and operating expenses
22 of \$301,000. The largest operating expenditures for
23 the month by category included \$162,000 for rentals
24 and leases of real estate vehicles and office
25 equipment, and \$72,000 for services and \$41,000 for

1 telecommunications. The largest operating
2 expenditures year to date are \$1.4 million for rentals
3 and leases, \$536,000 for services, \$377,000 for other
4 operating expenses, and \$353,000 for
5 telecommunications. That concludes my remarks.

6 CHAIRMAN:

7 Thank you. Any questions? Thanks a lot.
8 Next up is Chief of Counsel Doug Sherman. Doug, I see
9 you have your able cohort there, Richard Sandusky. It
10 must be regulation time.

11 ATTORNEY SHERMAN:

12 Good afternoon, Chairman, Members of the
13 Board. As you aptly noted, our first agenda items are
14 the presentation of temporary regulations, and Richard
15 Sandusky is here to address them.

16 MR. SANDUSKY:

17 You know you're in trouble when people
18 start to run when you come to the table. Today we
19 have one package for the Board's consideration. It's
20 Regulation 125-114. This temporary regulation will
21 amend chapter 521, and add two new chapters. Chapter
22 521, which is our general provisions chapter, is being
23 amended to add provisions related to minimum and
24 maximum wagers at each table, and the signage that
25 needs to be required. And it also includes provisions

1 which will ensure that all patrons have access to all
2 the rules of all the games, and will require the
3 casinos to develop a players' guide, which is an
4 abridged version of the rules that a patron can read,
5 and get an understanding of the game before they step
6 to the table. Also included in this package is a new
7 chapter, chapter 528, entitled Gaming Related Gaming
8 Service Providers.

9 The Bureau of Licensing has received a
10 number of inquiries from what I'll call game
11 inventors. These are individuals who come up with a
12 new type of card game, or dice, or whatever. Or, a
13 different spin, maybe a different optional wager that
14 can be offered to an existing game. These individuals
15 don't fall under the definition of a manufacturer or
16 supplier, so what Licensing has done is created a
17 category under Gaming Service Providers, which we used
18 to know as vendors, and these individuals will file an
19 application for certification. They will have to have
20 the sponsorship of a casino that has expressed an
21 interest in possibly using their new game or
22 variation, and will have to meet other requirements,
23 as well.

24 The final chapter is chapter 539, and
25 this is for the game of Sic Bo. This was not one of

1 the games that we initially had on our list, but one
2 of the casinos has expressed an interest in having the
3 tables, so we have drafted regulations for this. It
4 is an Asian game, very old. It's played with three
5 dice, and in today's version, it has an electronic
6 tabletop. You place your wagers on the various
7 squares on the table top, the dealer will roll the
8 dice, enter the results into a keypad, and the winning
9 wagers will actually light up.

10 So the players get this instant
11 gratification of seeing that they've won, and it also
12 makes it very easy for the dealer in terms of
13 collecting and paying wagers. If there are any
14 questions on these regulations, I'll be happy to try
15 and answer them. If not, we'd ask for a motion for
16 adoption.

17 CHAIRMAN:

18 Questions from the Board? Commissioner
19 McCabe?

20 MR. MCCABE:

21 Yes, I have one about the Players' Guide.
22 How will the public be able to read or get the
23 Players' Guide?

24 MR. SANDUSKY:

25 The Players' Guide will have to be made

1 available at the casino in various locations. And
2 unlike a lot of other jurisdictions, we're also going
3 to require that that be put on the casino's website,
4 so that anybody can access it without even having to
5 come to the casino.

6 MR. MCCABE:

7 Thank you.

8 CHAIRMAN:

9 Any other questions? Can I have a
10 motion, please?

11 MR. SOJKA:

12 Yes, Mr. Chairman. I'll move that the
13 Board adopt the temporary Regulation Number 125-114,
14 and that the Board establish a public comment period
15 of 30 days for this temporary regulation, and that the
16 temporary regulation then be posted on the Board's
17 website.

18 CHAIRMAN:

19 Second?

20 MR. MCCABE:

21 Second.

22 CHAIRMAN:

23 All in favor?

24 AYES RESPOND

25 CHAIRMAN:

1 Opposed?

2 NO RESPONSE

3 CHAIRMAN:

4 Motion passes. Thank you, Richard.

5 MR. SANDUSKY:

6 Thank you.

7 ATTORNEY SHERMAN:

8 Today the Board has four petitions before
9 it for consideration. Two of those matters were heard
10 by the Board earlier during the public hearings, and
11 they specifically were the Downs Racing and Greenwood
12 Gaming's Petition for Approval of Authorization to
13 Conduct Table Games and Issuance of a Table Games
14 Operations Certificate.

15 To be perfectly clear here today, if the
16 Board approves these petitions, it will not be
17 authorizing the Licensees to commence the operation of
18 table games at this time, nor will it be adopting the
19 specific proposals contained in the Appendices to the
20 Petitions for Table Games Operations Certificates.
21 Rather, the Board will be approving the issuance of a
22 Certificate, which is the first step for the Licensee
23 to move toward operation.

24 Prior to operations being permitted, the
25 Licensee must still obtain a number of other approvals

1 from the Board or the Board's Designee, and that would
2 include approval of their internal controls, staffing
3 levels, training programs, and they must satisfy the
4 Board's regulatory requirements, as well as any
5 conditions placed upon the Licensee as a requisite to
6 commencing operations.

7 The two remaining petitions which will be
8 presented are scheduled to be considered upon the
9 documentary record. The first petition is that of
10 Downs Racing. The Office of Enforcement Counsel (OEC)
11 does not oppose the grant of their Petition for a
12 Table Games Operation Certificate, subject to the
13 imposition of no fewer than 28 conditions, outlined in
14 the OEC's answer. Those conditions generally break
15 down into two categories. One is items that must be
16 addressed by the Licensee prior to commencement of
17 table games operations and conditions which must be
18 followed after table games operations commence.

19 The pre-operational conditions include
20 items such as payment of the Authorization Fee, the
21 appropriate amendment of their internal controls, as
22 well as confirmation that any relocated slot machines
23 are, in fact, hooked up to the central control
24 computer system.

25 The second category conditions includes

1 obligations such as a requirement that Downs not
2 exceed the number or type of table games sought and
3 approved by the Board without prior notice. The OEC
4 supports these conditions which have been set forth by
5 the OEC, and suggest that it would be appropriate for
6 the Board now to consider a motion to approve that
7 certificate.

8 CHAIRMAN:

9 Any questions or comments from the Board?

10 MR. MCCABE:

11 I have a question.

12 CHAIRMAN:

13 Sure.

14 MR. MCCABE:

15 When are the facilities required to pay
16 the fee; after we give them their Certificate?

17 ATTORNEY SHERMAN:

18 The statute talks in terms of payment of
19 the fee by June 1st, if, in fact, they want to pay
20 \$16.5 million. If they wait until after June 1st, the
21 payment escalates to, I think, \$22 million and change.

