

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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PUBLIC MEETING

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BEFORE: GREGORY C. FAJT, CHAIRMAN
Raymond S. Angeli, James B. Ginty,
Keith R. McCall, Anthony C. Moscato,
Gary A. Sojka, Kenneth I. Trujillo; Members
Christopher Craig, Representing Robert M.
McCord, State Treasurer
Robert Coyne, Representing Daniel P.
Meuser, Secretary of Revenue
Matthew Meals, Deputy Secretary of
Agriculture, Representing George Greig,
Secretary of Agriculture

MEETING: Tuesday, June 28, 2011
10:35 a.m.

LOCATION: State Museum
300 North Street
Harrisburg, PA 17120

WITNESSES: NONE

Reporter: Cynthia Piro Simpson

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CHAIRMAN:

And now I would like to call our regularly scheduled meeting to order. By way of announcements the Board held an Executive Session to discuss matters of pending litigation, the leasing of real property and to conduct quasi-judicial deliberations relating to matters being considered by the Board today. For purposes of this meeting, we have consideration of a motion to approve the transcript and minutes of the Board's May 25th and June 8th, 2011 meetings. May I have a motion, please?

MR. TRUJILLO:

Mr. Chairman, I move that the Board approve the transcripts and minutes of the May 25th and June 8th, 2011 meetings.

CHAIRMAN:

Second?

MR. SOJKA:

Second.

CHAIRMAN:

All in favor?

ALL SAY AYE

CHAIRMAN:

1 Opposed? The motion passes. As our
2 first order of new business, we have our Executive
3 Director, Kevin O'Toole, to provide us with a report.
4 Welcome, Kevin.

5 MR. O'TOOLE:

6 Good morning, Chairman Fajt and members
7 of the Board. I have several topics that I would like
8 to present to the Board today. First I want to
9 provide the Board with an update on staff's effort to
10 look for alternative locations for the Board's Office
11 of Hearings and Appeals (OHA), which could also double
12 as a permanent meeting facility for the Board's public
13 meetings.

14 As the Board is aware, on April 14th at
15 2011 at a public meeting on that date, you authorized
16 me to begin the process of soliciting interest in
17 leasing appropriate space to the Board in Harrisburg.
18 As a result of that authorization, an advertisement
19 was placed in the Harrisburg Patriot-News, as well as
20 posted on the Board's website. The window for
21 interested parties to respond to the solicitation was
22 from April 15th, 2011 to May the 6th, 2011.

23 At the close of the response period, two
24 proposals were received. As a result, an evaluation
25 committee consisting of myself, Board Secretary Mickey

1 Kane and Director of Hearings and Appeals, Linda
2 Lloyd, reviewed each of the proposals, except for the
3 pricing component, which was evaluated by our Director
4 of Office Services, Steve Wilson.

5 I would like to report that the
6 evaluation committee unanimously chose the proposal
7 submitted by Strawberry Square Associates, which Mr.
8 Wilson confirmed was also the more cost effective of
9 the two proposals received. Additionally, the quoted
10 square footage cost for the Strawberry Square location
11 is approximately \$2 less per square foot than what we
12 are currently paying for Hearings and Appeals office
13 space.

14 That fact, coupled with the reduction in
15 square footage leased from over 6,500 square feet at
16 our current location to 5,762 square feet at the new
17 location will result in cost savings to the Board
18 estimated at approximately \$35,000 per year. As a
19 result, I would ask for a motion by the Board granting
20 me the authority to enter into a ten-year lease with
21 Strawberry Square Associates relative to space needed
22 to house the OHA, as well as to serve as a permanent
23 location for the Board's public meetings.

24 CHAIRMAN:

25 Thank you, Kevin. Any questions on that?

1 Do you have a question, Gary?

2 MR. SOJKA:

3 A couple ---

4 CHAIRMAN:

5 Yeah, sure.

6 MR. SOJKA:

7 --- real quick ones, Kevin. The
8 attractiveness of having a permanent place for these
9 Board meetings, one, it's going to be easier for
10 people to find them. Do we actually have to pay money
11 to rent spaces of this kind, and is that, then, also
12 part of our saving?

13 MR. O'TOOLE:

14 Yes, that is correct, Commissioner. We
15 do pay a rental fee to the locations.

16 MR. SOJKA:

17 So we will save that as well?

18 MR. O'TOOLE:

19 That's correct.

20 MR. SOJKA:

21 And that can be added to the savings.
22 One other thought along that line, though. I see the
23 advantage of the convenience for us, but both Hearings
24 and Appeals and our public meetings draw people who
25 are not part of the Gaming Board. They bring members

1 of the general public in. Do you think this move
2 would either improve the situation for those people,
3 dis-improve it, or have no impact on it at all?

4 MR. O'TOOLE:

5 No, I think it would definitely improve
6 it, Commissioner. The site selected is on the second
7 floor level at Strawberry Square, so certainly, it's
8 convenient for our personnel who are located in a
9 different wing of the Strawberry Square --- the
10 Verizon Tower wing of Strawberry Square. It'll be
11 easier for us to get there. If there was inclement
12 weather, you don't have to go outside, and it will
13 become a very familiar location to those persons who
14 regularly appear before the Board.

15 MR. SOJKA:

16 Great.

17 CHAIRMAN:

18 Yeah. Commissioner Angeli.

19 MR. ANGELI:

20 The infrastructure, the electronic
21 infrastructure that we use here, is that our
22 responsibility or is that part of the lease setup?

23 MR. O'TOOLE:

24 The precise terms of the lease are still
25 being negotiated with representatives of Strawberry

1 Square and our Office of Chief Counsel (OCC), so I
2 could get that specific information to you as we get
3 closer to being in a position to sign the lease, but
4 we will definitely have all of the appropriate wiring
5 for whatever audio and visual equipment that we need.
6 That will all be in place for that facility.

7 MR. ANGELI:

8 Thank you.

9 CHAIRMAN:

10 Commissioner Trujillo.

11 MR. TRUJILLO:

12 I commend you to Apple if --- as you're
13 looking. What's the projected occupancy date?

14 MR. O'TOOLE:

15 The projected occupancy date is mid-
16 October to the first of November. That's our target.

17 MR. TRUJILLO:

18 That's all I have. Thank you.

19 CHAIRMAN:

20 Any other questions? I have just two
21 comments. One, to follow up on Commissioner Angeli's
22 point, I mean there will ---. Just to be clear, I
23 mean there will be moving costs involved, and we don't
24 have a handle on those yet, Kevin, but there will be,
25 obviously, a cost to the Board, to the agency of

1 moving our folks and equipment that we bring from the
2 current space at the Pinnacle Health Building to the
3 downtown location; correct?

4 MR. O'TOOLE:

5 Yes, that is correct.

6 CHAIRMAN:

7 Okay. And the last comment is just for
8 the public. This space is located at the top of the
9 escalator as you're moving in Strawberry Square from
10 the first floor to the second floor. Get to the top
11 of the escalator. It is to the left. I believe it
12 was the old Smith Barney space at one time?

13 MR. O'TOOLE:

14 Yes, that is correct. And the proximity
15 to the food court so anyone attending the Board
16 meetings, you can ---. You know, if your item isn't
17 before the Board or there's an Executive Session after
18 a hearing or two, it'd be very convenient for visitors
19 to either get lunch or have a cup of coffee or
20 whatever.

21 CHAIRMAN:

22 Okay.

23 MR. TRUJILLO:

24 Mr. Chairman, one more ---.

25 CHAIRMAN:

1 Yes.

2 MR. TRUJILLO:

3 One more ---.

4 CHAIRMAN:

5 Commissioner Trujillo.

6 MR. TRUJILLO:

7 Not a question, but a comment. Along
8 those lines, and just because I've spent many years
9 outside of courtrooms without a good place to sit or
10 anything else, I would just ask you to perhaps, you
11 know, have some discussions with lawyers and the like
12 that regularly appear before us to see if there are
13 particular needs that we might easily accommodate, for
14 example, an attorney conference room if we have the
15 space. But they'll have a better view of how
16 inefficient a lot of the spaces that we have been
17 using have been.

18 And I just know that people who I think
19 practice before us regularly might benefit from having
20 a couple of conference rooms or the like to be able to
21 meet prior to hearings. So just a suggestion that
22 those things are viable.

23 MR. O'TOOLE:

24 Certainly. Thank you, Commissioner.

25 CHAIRMAN:

1 Okay. Relative to Kevin's request for a
2 motion giving him the ability to enter a lease
3 relative to our OHA, there are no other questions, I
4 assume, and a motion would be in order. May I have a
5 motion?

6 MR. SOJKA:

7 Yes, Mr. Chairman. I'll move that the
8 Board authorize the Executive Director to enter into a
9 lease with Strawberry Square Associates relative to
10 the relocation of the Board's OHA as just described by
11 the Executive Director.

12 CHAIRMAN:

13 Second?

14 MR. MOSCATO:

15 Second.

16 CHAIRMAN:

17 All in favor?

18 ALL SAY AYE

19 CHAIRMAN:

20 Opposed? Motion passes.

21 MR. O'TOOLE;

22 Thank you, Commissioner. I also have a
23 second topic that I think is timely at this point, and
24 that is in regard to the issuance of our fourth Annual
25 Benchmark Report, which provides the most current

1 statistics on the positive impact that slot machine
2 revenue has had on the horseracing and horse breeding
3 industries within the Commonwealth of Pennsylvania.

4 The benchmark report provides a five-year
5 analysis of how the Racehorse Development Fund has
6 been used to increase purses to enhance Pennsylvania-
7 bred horseracing and to provide health and pension
8 benefits to the employees and the members of the
9 various horsemen's associations within Pennsylvania.
10 I would like to publicly acknowledge the outstanding
11 work of Kevin Kile, our Director of Racetrack
12 Operations. Kevin coordinates the Board's efforts to
13 monitor the continued progress toward fulfilling the
14 Gaming Act's intent to provide tangible benefits to
15 all constituencies within the horseracing industry.

16 The benchmark report is available to the
17 public and can be accessed from the Board's website
18 directly on our home page in the lower, right-hand
19 corner. Thank you, Chairman. If you have any
20 questions on that item, I'd be glad to answer them.

21 CHAIRMAN:

22 Any questions on the benchmark report?
23 Thank you, Kevin, and thank you, Kevin Kile, for your
24 work on that. Next up is Dave Rhen, our Budget
25 Manager, with a report on the agency's revenues and

1 expenditures. Welcome, Dave.

2 MR. RHEN:

3 Thank you.

4 CHAIRMAN:

5 Make sure that's on. The green light
6 will come on.

7 MR. RHEN:

8 My report today focuses on agency
9 expenses through the end of May. Total fiscal year
10 expenses through May were \$30.3 million. This total
11 was comprised of \$24.2 million for personnel and
12 operating expenses of \$6.1 million.

13 By category within the operating
14 expenses, the largest expense to-date has been rentals
15 and leases with total expenses of \$1.9 million,
16 followed by services at \$1.5 million. Other operating
17 expenses is the third largest expense, and that's \$1.3
18 million. And data and voice communication services
19 comes in at \$624,000 for the year.

20 For the month of May, expenditures total
21 \$2.6 million with payroll totaling \$1.9 and operating
22 expenses totaling \$704,000. The largest operating
23 expenses in May were \$168,000 for other operating
24 expenses, \$160,000 for rentals and leases, \$114,000
25 for IT software and equipment purchases, \$107,000 for

1 legal, specialized and inner-agency billings and
2 \$56,000 for telecommunications. That concludes my
3 remarks.

4 CHAIRMAN:

5 Thank you, Dave. Any questions for Dave?
6 Commissioner Trujillo?

7 MR. TRUJILLO:

8 Just one question. Does the proposed
9 move of the OHA and the like have any kind of material
10 impact, positive or negative, on our budget for this
11 year?

12 MR. RHEN:

13 It does. Besides the savings that Kevin
14 had mentioned on an annual basis for the savings of
15 the lease cost, we're also paying rental of our
16 facility for our meeting locations, and the cost of
17 the telecommunications will be much less, because
18 we'll have the equipment in place, hopefully.

19 And you know, I can say that as we move
20 from location to location, the cost will also change
21 with, you know ---. The museum here doesn't have this
22 equipment built in, so it's a little bit more
23 expensive than when we have it over at North Office
24 Building, so it'll be more predictable, as well.

25 CHAIRMAN:

1 Any other questions? Thank you very
2 much, Dave. Next up is our Chief Counsel, Doug
3 Sherman.

4 ATTORNEY SHERMAN:

5 Good morning Chairman, members of the
6 Board. The OCC's first agenda item relates to
7 ratification of certain legal contracts. Today I'm
8 reporting to the Board on the procurement of legal
9 services by the OCC relating to three legal contracts
10 requesting the Board ratification of those three. As
11 you know, I've provided the Board with routine updates
12 about the need for and retention of any outside legal
13 counsels which are deemed necessary for effective
14 representation and operational needs.

15 Since my last presentation we have
16 entered into three contracts for outside legal
17 services as the circumstances warranted.
18 Specifically, contracts have been entered into with
19 the law firm of Cozen O'Connor concerning the matter
20 which was pending in the Allegheny County Court of
21 Common Pleas, and with the Philadelphia-based firm of
22 Stradley Ronon and Pittsburgh-based firm of Buchanan
23 Ingersoll under the Board's D and O insurance policy.

24 Both of those firms were retained in
25 relation to the Arneault and Rubino versus O'Toole and

1 other litigation to either represent current or former
2 Board members in that action. While the authority to
3 enter into the contracts is given to the Chief
4 Counsel, I'm requesting that the Board consider a
5 motion to ratify those contracts previously entered
6 into for the legal services.

7 CHAIRMAN:

8 Thank you. Any questions or comments
9 from the Board? Doug, just one clarification on the
10 two firms regarding the Arneault and Rubino matters.
11 I believe that one of those firms representing former
12 and current employees, as well as Board members;
13 correct?

14 ATTORNEY SHERMAN:

15 That's correct. There are both employees
16 and Board members. We have the two firms which are
17 both panel counsel ---

18 CHAIRMAN:

19 Right.

20 ATTORNEY SHERMAN:

21 --- for the D and O insurance carrier.

22 CHAIRMAN:

23 Okay. Thank you. Okay. Any other
24 questions? Could I have a motion, please?

25 MR. TRUJILLO:

1 Oh, I'm sorry.

2 CHAIRMAN:

3 Yes. I'm sorry. You have ---

4 MR. TRUJILLO:

5 Oh, no.

6 CHAIRMAN:

7 --- a question?

