

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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IN RE: PHILADELPHIA ENTERTAINMENT AND DEVELOPMENT

PARTNERS, LP (FOXWOODS)

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PUBLIC INPUT HEARING

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BEFORE: Gregory C. Fajt, Chairman
Raymond S. Angeli, Jeffrey W. Coy,
James B. Ginty, Kenneth T. McCabe,
Gary A. Sojka, Kenneth I. Trujillo; Members

HEARING: Thursday, December 16, 2010
9:05 a.m.

LOCATION: Pennsylvania State Museum Auditorium
300 North Street
Harrisburg, PA 17120

WITNESSES: Don Marrandino, Scott Wiegand

Reporter: Cynthia Piro Simpson

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E X H I B I T S

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CHAIRMAN:

The Board would like to ask everyone to please turn off their cell phones and PDAs. Joining us today is David Barasch, Ex-Officio Designee, representing Secretary of Revenue Dan Hassell, and Aviv Bliwas representing the State Treasurer's Office. Is Aviv here? Okay. And then joining us shortly will be Secretary of Agriculture Russell Redding, but representing him in the interim is Dan Tufano. Is Dan here? Don't see him. Okay. All members being present, I'll call today's meeting to order. As the first order of business, please join me in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE RECITED

CHAIRMAN:

I would now like to call up representatives of Philadelphia Entertainment and Development Partners and Caesars, formerly known as Harrah's, to update the Board on the present status of their discussions relative to PEDP's Category 2 License. The parties filed a series of petitions and supporting documents with both our Office of Hearings and Appeals (OHA) and the Bureau of Investigations and

1 Enforcement (BIE) on Friday. And we would like to
2 hear from them today. I presume that we have Mr.
3 Downey representing Harrah's/Caesars and Mr. Jacoby
4 representing PEDP. Before we begin, I'd like to ask
5 Counsel whether they agree that Friday's filings with
6 the OHA can be made part of the record.

7 ATTORNEY DOWNEY:

8 Mr. Chair, yes, I think that we can agree
9 that those filings should be made part of the record,
10 please.

11 CHAIRMAN:

12 Thank you. Mr. Jacoby, you're okay with
13 that?

14 ATTORNEY JACOBY:

15 Yes. We made a submission to Linda Lloyd
16 with respect to certain selected redactions which she
17 made, and we agreed that as redacted, it should be
18 part of the record.

19 CHAIRMAN:

20 Thank you. Office of Enforcement Counsel
21 (OEC), you guys are okay with that?

22 ATTORNEY PITRE:

23 No objection.

24 CHAIRMAN:

25 Okay. Thank you. Okay. With that,

1 Counsel for Harrah's/Caesars and PEDP, you may
2 proceed. And again, just for purposes of our court
3 reporter, could you please state your name and spell
4 your name before you begin? Do we have any non-
5 lawyers at the table who will be testifying?

6 ATTORNEY JACOBY:

7 We do, Mr. Chairman.

8 CHAIRMAN:

9 We do? Could you please stand and be
10 sworn in?

11 -----

12 WITNESSES EN MASSE

13 -----

14 CHAIRMAN:

15 Thank you.

16 ATTORNEY JACOBY:

17 Good morning, Mr. Chairman. Fred Jacoby,
18 Cozen O'Connor, for PEDP. I'll just make a very brief
19 opening statement. At the conclusion of the last
20 hearing before, you directed us to submit our
21 definitive deal documents to BIE by December 10th,
22 which we did, we also, at that time, submitted three
23 applications: an Application for Change of Control, a
24 joint application with Harrah's/Caesars, an
25 Application for an Extension of Time to open a

1 facility for gaming and an application with respect to
2 any potential need to modify the design of the
3 facility.

4 With the definitive documents, the
5 operative document is something called a Partnership
6 Interest Purchase Agreement, and we attached to it
7 probably too many documents for anybody's desires, but
8 a series of transactional documents that related to
9 the underlying transaction. We are here today to
10 answer any questions and to ask the Board to allow us
11 to continue with this process with BIE in their
12 investigative role. We have been answering questions
13 as they've been raised by BIE and various staff
14 members. We are and continue to be available for that
15 purpose.

16 We have received substantial indications
17 of interest from individuals and organizations who
18 would like to be considered for investment in the
19 Class A equity raise. We already have, as you know,
20 \$21 million committed by the Silver Trust and by Mr.
21 Snider. We delivered a deck of what I'll call
22 offering materials to BIE yesterday morning. And
23 depending upon the, I guess, determination by this
24 Board today, it's our intention to then respond to all
25 the inquiries we've had in order to meet with people,

1 discuss the transaction with them as potential
2 investors.

3 We also have preemptive rights under our
4 agreement. FDC has elected not to exercise its
5 preemptive rights, which means 100 percent of the
6 allocation will be available to WPI during the
7 preemptive period. We have been talking with the
8 partners in WPI. A number of them have expressed an
9 interest in investing in the Class A. We have not
10 proceeded with that until after this hearing. We felt
11 it'd be premature. And we also wanted to sign the
12 papers Friday and have a deck of offering materials
13 that we are comfortable is consistent with what the
14 deal is going to be. At this point, I'll turn the
15 microphone over to Bill Downey, Counsel for
16 Harrah's/Caesars. Thank you, Mr. Chairman.

17 CHAIRMAN:

18 Thank you. Mr. Downey, before you begin,
19 just to clarify my comments, the comment I made about
20 entering the documents in the record, that was in the
21 record of the Summary Judgment proceeding, is what I
22 was talking about.

23 ATTORNEY DOWNEY:

24 Understood.

25 CHAIRMAN:

1 Thank you. Mr. Downey?

2 ATTORNEY DOWNEY:

3 Thank you, Mr. Chairman. For the record,
4 Bill Downey for Bally's Midwest Casino and several
5 subsidiaries, indirect and direct, of Caesars
6 Entertainment Operation --- Corporation. With me
7 today at counsel table are Don Marrandino, who is the
8 president of Caesars Entertainment Corporation's
9 Eastern Division, and Scott Wiegand, who is vice-
10 president and Associate General Counsel of Caesars
11 Entertainment Corporation. Scott has been the primary
12 in-house counsel driving this --- the deal that you
13 have in front of you today.