22 CHAIRMAN:

23 Any questions, and if not, can I have a
24 motion?

25 MR. MCCABE:

1 Yes, Mr. Chair. I move that the Board
2 grant the Petition of Downs Racing, LP as described by
3 the Office of Chief Counsel (OCC).

4 CHAIRMAN:

5 Second?

6 MR. GINTY:

7 Second.

8 CHAIRMAN:

9 All in favor?

10 AYES RESPOND

11 CHAIRMAN:

12 Opposed?

13 NO RESPONSE

14 CHAIRMAN:

15 Motion passes.

16 ATTORNEY SHERMAN:

17 Next is a motion also relating to Downs
18 Racing. It's a corollary motion to the motion you've
19 just passed. They've requested the expansion of their
20 gaming floor by 16,030 square feet in order to
21 accommodate their 82 live table games. They've
22 provided plans for their expansion to the Board in
23 anticipation of the Board granting their Petition to
24 Operate Tables Games. The OEC has not objected to the
25 petition, again provided certain conditions are met.

1 Those conditions requested by OEC require
2 submission of any revised internal controls. We're
3 changing the Compulsive and Problem Gambling Plan,
4 which may be needed. Submission of a revised floor
5 plan, designated smoking and non-smoking areas, and
6 confirmation that all surveillance requirements and
7 local building and fire code requirements are met.

8 These conditions have been provided to
9 the Board in advance of the meeting. The OCC agrees
10 that they would all be appropriate for inclusion, and
11 therefore suggests that it would be appropriate at
12 this time for the Board to approve a motion for the
13 expansion of the gaming floor plan, subject to those
14 conditions.

15 CHAIRMAN:

16 Any questions or comments from the Board?
17 Just one point I wanted to make, that Commissioner
18 Trujillo is on the phone in the matter of public
19 record. That being said, can I have a motion?

20 MR. MCCABE:

21 Chairman, I move that the Board grant the
22 Petition of Downs Racing LP as described by the OCC.

23 CHAIRMAN:

24 Second?

25 MR. GINTY:

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 SHERMAN:

11 The next matter before the Board is
12 Greenwood Gaming's Petition to Conduct Table Games.
13 And I think the same disclaimer I made at the
14 beginning would also apply to this one. That is, that
15 the Board is not approving a specific Appendices or
16 approving Greenwood to commence table games at this
17 time. It's just the first step in the process.

18 Of course, the Board heard the
19 presentation of Greenwood, and had the opportunity to
20 question their representatives earlier. The OEC has
21 not opposed the granting of the petition, subject to
22 similar pre- and post-conditions for the commencement
23 of operations, similar to those which I had
24 articulated for Downs. The OCC is in agreement with
25 the OEC that those conditions are appropriate. Again,

1 this matter is now ready for the Board's
2 consideration.

3 CHAIRMAN:

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

6 MR. GINTY:

7 Chairman, I move that the Board grant the
8 Petition of Greenwood Gaming and Entertainment, Inc.,
9 as described by the OCC.

10 CHAIRMAN:

11 Second?

12 MR. COY:

13 Second.

14 CHAIRMAN:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN:

18 Opposed?

19 NO RESPONSE

20 CHAIRMAN:

21 Motion passes.

22 ATTORNEY SHERMAN:

23 And the final petition before the Board
24 today is Sands Bethworks' Petition for Approval of
25 Changes to their Gaming Floor, along with the Motion

1 requesting confidentiality of the gaming floor plan,
2 itself. Currently, Sands has a total of 3,250 slot
3 machines available for play on the floor. On February
4 22nd, Sands filed a Petition for a Table Games
5 Certificate. Related thereto, Sands filed the current
6 petition on March 8th, 2010, requesting the Board's
7 approval to permanently remove 160 slot machines, and
8 to relocate 594 other machines.

9 Sands is not requesting a reduction to
10 the size of the gaming floor, and the requested
11 reduction will not cause Sands to fall below the
12 number of machines in operation on October 1st, 2009,
13 a date relevant at the time the Board takes up Sands'
14 Table Game Petition; which again, will be at a future
15 meeting.

16 The OEC has no objection to Sands'
17 Petition, subject to specific conditions being met.
18 There are 11 conditions which have been provided to
19 the Board, along with the Petition and the relevant
20 pleadings. Sands has also filed a Motion to Protect
21 the Confidentiality of its Gaming Floor Plan, for
22 security reasons. That plan was attached to the
23 Petition as an exhibit. The OEC has filed an answer
24 to the Motion for Confidentiality, and does not
25 object. The OCC has reviewed both documents, and

1 recommends that the Board grant both the Petition to
2 Modify the Gaming Floor and to reduce the number of
3 machines, as well as to grant confidentiality to the
4 exhibit, which is the floor plan.

5 CHAIRMAN:

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

8 MR. COY:

9 Mr. Chairman, I move the Board grant the
10 Petition of Sands Bethworks Gaming LLC as described by
11 the OCC.

12 MR. ANGELI:

13 Second.

14 CHAIRMAN:

15 All in favor?

16 AYES RESPOND

17 CHAIRMAN:

18 Opposed?

19 NO RESPONSE

20 CHAIRMAN:

21 Motion passes.

22 ATTORNEY SHERMAN:

23 Okay. Next up are Reports and
24 Recommendations to be presented by Deputy Chief
25 Counsel, Steve Cook.

1 ATTORNEY COOK:

2 Good afternoon. The Board has received
3 four unopposed Petitions to withdraw Vendor
4 Registration Applications, which include four
5 individuals or businesses. The parties subject to
6 these petitions are as follows: BMC Software, Inc.,
7 C&T Investment, LLC, Charles Hammell and Thomas Trimm.
8 The OEC has no objection to these withdrawals, as
9 such. The OCC submits these to the Board for
10 consideration of a motion to grant these withdrawals
11 without prejudice.

12 CHAIRMAN:

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

15 MR. ANGELI:

16 Mr. Chairman, I move that the Board issue
17 Orders to approve the Withdrawals or Surrenders as
18 described by the OCC.

19 MR. COY:

20 Second.

21 CHAIRMAN:

22 All in favor?

23 AYES RESPOND

24 CHAIRMAN:

25 Opposed?

1 NO RESPONSE

2 CHAIRMAN:

3 Motion passes.

4 ATTORNEY SHERMAN:

5 Next before the Board for consideration
6 are two Reports and Recommendations received from the
7 Office of Hearings and Appeals (OHA), relative to one
8 Non-Gaming Registration, and one Vendor Certification.
9 These Reports and Recommendations, along with the
10 evidentiary record for each hearing, have been
11 provided to the Board in advance of this meeting.

12 Additionally, in each case the persons
13 involved have been notified that the Board is
14 considering their Report and Recommendation today, and
15 that they have the right to be present to briefly
16 address the Board. If any of these individuals are
17 present today, they should come forward when their
18 name or their business's name is announced.