8 MR. TRUJILLO:

9 I'm sorry. I was getting ready to
10 make ---.

11 CHAIRMAN:

12 Oh, okay. Commissioner Trujillo.

13 MR. TRUJILLO:

14 Sorry about that. I do have a few
15 questions. Number one, you mentioned that this was
16 under ---? A couple of the representations were
17 pursuant to or at least covered by our Directors and
18 Officers Liability Insurance. Can you update us a
19 little bit on where that coverage is, because it seems
20 to me that we've been making an awful lot of claims
21 under that policy.

22 And frankly, I'm a little concerned kind
23 of on a going forward basis that if I'm our insurer, I
24 may not be the most popular client they have. So I
25 guess if you could just update us a little bit on the

1 extent --- on our coverage and what the horizon looks
2 for in the event that this insurer decides that we're
3 too frequent a flier.

4 ATTORNEY SHERMAN:

5 Well, I think you're only popular with
6 the insurer if you don't make claims, so I think from
7 your perspective, you're happy that you have the
8 insurance carrier there. We certainly ---. I wish I
9 could give you the date. We do have the contract for
10 the D and O insurance coming up, I think, this next
11 year. It will be put out for bid again, and certainly
12 the claim experience that we've had, as you've
13 acknowledged, will probably indicate that the premium
14 will be higher than what we have experienced in the
15 past.

16 The Third Circuit's disposition of the
17 Keystone Redevelopment Case and the granting of
18 qualified immunity to the Board members certainly
19 should help and, I think, calm any jitters that
20 prospective insurance companies might have, concerned
21 about liability. We still have the attorney's fees,
22 because regardless of whether or not there's a ground
23 for liability, it doesn't ever seem to deter some
24 plaintiff's counsels from filing the litigation in the
25 first place.

1 One of the things that we can certainly
2 explore is increase in the retention amount that we
3 have to pay. That's the deductible up front, which
4 would cause the premium to go down. But of course it
5 means more out-of-pocket money for the Board up front.
6 So those are things that we'll be weighing and getting
7 different ideas when the time comes up for the RFP for
8 the new contract.

9 MR. TRUJILLO:

10 But at least with respect to the cases
11 which are covered by the D and O policy, once we pay
12 the retention amount, then the insurer pays the rest
13 of the fees?

14 ATTORNEY SHERMAN:

15 That's the way it is to work, yes.

16 MR. TRUJILLO:

17 Okay.

18 ATTORNEY SHERMAN:

19 Yes.

20 MR. TRUJILLO:

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

22 CHAIRMAN:

23 Any other questions? Okay. Could I have
24 a motion, please?

25 MR. MOSCATO:

1 Mr. Chairman, I move that the Board
2 ratify each of the legal contracts described by Chief
3 Counsel.

4 CHAIRMAN:

5 Second?

6 MR. MCCALL:

7 Second.

8 CHAIRMAN:

9 All in favor?

10 ALL SAY AYE

11 CHAIRMAN:

12 Opposed? The motion passes.

13 ATTORNEY SHERMAN:

14 Okay. Next for the Board's Consideration
15 is the loan repayments by the Pennsylvania Slot
16 Machine Licensees, which Assistant Chief Counsel,
17 Allison Cassel, will address.

18 CHAIRMAN:

19 Welcome, Allison.

20 ATTORNEY CASSEL:

21 Thank you very much. Good morning, Mr.
22 Chairman and members of the Board. At the June 8th
23 Board meeting I presented a recommendation for the
24 loan repayment schedule based upon the existing fiscal
25 code.

1 This recommendation was a calculation
2 method based on the single year --- the single fiscal
3 year. I understand that there have been some
4 questions on other calculation methods, including a
5 calculation method based on cumulative gross terminal
6 revenue. I'm here to answer any questions that you
7 may have on the impact of either of these payment
8 methods or any other one.

9 CHAIRMAN:

10 Great. Thank you. And just to follow up
11 on Allison's comments, as we mentioned in our previous
12 meetings ---. And this is an issue that we've been
13 kicking around publicly, I think back to maybe March
14 or April. And as Allison said, we had talked more
15 specifically about it at our June 8th meeting.

16 We're required by law --- the Board is
17 --- by June 30th of this year to adopt a plan for the
18 casinos to pay back roughly \$64 million. And we have
19 the authority to determine the frequency of the
20 payment, the length of term of the payment and
21 everybody's allocable share, which the law says has to
22 be based on gross terminal revenue, but it doesn't say
23 much beyond that.

24 So we have looked at different proposals.
25 I think our initial public review was of four

1 proposals, if I'm not mistaken. And we asked for
2 public input from ---. The Treasurer gave us public
3 input, members of the legislature. The members of the
4 industry certainly weighed in. And I don't know if
5 any general members of the public weighed in, but we
6 are here today to kind of make a final decision on
7 what methodology we will adopt as to the payment of
8 those \$64 million of loans.

9 And the current law as we sit here today,
10 you know, at 10:30 or 10:45 in the morning is that our
11 methodology is to be adopted, as I said, by June 30th
12 of this year. And the payback, is to start once the
13 eleventh casino is up and running in Pennsylvania.
14 Right now, as all of you know, we only have ten
15 casinos that are up and running.

16 We have issued two Category 3 licenses,
17 and we anticipate that one of those two will be up and
18 running in the next fiscal year, which will trigger,
19 then, the payback of the loan amount. So having said
20 all of that, I will open it up to other questions from
21 my colleagues. Commissioner Sojka, you're looking
22 inquisitive. Do you have a question?

23 MR. SOJKA:

24 At this point no. I may follow up.

25 CHAIRMAN:

1 Okay. Commissioner Trujillo.

2 MR. TRUJILLO:

3 I have one or two. I guess ---. And
4 first, more of a comment than a question, but
5 following up on the Chairman's comments, under any of
6 the four scenarios, as I view them, you're going to
7 have winners and losers. And I think that's, maybe,
8 appropriate in this environment. So whether we adopt
9 the first, second, third or fourth, there's going to
10 be operators that will end up paying more or less,
11 depending on which approach we take. I think I'm
12 accurate. Am I not?

13 ATTORNEY CASSEL:

14 Yes, that is correct.

15 MR. TRUJILLO:

16 And also following up but further on, I
17 understand our statutory obligation to be to seek the
18 input from the operators from the industry, but this
19 is not a proceeding which is a hearing in which ---
20 which is a contested hearing. Am I accurate there, as
21 well?

22 ATTORNEY CASSEL:

23 Yes, that is correct.

24 MR. TRUJILLO:

25 Because what I am simply concerned about

1 ---. And it's not a concern, because I think that as
2 I've seen, the letters ---. I understand we've gotten
3 communications which have been posted on the web, and
4 there's been a wide, wide range of discussion, both
5 publicly and then directly as though --- as industry
6 has sent in their comments. And I recall we also had,
7 I think, meetings going back to last year, so I don't
8 think any of this comes as any surprise to anybody.

9 So I guess what I'd appreciate, maybe,
10 hearing before we continue is a summary of what I
11 guess --- we'll be up to four different proposals. If
12 we could get just, like they say, a thumbnail summary
13 of those proposals.

14 ATTORNEY CASSEL:

15 Okay. I can tell you one of the first
16 methods that we came to you with was to go back to the
17 first year that the loans were taken out, which was
18 2007-2008, fiscal year 2007-2008. And in that fiscal
19 year there were only a certain number of facilities
20 open. And we said, okay; we're going to go back to
21 that year, and each year going forward, we'll look at
22 the gross terminal revenue for that year, so that the
23 ---. In other words, instead of looking at a current
24 fiscal year, we went back to --- looked to historical,
25 back.

1 So that resulted in only a handful, maybe
2 five facilities repaying the first year. And then
3 going forward each year, another facility would come
4 on-line and more and more would pay. However, it
5 resulted in it wouldn't be until about the fifth year
6 that all 11 facilities would pay. So that was one of
7 the first ones that we came to you with.

8 Another one was to base the calculation
9 method on cumulative gross terminal revenue. And I
10 should also mention that the proportion to gross
11 terminal revenue, the percentage was always calculated
12 the same way, which was to take the individual
13 facility's gross terminal revenue and divide it by
14 statewide gross terminal revenue, which would give you
15 a percentage. That percentage would be multiplied by
16 approximately 6.3 million to give the actual repayment
17 amount for that year.

18 So what kind of happened was it just
19 depended on which period we were looking at for gross
20 terminal revenue. So another method that we came up
21 with was --- okay; we'll go back and look at
22 cumulative gross terminal revenue. We'll start the
23 repayment in this year. All facilities will pay in
24 the first year, but we will take into account every
25 single dime that they have earned since they opened

1 and take it against the statewide gross --- cumulative
2 gross terminal revenue.

3 Another one that we came to you with was
4 just the one that we presented on June 8th, which was
5 just the single year --- fiscal year. So say that the
6 11th facility opened in March of 2012. We would
7 assess in July of 2012, and every facility would have
8 an assessment. All facilities but that 11th one would
9 have a full year of gross terminal revenue, but that
10 11th facility would only, say, have a few months. But
11 they would be making a payment. So that is what we
12 presented on June 8th, and those were the main ones
13 from what I remember.

14 MR. TRUJILLO:

15 The shorthand way I kind of looked at
16 them is historic, cumulative and weighted have been
17 the --- right? I mean ---

18 ATTORNEY CASSEL:

19 Yes.

20 MR. TRUJILLO:

21 --- I think that that's ---

22 ATTORNEY CASSEL:

23 Yes.

24 MR. TRUJILLO:

25 --- probably an accurate way ---

1 ATTORNEY CASSEL:

2 That's an accurate way.

3 MR. TRUJILLO:

4 --- to describe the proposals. And in
5 each of those, as I've seen your efforts, it's been an
6 attempt to add some level of fairness, both to ---.
7 And I think in one of our discussions, the idea being
8 that there is a benefit that all --- in essence a fee
9 of sorts.

10 But then there's also a component of this
11 that beyond being kind of a fixed fee that each
12 facility should pay, there's also some recognition
13 that they have been the beneficiaries of that revenue,
14 some for a greater period of time, some for a shorter
15 period of time. So at least as I viewed the kind of
16 what the fairer way of doing this is, is to recognize
17 that, you know, everybody's got to pay something for
18 the privilege or for the --- almost like a license
19 fee.

20 It's not a license fee. I understand
21 that. But it's a payment for the privilege. And then
22 a component of this needs also to be a recognition of
23 the total revenue that they've enjoyed during the time
24 that they've been open. And that's, I guess, my way
25 of trying to think about the fair way of doing it, so

1 ---. Okay. Well, thank you. I appreciate that.
2 That's all I have, Mr. Chairman.

3 CHAIRMAN:

4 Thank you. Commissioner Ginty?

5 MR. GINTY:

6 Just have a comment following up on
7 Commissioner Trujillo's. And I think we're talking
8 about the same thing, but I kind of look at this as
9 cost allocation, which I've learned in many years of
10 experience, there is no right way to do cost
11 allocation. And it's not a science.

12 I do think, as Commissioner Trujillo
13 pointed out, there are certain --- I would describe
14 them as fixed costs, that inure to all members,
15 whether they were the first one to go into business or
16 the most recent one. And then there are variable
17 costs that, obviously, over time have been more
18 beneficial to those who were in the business earlier.
19 So you know, I'm in favor of some way balancing both
20 of those as opposed to going to either extreme.

21 CHAIRMAN:

22 Thank you. Commissioner Sojka.

23 MR. SOJKA:

24 So then back to the language that
25 Commissioner Trujillo gave us about winners and

1 losers, this proposal plays to neither extreme.
2 That's the point; right? It's no one's proposal but
3 our own. It's not congruent with those that have been
4 in business a long time or those that have been in
5 business for the shortest time. It's down the middle;
6 right? Is that accurate?

7 MR. TRUJILLO:

8 I think that depends on which proposal
9 specifically ---. We've laid out three different
10 ones.

11 MR. SOJKA:

12 Right, right. Well, and the one ---

13 MR. TRUJILLO:

14 You know.

15 MR. SOJKA:

16 --- would favor one kind. One would ---

17 MR. TRUJILLO:

18 Right.

19 MR. SOJKA:

20 --- favor another and there's a ---.

21 MR. TRUJILLO:

22 Yeah.

23 CHAIRMAN:

24 Yeah. I think, if I could just jump in,
25 I mean my sense is that, you know, looking at the two

1 extremes, as you mentioned, we have the one with
2 cumulative GTR, which again, those who were operating
3 in the earliest days would generally pay more. And
4 then we have the other extreme, to use your term. We
5 have the one-year GTR, which means that those who were
6 the last arrivers at the party, the ones that came on-
7 line last, would --- you know, would in their minds
8 pay more.

9 And let me just say that, you know, when
10 we ask for industry input on this and legislative
11 input and others, it was a great exercise in human
12 nature. And by that I mean that those that came
13 on-line first wanted to pay less, and the ones that
14 came on late, they wanted them to pay more, and the
15 ones that came on late wanted to pay less, and they
16 wanted the ones that came on first to pay more.

17 So I guess my question to you, Allison,
18 is, you know, this hybrid that we had talked about in
19 Executive Session, where we would have the gross
20 terminal revenue from the beginning of time and those
21 percentages, and then we have the gross terminal
22 revenue for the --- for one year is there. And there
23 is a combination of those two methodologies, to follow
24 up on Commissioner Sojka's point, where everybody, you
25 know, may not be happy, but folks will be less unhappy

1 if we choose one of those two extremes. Is that an
2 accurate statement?

3 ATTORNEY CASSEL:

4 That is an accurate statement. I think
5 that the method that was thrown around meets right in
6 the middle between the cumulative and the single year.
7 So again, you're not going to make everybody happy,
8 but not everybody's going to be happy anyway.

9 CHAIRMAN:

10 Uh-huh (yes).

11 MR. GINTY:

12 What we've done, then, is --- pardon me
13 --- is to simply kind of go off on our own, because as
14 we look at it, clearly there are ---. The other two
15 extremes play right to people who will benefit the
16 most. So it's no surprise that no outside entity, an
17 operator or legislator or anything, proposed the
18 hybrid model, because there is not clear winner or
19 clear loser. It is down the middle, so it becomes our
20 proposal; right?

21 ATTORNEY CASSEL:

22 Right.

23 MR. TRUJILLO:

24 Mr. Chairman?

25 CHAIRMAN:

1 Yes, Commissioner Trujillo?

2 MR. TRUJILLO:

3 Just so I understand it, you have done a
4 calculation, then, taking the average GTR between the
5 cumulative model and the single year model and done a
6 calculation of what a hybrid would look like; am I
7 correct?