14 Mr. Chairman, as you know, on October
15 22nd, 2010, we entered into a Confidential Term Sheet,
16 pursuant to which PEDP --- the partners in PEDP,
17 Caesars and Citizens, outlined a deal to recapitalize
18 and restructure PEDP. On November 18th, as Mr. Jacoby
19 has referenced, we came before you and described the
20 general nature of the deal that was contemplated, and
21 at your directive, drove hard to finalize our
22 relationship with the term sheet parties.

23 On December 10th, 2010, the parties to
24 the term sheet entered into a Definitive Purchase
25 Agreement, and that same evening, filed three

1 petitions with the Board. The first was a Petition
2 for a Change of Control of PEDP, which describes in
3 detail the proposed structure of the deal, and also
4 includes an executed copy of the Purchase Agreement
5 into which the parties entered. The second is a
6 Modification Petition, which describes our proposed
7 revised facility, including construction of the
8 facility in phases. And the third was an Extension of
9 Time Petition seeking extension of the time in which
10 we must open the project to December of 2012.

11 The Purchase Agreement and certain
12 documents attached as exhibits, including a New
13 Partnership Agreement, a Management Agreement and
14 Development Agreement, contemplate the
15 recapitalization and restructure of PEDP.
16 Specifically, PEDP's deck, held by Caesars and
17 Citizens, will be restructured in their entirety.
18 Equity investors, including Caesars, current partners
19 and contemplated new partners, will inject \$75 million
20 of new capital into the company. Just to put a finer
21 point on a reference that Mr. Jacoby made, we actually
22 have \$46 million of the \$75 million already committed.
23 He omitted Caesars' commitment of \$25 million.

24 Caesars is going to arrange for
25 approximately \$200 million in construction financing,

1 and Caesars proposes to acquire a one-third interest
2 in the reorganized company, and will manage the
3 project. I'm going to ask Mr. Marrandino to speak to
4 you on the subject of the proposed phasing and
5 facility plan.

6 MR. MARRANDINO:

7 Good morning. A really exciting project
8 that ---.

9 CHAIRMAN:

10 Could you spell your name?

11 MR. MARRANDINO:

12 I'm sorry. It's Don Marrandino,
13 M-A-R-R-A-N-D-I-N-O. Exciting project. We're looking
14 to launch it as a Horseshoe, which is one of our
15 primary brands under Caesars Entertainment. And I
16 think it would be the first nationally-known brand in
17 the Philadelphia market. We estimate this project
18 being completed in multiple phases, with the opening
19 estimated in the third quarter of 2012. And the
20 project is extremely exciting for us in the phase that
21 we're in right now.

22 It's going to be 151,000 square feet of
23 space that will have 64,000 square feet of gaming,
24 1,500 slot machines, 70 to 80 table games. And the
25 Horseshoe is known as the big limits place, along with

1 Caesars in our company, so it's not unusual to see
2 \$50,000 bet at a Horseshoe casino. From a parking
3 perspective, we'll have close to 1,400 parking spaces.
4 That's a ratio of .9 spaces to gaming position, which
5 is right about where we like to build our properties.

6 And I think the amenities will be very
7 nice. A steakhouse that's under design will have a
8 balcony overlooking the river, looking to partner with
9 a world-class chef to do something very nicely in the
10 area. A noodle bar. We're going to have a tremendous
11 sports bar that we think will work very well with the
12 sports complex very close to us, and I think it will
13 be a one-of-a-kind sports bar. And a center feature
14 bar that will have great entertainment.

15 When this construction starts, we'll
16 employ 650 construction workers, and when we open, we
17 believe we'll hire 1,200 employees, and we think that
18 950 of them will be full time. From a gaming tax
19 revenue, we project that we'll contribute about
20 \$66 million in year one, and by year five, we'll ramp
21 that up to about \$75 million. Phase 1B, as we're
22 calling it, or Phase 2, will occur when it's
23 commercially practical to get this project on, based
24 upon the performance, but we've already master planned
25 it and we think it will take about 22 to 24 months to

1 get Phase 1B up and running. And that would consist
2 of about 183,000 square feet of gaming space --- I'm
3 sorry --- total space, 87,000 of casino space. We'll
4 be up to 2,200 additional slot machines and 90 to 100
5 table games. We'll have a parking garage that will be
6 2,200-plus parking spaces and also launch the World
7 Series of Poker poker room at that time.

8 The traffic studies have been completed
9 --- or the traffic counts, anyway, have been
10 completed. And we're in the process of looking at the
11 full array since SugarHouse is open, and we've seen
12 that there's been some improvement in that road, so we
13 continue to look at that. And the economic impact
14 study has been prepared for the original project and
15 revisions are in process and we're getting ready to
16 get going on that. And we continue to work with our
17 design team and the Keating Group to make sure that
18 the guaranteed maximum price of the project is set.

19 ATTORNEY DOWNEY:

20 Thank you, Mr. Marrandino. Mr. Chairman,
21 I next want to introduce Scott Wiegand, who is going
22 to discuss the status of our debt and equity efforts.

23 MR. WIEGAND:

24 Good morning. Scott Wiegand. It's
25 spelled W-I-E-G-A-N-D. I'm the vice-president and

1 Associate General Counsel of Caesars Entertainment
2 Corporation. The documents that we've signed with
3 PEDP set out a plan for completion of the elements
4 necessary to commence construction. One of things
5 that needed to happen, of course, is completing out
6 the financing for the project. And our submission on
7 Friday included commitments from a couple of well-
8 known financial institutions, which indicate we
9 believe the debt financing will be available once the
10 steps are in place in the documents have been
11 achieved.