19 The first Report and Recommendation
20 before the Board pertains to Terrence Courtney. On
21 December 21st, 2009, Mr. Courtney submitted his Non-
22 Gaming Employee Application, seeking work as an
23 operations attendant at the Parx Casino. The OEC
24 issued a Notice of Recommendation of Denial on January
25 4th, 2010 due to Mr. Courtney's failure to disclose

1 the entirety of his criminal history, as well as the
2 nature and frequency of his underlying charges and
3 convictions. Mr. Courtney did disclose a 1998 arrest
4 and conviction for receiving stolen property on his
5 application. However, Mr. Courtney's criminal history
6 report indicated that since 1990, he had in fact been
7 arrested 36 times, which resulted in 17 convictions.
8 Mr. Courtney requested a hearing and a Hearing Notice
9 was sent to him, but he failed to attend the hearing,
10 which was scheduled for February 2nd, 2010. As a
11 result, the hearing was held in his absence, and
12 subsequently, a Report and Recommendation was issued,
13 which found that due to Mr. Courtney's non-
14 disclosures, as well as the nature of his crimes, that
15 his application should be denied. That Report and
16 Recommendation is before the Board today for
17 consideration.

18 CHAIRMAN:

19 Is Mr. Courtney present? Any questions
20 or comments from the Board? If not, can I have a
21 motion, please?

22 MR. MCCABE:

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

1 Registration of Terrence Courtney, as described by the
2 OCC.

3 MR. SOJKA:

4 Second.

5 CHAIRMAN:

6 All in favor?

7 AYES RESPOND

8 CHAIRMAN:

9 Opposed?

10 NO RESPONSE

11 CHAIRMAN:

12 Motion passes.

13 ATTORNEY SHERMAN:

14 The second Report and Recommendation
15 before the Board today pertains to the Vendor
16 Certification of Elgee Savar, Inc. I believe Mr. Mark
17 Halpern, Elgee Savar's Counsel, is present today, and
18 wishes to briefly address the Board.

19 Before he does that, perhaps I'll give
20 the Board just some brief background. On July 26th,
21 2007, Elgee Savar, Inc., filed a Vendor Certification
22 Application. Elgee currently has a contract with
23 Harris Chester Casino and Racetrack for placement of
24 four cigarette machines in its casino. Bureau of
25 Investigations and Enforcement (BIE) conducted a

1 background investigation of Elgee and its principals,
2 and on February 5th, 2009, the OEC issued a Notice of
3 Recommendation of Denial.

4 OEC asserts that Elgee's application
5 should be denied due to general suitability concerns.
6 The OEC alleges that through a series of mergers,
7 which was subsequently dissolved, Elgee's principals
8 were associated between May 1989 and November 2000
9 with persons having a history of distributing video
10 gaming devices, which were used for illegal gambling.
11 OEC asserts that Elgee's principals knew, or should
12 have known, that they were associated with people who
13 used video or vending business to circumvent the law.
14 OEC also believes that Elgee's application should be
15 denied because it failed to cooperate with BIE during
16 its investigation, when it failed to provide
17 attachments and schedules to an agreement regarding a
18 transfer of partnership property at the time that this
19 business venture was dissolved.

20 A hearing was held on September 2nd,
21 2009, and both parties filed briefs in support of
22 their positions. On December 7th, 2009, after
23 considering the evidence presented in the briefs, the
24 Hearing Officer issued a Report and Recommendation
25 which concluded that Elgee Savar should not be denied

1 Vendor Certification simply due to an association with
 2 bad actors, when there is no evidence that the vendor
 3 knew of the bad conduct of these individuals. On the
 4 issue of Elgee's failure to cooperate with BIE by
 5 providing the documents, the Hearing Officer found
 6 that Elgee adequately explained why the documents
 7 requested were not provided. Subsequent to the
 8 issuance of that Report and Recommendation, the OHA
 9 filed exceptions to it, again indicating that they
 10 felt that Mr. Savar's business relationship with these
 11 individuals, as well as his not providing BIE with the
 12 requested documentation, should lead to his Revocation
 13 of a Vendor Certification.

CHAIRMAN:

14
 15 Before you start, could you please stand
 16 and be sworn, both of you, if you're going to have to
 17 testify?

18 -----

19 MARK HALPERN, HAVING FIRST BEEN DULY SWORN, TESTIFIED
 20 AS FOLLOWS:

21 -----

22 ELGEE SAVAR, HAVING FIRST BEEN DULY SWORN, TESTIFIED
 23 AS FOLLOWS:

24 -----

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN:

Thank you. Go ahead.

ATTORNEY HALPERN:

Chairman, members, Mark Halpern from Halpern and Levy. I represent the Vendor Applicant, Elgee Savar. After reading the extremely comprehensive findings and recommendations from Hearing Officer Zielonis, frankly I did not anticipate appearing here for oral argument. However, I became extremely troubled when I received the exceptions, and felt it incumbent on myself to appear here, in light of what I believe to be a complete lack of candor presented by the OEC in what they have presented to you in their exceptions. Specifically, in essence what their exceptions do is repeat what was set forth in the Notice of Recommendation of Denial. When we received the Notice of Recommendation of Denial, frankly we were astonished at some of the allegations therein.

Nonetheless, we went through a discovery and deposition to great expense to the parties, and then had an extensive hearing. We are now left with not allegations, but what is in the factual record. And when I read these exceptions, I was extremely troubled that the OEC is continuing to make

1 allegations in here, in which there is not a scintilla
2 of evidence in the record. And frankly, that is a
3 complete lack of candor to this Board. What they have
4 the right to do is present their side of the facts
5 that were before the Hearing Officer. And I think it
6 is important to give you some flavor of that because,
7 to the extent that you are considering the exceptions,
8 I ask you as I'm certain you would have already done,
9 to see if anything they are saying is supported in the
10 record. Clearly, they are diametrically opposed by
11 the factual findings of the Hearing Officer.

12 I want to give a perfect example of that.
13 The first is this allegation in here, which was one of
14 the two reasons for the Recommendation of Denial, that
15 Elgee Savar did not cooperate in the investigation.
16 The evidence at the time of the hearing was not only
17 that did Elgee Savar cooperate, it provided thousands
18 of pages of documents, made every single one of its
19 employees available for interview, and complied with
20 every single request of the investigator. This was,
21 in fact, found by the Hearing Officer; that the
22 Applicant and its attorneys fully cooperated in the
23 investigation, paragraph 85. What is the basis? It's
24 the same basis in their initial letter. And that is,
25 they say, in one of the documents the investigator

1 looked at, there was reference to three exhibits.

2 And this was in a division of the assets
3 of this joint venture that Elgee had with the
4 Bershads. And in their exceptions, they actually take
5 the position, and I'm referring to page seven, because
6 those schedules which were not included likely
7 contained information regarding the division of
8 assets, which may have included information involving
9 the use or division of illegal gambling devices; the
10 sudden disappearance of those documents raises
11 suspicion. There was not a scintilla of evidence that
12 there was any disappearance of those documents.

13 The un-rebutted evidence was those
14 schedules were never prepared. And they were never
15 prepared because all they were were computer printouts
16 that would say, here are the cigarette vending
17 machines that all went to Elgee, here are the gaming
18 machines that all went to the Bershads, and here are
19 the music machines that all went to the Bershads. The
20 investigator was told by me, as Counsel who prepared
21 the agreement, that the schedules were never prepared.
22 And yet they make the position here that they somehow
23 suddenly disappeared with no evidence in the record.