8 ATTORNEY CASSEL:

9 Right, right. And to, I guess, briefly
10 illustrate it, in an effort to meet in the middle,
11 what we came up with was taking the percentage that
12 you would come up with if you used cumulative GTR and
13 the percentage that you would come up if you used a
14 single year GTR and averaged those two together, so
15 essentially added them and then divided by two to come
16 up with a percentage that meets right in the middle.
17 That would be the hybrid percentage that would then be
18 multiplied against 6.38 million to come up with the
19 payment amount.

20 MR. TRUJILLO:

21 So that would be the Solomon proposal;
22 right?

23 CHAIRMAN:

24 Yes. Other questions? The other thing I
25 want to lay out and make sure that everybody's on

1 board with and that we've kind of been talking about
2 this since we initially brought this issue up, is that
3 the payback would be over a ten-year period, and it
4 would be an annual payment; is that correct?

5 ATTORNEY CASSEL:

6 That is correct. Pretty much everybody
7 agreed on that.

8 CHAIRMAN:

9 Okay. So back to my original comment and
10 your comment. I had said earlier that we're dealing
11 with, give or take, a \$64 million loan. I think it's
12 63.8. And you had mentioned each casino's allocable
13 share of the 6.38 million per year times 10 years gets
14 you 63.8 million, just for the edification of the
15 public; ---

16 ATTORNEY CASSEL:

17 Yes.

18 CHAIRMAN:

19 --- right? Okay. Commissioner Trujillo?

20 MR. TRUJILLO:

21 One more.

22 CHAIRMAN:

23 Yes. You are inquisitive today.

24 MR. TRUJILLO:

25 I drank an extra cup of coffee this

1 morning. Just really, just from a record standpoint,
2 are you satisfied, then, that if we are --- would take
3 a hybrid of the cumulative and single-year proposals,
4 that you've had sufficient weigh-in, both from
5 industry, from the legislature and anybody else with
6 an interest in this process that from your
7 perspective, each operator will be treated as fairly
8 as possible?

9 ATTORNEY CASSEL:

10 Yes. And I can tell you that we
11 solicited industry input on two occasions, so they did
12 actually have two times where they could give us input
13 on the method that they preferred. And each time, it
14 was the same method that they had given the first
15 time. And also, the input from anybody else that
16 wanted to give comments. And I think that this is as
17 fair as we can get, a fair balance.

18 MR. TRUJILLO:

19 Thank you. That's all I have, Mr.
20 Chairman.

21 ATTORNEY SHERMAN:

22 Commissioner, if I can follow up with two
23 brief points there. Number one, I remember the
24 statute states that the Board is to make this
25 determination of setting a schedule with consultation

1 from the industry. And it's really an administrative
2 obligation placed on the Board to establish the
3 schedule.

4 You certainly have reached out and
5 probably gone above and beyond what anybody's
6 expectations were as far as soliciting input, taking
7 that, putting it onto the website, making it available
8 for everybody publicly to see. So I don't really
9 think anybody could possibly say that you didn't
10 fulfill your obligations there.

11 The other matter is certainly we ---.
12 The way the proposal's set up now, that we're talking
13 about with a hybrid approach, it can be implemented
14 very quickly, such that at the end of this fiscal
15 year, if it were otherwise appropriate, you know, we
16 can make the assessment, have payments due by, say,
17 January 1st of the --- at the end of that calendar
18 year. So it gives the facilities notice of what the
19 assessment is and the ability to have some time to
20 plan for it.

21 You know, if it's as the current law is
22 with 11 facilities opening, the year that that
23 facility opens, at the conclusion of that fiscal year,
24 it will be assessed. So there won't be any lag time,
25 obviously, if there were any changes. The formulant

1 works no matter what the timing or situation as far as
2 the number of facilities.

3 MR. TRUJILLO:

4 Thank you, and thanks for all your hard
5 work on this. And Solomonic or not, I'm sure it won't
6 keep any of my colleagues at the Bar at bay, but thank
7 you.

8 CHAIRMAN:

9 Other questions? Commissioner McCall.
10 Okay. Any other questions before we ---? Yes, Mr.
11 Craig? Why don't you come over and take a microphone
12 here? Yeah.

13 ATTORNEY CRAIG:

14 What is the common denominator in ---

15 ATTORNEY CASSEL:

16 Well ---

17 ATTORNEY CRAIG:

18 --- in ---?

19 ATTORNEY CASSEL:

20 The common denominator for the average
21 ---. I mean we would ---. The common denominator for
22 each of the percentages would be either the cumulative
23 statewide gross terminal revenue or the statewide
24 revenue for the current --- for the one fiscal year.

25 ATTORNEY CRAIG:

1 But not everybody has the same cumulative
2 pay rate, if I understand it correctly. For
3 example ---

4 ATTORNEY CASSEL:

5 Right, right.

6 ATTORNEY CRAIG:

7 --- Penn National would have a year, I
8 think, less than, say, Philadelphia Parx?

9 ATTORNEY CASSEL:

10 Right, due to the staggered opening of
11 the facilities.

12 ATTORNEY CRAIG:

13 So in that case, how do you even figure
14 out this ---? In other words, you take their average
15 gross terminal revenue, but then you're supposed to
16 divide it by the statewide gross terminal revenue?

17 ATTORNEY CASSEL:

18 No. Just for the cumulative calculation.
19 It would be for Mountainview. It would be their
20 cumulative gross terminal revenue divided by the
21 statewide gross terminal revenue, so all of the
22 revenue that they have earned versus all of the
23 revenue that everybody has earned. So it's not an
24 average.

25 ATTORNEY CRAIG:

1 But for example, in ---? What was that,
2 the Meadows, you used as the example?

3 ATTORNEY CASSEL:

4 Whichever one.

5 ATTORNEY CRAIG:

6 Well, acts, venue acts. And if the State
7 ---? You would then be taking a ---? You would be
8 dividing it by ---? If their cumulative operating
9 period was at, say, five years, you would be then
10 taking five years' worth of gross ---

11 ATTORNEY CASSEL:

12 Of gross terminal revenue.

13 ATTORNEY CRAIG:

14 --- for the statewide?

15 ATTORNEY CASSEL:

16 Yes. And we're not really looking at a
17 time period, per se. It's just all of the revenue
18 that they've earned since they opened.

19 ATTORNEY CRAIG:

20 Yeah, but you have to divide it by
21 something in order to get the ratio.

22 ATTORNEY CASSEL:

23 By the cumulative statewide gross
24 terminal revenue.

25 ATTORNEY CRAIG:

1 So that that cumulative denominator would
2 actually be different for every venue, because every
3 venue's been operating under a different ---.

4 ATTORNEY CASSEL:

5 No, no. I mean the numerator would be
6 different, obviously, but the denominator is always
7 going to be statewide.

8 ATTORNEY CRAIG:

9 Which one is the bottom number?

10 ATTORNEY CASSEL:

11 The denominator.

12 ATTORNEY CRAIG:

13 Denominator; okay. Do we have or is
14 there on paper anywhere a representation of this
15 formula?

16 ATTORNEY CASSEL:

17 I don't have it with me. Just, you know,
18 for illustrative purposes we had kind of put together
19 what it would look like. And actually, we had
20 presented the cumulative approach, so that was
21 included in previous materials.

22 ATTORNEY CRAIG:

23 Correct. But I guess I'm trying to
24 figure out how the cumulative, then ---

25 ATTORNEY CASSEL:

1 Okay.

2 ATTORNEY CRAIG:

3 --- is averaged with the year look-back,
4 for lack of a better word.

5 ATTORNEY CASSEL:

6 I think the best way to maybe illustrate
7 it is we're not going to average gross terminal
8 revenue. We're averaging the percentages that result
9 from the gross terminal revenue.

10 ATTORNEY CRAIG:

11 Okay.

12 CHAIRMAN:

13 So again, if I could weigh in, I mean the
14 hybrid method is the average percentage for --- let's
15 take Parx. Parx has a percentage that their gross
16 terminal revenue, cumulative, is to the total gross
17 terminal revenue cumulative for all casinos. They
18 have a percentage?

19 ATTORNEY CRAIG:

20 For the state --- for the period of time
21 at which they've been operating.

22 CHAIRMAN:

23 Correct. And then they also have a
24 percentage of their last year's gross terminal revenue
25 --- was to the gross terminal revenue for all casinos

1 for last year. So those two percentages are combined,
2 divided by two, and that is their hybrid percentage.

3 ATTORNEY CRAIG:

4 I understand that. The only question I
5 was trying to clarify is that for the first part of
6 that equation, the cumulative total that each
7 operator's calculus for --- as divided by the
8 statewide average would actually be different, because
9 each operator started at a different time. Is that a
10 fair characterization?

11 CHAIRMAN:

12 The numerators are or the top number's
13 different for each casino, but the bottom number is
14 ---. If you have gross terminal revenue from the ---

15 ATTORNEY CRAIG:

16 Okay.

17 CHAIRMAN:

18 --- beginning of time, that's a defined
19 number.

20 ATTORNEY CRAIG:

21 Okay, okay. So that denominator, then,
22 is common?

23 CHAIRMAN:

24 Correct.

25 ATTORNEY CASSEL:

1 Right.

2 ATTORNEY CRAIG:

3 All right.

4 MR. SOJKA:

5 Yeah. The reason that has to work that
6 way ---. Otherwise, you don't get the ---

7 ATTORNEY CRAIG:

8 No, I ---.

9 MR. SOJKA:

10 --- full payback.

11 ATTORNEY CRAIG:

12 No, no, no.

13 MR. SOJKA:

14 And that's absolutely rule one for us.

15 ATTORNEY CRAIG:

16 No, I understand that. I was just trying
17 to figure out the formula. I mean the only comment I
18 would make is that there was a discussion and
19 representation that there were extremes. The
20 Treasurer had always taken the position --- really
21 three primary points.

22 And that was one, the recommendation that
23 the Act should be amended to speed up the payments.
24 That's beyond the power and authority of the Board.
25 However, based on publicly available drafts, it seems

1 the General Assembly is leaning in that direction.
2 Second, that all venues would have to participate on
3 day one in paying back the loan, that that was the
4 clear legislative directive from the General Assembly
5 in the fiscal code.

6 And two, that as everybody's grasping
7 with, there needs to be a modicum of equity in terms
8 of allocating the cost, of which everybody defines
9 differently. I understand that, as well.

10 The only point that I would try to make
11 is that those ---. The notion, somehow, that there is
12 a unearned benefit to Category 1 venues is somewhat
13 unfair. The Act and this Board's regulations all
14 dramatically encourage each venue to operate and begin
15 operations as quickly and as early as possible. That
16 was the public policy statement of both the
17 legislature, as well as this Board has expressed in
18 their regulations.

19 And that each of the operators that
20 started early did so and applied to the date that was
21 established by our Board, and they were approved by
22 the Board on a common date. And the primary reason
23 why they were operating early and had the benefit of
24 entering the market early is because they didn't have
25 a competitor appealing their license, unlike all of

1 the Category 2s, in which there were multiple
2 applicants for a single license. That dynamic didn't
3 exist for Category 1 venues. That is the primary
4 explanation as to why they were operating early.

5 And then while there was a benefit to
6 that, that benefit also inured to the public policy of
7 the Commonwealth. We were able to employ people
8 during a recession, et cetera. And that's why we
9 supported the --- I don't know if the right
10 description --- the June 8th proposal as being really
11 an equitable manner and which provided fairness to all
12 the parties. There was a benefit to their early
13 venues, but it also didn't punish the latter parties,
14 as well. And I would just recommend and suggest that
15 that is a fair way that the Board should consider.
16 Thank you.

17 CHAIRMAN:

18 Thank you very much. Any other
19 questions? Commissioner Moscato.

20 MR. MOSCATO:

21 Thank you, Mr. Chairman. Just a
22 clarification, something that had been discussed
23 earlier was the option for quarterly payments. Is
24 that still ---? Quarterly payments by the casinos as
25 opposed to one annual.

1 ATTORNEY SHERMAN:

2 Commissioner, it was one of those things
3 that we had talked about. I guess as we considered
4 it, we thought that this should be a relatively simple
5 process.

6 We don't want to establish a new
7 accounting bureaucracy within the Department of
8 Revenue simply to manage payments and keep track of
9 what has to be paid, what's on account, what hasn't
10 been paid yet. By assessing in July and making a
11 payment due by January 1, I think that probably allows
12 enough time for planning and cash flow management so
13 that if the payments are made annually, everything's
14 done in one fell swoop and we don't have situations of
15 differing payments coming in at differing times and
16 different schedules.

17 MR. MOSCATO:

18 So the other thing we wanted to make
19 clear was that the Board's decision here today to
20 adopt a hybrid approach would be committed to an
21 administrative order that sets forth the formula
22 clearly so that everybody can see it, and explains the
23 rationale of how the Board got there, and that once
24 it's completed and signed by the Chairman, it would be
25 distributed and put out on the Board's website for all

1 to see.

2 CHAIRMAN:

3 Okay? Any other questions? Could I have
4 a motion, please?

5 MR. MCCALL:

6 Mr. Chairman, just for the point of
7 making my motion, we were given, really, four
8 alternatives, a historic alternative, a cumulative
9 year GTR, a prior year or single year GTR or our
10 fourth, which would be a hybrid proposal, which would
11 be the average of the cumulative GTR and the prior
12 year or single year GTR. So for the term ---. For
13 the purpose of the record, I will say that I move that
14 the Board adopt the loan repayment option or the
15 hybrid option, which would be the average of the
16 cumulative year GTR and single year GTR, as described
17 by the OCC.

18 MR. GINTY:

19 Second.

20 CHAIRMAN:

21 All in favor?

22 ALL SAY AYE

23 CHAIRMAN:

24 Opposed? The motion passes. Thank you,
25 Doug. Thank you, Allison, for your hard work on this.

1 Next up are the regulations. I believe we have Susan
2 Yocum to address the Board on the regulation. And
3 thank you, Mr. Craig, for your input.

4 ATTORNEY CRAIG:

5 Yes.

6 ATTORNEY YOCUM:

7 Good morning, Chairman Fajt,
8 Commissioners. I have one proposed rulemaking for
9 your consideration today. It is 125-155. It
10 addresses the rules of play for both Blackjack and Pai
11 Gow Poker. Included in this rulemaking are the table
12 layout requirements, the dealing procedures, the
13 payout odds and amounts for all --- and the payout
14 odds and amounts for all permissible wagers.