12 As Mr. Jacoby mentioned, the submission
13 also included --- or recently we submitted a set of
14 materials that PEDP will use in connection with the
15 equity financing. The process for that will be that
16 PEDP's financial advisors will receive an indication
17 of interest from investors. Investors would review
18 the information in the book and subscribe to the
19 documents that are set out in that book. And the
20 actual closing on the equity depends on how long it
21 takes for us to complete our compliance investigations
22 with respect to potential new investors and review
23 towards license as necessary. We anticipate that the
24 commitments for equity would be in place sometime
25 before the closing of the equity, but that process

1 will be something that PEDP leads over the next month
2 or two.

3 ATTORNEY JACOBY:

4 I'll try to put out more definition on
5 the equity aspect of it. I know that's something of
6 interest to the Board and the Staff. Regretfully,
7 because we're dealing with security and we've got to
8 be careful how we approach this, also, we're mindful
9 of our obligations on the gaming loss in addition to
10 the \$21 million committed to by the Silver Trust and
11 Mr. Snider and the \$25 million --- and I apologize to
12 Harrah's/Caesars, that they've already committed to
13 do, which is \$46 million of the total raise of
14 \$75 million. And I might add that if we didn't hit
15 the \$75 million, Harrah's has provided a bridge loan
16 of \$10 million to get us there while we're raising
17 additional monies.

18 The preemptive right period expires in
19 March 2011. We think that the raise of the money will
20 be accomplished much quicker than that. However, we
21 wanted to protect our people, the WPI people, and give
22 them sufficient time to make up their minds, and
23 that's why we ask for that time, and that's the date
24 that's in the materials you have there, March 31st.

25 We, as you know, have engaged Blackstone

1 to assist us in our equity raise. Blackstone, the
2 Cozen firm, Latham and Watkins and Harrah's/Caesars
3 have worked diligently. Regretfully, when you're
4 dealing securities offering materials, by the time you
5 get done, all the disclosures and disclaimers about
6 risk and everything else, the thing is probably this
7 thick (indicating) at this point. And that was given
8 to BIE yesterday morning as a courtesy to have.

9 We would anticipate, subject to the
10 Board's determination today, to be actively on the
11 street tomorrow and thereafter, responding to all the
12 indications of interest we've had from people, just
13 inquiries, really. As I've said, there are a number
14 of people within the WPI organization who've expressed
15 willingness, in fact, a strong desire to invest
16 substantial sums of money. I've talked with Cyrus
17 about the need to make sure that everyone at WPI gets
18 an equal opportunity to invest, and we intend to do
19 that. We had a meeting with WPI about two weeks ago
20 and we made that clear to our members.

21 I think Scott raises a very important
22 point. We're very mindful of the need also that as
23 part of the process, we have to go through various
24 layers of due diligence on the people, both initially
25 and then ultimately, because eventually, depending

1 upon the size of their investment, directly and
2 indirectly in the licensee, they'll have to be
3 licensed. We anticipate that most of the people we're
4 talking to will be at that level of investment. As I
5 said, we signed the deal Friday. The book was
6 finished over the weekend once the deal got done. And
7 we intended to be actively soliciting starting
8 tomorrow depending upon the outcome of this meeting.

9 ATTORNEY DOWNEY:

10 Mr. Chairman, we would entertain any
11 questions that you or the Board might have.

12 CHAIRMAN:

13 Thank you. Before we get into Board
14 questions, Enforcement Counsel, do you guys have any
15 comments?

16 ATTORNEY PITRE:

17 Well, I wish we were here about a year
18 ago, because according to our timeline, that would
19 have been the perfect timing for this. However, based
20 upon the situation that we're in now, we've had an
21 opportunity to review the documents that were
22 submitted to us, not in any great, overt detail, but
23 enough to have some sort of understanding of those
24 documents.

25 Most notably, the Joint Petition for

1 Change of Control contained an executed agreement
2 entitled The Partnership Interest Purchase and
3 Exchange Agreement, and that document contains several
4 exhibits that were not executed and contained blank
5 spaces within various documents where information will
6 be inserted at a future date and time.

7 The petition for the approval of
8 modifications in the proposed permanent facility
9 contained exhibits that illustrate the site plan for
10 the proposed 1A and 1B of the facility and the
11 timeline for the construction and the opening of Phase
12 1A of the facility, as well as a conceptual schedule
13 for Phase 1B, along with two highly confident
14 financing letters.

15 A review of the documents submitted as
16 exhibits to the petitions, particularly those
17 submitted with the Change of Control Petition,
18 contemplate future negotiations or negotiations of
19 future agreements, and the consummation of those
20 future agreements are a pre-condition to performance
21 and/or the occurrence of a closing of the Purchase
22 Agreement. The executed Purchase Agreement is
23 dependent upon future events, conditions and future
24 definitive agreements, such as the completion of the
25 due diligence period, obtaining various PGCB

1 approvals, obtaining various governmental permitting,
2 the negotiation of and the obtainment of binding
3 commitments for equity funding and the negotiation of
4 and the obtainment of a binding commitment for project
5 financing, just to name a few.

6 The pre-conditions to performance, in my
7 opinion, does not make the Purchase Agreement a truly
8 definitive document as it is dependent upon and
9 contemplates agreements that must be reached in the
10 future. The Purchase Agreement also does not
11 contemplate or describe the funds that will be
12 utilized or needed for the full buildout of Phase 1B
13 or how the company plans to pay for or complete the
14 construction of Phase 1B. This will also be dependent
15 upon future agreements.

16 While the executed Purchase Agreement
17 does embody the executed term sheet, there remains an
18 uncertainty regarding the details of additional equity
19 infusion and from specifically whom or where such an
20 infusion will originate. Additionally, there are no
21 binding commitments or details regarding the project
22 debt financing. As mentioned, there are only two
23 highly confident letters that were submitted. Those
24 questions are not anticipated to be answered and those
25 details are not anticipated to be forthcoming for

1 months, according to the information supplied in the
2 exhibits.