24 Importantly, they could have called
25 Ronald Bershad, they had Allan Bershad, to ask them

1 did any of the equipment which you took include any
2 illegal poker machines? They interviewed Ronald
3 Bershad. They called Allan Bershad and never asked
4 those questions, because they knew that there were no
5 illegal poker machines, no poker machines at all in
6 Penn SSS, the un-rebutted testimony has found. It is
7 frankly inappropriate for the OEC in exceptions to
8 make an allegation of the sudden disappearance of
9 schedules, when they know that the record makes clear
10 that the schedules never existed. And to say that
11 that's a lack of cooperation is over-reaching and
12 disingenuous.

13 I must point out with regard to the crux
14 of this, there is no dispute but that this gentleman
15 who's been in the business for 39 years, the vending
16 business, has a reputation in the industry of record
17 at the hearing that is beyond reproach; has never had
18 the slightest allegation against him of wrongdoing,
19 including a moving violation in his automobile. They
20 don't contest that. Additionally, they don't contest
21 that he, himself, individually and his company, for 39
22 years has been going through annual scrutinies for
23 renewal of his cigarette license, and his revenue
24 licenses within this Commonwealth. Very similar
25 background checks. Not once has he been denied a

1 license by the Commonwealth.

2 What they say is he has associated
3 himself with bad characters, limited to illegal video
4 poker machines. And they talk in these exceptions
5 over and over, such as statements that Penn SSS was
6 known for having illegal video poker machines. That's
7 what they say in their exceptions. Check the record.
8 There wasn't one word about that. And in fact, the
9 evidence was to the contrary. The only witnesses who
10 testified as to the business of Penn SSS were Michael
11 Savar and Allan Bershada. Allan Bershada, a convicted
12 felon, because it was discovered that he had embezzled
13 a million dollars from the company after they merged,
14 one year after they merged, and gambled it away in
15 Atlantic City.

16 And yet Michael Savar, when he got a
17 court order to have Allan Bershada thrown out of the
18 company by a Bucks County Judge, he spent six years
19 working with the Federal taxing agencies and the
20 Commonwealth agencies, and worked out a repayment
21 schedule where every penny was repaid from the million
22 dollars that was embezzled. And his license was
23 renewed every single year.

24 And what they say in here is that Allan
25 Bershada said, and Michael Savar said, we didn't have a

1 single video poker machine in our joint business. I
2 have never had a video poker machine in my history.
3 They say that everybody knew that Penn SSS had illegal
4 video poker machines. Not one person testified to
5 that. That's what they put down in their initial
6 Notice of Recommendation and Denial.

7 Interestingly, while I concede for you
8 that we learned from the investigator of a New Jersey
9 casino control license unrelated to anything that
10 Michael Savar was involved with, was denied to the
11 Bershads, and there was some civil suit. Importantly,
12 Ronald and Allan Bershad, and Allan Bershad's son, not
13 one of them have ever been charged, let alone
14 convicted, of anything relating to video poker
15 machines. So even in the one area where they go over
16 and over about all these illegal video poker machines,
17 and in fact, the testimony was that to the extent
18 there were video poker machines that Michael Savar
19 knew Ronald Bershad and Allan Bershad had in their own
20 businesses, nobody testified that those video poker
21 machines were illegal, and many of them, as we
22 understood the testimony, certain of the machines were
23 legal, and certain of them may not have been, or that
24 anybody was doing illegal betting.

25 The fact is that the record, as found by

1 the Hearing Officer, was that Michael --- there was
2 not one shred of evidence that would lead Michael
3 Savar to have known about anything the Bershads were
4 doing, and there was no evidence that they were ever
5 convicted of doing anything illegal, with one
6 exception; that Michael Savar, when he joined with
7 them in 1989, discovered in 1990 that Allan Bershad
8 had embezzled a million dollars and had not paid
9 taxes. And then he hired Counsel for nine years to
10 try to get a divorce from the Bershads, got Allan
11 Bershad thrown out, worked out everything with the
12 taxing agencies.

13 And this is about two cigarette vending
14 machines, two, sitting not on the casino floor, not on
15 the casino floor. Michael Savar doesn't go in. Every
16 one of his vendors who go in there have to be licensed
17 to go in there. And I'll finish up, because I know
18 I'm going too long, and I apologize. I just want to
19 say this one point.

20 MR. SAVAR:

21 Two machines on the floor.

22 ATTORNEY HALPERN:

23 Two machines, I'm sorry, on the floor. I
24 apologize, four total.

25 MR. SAVAR:

1 Two on the floor, two not on the floor.

2 ATTORNEY HALPERN:

3 The two at issue are two machines on the
4 floor, and I apologize. The revenue that's being
5 generated by those machines pale compared to the legal
6 fees that he has gone through to try to get this
7 vendor application. He's 69-years old, and he's here
8 for one reason; he prides himself on his reputation.
9 And for reasons that I cannot figure out --- I
10 understand this is a fairly new process, and we
11 offered to the OEC from day one, give us a list of the
12 people that you think my client is associating with,
13 or has in the past, that you don't want him to
14 associate with, we'll agree.

15 And we were told over and over, this is a
16 test case. We need to set the parameters, figure out
17 how the Board's going to rule on vendor applications.
18 So he has been forced to spend a tremendous amount of
19 money to gain a privilege --- it's not right, a
20 privilege --- to have two vending machines on the
21 casino floor. But he's here because the OEC for some
22 reason has continued without a single shred of
23 evidence to besmirch his name. And to say that he is
24 not qualified to be a vendor --- have an ownership
25 interest in a vendor for cigarette vending machines,

1 because of some innocuous relationship with Allan and
2 Ronald Bershad. And frankly, I give him a lot of
3 credit for having principle.

4 But I ask you, because I'm not sure, I'm
5 new to this particular forum, OEC should not be
6 permitted to make exceptions to a Hearing Officer's
7 carefully considered findings unless there's something
8 in the record that they can point to, to support what
9 they're saying is the fact. They shouldn't be
10 permitted to just say it, because those words are
11 serious allegations. They should be allowed to do it
12 in the recommendation based on their investigator's
13 finding. But once that evidence begins and closes, if
14 they're going to take exception to Hearing Officer
15 Zielonis' Recommendations and Findings of Fact, they'd
16 better have a fact of record to support their
17 allegation. And time after time after time in here,
18 they didn't. And that is troublesome. Thank you for
19 your time.

20 CHAIRMAN:

21 Thank you, Mr. Halpern. Let me say this;
22 I'm going to give OEC a couple of minutes to respond
23 to what Mr. Halpern said. But I think ultimately
24 we're going to ask that this matter be taken under
25 advisement. But if you guys want to respond, just to

1 some of the allegations from Mr. Halpern, I'll let it
2 go with that. And then we're going to stop this part
3 of the hearing, and I'm going to suggest we take it
4 under advisement.