15 With regard to Pai Gow Poker, we've also
16 added the option of a player banking or co-banking the
17 game. This is a traditional option, and we have
18 included it in our proposed rulemaking on Pai Gow
19 tiles.

20 With regard to Blackjack, we have updated
21 it for --- and included a few variations, including
22 allowing a dealer to deal from the hand and allowing
23 the dealers to touch the cards. Regarding the
24 fundamental rules of Blackjack, we've --- this
25 proposed rulemaking will keep the fundamental rules of

1 the game consistent with how they're currently played.
2 So Blackjack will pay out with three to two and the
3 players will still have the option to surrender.

4 CHAIRMAN:

5 Thank you. Any questions or comments
6 from the Board? Commissioner Trujillo?

7 MR. TRUJILLO:

8 Inquisitive as I am today. With respect
9 ---. And maybe just in layman's terms, because I have
10 never been much of a gambler. Can you describe, if
11 you would, how the proposed regulations compare to
12 those in neighboring jurisdictions?

13 ATTORNEY YOCUM:

14 Neighboring jurisdictions, for instance,
15 New Jersey, they do allow the option of --- the
16 operator's option to pay out Blackjack at odds of six
17 to five. What that means in terms of a payer ---
18 patron playing is if a patron played a \$10 wager, a
19 three to two would give them a \$15 payout, a six to
20 five would give them \$12.50. With regard to
21 surrender, they leave it within the --- actually
22 surrender and standing on a soft 17, they leave it
23 within the operator's discretion whether to allow a
24 patron to surrender and whether the dealer will hit or
25 stand on a soft 17.

1 MR. TRUJILLO:

2 The proposed regulation leaves it to the
3 discretion?

4 ATTORNEY YOCUM:

5 No, the proposed regulation leaves it as
6 --- at currently as requiring that the operator just
7 stand on a soft 17 and allowing --- and requiring the
8 operator to give the player the option to surrender.

9 MR. TRUJILLO:

10 So as I understand it, then, it is a more
11 player friendly ---. The system as we have it is a
12 more player friendly approach at Blackjack?

13 ATTORNEY YOCUM:

14 Absolutely, yes.

15 MR. TRUJILLO:

16 And just from a philosophy of regulation
17 on this issue, I mean my view is that we should
18 maintain as player friendly an environment as
19 possible, particularly as we will see increasing
20 competition from other states. And so from my
21 perspective, I'm very happy leaving it the way it is.

22 CHAIRMAN:

23 Thank you. Any other questions or
24 comments from the Board?

25 MR. GINTY:

1 I have one before I make a motion.

2 CHAIRMAN:

3 Yes. Can you make sure your mic's on?

4 MR. GINTY:

5 I'm going to move the proposed reg, but I
6 would encourage the staff to work with the industry
7 with respect to their ability to deal with high
8 rollers and negotiating specific rules for one-time
9 play. There was an article in the paper a few days
10 ago about a high roller down in New Jersey. And the
11 reason he chose to play in New Jersey was he was able
12 to negotiate some rules favorable to him with New ---.
13 So I would just suggest that you and the industry
14 discuss that as a limited option to the industry.

15 ATTORNEY YOCUM:

16 Just as a follow-up to that, our rules
17 are currently --- as they currently stand are about
18 the most favorable to the player.

19 CHAIRMAN:

20 Thank you. Any other questions from the
21 Board? Could I have a motion, please?

22 MR. GINTY:

23 Mr. Chairman, I move that the Board adopt
24 Proposed Regulation 125-155 as described by the OCC
25 and that the Board establish a public comment period

1 of 30 days for this regulation and that the proposed
2 regulation be posted on the Board's website.

3 MR. ANGELI:

4 Second.

5 CHAIRMAN:

6 All in favor?

7 ALL SAY AYE

8 CHAIRMAN:

9 Opposed? The motion passes. Thank you,
10 Susan.

11 ATTORNEY YOCUM:

12 Thank you.

13 CHAIRMAN:

14 Okay.

15 ATTORNEY SHERMAN:

16 Today the Board has just one petition
17 before it for consideration. That's the petition
18 related to Greenwood Gaming and the poker tournament
19 that you just heard. Not to repeat specifics, but
20 they clearly want to have 15 poker tournaments held
21 here in August, have a separate area from the
22 simulcast facility that's not going to be in use
23 during the tournament used for --- to, I think, play
24 31 --- or 30 additional tables. If there are any
25 questions, the parties are still here. Otherwise, it

1 would be appropriate for a motion to approve that.

2 CHAIRMAN:

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

5 MR. ANGELI:

6 Mr. Chairman, I move that the Board grant
7 the petition of Greenwood Gaming and Entertainment,
8 Incorporated as described by the OCC.

9 CHAIRMAN:

10 Second?

11 MR. TRUJILLO:

12 Second.

13 CHAIRMAN:

14 All in favor?

15 ALL SAY AYE

16 CHAIRMAN:

17 Opposed? The motion passes.

18 ATTORNEY SHERMAN:

19 Okay. There's just one --- or one
20 Petition to Withdraw before the Board today. That's
21 of A & H Equipment Company. There is no objection by
22 the Office of Enforcement Counsel (OEC) to the
23 Withdrawal, and as a result, we would recommend a
24 motion be granted --- or be undertaken to grant the
25 Withdrawal with prejudice --- or I'm sorry, without

1 prejudice.

2 CHAIRMAN:

3 Okay. Any questions or comments from the
4 Board on that Withdrawal? Could I have a motion,
5 please?

6 MR. SOJKA:

7 Yes, Mr. Chairman. I move that the Board
8 issue an Order to approve the Withdrawal of A & H
9 Equipment, as described by the OCC.

10 CHAIRMAN:

11 Second?

12 MR. MOSCATO:

13 Second.

14 CHAIRMAN:

15 All in favor?

16 ALL SAY AYE

17 CHAIRMAN:

18 Opposed? The motion passes.

19 ATTORNEY SHERMAN:

20 Okay. There are two Report and
21 Recommendations received from the OHA. One is
22 relative to a Gaming Employee Permit, and one a Non-
23 Gaming Registration. The Report and Recommendations,
24 along with the evidentiary records for each hearing,
25 have been provided to the Board in advance of this

1 meeting.

2 Additionally, in each case, the person
3 involved has been notified that the Board is
4 considering their Report and Recommendation today and
5 that they have a right to be present to briefly
6 address the Board if they so desire. If either of the
7 individuals is present today, they should come forward
8 when their matter is called.

9 The first matter is of Steven Kawejsza.
10 Mr. Kawejsza's Report and Recommendation relates to a
11 Gaming Employee Application to work as a Table Game
12 Dealer at Sugarhouse. The OEC issued a Notice of
13 Recommendation of Denial on March 3rd based upon Mr.
14 Kawejsza's failure to disclose his criminal history.

15 It was discovered during BIE's background
16 investigation that the individual was arrested by the
17 Connecticut State Police and charged with larceny in
18 the fifth degree after stealing casino chips valued at
19 \$300 from the MGM Mohegan Casino in Connecticut.
20 After receiving the Notice of Recommended Denial, Mr.
21 Kawejsza requested a hearing which was held on May
22 10th before the OHA.

23 Both the OEC and Mr. Kawejsza appeared
24 and offered evidence at the hearing. The individual
25 admitted that he did not disclose his 2009 arrest in

1 order to help him receive credentials in the
2 Commonwealth. He testified that he had had a drug
3 problem in 2009 which led to his conduct, but since
4 that time, he has successfully completed a drug
5 treatment program.

6 At the conclusion of the hearing, the
7 Officer --- Hearing Officer issued a Report and
8 Recommendation recommending that the application of
9 Mr. Kawesjza be denied. The matter is now appropriate
10 for the Board's consideration.

11 CHAIRMAN:

12 Thank you. Is Mr. Kawesjza here? Any
13 questions or comments from the Board? Can I have a
14 motion, please?

15 MR. MOSCATO:

16 Chairman, I move that the Board issue an
17 Order to adopt the Report and Recommendation of the
18 OHA regarding the Gaming Employee Permit of Steven
19 Kawesjza as described by the OCC.

20 MR. MCCALL:

21 Second.

22 CHAIRMAN:

23 All in favor?

24 ALL SAY AYE

25 CHAIRMAN:

1 Opposed? The motion passes.

2 ATTORNEY SHERMAN:

3 The second Report and Recommendation
4 before the Board relates to Margaret Sajez. Margaret
5 Sajez was issued a Non-Gaming Employee Registration on
6 April 28th, 2009 to work as a valet parking dispatcher
7 at Sands Bethlehem. On December 17th, 2010, the
8 individual was charged with six criminal offenses
9 stemming from a vehicle accident that occurred on that
10 date. The charges generally consist of a DUI-related
11 offense, as well as charges of fleeing the scene of an
12 accident, reckless endangerment.

13 As a result of the charges, the OEC filed
14 a request for an Emergency Order of Suspension of Ms.
15 Sajez's Non-Gaming Employee Registration. That Order
16 was signed by the Executive Director on January 13th,
17 2011.

18 On January 26th, the Board referred the
19 matter to the OHA to conduct a hearing on the validity
20 of the Emergency Suspension. A hearing was held on
21 May 12th, and both the OEC and Ms. Sajez appeared at
22 the hearing and offered testimony.

23 Ms. Sajez testified that she pled guilty
24 to recklessly endangering another person, DUI and
25 accidents involving damage to attended vehicle or

1 property, charges which are all misdemeanor offenses.
2 She also testified that she was sentenced to 45 days
3 of house arrest and 34 months of probation.

4 The Hearing Officer issued a Report and
5 Recommendation stating that the January 13th Emergency
6 Order suspending Ms. Sajeز was valid, but then went on
7 to recommend that the suspension should be lifted and
8 her registration reinstated based in part upon Ms.
9 Sajeز's personal and professional history. The OEC
10 filed exceptions to the Report and Recommendation and
11 requested that Ms. Sajeز's Suspension remain in full
12 force and effect. The matter is now appropriate for
13 the Board's consideration.

14 CHAIRMAN:

15 Thank you. Is Ms. Sajeز here? Any
16 questions or comments from the Board? Commissioner
17 Ginty?

18 MR. GINTY:

19 I have a few. Doug, as I understand it,
20 what's before us today is continuing the Suspension,
21 not a question of whether to vacate her license?

22 ATTORNEY SHERMAN:

23 That's correct. It's the continuation of
24 the Suspension. The Report and Recommendation is to
25 lift the Suspension. If you want to dissolve the

1 Suspension, which would allow her to go back to work,
2 then you would adopt the Report and Recommendation.
3 If you want to continue the Suspension, then you would
4 reject the Report and Recommendation.

5 MR. GINTY:

6 But if we were to continue the
7 Suspension, there's another step. Either OEC bring an
8 action to revoke the license or Ms. Sajeز can bring an
9 action to restore the license?

10 ATTORNEY SHERMAN:

11 She would have to file a petition to lift
12 the Suspension at some point in the future and
13 dissolve it, yes.

14 MR. GINTY:

15 Yeah. I'm concerned here, because
16 apparently the Hearing Examiner saw something in Ms.
17 Sajeز's character that suggested to him that this was
18 an aberration and was willing to, you know, restore
19 her license. At the same time, there's nothing in the
20 record to support that. There's no character
21 testimony. Her employer didn't come forward or
22 anything, so I certainly hope she will have the
23 opportunity to show that this was an aberration and
24 that otherwise her work history and character and so
25 forth is good. That's all I have.

1 CHAIRMAN:

2 Thank you. Any other questions or
3 comments from the Board? Could I have a motion,
4 please?

5 MR. MCCALL:

6 Mr. Chairman, I move the Board issue an
7 Order to reject the Report and Recommendation of the
8 OHA regarding the Gaming Employee Permit of Margaret
9 Sajeز as described by the OCC.

10 MR. GINTY:

11 I'll second that.

12 CHAIRMAN:

13 All in favor?

14 ALL SAY AYE

15 CHAIRMAN:

16 Opposed? The motion passes.

17 ATTORNEY SHERMAN:

18 Next we have two Emergency Suspensions,
19 which Assistant Counsel Neil Hittinger will present.

20 CHAIRMAN:

21 Thank you. Welcome, Neil.

22 ATTORNEY HITTINGER:

23 Good morning, Commissioner, Board
24 members. Neil Hittinger with the OCC. That's N-E-I-L
25 H-I-T-T-I-N-G-E-R. And I have two Emergency

1 Suspensions for you this morning. The first is the
2 Emergency Suspension of Gerald McNeil, who was issued
3 a Non-Gaming Employee Registration on October 8th,
4 2010 and was employed as a custodian by HSP Gaming,
5 LP.

6 On June 14th, 2011 the Gaming Enforcement
7 Office of the Pennsylvania State Police notified the
8 Board's Bureau of Casino Compliance that Mr. McNeil
9 had been arrested and charged with at least six felony
10 counts and several misdemeanors. Most of the charges
11 were relating to sexual acts with a minor.

12 As a result of these charges, OEC filed a
13 request for an Emergency Order of Suspension of Mr.
14 McNeil's Non-Gaming Employee Registration. That Order
15 was signed by the Board's Executive Director on June
16 16th, 2011. The Board's regulations require that a
17 Temporary Emergency Order be presented to the Board
18 for a full evidentiary hearing or, in the alternative,
19 assigned to the OHA to conduct such a hearing and,
20 thereafter, to issue a Report and Recommendation.

21 In this case the OCC recommends that the
22 Board consider a motion to refer the matter to the OHA
23 to promptly schedule a hearing and, subsequently, to
24 issue a Report and Recommendation to the Board
25 regarding the validity of the Emergency Suspension.

1 Additionally, the OCC recommends that the Board order
2 that the Temporary Emergency Order remain in place
3 until such time as the Board can act on the Report and
4 Recommendation.

5 CHAIRMAN:

6 Thank you. Any questions or comments
7 from the Board? Seeing none, could I have a motion,
8 please?

9 MR. GINTY:

10 Mr. Chairman, I move that the Board issue
11 an Order to extend the Emergency Suspension of Gerald
12 McNeil's Non-Gaming Employee Registration and that the
13 matter be referred to the OHA for a hearing to
14 determine the validity of the Emergency Suspension
15 Order.