3 At this time, of the \$275 million that
4 will be needed for the completion of Phase 1A,
5 \$46 million has been committed and dedicated by
6 traceable sources, but the binding commitment of these
7 funds are also dependent upon the consummation of
8 future negotiations, agreements, transactions and
9 approvals. The consummation of the transactions and
10 agreements contemplated by the Purchase Agreement has
11 not yet taken place. Until those consummations have
12 taken place and the pre-conditions have been satisfied
13 or waived, there can be no closing of the Partnership
14 Agreement. Until the closing occurs, the parties have
15 an obligation to proceed in good faith to accomplish
16 those transaction agreements and goals spelled out in
17 the Purchase Agreement. However, the agreement, in my
18 opinion, is not definitive in that it contemplates
19 future negotiations, future agreements and the
20 satisfaction of future conditions that will not likely
21 occur for several months. The failure to attain any
22 of these goals on the part of the parties could be a
23 potential reason for the termination of this
24 agreement.

25 So, I know Mr. Jacoby and Mr. Downey

1 described this as a definitive agreement, and they
2 have their opinion of it. I have my opinion of it. I
3 don't think it's a definitive agreement. I think
4 there are more negotiations that need to be done. We
5 don't have any debt financing. They acknowledge that
6 that's something they'll be working on in the future.
7 On the far end, outside end, we're looking at as late
8 as May 2010 before we may have this whole thing
9 complete. I mean 2011.

10 CHAIRMAN:

11 Thank you. Questions from the Board?

12 MR. SOJKA:

13 Just a few.

14 CHAIRMAN:

15 Commissioner Sojka.

16 MR. SOJKA:

17 If you'd like. In the materials that you
18 sent, there was some description of the charitable
19 contribution component. That was a part of the
20 initial granting of the license some years ago. The
21 intent, of course, to come back to us now is with a
22 project which is very comparable to the one that
23 received the license. Could you review the entire
24 situation on the charitable contribution, or the
25 proposed charitable contribution, as the deal is being

1 structured now?

2 ATTORNEY JACOBY:

3 Yes, I will, Commissioner. Under
4 Condition 57 of the Statement of Conditions that was
5 signed by Foxwoods at the issuance of this license,
6 Mr. Snider individually and the Rubin Trust and the
7 Silver Trust agreed that any proceeds that they
8 received from the operation would be paid to charity.
9 And they each have signed a Deed of Trust, which we've
10 shared with the Board and with BIE.

11 Because of the conditions that have
12 resulted and the need for additional capital and to
13 and FDC's inability to continue the management of the
14 operation, there's been --- this had to be of
15 necessity. And in fact, if you read statement ---
16 Condition 57, it contemplates that eventuality that
17 that could happen. And because of that, there was a
18 dilution of WPI and FDC's interests, and in turn, the
19 interest of the charitable --- WPCC, which is the
20 charitable unit under WPI.

21 And so what we tried to do --- and by the
22 way, that commitment is still there for that interest,
23 whatever that interest is in WPI going forward. And
24 because of that, in the negotiations with
25 Harrah's/Caesars, we tried to exact a separate

1 commitment to provide funds for charities.
2 Ironically, I believe that the current proposal under
3 the agreement before you is much more beneficial from
4 the standpoint of quantity and timing than the earlier
5 arrangement because the earlier arrangement, and I'll
6 go into the detail in a minute, Mr. Commissioner,
7 provided only when proceeds were available, which
8 means when they got distributions and when they got
9 any sale proceeds, which, frankly, might have been six
10 to eight, ten years out, realistically speaking.

11 Under the current arrangement, we have
12 --- in addition to the prior commitment, it provides
13 two things. It provides at opening, dependent upon
14 cash availability, if not, there's a \$400,000 payment
15 of a total payment of \$5 million initial contribution.
16 Half of that would go to the Pequot Museum. That's
17 something that FDC felt they were being diluted
18 substantially, and that's a charity. And the other
19 half would be designated by WPI, the charities that
20 they designate.

21 In addition to that, and this is --- I
22 think that's substantial, first of all, but more
23 importantly, two percent of non-operating revenues
24 basically an amount equal to the management fee that
25 Harrah's is getting, is to be paid to charities on an

1 annual basis designated by WPI. There's a provision
2 during the first seven years that at least \$500,000 of
3 those payments would go to the Pequot Museum. This is
4 for FDC. They wanted to have that to benefit the
5 museum and the tribe and everything else and its
6 charity. And that continues indefinitely until
7 there's a change of control --- I guess if there's a
8 sale of the operation, there's certain provisions.
9 So, I would say that, if anything, the current
10 arrangement for charities, both quantitatively and
11 from a time standpoint --- it quantitatively is vastly
12 improved over what was contained in the statement of
13 conditions.

14 MR. SOJKA:

15 And Pequot Museum is not housed in the
16 State of Pennsylvania; is that correct?

17 ATTORNEY JACOBY:

18 It is not. That's correct.

19 CHAIRMAN:

20 Commissioner Trujillo?

21 MR. TRUJILLO:

22 What I would like to do is maybe break my
23 questions up into two general areas. One of them is
24 the transaction itself, but then I also --- in
25 following up with Commissioner Sojka's questions, I'd

1 like to discuss --- and I'm --- just for your
2 reference, I'm just looking back at the original
3 adjudication on Category 2 licenses. And it's, I
4 think, fair to say that there was a --- I believe it's
5 a fair characterization to make the following general
6 statements.

7 The Board, in granting the license,
8 stated that one of the things that made the PEDP
9 project stand out is the following. One, Philadelphia
10 Entertainment has a strong partner in Foxwoods, an
11 investment-grade business with years of experience in
12 the gaming industry, diversity in its ownership, and
13 at least 42 percent of the profits will flow to an
14 irrevocable charitable trust to be used for charitable
15 purposes in the Philadelphia area.

16 So, with respect to the charitable trust,
17 I think any fair review of the transcripts and the
18 testimony by the representatives of PEDP and the
19 review of the adjudication, it was clear that --- at
20 least as I read it, that the representations made to
21 the Board were that the charitable trust proceeds were
22 intended to go to charities serving children in the
23 Philadelphia area. So, as I read, I think it was
24 around page 80 of the Partnership Agreement, the only
25 commitment that I saw --- solid commitment was that

1 the first \$3.5 million would go to the Pequot Museum
2 in Connecticut. Am I reading that correctly, Mr.
3 Jacoby?