5 ATTORNEY ROLAND:

6 Thank you, Mr. Chairman, and members of
7 the Board; Mike Roland from the OEC. You know, as I
8 spent the last few days looking over the record that
9 we had in front of us, I realize it's pretty
10 voluminous. You've got multiple briefs, you've got
11 reply briefs, you've got exceptions, you've got a
12 hearing record. And the more I looked at it, the more
13 confused I got. And here's the guy that was sitting
14 front and center throughout the entire process. So I
15 stepped back and I said to myself, what are really the
16 issues here? What are the two points, if I get an
17 opportunity to discuss this with the Board, that I
18 want to convey? And it's the same two points that we
19 laid out in our denial letter. The two reasons we
20 recommended denial. It's a failure to cooperate, and
21 it's general suitability issues.

22 Now, I'd like to just briefly address the
23 failure to cooperate first, because I think factually,
24 it's a little bit easier than the suitability case.
25 But under Section 437(a).3(b) it requires that a

1 Vendor Certification Applicant provide information
2 requested by the Board relating to its application or
3 regulation and cooperate with the Board in
4 investigations. Now, I think the question that's
5 before the Board is how much cooperation is enough
6 cooperation? And we would offer that it has to be 100
7 percent cooperation because if it's not 100 percent
8 cooperation, it undermines the process.

9 And if I turn over 9,000 documents that
10 don't hurt my case or harm my client, but I hold back
11 that one half page of information that might, there's
12 an argument I can make that I've done practically
13 everything I possibly could to cooperate and comply.
14 But I may have withheld some information that may have
15 been detrimental in my case. We don't know if that's
16 the case here. I'll be the first to admit we don't
17 know that that's the case here.

18 But the issue, when Penn SSS dissolved in
19 2000, there were three parties that were made out of
20 Penn SSS. It was Elgee Savar, Inc., it was Jay
21 Vending, Inc., and it was the Edward Bershad Company,
22 Inc. And as they separated from each other, there was
23 this separation agreement that was drafted. And that
24 separation agreement referred to the division of
25 assets, and three schedules, A, B and C.

1 Now, after talking with our investigator,
2 he believes that certainly it's going to show who
3 owned what in the company, and what stakes they had.
4 That's what we anticipate. Would there have been any
5 derogatory information in those documents? We don't
6 know, because we've never had the opportunity to see
7 them. But I'd like the Board to keep in mind that
8 this isn't something our investigator made up, or
9 sought, after all, on his own. This is something that
10 the Applicant brought to our attention in their
11 separation agreement. They said, hey Board, hey BIE,
12 these things are there. They referenced them. This
13 isn't something we just went out to chase after.

14 When we asked for those documents, our
15 investigator was originally told we'll get them to
16 you, on more than one occasion. Eventually the answer
17 became, we don't have them anymore. And we can't
18 reproduce them, but it's okay, because the documents,
19 the three parties that divided from each other, we all
20 knew what we were getting anyhow, so there was really
21 no reason for us to attach it. Well, that's great for
22 them at that point in time in 2000. But nobody else
23 knows, when they're under an intense investigation,
24 what they're getting sometime down the road.

25 I think the argument that we just can't

1 reproduce them, they're not available anymore, becomes
2 a little tougher to swallow when the shadow of the
3 second objection is cast over it. And that's the
4 general suitability issue.

5 Now this Board knows general suitability
6 isn't defined anywhere in our Act, it's not defined
7 anywhere in our regulations. When you look at
8 1202(b)23, you kind of get a flavor for the elements
9 or the items that are going to be looked at to
10 determine someone's suitability; honesty, character,
11 integrity, habits, reputation, prior criminal history,
12 if any, and associations.

13 Now, I think the question for the Board
14 now regarding this issue, regarding general
15 suitability is, should the Board grant a certification
16 license to an individual who's been known to associate
17 with those people involved in illegal gaming. And
18 then maybe a sub-question to that is; if that
19 individual has limited contact with the casino, does
20 it change the answer? And I would suggest to you that
21 the answer to both of those is no.

22 Association is kind of a tricky thing,
23 because admittedly, there's nothing that BIE or OEC
24 can point to that goes directly against Mr. Savar or
25 Elgee Savar. But if you associate enough with those

1 individuals that are known to be problematic, at some
2 point, does that affect those other items that are
3 considered under 1202(b)23? How many times do I have
4 to associate with a known character, a known criminal,
5 before my honesty and integrity start to take some
6 damage? I don't have an answer for the Board for
7 that, but it's something I think we had to consider.

8 I'd ask for one second --- and this is
9 really just for clarity, because our concern was Elgee
10 Savar surrounded itself with negative associations.
11 And I know the Board has in the copy of all its
12 packets, Exhibit Number Six, and I actually have
13 additional copies here, and rather than have you flip
14 through, if I can provide them, I'd like to do that.

15 CHAIRMAN:

16 Why don't we just wrap it up? I mean, I
17 think the bottom line, as I said from the get go,
18 we're going to give you a chance to respond; you've
19 done that.

20 ATTORNEY ROLAND:

21 Fair enough.

22 CHAIRMAN:

23 Let's conclude it, and we're going to
24 take it under advisement.

25 ATTORNEY ROLAND:

1 Fair enough; I understand, Mr. Chairman.

2 MR. SOJKA:

3 Can I ask what the nature of the
4 interaction will be that will come back to us? Will
5 there be communication between Counsel and looking for
6 some sort of agreement? Or what are we going to get
7 back to us?

8 CHAIRMAN:

9 I'll allow him to answer that. Hold on
10 one second, Cyrus.

11 ATTORNEY SHERMAN:

12 I think, Commissioner Sojka, in taking
13 under advisement, obviously the Board has previously
14 had the benefit of the filings, and the various
15 briefs. I also have had substantial argument. Asking
16 the Board to look at some of these matters may be a
17 little bit closer in light of the record, and consider
18 the effect of the association. And I think it would
19 be appropriate to maybe defer making the judgment on
20 this matter today, until the Board has fully had an
21 opportunity to reflect on those arguments, so as maybe
22 not to make a rash judgment, and really take into
23 consideration the arguments of both sides.

24 This case is probably a little bit
25 different than the normal one we get. And that we do

1 have attorneys from both sides here strenuously
2 arguing something of importance, that will, in fact,
3 affect the Board's procedure and policies going
4 forward.

5 MR. SOJKA:

6 But you're suggesting, then, we will not
7 hear additional arguments?

8 ATTORNEY SHERMAN:

9 No. I think today's argument is the
10 argument. It's simply a matter of deferring, so that
11 the Board can collectively deliberate in light of the
12 arguments, and then announce a decision at a future
13 meeting.

14 ATTORNEY HALPERN:

15 And we're in total agreement with that.
16 We believe you have everything, and we would simply
17 ask that you look at the exceptions against the
18 record.