16 MR. ANGELI:

17 Second.

18 CHAIRMAN:

19 All in favor?

20 ALL SAY AYE

21 CHAIRMAN:

22 Opposed? Motion passes.

23 ATTORNEY HITTINGER:

24 The next Emergency Suspension is that of
25 Tony Tran. Mr. Tran was issued a Gaming Employee

1 Occupation Permit on April 4th, 2011 and was employed
2 as a table games dealer at Harrah's Chester Casino and
3 Racetrack.

4 On June 14th, 2011 the Philadelphia
5 Police Department notified the Board's Bureau of
6 Casino Compliance that Mr. Tran had been arrested and
7 charged with at least four felonies and three
8 misdemeanor offenses on June 13th, 2011. Mr. Tran has
9 a preliminary hearing and is pending criminal matter
10 scheduled for June 30th, 2011. He also has a hearing
11 on July 5th, 2011 to determine whether his most recent
12 arrest violates his probation for a prior DUI
13 conviction.

14 As a result of these charges, OEC filed a
15 request for an Emergency Order of Suspension of Mr.
16 Tran's Gaming Employee Occupation Permit. The Order
17 was signed by the Board's Executive Director on June
18 20th, 2011. As I stated a few minutes ago, the
19 Board's regulations require that a Temporary Emergency
20 Order be presented to the Board for a full evidentiary
21 hearing or, again, assigned to the OHA to conduct a
22 hearing and issue a Report and Recommendation.

23 In this case, the OCC again recommends
24 that the Board consider a motion to refer the matter
25 to the OHA to conduct a hearing and to issue a Report

1 and Recommendation regarding the validity of the
2 Emergency Suspension. Additionally, the OCC
3 recommends that the Board issue an Order that the
4 Temporary Emergency Order remains in place until such
5 time as the Board can act on the Report and
6 Recommendation.

7 CHAIRMAN:

8 Any questions or comments from the Board?
9 Could I have a motion, please?

10 MR. ANGELI:

11 Mr. Chairman, I move that the Board issue
12 an Order to extend the Emergency Suspension of Tony
13 Tran's Gaming Employee Permit and that the matter be
14 referred to the OHA for a hearing to determine the
15 validity of the Emergency Suspension Order.

16 CHAIRMAN:

17 Second?

18 MR. TRUJILLO:

19 Second.

20 CHAIRMAN:

21 All in favor?

22 ALL SAY AYE

23 CHAIRMAN:

24 Opposed? The motion passes. Thank you,
25 Neil. Thank you, Doug.

1 ATTORNEY SHERMAN:

2 Thank you.

3 CHAIRMAN:

4 Next up is Susan Hensel, our Director of
5 Licensing and Cyrus Pitre, our Enforcement Counsel.
6 Welcome, Susan and Cyrus.

7 MS. HENSEL:

8 Thank you, Chairman Fajt and members of
9 the Board. The first matter for your consideration is
10 the approval of Key Employee Licenses. Prior to this
11 meeting the Bureau of Licensing provided you with a
12 proposed Order for 15 Key Employee Licenses for Downs
13 Racing, LP, Greenwood Gaming and Entertainment,
14 Mountainview Thoroughbred Racing Association and
15 Presque Isle Downs. I ask that the Board consider the
16 Order approving these licenses.

17 CHAIRMAN:

18 Any questions from Enforcement Counsel?

19 ATTORNEY PITRE:

20 We have no objection to the approvals.

21 CHAIRMAN:

22 Thank you. Comments from the Board?

23 Could I have a motion, please?

24 MR. TRUJILLO:

25 Mr. Chairman ---. Mr. Chairman, I'd move

1 that the Board approve the issuance of Key Employee
2 Licenses as described by the Bureau of Licensing.

3 CHAIRMAN:

4 Second?

5 MR. SOJKA:

6 Second.

7 CHAIRMAN:

8 All in favor?

9 ALL SAY AYE

10 CHAIRMAN:

11 Opposed? The Motion passes.

12 MS. HENSEL:

13 Also, for your consideration are
14 Temporary Principal and Key Employee Licenses. Prior
15 to this meeting the Bureau of Licensing provided you
16 with an Order regarding the issuance of temporary
17 licenses for one Principal and 31 Key Employees. I
18 ask that the Board consider the Order approving these
19 licenses.

20 CHAIRMAN:

21 Any objection from Enforcement Counsel?

22 ATTORNEY PITRE:

23 No objection.

24 CHAIRMAN:

25 Any questions from the Board? Can I have

1 a motion, please?

2 MR. SOJKA:

3 Yes, Mr. Chairman. I move that the Board
4 approve the issuance of Temporary Principal and Key
5 Employee Credentials as described by the Bureau of
6 Licensing.

7 CHAIRMAN:

8 Second?

9 MR. MOSCATO:

10 Second.

11 CHAIRMAN:

12 All in favor?

13 ALL SAY AYE

14 CHAIRMAN:

15 Opposed? The motion passes.

16 MS. HENSEL:

17 Next are Gaming Permits and Non-Gaming
18 Registrations. Prior to this meeting the Bureau of
19 Licensing provided you with a list of 305 individuals
20 who the Bureau has granted temporary or full
21 occupation permits to and 139 individuals who the
22 Bureau has granted registrations to under the
23 authority delegated to the Bureau of Licensing. I ask
24 that the Board adopt a motion approving the Order.

25 CHAIRMAN:

1 Any objection from Enforcement Counsel?

2 ATTORNEY PITRE:

3 No objection.

4 CHAIRMAN:

5 Questions from the Board? Could I have a
6 motion, please?

7 MR. MOSCATO:

8 Mr. Chairman, I move that the Board
9 approve the issuance of Gaming Employee Permits and
10 Non-Gaming Employee Registrations as described by the
11 Bureau of Licensing.

12 COMMISSIONER MCALL:

13 Second.

14 CHAIRMAN:

15 All in favor?

16 ALL SAY AYE

17 CHAIRMAN:

18 Opposed? The motion passes.

19 MS. HENSEL:

20 In addition we have Withdrawal requests
21 for Key Employees and Gaming and Non-Gaming Employees.
22 In each case the license permit or registration is no
23 longer required due to such circumstances as the
24 employee failing to report to work. For today's
25 meeting I have provided the Board with a list of four

1 key employee, 50 Gaming Employee and ten Non-Gaming
2 Employee Withdrawals for approval. I ask that the
3 Board consider the Orders approving the list of
4 withdrawals.

5 CHAIRMAN:

6 Any objection from Enforcement Counsel?

7 ATTORNEY PITRE:

8 No objection.

9 CHAIRMAN:

10 Any questions from the Board? Could I
11 have a motion, please?

12 MR. MCCALL:

13 Mr. Chairman, I move that the Board
14 approve the withdrawals as described by the Bureau of
15 Licensing.

16 CHAIRMAN:

17 Second?

18 MR. GINTY:

19 Second.

20 CHAIRMAN:

21 All in favor?

22 ALL SAY AYE

23 CHAIRMAN:

24 Opposed? The motion passes.

25 MS. HENSEL:

1 In addition we have an Order to certify
2 the following Gaming Service Providers: Autovalet
3 Systems USA, LLC; Betty and Joe's - Mohegan Sun, LLC;
4 Center Stage Entertainment; Cornerstone Building
5 Solutions, Inc.; Cost of Wisconsin, Inc.; Devine
6 Brothers Inc.; Dynamite Disc Jockeys, Inc.; Horizon
7 Media, Inc.; Pennsylvania Paper and Supply Company,
8 Incorporated; PSX, Inc.; S and H Construction Company,
9 Inc.; Schindler Elevator Corporation and Sysco Central
10 Pennsylvania, LLC. I ask that the Board consider the
11 Order approving these Gaming Service Providers for
12 certification.

13 CHAIRMAN:

14 Any objection from Enforcement Counsel?

15 ATTORNEY PITRE:

16 No objection.

17 CHAIRMAN:

18 Any questions from the Board? Could I
19 have a motion, please?

20 MR. GINTY:

21 Chairman, I move that the Board issue an
22 Order to approve the applications for Gaming Service
23 Provider Certification as described by the Bureau of
24 Licensing.

25 CHAIRMAN:

1 Second?

2 MR. ANGELI:

3 Second.

4 CHAIRMAN:

5 All in favor?

6 ALL SAY AYE

7 CHAIRMAN:

8 Opposed? The motion passes.

9 MS. HENSEL:

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

17 CHAIRMAN:

18 Any objection from Enforcement Counsel?

19 ATTORNEY PITRE:

20 No objection.

21 CHAIRMAN:

22 Questions from the Board? Could I have a
23 motion?

24 MR. ANGELI:

25 Mr. Chairman, I move that the Board issue

1 an Order to approve the applications for Gaming
2 Service Provider Registration as described by the
3 Bureau of Licensing.

4 CHAIRMAN:

5 Second?

6 MR. TRUJILLO:

7 Second.

8 CHAIRMAN:

9 All in favor?

10 ALL SAY AYE

11 CHAIRMAN:

12 Opposed? The motion passes.

13 MS. HENSEL:

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

16 CHAIRMAN:

17 Thank you, Susan.

18 MR. TRUJILLO:

19 Mr. Chairman, actually, before she
20 leaves ---

21 CHAIRMAN:

22 Yes.

23 MR. TRUJILLO:

24 --- I did have a couple of questions.

25 CHAIRMAN:

1 Certainly.

2 MR. TRUJILLO:

3 Susan, I notice in our materials that
4 there had been ---. I guess there was really the
5 notification by a couple of operators of some
6 refinancing of debt that they had. And I would like
7 to hear --- and it doesn't have to be today --- and
8 perhaps between some sort of a report as to the
9 approach of what the FIUs review is when a Licensee
10 has a debt financing change.

11 And I understand the approach that's been
12 taken is, obviously, if we have a change in control
13 that occurs as a result of equity position changes,
14 then very often somebody has to be --- folks --- you
15 know, entities and folks have to be licensed. They're
16 reviewed, presented to the Board and then for Board
17 approval.

18 However, in other circumstances, when
19 it's a debt financing, we have debt financings that
20 end up not requiring Board approval. And so I would
21 just like to get comfortable around and have a sense
22 of what the approach is and what the review is that's
23 conducted by FIU and by your offices. And so if we
24 could --- obviously it doesn't have to be today, but
25 if at a future hearing or Board meeting we could hear

1 on that, I'd really appreciate that.

2 MS. HENSEL:

3 Certainly. We'd be happy to put together
4 a presentation to go over exactly what takes place,
5 both in the FIU and in the Bureau of Licensing.

6 MR. TRUJILLO:

7 Thank you very much.

8 MS. HENSEL:

9 Uh-huh (yes).

10 CHAIRMAN:

11 Thank you, Commissioner. Thank you,
12 Susan. Next up is Cyrus Pitre, our Chief Enforcement
13 Counsel. I see the first matter is a proposed Consent
14 Agreement between the OEC and Trumbull Corporation.
15 Are there any representatives from Trumbull here
16 today?

17 ATTORNEY PITRE:

18 No. I have Mike Roland, and Assistant
19 Enforcement Counsel Mike Roland will handle the
20 Consent Agreement. Dustin Miller and Beth Manifesto
21 are up to handle the matters that follow the ---.

22 CHAIRMAN:

23 Okay. And so all of them being lawyers,
24 we don't need to have anybody sworn in. And
25 Enforcement Counsel, you may begin.

1 ATTORNEY ROLAND:

2 Thank you. Good morning, Mr. Chairman
3 and members of the Board. Mike Roland, R-O-L-A-N-D,
4 with the OEC. The first OEC issue before you is the
5 Consent Agreement between Trumbull Corporation and the
6 OEC. One April 30th, 2008 Trumbull filed a Vendor
7 Certification Application with the Board.

8 A little bit of background on Trumbull.
9 They are a construction and general contracting
10 company. They pave roadwork, do drainage for some of
11 our facilities.

12 On November 25th, 2009, however, they
13 filed the petition to withdraw their pending
14 application. They listed two separate reasons for
15 withdrawing that application.

16 In reality, they're kind of the same, but
17 the first was that they became aware of the full
18 burden of receiving and maintaining registration. The
19 second reason they wished to withdraw is because the
20 cost, burden and risk of disclosure of personal
21 information of its owners, principals and employees
22 and other ongoing reporting requirements exceeded the
23 possible business benefits.

24 The OEC objected to the request to
25 withdraw, and we did that primarily because they made

1 eight and a half million dollars from Washington
2 Trotting Association in the meantime while their
3 application was pending with the Board. There was in
4 fact a hearing that was scheduled to take place in
5 April of 2010. However, both parties came to the
6 Consent Agreement shortly thereafter, also in April of
7 2001.

8 The proposed terms are as follows.
9 Trumbull essentially will agree to withdraw its Vendor
10 Certification Application with prejudice. They will
11 not conduct any business with any slot machine
12 applicant or Licensee, nor reapply for licensure with
13 the Board for a period of five years. They'll conduct
14 no further business with Washington Trotting,
15 specifically, or any other slot machine applicant or
16 Licensee.

17 And they would satisfy the investigative
18 fees and costs. As far as investigative fees and
19 costs are concerned, they actually did that to the
20 tune of \$5,000 back in January of 2010.

21 In return, what they would receive is
22 they would be permitted to conduct and warranty-
23 related services at the facility should they arise in
24 the future with the caveat being they can accept no
25 additional compensation for doing that, and they must

1 notify the Board through one of the Board employees
2 that they in fact would be present at the facility.
3 The OEC would ask that you consider the Consent
4 Agreement and adopt it at this time.

5 I'd like to add two points, just for
6 clarification. The main reason for this Consent
7 Agreement is the warranty issue. We would present to
8 the Board that really a Withdrawal with prejudice is
9 pretty similar to a straight-out denial.

10 Really the only benefit into entering
11 this Consent Agreement would allow for Trumbull
12 Corporation to come to Washington Trotting should
13 there be a warranty-related service that would arise
14 in the future. It might sidestep any litigation that
15 might potentially take place between the facility and
16 an unlicensed vendor, for lack of a better term,
17 because they can't come on to provide that service.
18 That's really what we were trying to alleviate by
19 putting the consent agreement together.

20 Secondly, I want to ---. And I'm sure
21 you're probably already aware of this, but I'm going
22 to draw attention to it, anyhow, because I'm going to
23 completely own it. You can see this consent agreement
24 was signed by both parties in April of 2010, and here
25 we sit in front of you today. And one of the

1 questions you might have is why?

2 That's completely me. I am going to own
3 that. This is something that slipped through the
4 cracks. There's really no good explanation for it.
5 The only thing I can offer is I have done a little
6 research before coming before you today, and I can
7 absolutely assure you that even though the Consent
8 Agreement was not adopted by this Board, Trumbull
9 Corporation has, thankfully, followed every term they
10 wish they would have agreed to have followed.

