

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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IN RE: PETITION OF LOUIS A. DENAPLES TO MODIFY BOARD  
ORDERS

\* \* \* \* \*

PUBLIC HEARING

\* \* \* \* \*

BEFORE: WILLIAM H. RYAN, CHAIRMAN  
Gregory C. Fajt, Keith R. McCall, Anthony  
Moscato, David W. Woods, Annmarie Kaiser,  
Richard G. Jewell  
Robert P. Coyne, Representing Eileen  
McNulty, Secretary of Revenue, Fred  
Strathmeyer, Representing Russell Reading,  
Secretary of Agriculture, Jennifer Langan,  
Representing Timothy Reece, State Treasurer

HEARING: Wednesday, September 2, 2015

LOCATION: Strawberry Square Complex  
303 Walnut Street  
2nd Floor  
Harrisburg, PA 17106

Reporter: Bernadette Black

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NONE OFFERED

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CHAIRMAN:

We will now move on to the third and final matter, which pertains to the Petition of Louis A. DeNaples to Modify Board Orders. I would ask Counsel for Mr. DeNaples and whomever is arguing this matter on behalf of the Office of Enforcement Counsel (OEC) to please come forward. Counsel for Mount Airy, please state and spell your name for the court reporter, sir.

ATTORNEY COSTOPOULOS:

Certainly, Mr. Chairman. My name is Attorney William C. Costopoulos, and I am here on behalf of Louis DeNaples individually. I am not here on behalf of Mount Airy Casino. And I am here pursuant to a Petition by him individually to modify the existing orders that are in place. And I have a seven-minute window to wrap this thing up. And if you listen to me, I think I can bring some closure here and avoid appellate review.

CHAIRMAN:

All right. Counselor, before we begin, as a preliminary matter, I note for the record that the nature of this proceeding is essentially a request

1 by Mr. DeNaples to allow businesses, in which he has  
2 ownership interests, to serve as gaming service  
3 providers to the Mount Airy Casino Resort. And  
4 because such business arrangements are presently  
5 prohibited by conditions the Board has placed upon Mt.  
6 Airy, Mr. DeNaples seeks a lifting of those Board-  
7 imposed restrictions. Is that a fair summary of where  
8 we are, sir?

9 ATTORNEY COSTOPOULOS:

10 It is a fair summary, Mr. Chairman, with  
11 one exception. And it is arguable whether the  
12 existing order applies to his businesses versus him  
13 individually. But for the purpose of my presentation,  
14 I'm going to assume that it is accurate in all  
15 respects.

16 CHAIRMAN:

17 Okay. I also understand the parties  
18 have agreed that there are no disputed issues of  
19 material fact, and that the material facts averred in  
20 Mr. DeNaples' pleadings are agreed to; is that correct  
21 also?

22 ATTORNEY COSTOPOULOS:

23 That is correct, on behalf of the  
24 Petitioner, that there are no factual disputes. And  
25 there are no exhibits attached to the pleadings that

1 are in dispute, having been admitted by Opposing  
2 Counsel in the pleadings. So, we're ready to go with  
3 argument.

4 CHAIRMAN:

5 Okay. And finally, I also understand  
6 that underlying this request is Mr. DeNaples'  
7 assertion that his businesses could provide certain  
8 services to Mount Airy at prices less than what Mount  
9 Airy pays other gaming service providers. We will  
10 take that assertion as true for the purpose of today's  
11 proceedings. So, Counselor, you may begin.

12 ATTORNEY COSTOPOULOS:

13 And thank you. May it please the Board,  
14 at least six of you were sitting where you are here  
15 today in January of 2014. And the history speaks for  
16 itself. We know what this is about, it goes back to  
17 the year 2006. You know what it's about, the OEC  
18 knows what it's about, and the exhibits that go back  
19 to this Board granting the principal license was  
20 affirmed by the Supreme Court of Pennsylvania that  
21 resulted in total and complete expungements by the  
22 District Attorney's Office of Dauphin County and the  
23 Honorable Judge Hoover. And events subsequent to  
24 January of '14, that I will impress upon this Board,  
25 that will give this Board the authority to do what I'm

1 going to respectfully ask.

2                   On January the 18th when Mike Scolaro  
3 was here on behalf of the casino, he importuned that  
4 Mr. DeNaples be able to be a service provider. And he  
5 made his arguments, and I make the same arguments. At  
6 that time, Cyrus Pitre --- and I like Cyrus, he's a  
7 good man, he's a good lawyers, but we are at odds  
8 right now.