19 CHAIRMAN:

20 Cyrus, I'm sorry I cut you off before.

21 ATTORNEY PITRE:

22 No, that's fine.

23 CHAIRMAN:

24 Any other questions from the Board?
25 Commissioner Ginty?

1 MR. GINTY:

2 I'm not sure this was in the record, but
3 as I understand it, these documents, whatever they
4 were, never existed?

5 ATTORNEY HALPERN:

6 Correct.

7 MR. GINTY:

8 And you told our investigators that they
9 never existed?

10 ATTORNEY HALPERN:

11 The testimony at the time of trial, at
12 the time of the hearing was my representation that I
13 called and left a voicemail message for the
14 investigator that --- because we pulled this out in
15 2008, from a 2000 agreement, that I spoke to Counsel
16 for all the attorneys involved, and our collective
17 recollection was they were never printed out and
18 attached to the exhibit anywhere. So they never
19 existed. And that they were all just --- all they
20 were were computer printouts that would show the name
21 of the --- I guess a serial number for a vending
22 machine, or a serial number for a jukebox. And they
23 were never attached. And they never were printed, and
24 they never existed.

25 MR. GINTY:

1 And I understand from OEC, you simply
2 don't believe Counsel's representation?

3 ATTORNEY ROLAND:

4 Commissioner Ginty, I don't know --- I
5 think that's true. Because I think originally we were
6 told they're on their way, they're on their way. And
7 then as the plot began to thicken here, they weren't
8 to be found.

9 ATTORNEY HALPERN:

10 I will take this up with the Ethics
11 Board, then. I cannot fathom that OEC's Counsel just
12 challenged my integrity in front of this Board.

13 ATTORNEY ROLAND:

14 Sir, I didn't challenge your integrity.

15 ATTORNEY HALPERN:

16 You did. You just said that you
17 challenged the voracity ---.

18 ATTORNEY PITRE:

19 No, I think what was said was that our
20 BIE investigator was told that the information was
21 forthcoming, and that it never came.

22 ATTORNEY HALPERN:

23 Excuse me, and additionally, he was
24 never ---.

25 ATTORNEY PITRE:

1 And he testified to that fact, also.

2 ATTORNEY HALPERN:

3 He may have testified to that. And I
4 don't recall ---.

5 ATTORNEY PITRE:

6 So I don't see how anyone's attacking
7 your ethics, sir.

8 ATTORNEY HALPERN:

9 I'm sorry, Member Ginty said, and you do
10 not believe the representation of Counsel? And the
11 Counsel then said, that is correct. And everybody in
12 this room heard it, and I asked him to retract it,
13 because I made that representation.

14 ATTORNEY PITRE:

15 I heard no offer of retraction. What was
16 testified to was that BIE ---.

17 ATTORNEY HALPERN:

18 Very well, then. I'll take it up with
19 the Ethics Board.

20 ATTORNEY PITRE:

21 Do what you must.

22 MR. MCCABE:

23 I'm a jailhouse lawyer, I just want
24 to --- in the documents where I read, they refer to
25 attachments A, B and C.

1 ATTORNEY HALPERN:

2 Correct.

3 MR. MCCABE:

4 Why did they refer to attachments A, B
5 and C if they didn't exist?

6 ATTORNEY HALPERN:

7 It's very simple. When they were
8 drafted, the A, B and C says the cigarette vending
9 machines, set forth in the attachment as Exhibit A,
10 Exhibit B, Exhibit C, the attorneys drafted all of
11 that. Give it to the clients, and you say to the
12 clients, print it out and attach it. They said, we
13 don't need to, we know what it is, I'm getting all the
14 cigarette vending machines. He said, I know what it
15 is, I'm getting all of the music games. And that's
16 exactly how it was kept in my file, in Wolf Block's
17 file, and in Abraham and Lowenstein's file; the three
18 attorneys that were involved. I questioned all three,
19 because it was eight years since this one transaction.
20 And I said, do you guys recall whether we ever
21 attached it? They each reached out to their client, I
22 reached out to Mr. Savar; Mr. Savar told me they were
23 never printed out.

24 MR. MCCABE:

25 So was there a legal document drafted

1 eight years ago that said, in agreement with
2 attachments A, B and C, and that stood then as the
3 agreement?

4 ATTORNEY HALPERN:

5 Yes.

6 MR. MCCABE:

7 So this is the jailhouse lawyer in me
8 coming out; then either that lawyer back then didn't
9 do their job, and go back and correct that document,
10 and say, okay, we no longer have A, B and C, as per
11 verbal agreement between all parties. That should
12 have been in the attachment, or --- like I said, I'm a
13 jailhouse lawyer.

14 ATTORNEY HALPERN:

15 No, whether you're a jailhouse lawyer or
16 not, from common sense, in a perfect world, yes, it
17 would have been beneficial to go back and say, you
18 know what --- because the agreement was signed at a
19 closing, and then I think somebody said --- and I
20 don't specifically recall it; where are the
21 attachments? The clients said, we don't need it, we
22 know exactly what we're talking about here.

23 MR. SOJKA:

24 I believe we've heard all these things
25 back and forth. At this point, with your permission,

1 Mr. Chairman, I would move we take this matter under
2 advisement.

3 MR. MCCABE:

4 I second.

5 CHAIRMAN:

6 All in favor on the motion? Commissioner
7 Coy?

8 MR. COY:

9 I just want to indicate one thing. And I
10 support taking it under advisement and continuing it.
11 But the representation, while I know it was to talk
12 about the gentleman's integrity in the past, the
13 representation that he successfully was renewed a
14 cigarette sales license, and other licenses like that,
15 I want you to know that at least I feel that a license
16 having to do with gaming in the Commonwealth, of
17 whatever sort, requires a lot more scrutiny than re-
18 licensure of sales of cigarettes. That doesn't
19 require a response. It is simply a statement. Thank
20 you.

21 ATTORNEY COOK:

22 Mr. Commissioner, can I just, or --- Mr.
23 Chairman. I just want one point of clarification so I
24 know their argument, so we can go ahead and discuss
25 with all the information.

1 CHAIRMAN:

2 Go ahead.

3 ATTORNEY COOK:

4 Is it your position that the exhibits
5 never existed, or that hard copies never existed? I
6 mean, were Exhibits A, B and C, did they exist
7 electronically?

8 ATTORNEY HALPERN:

9 Yes. My understanding was, at the time,
10 that that information was contained in the computer
11 system, the inventory computer system, of Penn SSS.
12 So that if anybody ever wanted to, they could do it.
13 Now the only other thing I want to say is, we offered
14 anybody who the investigator wanted to talk to,
15 including Ronald Bershada, Allan Bershada, and Jay
16 Scott. If he had any questions or wanted to interview
17 them as to why they did it, why they weren't done,
18 what was in there, what each person took.

19 ATTORNEY COOK:

20 Do the exhibits still exist
21 electronically?

22 ATTORNEY HALPERN:

23 No, that computer system, I was told when
24 we did the search in '08 that that computer system was
25 no longer available.

1 MR. SAVAR:

2 I testified to this issue, and it should
3 be in the record. For seven years I had a lawsuit
4 against the Bershads because of the embezzlement, and
5 because they ruined my business life, and they wrecked
6 our company. They put us in grave danger. We had a
7 Judge in Bucks County that would not give us a trial.
8 After seven years of immense contentiousness and
9 aggravation with these people, trying to resolve the
10 issues, when this was finally done, it was such a
11 relief to just get it over, that we signed the papers
12 and we walked away, and we said, thank God.