4 ATTORNEY JACOBY:

5 No, sir. Under the provisions in the
6 Purchase Agreement, \$2.5 million of the first
7 \$5 million initial contribution goes to Pequot. The
8 other \$2.5 million goes to charities designated by
9 WPI. I thought you said \$3.5 million, and I'm just
10 correcting that.

11 MR. TRUJILLO:

12 I believe I read \$3.5 million, but that's
13 --- I'll accept your ---.

14 ATTORNEY JACOBY:

15 Let me explain, perhaps, where that came
16 from.

17 MR. TRUJILLO:

18 Certainly.

19 ATTORNEY JACOBY:

20 The provision with respect to the annual
21 contributions provide that the Pequot Museum has the
22 right to receive a cumulative amount of \$3.5 million
23 from them at the rate of \$500,000 a year for seven
24 years, and I think perhaps that's where you saw the
25 \$3.5 million, as a commitment to Pequot with respect

1 to the annual contributions. Any amount in excess of
2 that --- I mean, I'm not going to project revenues.
3 Otherwise, I'll get sued as to offering securities
4 here. But let's assume --- and it's net operating
5 revenues, so I think it's much more substantial than,
6 for example, net profits, getting to distributions to
7 investors after interest, after everything else comes
8 off it. This is net operating revenue. Two percent
9 of that every year goes to the charities designated,
10 and we think that's very substantial. In fact,
11 probably on a present value basis, and we could
12 probably try to come up with some analysis, I think
13 it's much more substantial than paragraph 57, the
14 Statement of Conditions.

15 And those obligations, Mr. Commissioner,
16 still continue. Whatever commitments WPPC made,
17 whatever interest they still hold, the proceeds will
18 go has they commit it, so there's no change to that.
19 But as I said, if you look at paragraph 57, I think it
20 contemplates that there might be a dilution and the
21 commitment that whatever the awarded amount was
22 continues to go to charity, which we're doing.

23 We would rather not be before you today,
24 having a dilution that we're having, but we're trying
25 to deal with what we're trying to do and salvage this

1 project. And we think this is --- frankly, we think
2 this is much more positive thing for the charities in
3 any event than what they would have had, because if
4 you just do a pro forma analysis of when distributions
5 might be coming out to investors and how much they
6 might be, I think what we have here is much more
7 substantial.

8 MR. TRUJILLO:

9 Can you point me anywhere in the document
10 or any of the documents that indicate that any of the
11 charitable contributions will be made to Philadelphia
12 area charities serving children?

13 ATTORNEY JACOBY:

14 Yes. The trust documents for the Silver
15 Trust and the Rubin Trust provide for that. They
16 provide for how they're to be distributed. We've, in
17 fact, I guess since one of our last hearings, in one
18 of our meetings with BIE and the Bureau, have
19 discussed that. And I know there was a concern about
20 501(c)(4), and we discussed about how to deal with
21 their concerns on that issue, but if you read the
22 trust documents, which I assume are available to you
23 --- if they're not, I'll arrange to get them to the
24 Board. I believe BIE has them. But that's in there,
25 the commitment to local community and to various

1 things, including education.

2 MR. TRUJILLO:

3 I understand that, Mr. Jacoby, but that
4 relates to the WPI portion, not to the portion
5 entirely under the transaction.

6 ATTORNEY JACOBY:

7 We are prepared if that is an issue.
8 We're not trying to subvert the process. We're
9 prepared, if that's an issue, to make the appropriate
10 commitments with respect to the designation of the
11 annual payments as well to satisfy your concerns that
12 the money is being administered in a manner consistent
13 with --- contemplated by the Statement of Conditions
14 as well. We're not trying to subvert that.

15 MR. TRUJILLO:

16 With respect to Philadelphia
17 Entertainment having a strong partner in Foxwoods,
18 under the contemplated transaction, can you tell me
19 what Foxwoods' status is within the project?

20 ATTORNEY JACOBY:

21 Foxwoods today or Foxwoods going forward
22 --- at closing, under the Purchase Agreement, Foxwoods
23 will terminate the Management Contract, and their
24 Licensing Agreement they'll continue as a limited
25 partner, having the same limited partnership interest

1 that WPI has. As far as what their role might be,
2 from a standpoint of advisory, I'll have to defer to
3 Harrah's/Caesars, but the general partner will be an
4 affiliate of Harrah's/Caesars going forward after
5 closing.

6 MR. TRUJILLO:

7 I understand. What's the extent of the
8 limited partnership interest upon closing if it closes
9 according to your documents?

10 ATTORNEY JACOBY:

11 Both FDC and WPI each have a 1.25-percent
12 interest in the equity of restructured PEDP.

13 MR. TRUJILLO:

14 So it's a 1.25 down from the 30-percent
15 interest; am I correct?

16 ATTORNEY JACOBY:

17 That's correct.

18 MR. TRUJILLO:

19 And with respect to any identified
20 equity, do you have any identified and committed
21 minority participation in your equity component?

22 ATTORNEY JACOBY:

23 That's a fair question. I think it was
24 raised also last time, and we're very mindful of it.
25 And as I said, I spoke with Cyrus subsequent to that.

1 We have four members of WPI who themselves are
2 minorities. At least of two of them have expressed a
3 desire to invest in the Class A. We have not gone out
4 and actively solicited because we didn't have offering
5 materials until this weekend. And we were waiting, as
6 I said, for this hearing. And we've spoken to
7 Blackstone after the last hearing. One of the members
8 of the Board here asked the question about diversity,
9 and we've made it clear to Blackstone that they need
10 to include in the groups to which they make offers
11 groups that are diverse and try to maximize their
12 participation.

13 MR. TRUJILLO:

14 So I take it from that that the answer's
15 no?

16 ATTORNEY JACOBY:

17 Well, the answer's no. I think I was
18 clear before that we've made no --- other than Mr.
19 Snider and the Silver Trust, the Class A has not been
20 raised or solicited because we didn't have a signed
21 deal on Friday. And their commitment was made to get
22 the deal done. That was part of the deal --- the
23 negotiations, but beyond that, though, we'll start
24 making offers tomorrow --- or soliciting offers
25 tomorrow.