11 So hopefully, there's no harm, but I do
12 apologize for the delay in getting it to you. And
13 that's really, unfortunately, the only explanation I
14 have. And it won't happen again. But that's all I
15 have. If you have any questions, I'd be more than
16 happy to address those.

17 CHAIRMAN:

18 Thank you, Mike. Questions from the
19 Board? Commissioner Sojka?

20 MR. SOJKA:

21 Just, yeah, a couple quick ones. And
22 they don't deal with the delay coming forward.

23 ATTORNEY ROLAND:

24 Thank you.

25 MR. SOJKA:

1 Thank you for disclosing that. But I do
2 want to make sure in this case, this is a substantial
3 amount of work that was done, and they're paid a
4 substantial amount for it. I want to know what the
5 citizens of the Commonwealth lost in terms of dollars
6 that they didn't essentially get their licensing
7 completed and get licensed.

8 One, there's a potential monetary loss,
9 and two, we can't guarantee in this case that we've
10 protected the public from keeping people that we like
11 to keep away from the gaming facilities away; right?
12 Because we didn't complete the licensing process, and
13 yet they got the money; is that correct?

14 ATTORNEY ROLAND:

15 That is correct to an extent. I guess
16 Trumbull could argue that their interaction with the
17 facility in the future is essentially non-existent.
18 They come in, they build, they pave, they do some
19 excavation and then they're gone, and there's really
20 not going to be an opportunity, unless there's a major
21 flaw with that original project, to even come back
22 onto the casino property.

23 As far as potential revenues that are
24 lost, whatever costs might've been associated with
25 seeing the investigation through, that's obviously

1 ---. And that's in billable hours. We could
2 guesstimate at what that might have been.

3 MR. SOJKA:

4 Uh-huh (yes).

5 ATTORNEY ROLAND:

6 But one of the sure figures we have is
7 the final fee for the certification, which I believe
8 is \$4,000 if memory serves correctly. So we know
9 there's at least that that would've been lost to the
10 Commonwealth, and then all the investigative fees from
11 the beginning to the end. Again, the only reason we
12 can really --- we can offer is since the Withdrawal
13 with prejudice and the denial are essentially the
14 same, it keeps Trumbull out of the facility.

15 MR. SOJKA:

16 Right.

17 ATTORNEY ROLAND:

18 What the Commonwealth and what the
19 general public might be concerned about is if there is
20 some damage to the infrastructure or whatever Trumbull
21 may have put together, can that get repaired? And we
22 believe that this Consent Agreement would at least ---

23 MR. SOJKA:

24 Right.

25 ATTORNEY ROLAND:

1 --- allow for that to happen.

2 MR. SOJKA:

3 What I wanted to do was get a kind of a
4 firewall around the potential loss to the Commonwealth
5 for this system not completely working, the fact that
6 we were allowing, as we have to do, I think, for
7 practical reasons, people to come in, do work, get
8 paid with temporary or not completed credentials. And
9 in this case, the system essentially breaks down.
10 They get the money and go away. And what I was trying
11 to do is get my arms around how much that hurt the
12 Commonwealth.

13 The amount of money they were paid was
14 significant, eight and a half million dollars. But
15 it's not like a gross terminal revenue mistake or
16 anything of that size. It's a licensing fee in the
17 --- with investigative costs in the range of \$5,000 or
18 \$6,000, probably; right? That's what's gotten away
19 from us in this system.

20 ATTORNEY ROLAND:

21 It's roughly \$4,000 for the certification
22 fee, but I would venture to say that the Commonwealth
23 probably came out ahead in that regard, because we
24 offer interim authorization, which requires a quick
25 criminal background check; okay? Bureau of Licensing

1 ---. Once BIE performs that, grants interim
2 authorization if everything checks out, that allows
3 the casinos to negotiate the best possible price they
4 can get for that product, thereby saving them money
5 and allowing them to have that contract, have those
6 people out working, completing that project in a short
7 amount of time.

8 Had we gone through the background
9 investigation process, which could take anywhere from
10 six to --- six months to a year, depending on the size
11 of the company, that company would not be allowed to
12 work until that process was finished, thereby halting
13 the project from moving forward in a timely fashion,
14 halting the casino from offering access to the public,
15 halting the slot machines from running, the table
16 games from operating, halting the tax revenue that may
17 come to the Commonwealth as a result. So I'd venture
18 to say that because of our process, which is a hybrid
19 process, kind of what we developed since hybrid's
20 being used, and what New Jersey does, I think that it
21 allowed us, allowed the Commonwealth to get on the ---
22 hit the ground running a lot quicker than any other
23 gaming jurisdiction.

24 MR. SOJKA:

25 Yeah. I think you're describing a

1 business friendly approach, not only to our already
2 operating Licensees, the casinos, but also potential
3 vendors or people who would supply services. And I
4 think that's ---. I would agree with you that that's
5 a plus.

6 And the whole reason for licensing folks,
7 I think, is to ---. It does generate some revenue,
8 but as we've pointed out, that's not huge. The other
9 fact is the protection of the public from
10 inappropriate vendors or whatever. And the point I
11 think we want to make is we're getting ---. We do get
12 a sort of fast track, quick look; right --- for any
13 sort of criminality or anything of that sort. That
14 would pop up and preclude them working even to the
15 degree they did; right? That's known.

16 ATTORNEY ROLAND:

17 That's correct.

18 MR. SOJKA:

19 Okay. So we can say in this case, the
20 public was protected. There's a potential loss of the
21 revenue from the licensing, and that's the limit of
22 the damage done to the Commonwealth in this situation.
23 And you're saying it's offset by the advantages to the
24 Commonwealth?

25 ATTORNEY ROLAND:

1 That's correct.

2 MR. SOJKA:

3 Okay.

4 ATTORNEY ROLAND:

5 Yep.

6 CHAIRMAN:

7 Commissioner Ginty.

8 MR. GINTY:

9 I have a question. You know, I think
10 we're all frustrated by companies such as Trumbull and
11 our inability to, you know, control them by requiring
12 bonds and so forth, but are we comfortable that
13 Trumbull cannot come back in as a subcontractor on a
14 job that might come up?

15 ATTORNEY PITRE:

16 What will happen is once the Board
17 approves this Consent Agreement, by virtue of their
18 Withdrawal with prejudice, Trumbull will be placed on
19 the Prohibited Vendors List. As a result, none of the
20 casinos can do business with them. Now, we will offer
21 the caveat to those that have performed --- that
22 they've performed business with in the past, that they
23 will be available for warranty work only.

24 MR. GINTY:

25 And that's uncompensated warranty work;

1 correct?

2 ATTORNEY PITRE:

3 That's correct. And our scenario, the
4 way we handle things here are a lot more efficient
5 than I've seen in other jurisdictions. And I can
6 assure you that in another jurisdiction, a lot of
7 these Gaming Service Providers, these vendors, do
8 business for years before they even realize that
9 they're not registered, certified or anything.

10 And so we attacked this with the notion
11 of we know where they're going, where they're capable
12 of going in the future to get around the system.
13 Let's plug whatever holes we can and make the fixes as
14 we go. And I think we've done a pretty adequate job
15 of that.

16 ATTORNEY ROLAND:

17 Mr. Ginty, if I can add, as well, it's
18 been a while since I've spoken with Stephen Clark, who
19 happens to be the president of Trumbull. But when I
20 spoke with him on the phone, one of his reasons for
21 withdrawing was because he just thought the entire
22 process was too intrusive, not only for himself but
23 for his fellow employees. And I very clearly remember
24 him saying to me that because of that, he has
25 absolutely no desire whatsoever to do any business

1 with Pennsylvania again.

2 Now, I realize a lot of people have said
3 that previously and then have come back and said, hey,
4 maybe we want to try this thing again. But if you're
5 looking for additional assurances that they may not
6 sneak in as a subcontractor or something of that
7 nature, when we last spoke, he was pretty dead-set
8 against doing business again. And it's simply because
9 he didn't want to expose himself or his company.

10 MR. GINTY:

11 Hey, look. The guy's not dumb. I mean
12 he knew; right?

13 ATTORNEY ROLAND:

14 Yeah.

15 MR. GINTY:

16 He knew the requirements coming in. I
17 mean he just got his money and decided he didn't want
18 to go any further with it. And my comment wasn't
19 meant as a criticism at all. It's just the
20 frustration. There's only so much we can do with
21 these.

22 ATTORNEY PITRE:

23 Well, I share your frustration. I agree
24 with you. And like I said, I think it works better
25 than a lot of other jurisdictions work at this.

1 MR. GINTY:

2 I'm sure it does. I have nothing
3 further.

4 CHAIRMAN:

5 Thank you. Any other questions?
6 Commissioner Trujillo?

7 MR. TRUJILLO:

8 Mr. Chairman, just a couple things. One,
9 very often in public contracting one of the questions
10 that a contractor has to ask a question -- answer a
11 question is have you ever been barred from doing work
12 in any other jurisdiction? Having to answer the
13 question yes is a problematic thing for anybody who
14 does this kind of work.

15 So one concern I have is, frankly ---.
16 And I think there is one additional harm relating back
17 to Commissioner Sojka's line of questioning, which is
18 your harm may not be dollars to the Commonwealth. And
19 in fact, they may have actually been enhanced by the
20 expediency that using them resulted in, but there's
21 harm to those contractors that are responsible and
22 that act in accordance with the expectations of the
23 Board and the regulations.

24 And so they lose out on the several
25 million dollars of work that was done here, and so I

1 do think that there's a different kind of harm, not
2 necessarily one that we're in charge --- or charged,
3 rather, with regulating. But I nonetheless think it's
4 one that is unfair to the responsible companies that
5 do come here.

6 So my preference would be --- or not my
7 preference. My question is, does their Withdrawal
8 with prejudice and their placement on the Prohibited
9 Vendors List result in the same black mark that would
10 result if we were to take some other action beyond
11 allowing them to withdraw with prejudice and being
12 placed on the Prohibited Vendors List?

13 ATTORNEY PITRE:

14 Let me see if I understand your question
15 correctly. You're basically asking that in the end,
16 will this black mark follow them wherever they go; is
17 that ---?

18 MR. TRUJILLO:

19 No, no, no. Will the placement on the
20 Prohibited Vendors List have the equivalent effect of
21 being barred from ---? Will they have to answer, yes,
22 we've been barred from work in Pennsylvania?

23 ATTORNEY PITRE:

24 The Withdrawal with prejudice and the
25 placement on Prohibited Vendors, yes.

1 MR. TRUJILLO:

2 Okay.

3 ATTORNEY PITRE:

4 In any jurisdiction that they go to to
5 --- where they want to do work in the gaming market,
6 that jurisdiction will ask if they've applied anywhere
7 else. And they'll do an investigation and find out if
8 they did. And they will check with us to find out
9 what was the scenario for them being placed on the
10 Prohibited Vendors List? And that will follow them.

11 That's a lot of the ---. That's part of
12 the big stick that we do have --- is that we have
13 relationships with the other gaming markets. Ohio is
14 in heavy construction right now. They've reached out
15 to us about various vendors. Maryland has reached out
16 to us. And New Jersey's reached out to us for vendors
17 that maybe have been working on Rebel. So if they
18 don't go through the process, they're placed on that
19 list, they're withdrawn with prejudice. That affects
20 their suitability in other jurisdictions, yes.

21 MR. TRUJILLO:

22 Okay. And Mr. Chairman, I trust that if
23 we approve this Consent Agreement, that Mr. Harbach
24 and his staff would see to it that a press release
25 regarding this action also gets released?

1 CHAIRMAN:

2 Okay. Thank you. And I think that's a
3 good point. Any other questions? Commissioner Ginty?

4 MR. GINTY:

5 Just following Commissioner Trujillo's.
6 I have one suggestion --- is that maybe somebody
7 should talk to the ---. Is it the General Services
8 Administration?

9 CHAIRMAN:

10 Yeah, General Services.

11 MR. GINTY:

12 And, you know, let --- you know, notify
13 them of the action we have taken so that --- PennDOT
14 and others, so that the potential effect of --- is
15 wider than just the casino industry.

16 ATTORNEY PITRE:

17 Okay. We'll reach out to those agencies,
18 and maybe that would be a good place for us to start
19 with all our Gaming Service Providers, moving forward
20 with those that we have problems with.

21 CHAIRMAN:

22 Okay. I think that's a great idea. Any
23 other questions? And I have one last question. And I
24 don't, you know, mean to continue this on, but I do
25 agree with Commissioner Ginty. I mean these are not

1 unsophisticated contractors. This company knew --- in
2 worst case scenario they knew; best case scenario,
3 they should have known. They have lawyers. They knew
4 what they were getting into before they signed this
5 agreement. I have no doubt that these guys ganged us.
6 And where are they based, Mike?

7 ATTORNEY ROLAND:

8 You know, I want to say they're out of
9 the Pittsburgh area.

10 CHAIRMAN:

11 Okay. Can you find out ---

12 ATTORNEY ROLAND:

13 I absolutely can.

14 CHAIRMAN:

15 --- for me? And let me go down a little
16 different track. I mean do we have ---? What's the
17 consequence of denying this Consent Agreement? And
18 before you answer, let me tell you what I ---. I
19 think the downside is that if Washington Trotting
20 needed some repair on work that Trumbull did
21 previously, that they would not be permitted to come
22 onto the premises. And I will tell you, from my
23 standpoint, you know, I think that Washington
24 Trotting, you know, should've known better. I'm not
25 going to give them a pass that they should not bear

1 some responsibility for vendors that they contract
2 with. And I know that that's happened in the past,
3 and we've always kind of looked by that and said,
4 well, it's actually the vendor that bears that
5 responsibility.

6 But in this case, you know, this was a
7 big contract, and some discussion, I guarantee you,
8 took place with Trumbull from Washington Trotting,
9 saying you have to get certified, and this is the
10 process. And everybody --- yes, yes, yes. They
11 wanted the money. And all of a sudden they do the
12 work, pull out and we're left hanging that, you know,
13 these guys got over on us.

14 And I think you can tell from the tenor
15 of the questions today that none of us feel good about
16 it. And so back to my original question, what happens
17 if we deny this Consent Agreement?