13 CHAIRMAN:

14 Thank you. All right. Motion on the
15 table is to take this under advisement. I believe we
16 have a second to that motion; all in favor?

17 AYES RESPOND

18 CHAIRMAN:

19 Opposed?

20 NO RESPONSE

21 CHAIRMAN:

22 Okay. Motion passes. Thank you. Next
23 is Susan Hensel, our Director of Licensing.

24 MS. HENSEL:

25 Thank you, Chairman Fajt, and members of

1 the Board. The first matters for your consideration
2 are Table Game Manufacturer Licenses for NRT
3 Technology Corporation and Shuffle Master, Inc. These
4 are the first manufacturers before you for Table Game
5 Manufacturer Licenses. Both NRT and Shuffle Master
6 are currently licensed as slot machine manufacturers.

7 Under the Gaming Act, the Board may use
8 an abbreviated process to consider the application of
9 an already licensed slot machine manufacturer,
10 provided the manufacturer was issued a license within
11 36 months of submitting its Table Game application,
12 and providing that there have been no material changes
13 in circumstances relating to the license. As
14 indicated in the reports provided to you prior to this
15 meeting, both NRT and Shuffle Master satisfied these
16 conditions. The BIE, Gaming Laboratory Operations,
17 and the Bureau of Licensing have indicated that they
18 do not object to the Table Game Manufacturer Licenses
19 for these companies. I have provided you with draft
20 Orders, and ask that the Board consider the approval
21 of Table Game Manufacturer Licenses for the companies,
22 beginning with NRT Technology, Inc.

23 CHAIRMAN:

24 Any questions or comments from
25 Enforcement Counsel?

1 ATTORNEY PITRE:

2 No objection.

3 CHAIRMAN:

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

6 MR. MCCABE:

7 Yes, Mr. Chairman. I move that the Board
8 approve the Table Game Manufacturer License of NRT
9 Technology Corporation as described by the Bureau of
10 Licensing.

11 MR. GINTY:

12 Second.

13 CHAIRMAN:

14 All in favor?

15 AYES RESPOND

16 CHAIRMAN:

17 Opposed?

18 NO RESPONSE

19 CHAIRMAN:

20 Motion passes.

21 MS. HENSEL:

22 Next for consideration is Shuffle Master.

23 MR. PITRE:

24 No objection.

25 CHAIRMAN:

1 Any questions from the Board? May I have
2 a motion please?

3 MR. GINTY:

4 Chairman, I move the Board approve the
5 Table Game Manufacturer License of Shuffle Master,
6 Inc., as described by the Bureau of Licensing.

7 MR. COY:

8 Second.

9 CHAIRMAN:

10 All in favor?

11 AYES RESPOND

12 CHAIRMAN:

13 Opposed?

14 NO RESPONSE

15 CHAIRMAN:

16 Motion passes.

17 MS. HENSEL:

18 The next matter for your consideration is
19 the approval of Key Employee Licenses. Prior to this
20 meeting, the Bureau of Licensing provided you with a
21 proposed Order for 38 Key Employee Licenses for Downs
22 Racing, LP, Greenwood Gaming and Entertainment, Inc.,
23 Mountainview Thoroughbred Racing Association, Presque
24 Isle Downs, Inc., Washington Trotting Association,
25 Holdings Acquisition Co., LP, Mount Airy, Atronics

1 America, and IGT. I ask that the Board consider an
2 Order approving these licenses.

3 ATTORNEY PITRE:

4 No objection.

5 CHAIRMAN:

6 Any questions?

7 MR. COY:

8 So moved.

9 CHAIRMAN:

10 Second?

11 MR. ANGELI:

12 Second.

13 CHAIRMAN:

14 All in favor?

15 AYES RESPOND

16 CHAIRMAN:

17 Opposed?

18 NO RESPONSE

19 CHAIRMAN:

20 Motion passes.

21 MS. HENSEL:

22 We also have for your consideration the
23 issuance of Temporary Principal and Key Employee
24 Licenses. Prior to this meeting, the Bureau of
25 Licensing provided you with an Order regarding the

1 issuance of temporary licenses for one Principal and
2 69 Key employees. I ask that the Board consider the
3 Order approving these licenses.

4 MR. PITRE:

5 No objection.

6 CHAIRMAN:

7 Susan, I just have one question. My
8 notes say that those were Key Employee Credentials; is
9 that ---?

10 MS. HENSEL:

11 Yes, they're temporary credentials, which
12 is an interim step to full licensure.

13 CHAIRMAN:

14 Thank you. Any questions from the Board?
15 If not, can I have a motion, please?

16 MR. ANGELI:

17 So moved.

18 CHAIRMAN:

19 Second?

20 MR. MCCABE:

21 Second.

22 CHAIRMAN:

23 All in favor?

24 AYES RESPOND

25 CHAIRMAN:

1 Opposed?

2 NO RESPONSE

3 CHAIRMAN:

4 Motion passes.

5 MS. HENSEL:

6 Next are Gaming Permits and Non-Gaming
7 Registrations. Prior to this meeting, the Bureau of
8 Licensing provided you with a list of 33 individuals,
9 including 24 initial and nine renewals, who the Bureau
10 has granted Occupation Permits to, and 44 individuals
11 who the Bureau has granted registrations to, under the
12 authority delegated to the Bureau of Licensing. I ask
13 that the Board adopt a motion approving the Order.

14 MR. PITRE:

15 No objection.

16 CHAIRMAN:

17 Questions from the Board? Can I have a
18 motion?

19 MR. MCCABE:

20 So moved.

21 MR. SOJKA:

22 Second.

23 CHAIRMAN:

24 All in favor?

25 AYES RESPOND

1 CHAIRMAN:

2 Opposed?

3 NO RESPONSE

4 CHAIRMAN:

5 Motion passes.

6 MS. HENSEL:

7 In addition, we have a recommendation of
8 denial for one Non-Gaming Employee. Prior to this
9 meeting, the Bureau of Licensing provided you with an
10 Order addressing this applicant, who the BIE has
11 recommended for denial. In this case, the applicant
12 failed to request a hearing within the specified time
13 period. I ask that the Board consider the Order
14 denying this non-gaming applicant.

15 MR. PITRE:

16 We would request denial.

17 CHAIRMAN:

18 Thank you. Comments from the Board?

19 Motion please?

20 MR. SOJKA:

21 So moved.

22 CHAIRMAN:

23 Second?

24 MR. MCCABE:

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 Finally, we have an Order regarding
11 Gaming Service Providers Registrations. The Bureau of
12 Licensing provided you with an Order and attached list
13 of 26 registered Gaming Service Providers. I ask that
14 the Board adopt a motion approving the Order
15 registering these Gaming Service Providers.

16 MR. PITRE:
17 No objection.

18 CHAIRMAN:
19 Thank you. Questions from the Board?
20 Can I have a motion, please?

21 MR. MCCABE:
22 So moved.

23 MR. GINTY:
24 Second.

25 CHAIRMAN:

1 All in favor?

2 AYES RESPOND

3 CHAIRMAN:

4 Motion passes, thank you very much.

5 MS. HENSEL:

6 Thank you.

7 CHAIRMAN:

8 Next up is our Enforcement Counsel, Cyrus
9 Pitre.

10 ATTORNEY PITRE:

11 We have four matters for your
12 consideration today. The first matter will be handled
13 by our Assistant Enforcement Counsel, Melissa Powers.