1 MR. TRUJILLO:

2 What I would like to ask a little bit
3 about now is on the transactional side. As I read the
4 what I consider to be fairly standard highly confident
5 letters, page two of the highly confident letters do
6 has they typically do, say that there's no commitment
7 to debt finance. So, as I read the documents, there
8 is zero debt commitment as we sit here today; am I
9 correct?

10 ATTORNEY JACOBY:

11 I think that's correct. There's no hard
12 commitment for the debt financing. I think the
13 document says --- as is typical, sets out a plan that
14 you begin to work against and upon completion of the
15 steps necessary for any debt financing source to
16 evaluate. At that point, I think the letters that
17 were submitted indicate that at least we believe that
18 that debt financing will be available when those steps
19 are completed.

20 MR. TRUJILLO:

21 And with respect to the equity component
22 which Harrah's is committing, what's the total figure
23 that is a hard commitment today?

24 ATTORNEY JACOBY:

25 For equity is \$25 million.

1 MR. TRUJILLO:

2 \$25 million?

3 ATTORNEY JACOBY:

4 Yes.

5 MR. TRUJILLO:

6 Now, you're aware, are you not ---?

7 ATTORNEY DOWNEY:

8 Mr. Commissioner, just one point of
9 clarification.

10 MR. TRUJILLO:

11 Yes, please.

12 ATTORNEY DOWNEY:

13 While the equity number is \$25 million as
14 is committed, I don't want to lose sight of the fact
15 that there is a \$10 million backstopping us so that if
16 the Class A were to come up \$10 million short, albeit
17 characterized as debt on interim basis, that could
18 extend to a \$35 million number, which would eat away
19 \$10 million of the equity hole.

20 MR. TRUJILLO:

21 I understand. And in fact, that goes
22 right to where I was next going, which is, you
23 understand, do you not, that Harrah's, being licensed
24 already with another facility in Pennsylvania, is
25 limited to the extent of what it can own? Mr. Downey,

1 obviously, you're well aware of that. And so as I
2 read the documents, and you'll correct me if I'm
3 wrong, but it seems to me that after year four, there
4 will be approximately --- as I read it, post year
5 four, there are some put options that are available to
6 the Class A equity holders; am I correct? In those
7 put options, the entity that can decide whether to
8 exercise them or to whom they are exercised is
9 Harrah's --- or Caesars; am I also correct on that?

10 ATTORNEY DOWNEY:

11 Not exactly.

12 MR. TRUJILLO:

13 Okay.

14 ATTORNEY DOWNEY:

15 The second half, I think, was accurate.
16 I think that ---.

17 ATTORNEY JACOBY:

18 The mechanism is as follows. Obviously,
19 whenever you find yourselves in a deal with a large
20 player, you're concerned about being locked in
21 liquidity. And it's not just --- frankly, the C's
22 also have the put right as well. So, basically, what
23 we negotiated, frankly, for the benefit of what we
24 thought were potential A's, including the two going
25 in, and the C's, was the ability to create some

1 liquidity if they wanted to get out, not that they had
2 to.

3 And the put option is set up in such a
4 way that if Harrah's/Caesars, for regulatory purposes,
5 cannot own additional equity, that the investors get
6 preferred interests equal to the redemption value that
7 are brought out over time. They continue to maintain
8 their vote and control whatever percentage vote goes
9 with that. And then basically, at that point in time,
10 if Harrah's is not subject to regulatory constraint,
11 they can own that interest in the future. If not,
12 they'd have to bring somebody else in to own it.
13 Otherwise, it remains in limbo.

14 MR. TRUJILLO:

15 And Mr. Jacoby, I'm not worried about the
16 prefs on the folks who are putting their options over
17 to Harrah's. What I'm concerned about is on the other
18 side, which is hearkening back to Wittgenstein. The
19 world as we know it today, it is, in fact, that
20 Harrah's would be permitted from owning more than its
21 one-third share. But as I see the documents, if all
22 of the put options are exercised, Harrah's, in effect,
23 could have control over 100 percent of who gets to
24 exercise or who gets to purchase off of those put
25 options. Am I reading it wrong?

1 ATTORNEY JACOBY:

2 Are you keeping score control as the
3 ability to vote? The ability to vote ---.

4 MR. TRUJILLO:

5 No, no, no. I'm not talking about vote.
6 I'm talking the way the document reads says that
7 Harrah's will identify third parties --- either they
8 will exercise it or identify the third parties to be
9 able to exercise the put option.

10 ATTORNEY DOWNEY:

11 Commissioner, I would probably say that
12 somewhat differently. First of all, Harrah's has no
13 option on the put; right? The put is in the hands of
14 the Class A and Class C holders. That comes in and
15 we've got to deal with it, and that's how I would
16 characterize it.

17 We have the obligation rather than right
18 --- I guess you can characterize it as a right, but we
19 have the obligation to find someone who can hold that
20 interest while preserving our obligations and our
21 status under the statute as we know it today. We're
22 poignantly aware of that. I mean, as you can probably
23 tell from the document, we went through some tortured
24 exercises in ensuring that while we understand that
25 there are these moving parts --- and the option that

1 can be exercised by Citizens is another example. We
2 had to structure this so that we are able to account
3 for the fact that, through no fault of our own, we
4 could one day wake up and have interest looming that
5 could implicate our ownership control, however you
6 want to define the concept.

7 What we did and were very careful to do
8 was ensure that every one of those primary indicia
9 remains at or below the one-third threshold so that,
10 although we can have conversations about --- and
11 frankly if we were having this conversation in August,
12 maybe we would have approached Cyrus and had this
13 discussion. Does it matter that our capital account
14 rises or falls below the one-third threshold? We're
15 not in a position to have to have any of those
16 conversations at this point. Our capital accounts are
17 set through this system. Our rights to distributions
18 are set through this system. Our rights to
19 allocations are set through this system. Our rights
20 to vote equity are set through this system. At no
21 point under this structure that you have in front of
22 you are we in danger of crossing that threshold
23 inadvertently on the equity side.