9                   And what he said back then, on January  
10 the 18th, is if Mr. DeNaples wants to undergo a one-  
11 penny service provision, we want to do a background  
12 check that goes back ad infinitum, as far as back as  
13 '06, even if he wants to do it for a penny. He says  
14 there's a history here. There is a history here, but  
15 the history they want to revisit is their history,  
16 it's not Mr. DeNaples' history. Mr. DeNaples has  
17 moved on, and I respectfully submit, in a way that  
18 will satisfy this Board.

19                   Mr. Pitre, on that very same day, said,  
20 well, there are things that need clarified. We need  
21 some things clarified from back in '06. Well, if  
22 there was anything that was not clear in '06 it wasn't  
23 due to Mr. DeNaples. It's their history they want to  
24 revisit, not Mr. DeNaples. Mr. DeNaples has moved on.  
25 And Mr. DeNaples, don't lose sight of the fact, is the



1 man that built this casino with his money, with his  
2 vision. And now I'm asking that he be able to haul  
3 trash. That's what I'm asking for or that he be able  
4 to afford to put a building up less than anybody else.  
5 We know what's going on here, so let's come to grips  
6 with it and let's see if we can come to a solution.

7                   And I got to tell you, Mr. Woods, I read  
8 that transcript and I honestly believe that you  
9 reached out. Because what you said back then was, I  
10 move that the Board table this issue for 90 days.  
11 During that time, the Petitioner, who was represented  
12 by Mike Scolaro for the Casino, and the OEC meet for  
13 the purpose of seeing if they could come to some kind  
14 of an agreement on any background investigation they  
15 require. I read that as you were reaching out to see  
16 if you can bring some sense of fairness here in light  
17 of the history.

18                   The pleadings speak for themselves,  
19 Scolaro called them, Scolaro met with them, and their  
20 position was consistent with what Mr. Pitre's position  
21 was, that if he wants a one-penny contract we want to  
22 go back to '06, if not before. Well, what kind of  
23 negotiation is that? End of negotiations. And then  
24 this Board in March of that year, dismissed the  
25 Petition without prejudice, and without prejudice by

1 definition means if things change the record's open.  
2 And the record remained open until today.

3           And what happened since then, August the  
4 14th, two weeks ago, I called over there and asked for  
5 a meeting. And I've got to tell you, they didn't even  
6 have to meet with me, but they welcomed my call. And  
7 in all fairness to Cyrus Pitre and Nan Davenport and  
8 Glen Stuart, they were very civil, I liked them and  
9 I'm not throwing them under the bus. But, their  
10 position's the same, Costopoulos, one penny, complete  
11 investigation.

12           Well, they're out of it now and it's  
13 between you and I. I'm not dealing with them. This  
14 Board has the authority to do what has to be done  
15 here. And here's what has to be done here and what  
16 can be done here and avoid appellate review on all of  
17 the constitutional assertions made. This Board can  
18 conclude that Mr. DeNaples has already been vetted.  
19 He was vetted in '06. The Pennsylvania Gaming Control  
20 Board went beyond what they did and looked into all of  
21 the assertions and allegations and gave him a  
22 principal license.

23           The Supreme Court of Pennsylvania in '07  
24 reviewed the entirety of the record, and in a  
25 unanimous opinion, affirmed the wisdom of this Board.

1 Now, Eddie Marsico got involved, he reconsidered. He  
2 nolle prossed the charges and Judge Hoover affirmed  
3 the nolle prossed. And I can tell you, I know Eddie  
4 Marsico and Judge Hoover, and they weren't being kind  
5 here. There was nothing there. That wasn't out of a  
6 sense of kindness.

7           And since that nolle prosse, as recently  
8 as May of '14, which followed this last meeting before  
9 you, which followed the conference, the National  
10 Reserve Board that regulates the banking industry in  
11 the United States --- the National Reserve Board that  
12 regulates the banking industry of the United States  
13 has their hands full in light of what's going on in  
14 the world today and all corners of the world today and  
15 with all the technology that's out there today, and  
16 they cleared DeNaples in May of 2014 in addition to  
17 all that.

18           My guess is if you ask them what do you  
19 have on Louis DeNaples, take them to the back room, I  
20 believe they've kept an eye on him and they will tell  
21 you there's nothing there.

22           That having been said, you don't have to  
23 tell them that there are going to be restrictions on  
24 what they can or can't do. I understand they don't  
25 want to set precedent, I respect that. I understand

1 it, you don't want to go there, they don't want to go  
2 there. We don't have to go there, and you won't be  
3 setting any precedent once you have before you the  
4 kind of record you have before you, that this man has  
5 been vetted thoroughly and completely for the purpose  
6 of being a service provider. And therefore, we're  
7 going to allow him to be a service provider. And if,  
8 after that order is issued, they come up with anything  
9 at all, because he'll be back on the radar screen,  
10 anything at all, yank him. Thank you.