14 CHAIRMAN:

15 Welcome, Melissa.

16 ATTORNEY POWERS:

17 Thank you, Chairman Fajt, members of the
18 Board. On December 4th, 2009, the OEC filed a
19 Complaint for Revocation against Mr. William Dykes for
20 failure to maintain his suitability. Mr. Dykes did
21 not respond to the Complaint within 20 days, therefore
22 his right to a hearing has been waived, and the facts
23 alleged in the complaint are deemed admitted. On
24 February 26th, 2010, OEC filed a Request for Default
25 Judgment. At this time, OEC would ask that the Board

1 revoke the Non-Gaming Employee Registration of William
2 Dykes.

3 CHAIRMAN:

4 I hate to say this, but is Mr. Dykes
5 present, and if so, would he come forward? Okay. Any
6 questions from the Board; if not, can I have a motion,
7 please?

8 MR. GINTY:

9 So moved.

10 MR. COY:

11 Second.

12 CHAIRMAN:

13 All in favor?

14 AYES RESPOND

15 CHAIRMAN:

16 Opposed?

17 NO RESPONSE

18 CHAIRMAN:

19 Motion passes. Thank you, Melissa.

20 ATTORNEY POWERS:

21 Thank you.

22 ATTORNEY PITRE:

23 Next three matters will be handled by
24 Assistant Enforcement Counsel Kathleen Higgins; Katie?

25 CHAIRMAN:

1 Welcome, Katie.

2 ATTORNEY HIGGINS:

3 On December 1st, 2009, the OEC filed a
4 Complaint for Revocation of Melvin Reich's Non-Gaming
5 Registration, due to his failure to maintain
6 suitability. Mr. Reich 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. The OEC filed a Request for
10 Default Judgment on March 4th, 2010, and at this time
11 the OEC would ask that the Board revoke Melvin Reich's
12 Non-Gaming Registration.

13 CHAIRMAN:

14 Is Mr. Reich present today? If not, any
15 questions from the Board? Can I have a motion,
16 please?

17 MR. COY:

18 So moved.

19 MR. ANGELI:

20 Second.

21 CHAIRMAN:

22 All in favor?

23 AYES RESPOND

24 CHAIRMAN:

25 Opposed?

1 NO RESPONSE

2 CHAIRMAN:

3 Motion passes. Next?

4 ATTORNEY HIGGINS:

5 On January 15th, 2010, the OEC filed a
6 Complaint for Revocation of Ryan Young's Non-Gaming
7 Registration due to his failure to maintain
8 suitability. Mr. Young did not respond to the
9 complaint within 30 days and therefore, pursuant to
10 Board Regulations, all facts alleged in the complaint
11 are deemed admitted. The OEC filed a Request for
12 Default Judgment on March 4th, 2010, and at this time
13 the OEC would ask that the Board revoke Ryan Young's
14 Non-Gaming Registration.

15 CHAIRMAN:

16 May I have a motion, please?

17 MR. ANGELI:

18 So moved.

19 CHAIRMAN:

20 Second?

21 MR. MCCABE:

22 Second.

23 CHAIRMAN:

24 All in favor?

25 AYES RESPOND

1 CHAIRMAN:

2 Opposed?

3 NO RESPONSE

4 CHAIRMAN:

5 Motion passes.

6 ATTORNEY HIGGINS:

7 The last matter that the OEC has today is
8 that of Sarah Varjassy. On January 14, 2010, the OEC
9 filed a Complaint for Revocation of Ms. Varjassy's
10 Non-Gaming Registration due to her failure to maintain
11 suitability. Ms. Varjassy did not respond to the
12 complaint within 30 days and therefore, pursuant to
13 Board regulations, all facts alleged in the complaint
14 are deemed admitted. The OEC filed a Request for
15 Default Judgment on March 4th, 2010, and at this time
16 we would ask that the Board revoke Ms. Varjassy's Non-
17 Gaming Registration.

18 CHAIRMAN:

19 Is Ms. Varjassy present today? Any
20 questions from the Board?

21 MR. SOJKA:

22 Just one question for Counsel. Was this
23 case sent forward to an appropriate law enforcement
24 agency? Since I think this is the breaking of a law;
25 this is corrupting a minor.

1 ATTORNEY PITRE:

2 Once the Board rules, we're going to make
3 that recommendation, forward that recommendation.
4 We're just waiting --- we didn't want it to interfere
5 with our case.

6 CHAIRMAN:

7 Ken, you had a question? Commissioner
8 McCabe?

9 MR. MCCABE:

10 I have a question. If this underage
11 individual got on the gaming floor and gambled, has
12 there been, or is there going to be any action taken
13 against the facility?

14 ATTORNEY PITRE:

15 We are looking into that. I don't want
16 to comment on it.

17 MR. MCCABE:

18 Okay. Thanks.

19 CHAIRMAN:

20 Thank you. Any other questions? Can I
21 have a motion, please?

22 MR. MCCABE:

23 So moved.

24 CHAIRMAN:

25 Second?

1 MR. SOJKA:

2 Second.

3 CHAIRMAN:

4 All in favor?

5 AYES RESPOND

6 CHAIRMAN:

7 Opposed?

8 NO RESPONSE

9 CHAIRMAN:

10 Motion passes. Thank you, Cyrus, Katie.

11 ATTORNEY HIGGINS:

12 Thank you.

13 CHAIRMAN:

14 Quarterly, we open up the microphones for
15 public comment. We ask that speakers register in
16 advance of the meeting with our Communications Office.
17 As I understand it, no one has registered to come
18 forward at this meeting. However, if there's anybody
19 that wishes to address the Board, they should come
20 forward. The only people I see in the room are Gaming
21 Board employees. And I see Doug Harbach keeping his
22 seat, so that's a good thing. With that, we conclude
23 today's business. In closing, our next scheduled
24 public meeting will be held next Tuesday, March 23rd,
25 at 9:30 a.m. at Temple University, Harrisburg Campus,

1 Strawberry Square, Lecture Room 246/248, which is
2 where we are today. Any final comments from the
3 Board? If not, can I have a motion to adjourn?

4 MR. SOJKA:

5 So moved.

6 CHAIRMAN:

7 Second?

8 MR. MCCABE:

9 Second.

10 MR. SOJKA:

11 Meeting is adjourned. Thank you.

12 * * * * *

13 MEETING CONCLUDED AT 2:10 P.M.

14 * * * * *

15 CERTIFICATE

16 I hereby certify that the foregoing
17 proceedings, meeting held before the Pennsylvania
18 Gaming Control Board, was reported by me on 03/16/2010
19 and that I Alicia R. Brant read this transcript and
20 that I attest that this transcript is a true and
21 accurate record of the proceeding.

22 
23 _____
24 Court Reporter

24
25