24 MR. TRUJILLO:

25 And I understand that. I completely

1 understand that you've --- you know, from a
2 draftsmanship standpoint, I think that you're quite
3 correct that you've carefully carved that out. The
4 concern I have, and you might maybe understand why
5 that would be from the regulatory side, is that since
6 the law prohibits you from owning more than the third,
7 the concern on our side is control. Even it's not
8 equity ownership, it's still an issue. So, if there's
9 anything else you'd like to say on that. I just
10 wanted to understand it from your perspective.

11 ATTORNEY JACOBY:

12 Mr. Trujillo, I guess I would just ---
13 you know, to the extent that you are asking, is
14 Harrah's responsible for identifying a buyer, the
15 answer is yes. It would be incumbent upon us to find
16 someone who passed muster. And frankly, if that were
17 to become an issue in terms of who the party was and
18 whether there was an affiliation that implied control,
19 we would have to deal with that in the context of our
20 discussion with your staff, frankly.

21 MR. TRUJILLO:

22 I don't know. Mr. Wiegand, maybe this is
23 on you. And I understand some of the sensitivities
24 you may have as --- well, not a public company. In
25 the last couple of weeks, it was fairly broadly

1 reported that you were going to market, and in fact,
2 you've brought before us, I guess, Mr. Downey, about
3 three months ago, two months ago, documentation
4 anticipating going public with approximately half a
5 billion dollars worth of stock, which then was
6 cancelled. And part of what was made, I think, pretty
7 abundantly public was the extent of your debt load and
8 --- which was, as I recall, somewhere in the
9 neighborhood of \$20 billion-some. So can you tell me
10 where Harrah's stands today, not on a cash flow basis,
11 but just with respect to, you know, its capacity to
12 take on additional responsibility with this kind of a
13 project?

14 ATTORNEY JACOBY:

15 Yes. That process really didn't affect
16 our interest or ability to execute in this particular
17 transaction at all. Our balance sheet, I think, is
18 sufficient to handle all obligations in connection
19 with this transaction.

20 MR. TRUJILLO:

21 Mr. Chairman, that's all I have.

22 ATTORNEY DOWNEY:

23 Commissioner if I can ---.

24 MR. TRUJILLO:

25 Certainly.

1 ATTORNEY DOWNEY:

2 Just one point on the last ---. We
3 submitted --- Mr. Wiegand is constrained by some
4 securities limitations in terms of what he can and
5 can't say on that subject. We did, on a confidential
6 basis, submit to your staff a further explanation, but
7 given the nature of what we can say publicly and what
8 we can't say publicly, we can't elaborate on that. I
9 did, however, communicate with your staff on the
10 subject.

11 MR. TRUJILLO:

12 I appreciate it.

13 CHAIRMAN:

14 And I assume when you say our staff, are
15 you talking about our staff or BIE?

16 ATTORNEY DOWNEY:

17 The Board staff.

18 MR. TRUJILLO:

19 Okay. Thank you.

20 CHAIRMAN:

21 Commissioner Ginty?

22 MR. GINTY:

23 This is for Mr. Marrandino. I believe
24 you projected that if this deal went forward, you
25 anticipated tax revenues starting at \$66 million, and

1 your projections, going to \$75 million?

2 MR. MARRANDINO:

3 That was tax.

4 MR. GINTY:

5 Tax. Can you break that down in terms of
6 how much of that would be going to Philadelphia and
7 --- I believe there's also an obligation to the school
8 district in Philadelphia.

9 MR. MARRANDINO:

10 Commissioner, I don't think we have that
11 degree of granularity on those --- on the breakdown of
12 those numbers. What I can tell you is that we did not
13 include sort of a --- you know, the 12-percent side.
14 We didn't include --- this is straight gaming tax.
15 This isn't the one-and-a-half-percent administrative
16 --- it is a straight gaming tax number. We did not do
17 the breakdown at this point.

18 MR. GINTY:

19 If I recollect, though, you're --- by
20 statute, is it, you're obligated to --- is it \$5
21 million to the Philadelphia School District?

22 ATTORNEY JACOBY:

23 Of the charitable contribution?

24 MR. GINTY:

25 No, no. In the nature of the tax.

1 MR. MARRANDINO:

2 I don't remember off the top of my head.

3 MR. GINTY:

4 I believe you're obligated --- would be
5 obligated to do that as SugarHouse is. If the deal
6 were to go forward, when would you anticipate the 650
7 construction jobs to begin? You know, you don't have
8 to be precise. Are we talking, you know, mid 2011
9 or ---?

10 MR. WIEGAND:

11 During the second half of 2011 is what
12 the schedule indicates currently.

13 MR. GINTY:

14 Okay. And I believe you indicated that
15 once the construction was done, you would employ
16 approximately 1,200 individuals, and that would be in
17 the initial stage of construction? The initial
18 opening, I guess.

19 MR. MARRANDINO:

20 Operations, yes.

21 MR. GINTY:

22 The initial operations.

23 MR. WIEGAND:

24 That's correct.

25 MR. GINTY:

1 That's all the questions I have.

2 CHAIRMAN:

3 Okay. Any other questions? I have just
4 a couple quick ones. Mr. Jacoby, this is probably for
5 you. In the --- and again, I wasn't here when the
6 original --- I didn't vote on the original license,
7 though I was probably present. PEDP, it's my
8 understanding, made an estimate that their charitable
9 contributions would be somewhere in the vicinity of
10 \$300 million over ten years. Are any of you
11 knowledgeable on that and whether that statement was,
12 in fact, made?

13 ATTORNEY JACOBY:

14 I don't know whether the statement was
15 made. I wasn't here at the time, not that that's an
16 excuse for me to say. I guess conceivably, depending
17 on what you project as the exit values over that
18 period, it was conceivable when you consider the fact
19 that WPCO owned 42 percent of WPI, so they had about
20 28 to 30 percent of the total scheme. So,
21 conceivably, depending on what multiple assumptions
22 they made, that could have been. I'd just be
23 speculating, Mr. Commissioner, and I apologize.