18 ATTORNEY PITRE:

19 We're back to the hearing phase with the
20 Withdrawal with prejudice. Trumbull ---. I think
21 they were before OHA before this Consent Agreement was
22 reached, so obviously, a hearing would be scheduled.
23 We remand it back to OHA. A hearing would be
24 scheduled. We'd conduct a hearing as to whether or
25 not --- to object to the Withdrawal. And we could be

1 back before the Board with this.

2 CHAIRMAN:

3 And let's just play that out.

4 ATTORNEY PITRE:

5 And it's just the warranty. The effect
6 to the warranty is a big thing.

7 CHAIRMAN:

8 Okay.

9 ATTORNEY PITRE:

10 That would be the only thing.

11 CHAIRMAN:

12 Okay. And so our option, if we go this
13 route, could be to deny them a license; is that
14 accurate?

15 ATTORNEY PITRE:

16 It would be to have that application
17 withdrawn with or without prejudice.

18 CHAIRMAN:

19 Well, we're already doing it with
20 prejudice so I don't ---.

21 ATTORNEY PITRE:

22 Exactly. So I mean we would be right
23 back where we are with the Withdrawal. It would be
24 before the Board.

25 CHAIRMAN:

1 All right. Okay. So there's no option
2 to deny their license, which ---? And again, back to
3 Commissioner Trujillo, I mean I'm looking at some
4 penalty for them. And I know that in every loan
5 covenant that they have out there, they have to
6 affirmatively disclose when they've had some
7 regulatory action taken against them. And so I'll be
8 honest. I'm looking at something where, you know, it
9 causes them some heartburn.

10 ATTORNEY PITRE:

11 A Withdrawal with prejudice has the same
12 effect as a Denial.

13 CHAIRMAN:

14 Oh. So it's your understanding that a
15 Withdrawal with prejudice would require them to
16 affirmatively ---? And again, I know you don't know
17 what their loan documents look like, but it's your
18 assumption that denial with prejudice would cause them
19 to affirmatively go to their lenders and say, we have
20 this action of the Pennsylvania Gaming Control Board
21 which allowed us to withdraw our application with
22 prejudice, and they would have to affirmatively assert
23 that?

24 ATTORNEY PITRE:

25 I don't know if it would affect any loans

1 that they would receive. It would definitely affect
2 their ability to do business in the gaming industry.

3 CHAIRMAN:

4 Yeah. I understand that, but that's not
5 penalty enough for me. I like Mr. Ginty's comment
6 about DGS, because I think that hits them much harder
7 than gaming business in Louisiana or Nevada or Ohio.
8 That's going to be miniscule to them, but --- okay.

9 MR. ANGELI:

10 I have a question. If we denied them the
11 ability to come on the premises, but they had warranty
12 work that they had to complete, would they have to
13 hire someone else to do the warranty work?

14 ATTORNEY PITRE:

15 I think Washington Trotting would ---
16 would have to hire someone to come in and do the work.

17 MR. ANGELI:

18 But not Trumbull?

19 ATTORNEY PITRE:

20 Not Trumbull.

21 MR. ANGELI:

22 Thank you.

23 CHAIRMAN:

24 Commissioner Moscato.

25 MR. MOSCATO:

1 Mr. Chairman, just a thought. And I
2 share everybody's frustration with this. Perhaps in
3 the future if we could look at something regulatorily
4 that would require a withholding of a substantial
5 final payment until a contractor receives their
6 complete licensure, and then they could receive a
7 final payment. That might alleviate this in the
8 future.

9 CHAIRMAN:

10 Yeah, some sort of escrow; right?

11 MR. SOJKA:

12 Mr. Chairman, could I follow on with your
13 comments, because I was somewhat troubled by one of
14 your comments. I really understand why you would look
15 to WTA, because they are a Licensee and we do have
16 mechanisms to deal with them. And where we're
17 frustrated in this case is here's someone coming in
18 and kind of doing things outside our reach that we
19 think we should do something with.

20 So I share with you the frustration
21 there, but I'm not quite willing to go --- to let the
22 comment go unchallenged that WTA may have been in any
23 way party to this. I don't know how an operator reads
24 the mind of a potential supplier or vendor or service
25 provider before the fact, unless they've been shown to

1 do something before.

2 I doubt if they colluded; right? If they
3 said, gee, we're going to do this work for you, but
4 we're never going to finish this process --- if that
5 happened, I think we'd have reason to be very upset
6 with WTA, but we don't know that.

7 CHAIRMAN:

8 And that clearly was not my intent. My
9 intent was to say that these Licensees, WTA or any
10 other operator, bears some responsibility to the
11 people that they contract with. And yeah, I don't
12 know what that level of responsibility is, but we
13 expect them ---. And we do our own background checks,
14 so normally, we will fill that void and finalize a
15 background check with somebody that WTA or anybody
16 else brings before us.

17 In this case we were not able to do that.
18 So my point is that WTA and any other operator out
19 there bears some responsibility for the vendors that
20 they bring before this Board to do work for them. And
21 I am not by any stretch of the imagination saying that
22 they colluded or should've known better. I'm just
23 saying that they ---. In my mind. This is just me
24 speaking, not on behalf of the Board. But in my mind,
25 they don't get a free pass on this. WTA does not,

1 because they brought these folks to the game.

2 ATTORNEY PITRE:

3 I think a fix to this would --- maybe to
4 adopt a reg to ---. And I'd work with Susan Yocum on
5 this, to maybe have a regulation that requires all the
6 casinos insert into their contracts or invoices that
7 the Gaming Service Provider must go through and
8 complete the entire application and licensing process
9 and have a part of that contract payment withheld
10 until that process is complete?

11 MR. SOJKA:

12 Yeah, I like that.

13 CHAIRMAN:

14 Yeah, me, too. Commissioner Trujillo?

15 MR. TRUJILLO:

16 Mr. Chairman, I guess I'm not
17 particularly worried about the warranty for a couple
18 of reasons. Number one, a warranty is a contract
19 between the operator and Trumbull. If Trumbull can't
20 deliver on its warranty, it's still liable to the
21 casino, so whether or not they're able to perform it
22 themselves or whether Trumbull has to pay somebody
23 else to do it, that doesn't bother me.

24 And so I want to make sure we do the
25 right thing, whatever that is. And I have this as my

1 motion, but I got to tell you, I'm in the same place
2 as you are, which is I want to make sure that they can
3 get whatever message needs to be sent here today.

4 CHAIRMAN:

5 And again --- this will be my last
6 comment --- but I think the comment from Commissioner
7 Ginty that a notification to General Services that
8 this Board has taken this action will send a pretty
9 strong message, because they --- and to PennDOT and to
10 the Turnpike and other contracting agencies of the
11 Commonwealth. I do believe that they will get a
12 message. Okay.

13 ATTORNEY ROLAND:

14 Mr. Chairman?

15 CHAIRMAN:

16 Yes?

17 ATTORNEY ROLAND:

18 One other question you asked is where
19 they were based out of, and ---

20 CHAIRMAN:

21 Yes.

22 ATTORNEY ROLAND:

23 --- I've taken the time to look. It's
24 West Mifflin --- is where their headquarters is.

25 CHAIRMAN:

1 In western Pennsylvania. Thank you.
2 Okay.

3 ATTORNEY PITRE:

4 Might I ask that --- if there are no
5 further questions, that once the motion's presented,
6 that the motion also --- if the Board would adopt the
7 motion, that it also includes the motion to place them
8 on the Prohibited Vendors List or Gaming Service
9 Providers List?

10 CHAIRMAN:

11 Okay. We will do that. Any other
12 questions? Commissioner Trujillo, I believe you have
13 this motion.

14 MR. TRUJILLO:

15 Mr. Chairman, I'll move that the Board
16 issue an Order to approve the Consent Agreement
17 between the OEC and Trumbull Corporation, as described
18 by the OEC, with the proviso that Trumbull Corporation
19 is placed on the Prohibited Vendors List.

20 CHAIRMAN:

21 Thank you. Second?

22 MR. SOJKA:

23 Second.

24 CHAIRMAN:

25 All in favor?

1 ALL SAY AYE

2 CHAIRMAN:

3 Opposed? Motion passes. Our next item
4 is a request for a default judgment in which OEC seeks
5 to place Tan Duy Truong on the Pennsylvania Gaming
6 Control Board's Exclusion List. If Mr. Truong is
7 present today, he should come forward at this time.
8 Enforcement Counsel, not seeing Mr. Truong being
9 present, you may begin.

10 ATTORNEY DUSTIN MILLER:

11 Thank you. Good afternoon, Chairman
12 Fajt, members of the Board. Dustin Miller on behalf
13 of the OEC. The OEC filed a petition to place Mr.
14 Truong on the Exclusion List for leaving his two
15 daughters in his vehicle while he went in to Parx
16 Casino and gambled on October 11th, 2010.

17 The petition was filed on April 1st,
18 2011. The petition was properly served upon Mr.
19 Truong to the address listed on the criminal complaint
20 filed against him by both certified and first class
21 mail. Mr. Truong did not respond to the filing in any
22 way. Due to Mr. Truong's failure to respond, the
23 averments in the petition are deemed to be admitted as
24 fact, and his right to a hearing has been waived.

25 On May 27th, 2011 the OEC filed a request

1 to enter a judgment upon default. The matter is now
2 before the Board to consider the placement of Tan Duy
3 Truong on the Board's excluded persons list.

4 CHAIRMAN:

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

7 MR. GINTY:

8 Yes. Sorry?

9 CHAIRMAN:

10 Commissioner Ginty, did you have a
11 comment?

12 MR. GINTY:

13 No.

14 CHAIRMAN:

15 Okay.

16 MR. SOJKA:

17 Okay. Yes, then, Mr. Chairman. I'll
18 move that the Board issue an Order to approve the
19 addition of Tan Duy Truong to the PGCB Exclusion List
20 as described by the OEC.

21 CHAIRMAN:

22 Second?

23 ATTORNEY MOSCATO:

24 Second.

25 CHAIRMAN:

1 All in favor?

2 ALL SAY AYE

3 CHAIRMAN:

4 Opposed? The motion passes. Our last
5 item also is a request for a default judgment in which
6 OEC seeks to place Hoang Lee Pham to the Pennsylvania
7 Gaming Control Board's Exclusion List. Is Mr. Pham
8 present today? Seeing that there is no one coming
9 forward, Enforcement Counsel, you may begin.

10 ATTORNEY MANIFESTO:

11 Thank you. Beth Manifesto on behalf of
12 the OEC, M-A-N-I-F-E-S-T-O. Good afternoon, Chairman
13 Fajt, members of the Board. We're here today to
14 request placement of Mr. Pham, P-H-A-M on the Board's
15 Exclusion List. On December 13th of 2010 the OEC
16 filed a petition for placement of Mr. Pham on the
17 Exclusion List as a result of his leaving two children
18 in an unattended vehicle while he went into the Rivers
19 Casino and gamed. This occurred on August 29th of
20 2010.

21 The petition was properly served, using
22 the address appearing on Mr. Pham's driver's license,
23 via first class and certified mail. The OEC received
24 a return receipt signed by Mr. Pham on December 18th
25 of 2010. He failed to respond in any fashion, and as

1 a result, the averments contained within the petition
2 are deemed admitted as fact, and his right to a
3 hearing is waived.

4 On June 9th of 2011 the OEC filed a
5 request to enter judgment upon default. This was also
6 properly served on Mr. Pham, as evidenced by his
7 signature on the return receipt received by us on June
8 9th of this year. The matter is now before the Board
9 to place Mr. Pham on the Exclusion List.

10 And if I could also add, this incident
11 involved two adults. He entered the garage and exited
12 the vehicle with a woman, and we have also filed a
13 petition to place her on the exclusion list, and I
14 believe we just got notice from OHA that we can
15 proceed with the default on her, as well, and we will
16 be doing that.

17 CHAIRMAN:

18 Thank you very much, Beth. Any questions
19 or comments from the Board? Could I have a motion?
20 I'm sorry. Commissioner Ginty.

21 MR. GINTY:

22 Yeah, I do. This must be my day of
23 frustration. As I understand, this to me appears to
24 be particularly egregious, and it happened in August.
25 And at least the summary that I received reads that

1 when the security officer went to the vehicle and
2 observed the children, they were scared and drenched
3 in sweat. And the surveillance cameras indicated that
4 Mr. Pham had been in the casino for an hour. I also
5 understand that the Pittsburgh Police were notified of
6 this matter and did not take any action; is that
7 correct?

8 ATTORNEY MANIFESTO:

9 That is correct. Their reasoning ---. I
10 asked the agent that was doing the investigation for
11 this initial petition to contact them, and they
12 responded that because they were not called to the
13 scene, there was absolutely nothing they could do.

14 MR. GINTY:

15 Well, I'm not sure of that, and I would
16 hope there's somebody left here from the Pittsburgh
17 Press. The frustration comes from that there's only
18 so much this Board can do. We have required the
19 casinos to beef up their security, to look to see if
20 children are being left in cars. We have required
21 them to post warnings. We are putting them on the
22 Exclusion List, the adults who leave the children in
23 cars.

24 I'm not sure there's anything else we can
25 do, and it's very discouraging, when something like

1 this happens, that the proper law enforcement
2 authorities don't take action. And that's just a
3 message that I hope would go out. So that's all I
4 have.

5 CHAIRMAN:

6 Thank you, Jim. And I think we all share
7 that sentiment. Any other questions or comments from
8 the Board? Could I have a motion, please?

9 MR. MOSCATO:

10 Mr. Chairman, I move that the Board issue
11 an Order to approve the addition of Hoang Lee Pham to
12 the Pennsylvania Gaming Control Board Exclusion List,
13 as described by the Office of Enforcement Counsel.

14 MR. MCCALL:

15 Second.

16 CHAIRMAN:

17 All in favor?

18 ALL SAY AYE

19 CHAIRMAN:

20 Opposed? The motion passes. That
21 concludes OEC's report. Thank you, everyone. And the
22 last matter that we have today that --- as is our
23 practice. I believe quarterly we advertise for public
24 comments, and I believe we have one registered speaker
25 today, Mr. Paul Boni, who has asked that he be allowed

1 to address the Board. Welcome, Mr. Boni. And you can
2 proceed when you're ready. Just make sure the green
3 light is on and you'll be ready to go.

4 ATTORNEY BONI:

5 Thank you. My name is Paul Boni. I'm a
6 resident and attorney in Philadelphia, and I'm also a
7 board member of Stop Predatory Gambling. Today I want
8 to speak about gambling addiction in Pennsylvania
9 casinos, and I'd like to ask the Board to take action.