24 CHAIRMAN:

25 All right. Again, my point there is

1 that, you know, that's a pretty significant
2 contribution, and I respect your comment earlier that
3 you can't look into your crystal ball and predict what
4 the charitable contributions will be under the current
5 makeup, but that was a pretty significant number. And
6 secondly, I just have a couple of quick questions on
7 the physical plant issues, and I don't know who wants
8 to answer those. But I want to make sure that, you
9 know, I understand what the original deal was versus
10 what the current physical plant is. So if you'll bear
11 with me for a second.

12 The original license grant and the
13 original proposal, as I understand it, was Phase 1 was
14 to begin in February of 2007. The original proposal
15 was to open in November of 2008, total cost of about
16 \$525 million. The approximate square footage of the
17 original facility was 390,000 square feet, about
18 90,000 on the gaming floor, 3,000 slot machines, a
19 2,000-seat showroom, entertainment lounge and retail
20 shops, a 600-seat buffet, a 4,200 square --- or 4,200-
21 space parking garage and 300 surface parking spaces.
22 That was Phase 1. Phase 1 of the current proposal,
23 which obviously is contingent upon city approvals, 151
24 square feet, again, versus 390; 1,500 slot machines
25 versus 3,000; 13,072 surface parking spaces compared

1 to 4,200 parking spaces in a garage, plus 300 surface
2 parking spaces, and there is no provision for a
3 showroom, entertainment lounge or retail shop. Am I
4 accurate in that characterization?

5 ATTORNEY DOWNEY:

6 Mr. Commissioner, yes, I think largely
7 you're accurate. I would point out that one of the
8 requests that we're making to you is that we be aloud
9 to phase what otherwise would have been the Phase 1, I
10 think at the long end of the tunnel. The other, the
11 more comparable is where we would be at 1B, because we
12 do acknowledge that we are, in fact, seeking
13 permission to phase the project.

14 CHAIRMAN:

15 Okay. And just to be clear that there is
16 no commitment on your part to do Phase 1B? No firm
17 commitment?

18 ATTORNEY DOWNEY:

19 I think that's fair. It is a market-
20 driven commitment. That's fair.

21 CHAIRMAN:

22 Right. Okay. Any other questions
23 Commissioner Trujillo?

24 MR. TRUJILLO:

25 Mr. Chairman, just following up on your

1 question on the charitable contributions. And I'm
2 looking at page --- thanks to Steve Jobs and Apple
3 computers, to page 31 of the transcript of the
4 suitability hearing for PEDP. And I'm quoting from
5 Mr. Agarwal, who testified on PEDP's behalf as
6 follows. As the notion of gaming --- I quote Mr.
7 Agarwal. As the notion of gaming in Pennsylvania
8 progressed from concept to reality, several members of
9 Washington Partners saw past the obvious business
10 opportunity. They saw a unique way to establish a
11 funding mechanism that would channel millions of
12 dollars to underserved people in our region. Towards
13 that end, the lead local partners in Foxwoods Casino
14 Philadelphia, which include the Rubin Family
15 Charitable Foundation, the Silver Family Charitable
16 Trust and Ed Snider, have irrevocably committed 100
17 percent of their profits, which accounts for 42
18 percent of the entire project's profits, to charitable
19 purposes in perpetuity. The primary focus of this
20 charitable giving will be to support underprivileged
21 children in the Philadelphia area and South Jersey.
22 These profits include profits not only from gaming
23 operations, but also from the restaurant, retail and
24 hotel development at this site. This amount is
25 projected to total in excess of \$300 million over ten

1 years. As a group, the local partners could not let
2 this moment and opportunity to do more for the
3 underserved people in South Jersey and Philadelphia
4 pass us by. End quote.

5 CHAIRMAN:

6 Any other questions? Commissioner
7 Angeli?

8 MR. ANGELI:

9 I'm just trying to kind of clarify
10 something. It's a \$275 million project. The
11 committed money right now is \$46 million, but of that
12 commitment, there's \$10 million that's coming ---
13 there's a shortfall or is that \$46 million --- what is
14 committed right now?

15 ATTORNEY DOWNEY:

16 \$46 million of the \$75 million is
17 committed, but there is an additional \$10 million that
18 is ---.

19 MR. ANGELI:

20 The ten is not part of the \$46 million?

21 ATTORNEY DOWNEY:

22 Correct.

23 MR. ANGELI:

24 Okay. That's in addition. And you're
25 expecting the other \$29 million to be raised from yet-

1 to-be-named investors?

2 ATTORNEY JACOBY:

3 That's correct.

4 ATTORNEY DOWNEY:

5 Just to be clear, the other \$19 million,
6 assuming that ---.

7 MR. ANGELI:

8 Oh, okay. You're adding --- oh, you're
9 taking the \$10 million into that?

10 ATTORNEY DOWNEY:

11 Yes. To get the \$75 million, we've got
12 to go at least \$19 million, but the answer to your
13 question is, are we looking for \$29 million from folks
14 that we had not ---

15 MR. ANGELI:

16 Right.

17 ATTORNEY DOWNEY:

18 --- let's say we have not named? Yes,
19 that's correct.

20 ATTORNEY PITRE:

21 And let me clarify. The other
22 \$10 million doesn't come into play unless the
23 \$19 million is raised. They have to raise the
24 \$19 million for the \$10 million to come into play.

25 MR. ANGELI:

1 Okay. And then there's left
2 \$200 million, which is going to be debt financed, and
3 that has yet to be committed or do we know where
4 that's come from?

5 MR. WIEGAND:

6 Yeah, that's correct. It has yet to be
7 committed in an unconditional way.

8 MR. ANGELI:

9 Okay. Thank you.

10 CHAIRMAN:

11 Thank you. Any other questions? Okay.
12 Thank you very much.

13 * * * * *

14 HEARING CONCLUDED AT 10:02 A.M.

15 * * * * *

17 CERTIFICATE

18 I hereby certify that the foregoing
19 proceedings, hearing held before Chairman Fajt, was
20 reported by me on 12/16/2010 and that I Cynthia Piro
21 Simpson read this transcript and that I attest that
22 this transcript is a true and accurate record of the
23 proceeding.

24 
25 Court Reporter