10 In March of this year, Mr. Ron Baumann,
11 the General Manager of Harrah's Chester, spoke
12 publicly at an industry conference in Philadelphia.
13 He said that there's a segment of Harrah's customer
14 database that visits Harrah's Chester an average of
15 5.6 times a week, 5.6 times a week, and that the
16 overall average of his customer database is 4.5 times
17 a week. These numbers are astonishing to me, and in
18 my opinion, they suggest a significant amount of
19 problem gambling.

20 But then he said something that I hope
21 you'll find even more astonishing. He bragged that
22 the frequency numbers at Harrah's Chester are the
23 highest frequencies at any Harrah's Casino in the
24 country. Now, why would that be the case? It's not
25 explained by the size of the market. Certainly, a

1 Philadelphia market is bigger than a Kansas City
2 market. There's more gamblers, but that doesn't
3 explain why there's a difference in frequency here in
4 Philadelphia area.

5 Well, and I think we know the answer.
6 And all the --- as all the research concludes, the
7 closer casinos are located to people, the higher the
8 rates of addiction. If you take the Wisconsin Council
9 on Problem Gambling estimates, that's six percent of
10 the people in Wisconsin --- are problem gamblers.

11 Translate that to Pennsylvania population. You would
12 get an estimate of about over 700,000 Pennsylvanians.

13 Casinos say they don't know whether their
14 customers are addicts. Earlier this year Robert De
15 Salvio, President of Sands Bethlehem, told a
16 legislative committee that one problem gambler at
17 Sands Bethlehem is one too many. I contend that the
18 casinos do know. According to a Wall Street Journal
19 article, Harrah's can trace over 75 percent of its
20 gambling revenue back to specific named customers.
21 They know their customers intimately.

22 Elsewhere an Executive from Harrah's
23 explained that Harrah's --- Harrah's real time data
24 collection. Quote, we know their actual wins and
25 losses, the duration of play, the frequency of their

1 play, the denomination of their play. And most
2 importantly, we know the velocity of their play. The
3 faster the better. Serious gamblers will rapidly hit
4 the button. After one hour we know that we should
5 start comping that individual.

6 As a good first step, I think the Gaming
7 Control Board should demand copies of the casino's
8 databases and make them public. You can protect the
9 identity of the gamblers, but just tell the casinos
10 they can redact the gamblers names and addresses.

11 I would ask that you just leave in their
12 ZIP Codes. The ZIP Codes are needed to make some
13 rough estimates --- would be helpful to make some
14 rough estimates about the likely wealth or lack
15 thereof of the problem gamblers. Chester, of course,
16 is one of the most impoverished areas of our
17 Commonwealth.

18 Problem gambling could reach epidemic
19 proportions here in Pennsylvania if we're not already
20 there. The Board as a regulator can and must fulfill
21 its duties to protect the public interest. The
22 problem is only getting worse. I thank you for your
23 time. I'm happy to take any questions.

24 CHAIRMAN:

25 Thank you very much, Mr. Boni. Any

1 questions or comments from the Board? Commissioner
2 Trujillo.

3 MR. TRUJILLO:

4 Yes, I have a couple. But first, Mr.
5 Boni, thank you for taking the time to appear here and
6 on other occasions and for the work that you've done
7 on a number of these issues. First of all, the issue
8 that you've raised is one that has been at the
9 forefront, at least of --- since I've been on the
10 Board --- of our consciousness. And much of the ---.
11 And in fact, I asked our Director of Compulsive
12 Gambling --- from Compulsive Gambling, Liz Lanza, to
13 look into this issue.

14 And some of this rose out of an
15 assumption that I made after the number of times that
16 kids were left in cars in last summer. And the
17 assumption that I made was that the people who were
18 doing that were problem gamblers, and that's the
19 reason they were there and leaving their kids there.

20 And so we asked, and the Board has been
21 looking into some of these issues. And one of the
22 things I wanted to know was what is the impact of
23 having casinos in neighborhoods as opposed to having
24 them in resort destinations? And so we'd asked the
25 question about whether the proximity of the casinos to

1 neighborhoods as opposed to being ---.

2 If you go to Vegas tomorrow for a week
3 and you budget \$100 a day to play, to gamble, it's
4 obviously a form of entertainment, and I think very
5 few people would say, gee, that's problematic. By the
6 same token, obviously, if you have --- if you're
7 spending money that you don't have over and over and
8 over again, that is something that raises issues.

9 What some of the numbers ---. And I
10 don't have the precise numbers in front of me, but it
11 is clear that nationally there are also problem
12 gamblers that are addicted to gambling and that are
13 going to --- that are destructive to themselves, to
14 their families and to others around them.

15 There is also, though, a whole host of
16 other frequent gamblers that are not necessarily
17 problem gamblers or ---. And I'm not talking about
18 the Charles Barkley --- remember? I think he said, I
19 don't have a gambling problem. I'm rich, so I can
20 gamble all I want. That's not what I'm talking about.

21 The statistics that I've seen indicate
22 that the overwhelming majority of people who visit
23 casinos are not problem gamblers, even if they go ---.
24 They do it for entertainment purposes. But there is a
25 group of people in between the problem gamblers and

1 the non-problem gamblers which are those that are at
2 risk of becoming addicted and at risk of becoming
3 problem gamblers, and those numbers that I've seen are
4 ---. That's a larger number than even those that are
5 addicted to gambling.

6 And to me, those are things that we need
7 to --- as a Board, to take seriously, to continue to
8 investigate. And we talked at the Board --- and I
9 don't think it's been meetings that you attended ---
10 but about undertaking studies as to what it is that
11 ---. Certainly from an economic standpoint and from
12 revenue to the State, casino gambling has enhanced the
13 economy, or at least the tax revenues of the State.

14 But I agree with you that we need to look
15 not just at the benefits, but also the harms that are
16 visited by casinos in Pennsylvania, because while,
17 certainly, we want to look at the benefits, that there
18 are clearly costs to it, as well. And so I don't
19 think there's anybody that would disagree that we need
20 to continue to look at those.

21 How we do that and what's the most
22 effective way of doing that, I think we need to ---
23 has to be a continuing inquiry and something that I
24 agree with you, that we're in a very good position to
25 do that. And so I would certainly join any effort for

1 us to see what the impact of casinos in Pennsylvania
2 as they are structured --- if and how they are ---
3 they differ, the problems differ.

4 And are there strategies that we as
5 regulators and industry and other organizations can
6 undertake to lessen the social impact --- the negative
7 social impact of casino gambling in Pennsylvania and
8 the like? So I think in many instances, we are in the
9 same place.

10 I will say, however, that you do your
11 cause no good to overstate the issues, which I will
12 tell you ---. And I've known you personally for 20-
13 some years. Some of the comments that you make are
14 offensive. Some of the things that you say about this
15 tribunal probably would put you in danger before a
16 disciplinary board, because you, as a practicing
17 lawyer --- for you to make offensive comments about
18 what are --- the desires are and why we are doing
19 things ---.

20 So I would urge you, if you want to
21 maintain any level of credibility, to watch what you
22 say and be a little bit more thoughtful in your ---
23 not only in your presentations, but ---. I understand
24 you want to get press, but if you're not more careful
25 with the words that you use about this Board and about

1 the industry, you're going to find yourself in a lot
2 more trouble than you can ever imagine. So I would
3 just urge you to really watch your words. And that's
4 all I have, Mr. Chairman.

5 ATTORNEY BONI:

6 Well, I'm not ---.

7 CHAIRMAN:

8 Thank you.

9 MR. TRUJILLO:

10 That's all I have, Mr. Chairman.

11 CHAIRMAN:

12 Thank you. Commissioner Sojka.

13 MR. SOJKA:

14 Mr. Boni may want to respond, and then
15 I'll say what I want to say.

16 ATTORNEY BONI:

17 Yeah. I just want to say, well, a couple
18 things. First, to say that in your opinion or your
19 view that most of the people in casinos are not
20 problem gamblers, that's looking at one statistic. I
21 think another statistic that I would like to look at
22 and investigate is what is the percentage of revenue
23 accumulated by the casinos coming from problem
24 gamblers?

25 I mean I believe that nine out of ten

1 customers to the --- that the casino doesn't really
2 care about nine out of the ten customers that it has.
3 It cares about that one customer that comes
4 frequently, five to six times a week to twice a day.
5 And so to look at a ---. To go into a casino at any
6 one time and see a lot of people, and you can make
7 judgments that maybe they're not problem gamblers ---
8 that's not the question. The question is where's the
9 money coming from? Where's the revenue coming from?

10 And I think it's coming from
11 predominantly ---. I've seen estimates as high as 90
12 percent of the revenue is coming from problem
13 gamblers. But no matter who's right or who's wrong, I
14 think it warrants investigation, and that's what I
15 think we're both on the same page about.

16 MR. TRUJILLO:

17 And in that we agree. And I don't think
18 I said that in my opinion. The numbers that I was
19 using was based upon Ms. Lanza's review of the
20 statistics from other jurisdictions who've had a
21 longer history.

22 But we asked her to ---. What I asked
23 her to do was take a look at the, you know,
24 percentages, because I've seen over the years
25 different --- but typically in the single digits. The

1 studies that I've seen have said that the folks that
2 are addicted to gambling, that are really, truly
3 hardcore addicts, are in the single digit numbers.
4 And because we have not had the same level of history
5 that other jurisdictions have had, I asked her to take
6 a look at other jurisdictions. And that's when the
7 --- which confirmed what I was talking about, but then
8 what I had never focused on was those that are at
9 risk, which was a greater number than those that were
10 addicted.

11 So I just want to be clear. For me it's
12 not a belief. It's the only information, at least,
13 that I've seen available as it relates to other
14 jurisdictions. And so because of that, I agree with
15 you that this issue required a lot more study, because
16 we don't have a lot of that information yet available.
17 And I think that will continue to develop, so on that
18 issue I think ---. I mean certainly I agree. I would
19 suspect most of my colleagues would also agree.

20 ATTORNEY BONI:

21 And very quickly, Commissioner, with
22 regard to your last comment, I don't want to get into
23 a big discussion, but I'm not really aware of ---. I
24 mean this is a tough ---. These are tough issues, and
25 I appreciate the ability to come here and sit at the

1 microphone and speak about these issues.

2 And I understand in other forums they're
3 important, tough, and difficult things to talk about,
4 and that I'm not aware of ---. I mean, I guess
5 there's a few times in my life when I've said things I
6 wish I hadn't, but in this realm, I'm actually pretty
7 comfortable with the things that I'm saying.
8 Certainly today I'm not aware of anything that would
9 fall into the category you're talking about.

10 And so I will tell you that I will
11 continue to watch what I say and be careful to say
12 things in a way that I think are appropriate. But I'm
13 pretty comfortable with what I've been saying on these
14 issues throughout.

15 MR. TRUJILLO:

16 Today you've been totally appropriate. I
17 will tell you, Paul, that --- and I'll be happy to
18 send you some of the comments that you've made. But I
19 will tell you they've been offensive and I think they
20 would be subject to disciplinary action, because the
21 words you --- the language you have used about this
22 Board, which is a tribunal, and you as a practicing
23 lawyer, for you to say ---.

24 If you ever said that to a --- some of
25 the things you've said about this Board to a judge in

1 court, you would be locked up. And I am absolutely
2 comfortable saying that to you. And I will send ---
3 have somebody send to you some of the examples of the
4 words that you've used about this Board. And I would
5 caution you from ever doing that again.

6 CHAIRMAN:

7 Commissioner Sojka.

8 MR. SOJKA:

9 Yeah. I'm not going to this last point
10 at all. But again, I would repeat and reiterate what
11 Commissioner Trujillo has said, and that is that
12 surprisingly, we may be brothers in arms on this
13 issue. I think we are all deeply concerned about
14 problem gaming.

15 One of the issues, however, is
16 definitional. There's no question about that. And we
17 are struggling with defining what is a problem gamer.
18 And Ms. Lanza was mentioned, and she has criteria.
19 And the field is trying to develop a more solid set of
20 criteria to define problem gaming.

21 But I think it's very clear today that
22 you have simply conflated frequency with problem. And
23 I would again, as Commissioner Trujillo has done,
24 caution you, since I think we're working together here
25 on this problem, to not weaken your argument by

1 overstating it in that regard.

2 There are so many counterexamples. For
3 example, the neighborhood bar that will frequently
4 have a customer that will stop by after work five days
5 a week and then possibly come back on the sixth day
6 with a spouse or family members, making that person
7 very frequent. That person also will account for a
8 significant part of the revenue of that establishment,
9 and there may be absolutely no indication that that
10 individual is an alcoholic, is a problem drinker or
11 has any kind of social stigma attached.

12 That same thing could be said with people
13 who, for example, stop off and do some other kind of
14 activity in an afternoon or on a weekend with great
15 frequency. And so I think if you let this concern
16 about gambling as an unwholesome thing sort of fit
17 into your frequency observations, you may draw a
18 conclusion about problematic behavior that wouldn't
19 fit the definitions of problematic behavior.

20 And to simply say that casinos benefit
21 from frequent customers, that's no surprise. And
22 that's true of virtually every industry. So I think
23 you should just keep those things in mind.

24 CHAIRMAN:

25 Thank you, Commissioner Sojka. Any other

1 comments? Thank you, Mr. Boni. Is there anyone else
2 speaking or seeking recognition in the public comment
3 section of today's meeting?

4 Okay. I'll close the meeting by
5 announcing that our next scheduled public meeting will
6 be held on Wednesday, July 20th in the PUC Keystone
7 Building here in Room One. That meeting will begin at
8 10:00 a.m., and the Board will also have an Executive
9 Session prior to that meeting on July 19th at 2:00
10 p.m. in our offices. Any final comments from the
11 Board? May I have a motion to adjourn?

12 MR. MCCALL:

13 So moved.

14 CHAIRMAN:

15 Second.

16 MR. GINTY:

17 Second.

18 CHAIRMAN:

19 Meeting is adjourned. Thank you.

20 * * * * *

21 MEETING CONCLUDED AT 12:45 P.M.

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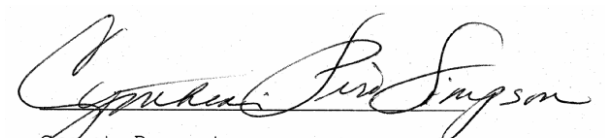
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I hereby certify that the foregoing proceedings, meeting held before Chairman Fajt, was reported by me on 06/28/2011 and that I Cynthia Piro Simpson read this transcript and that I attest that this transcript is a true and accurate record of the proceeding.



Cynthia Piro Simpson
Court Reporter