11 ATTORNEY STUART:

12 Okay. Thank you. Glen Stuart for the  
13 Office of Enforcement Counsel, S-T-U-A-R-T. We're  
14 talking about Mr. DeNaples coming in as a gaming  
15 service provider. And the Board has every discretion  
16 to require anyone coming in who wants to be a gaming  
17 service provider to have file an application to  
18 protect the integrity of Gaming in the Commonwealth.  
19 And Mr. Costopoulos had talked a lot about the history  
20 speaking for itself, but I think by ignoring the  
21 history, those who ignore history are bound to repeat  
22 the mistakes of that history.

23 And I think that the history of Mr.  
24 DeNaples is clear, but I think some of the Board  
25 members need to be reminded of that history before

1 they make their decision.

2           In December of 2005, Mr. DeNaples filed  
3 an application as the sole owner of Mount Airy. In  
4 summer and fall of 2006, he underwent the BIE  
5 background investigation and underwent OEC sworn  
6 statements. In February of 2007, he was issued a ----  
7 the Board issued Mr. DeNaples a Principal License in  
8 association with Mount Airy. On February 5th, 2008,  
9 the Board suspended Mr. DeNaples' Principal License  
10 and placed certain conditions on Mount Airy thereby  
11 restricting its relationship with Mr. DeNaples.

12           As the Board is aware, these conditions  
13 are part of an exhaustive history and record in this  
14 matter, and it's important to note that Mr. DeNaples  
15 did not challenge or appeal the implementation or  
16 effect of these restrictions before the Board or any  
17 court of law.

18           Move forward to April 15th, 2009, Mount  
19 Airy files a Petition to vacate the Board's February  
20 8th, 2008 Order. OEC filed an Answer objecting to  
21 this request, and on June 3rd, 2009, the Board issued  
22 an Order Lifting the Suspension of Mr. DeNaples'  
23 Principal License and modified the conditions on Mount  
24 Airy pertaining to Mr. DeNaples. Again, as the  
25 Board's aware, these modified conditions are part of

1 an exhaustive history in the record in this matter.  
2 And it's important to note that Mr. DeNaples did not  
3 challenge or appeal the implementation or the effect  
4 of these restrictions before the Board or any court of  
5 law.

6                   Then in July 13th, 2009, Mount Airy  
7 filed a second Amended Petition to approve a corporate  
8 restructuring which sought Board approval for Louis  
9 DeNaples to contribute his 100 percent membership  
10 interest in Mount Airy to Mount Airy Hold Co. in  
11 exchange for a 100 percent ownership interest in Hold  
12 Co and for Mr. DeNaples to sell his 100 percent  
13 ownership interest in Hold Co to the grantor trust to  
14 a Lisa A. DeNaples.

15                   Also, on July 13th, 2009, Mount Airy  
16 filed a Petition to Vacate the Board's February 2008  
17 and 2009 Orders to, amongst other things, lift any  
18 condition placed upon Mount Airy with respect to  
19 business dealings with Mr. DeNaples. Again, OEC filed  
20 an Answer to this Petition requesting that the Board  
21 deny the relief requested until such time that the  
22 Board grants relief requested in Mount Airy's  
23 Petition.

24                   On September 23rd, 2009, the Board  
25 issued an Order which approved the proposed corporate

1 restructuring of Mount Airy, however as the Board is  
2 aware, its Order maintained the conditions upon Mount  
3 Airy that restricted its relationship with Mr.  
4 DeNaples. These conditions are part of an exhaustive  
5 history of the record in this matter. It's important  
6 to note that, once again, Mr. DeNaples did not  
7 challenge or appeal the implementation or the effect  
8 of these restrictions before the Board or any court of  
9 law.

10                   Now, on May 23rd, 2011, Mount Airy filed  
11 another Petition to Modify Board Orders, which  
12 requested amongst other things to vacate certain  
13 restrictions pertaining to Mr. DeNaples as set forth  
14 in the Board's September 23rd, 2009 Order. OEC,  
15 again, filed an Answer objecting to this request and  
16 recommending that the Board should not vacate those  
17 restrictions.

18                   Again, on June 13th, 2012, the Board  
19 issued an Order Permitting Louis DeNaples' License to  
20 Expire. This Order also correctly denied Mount Airy's  
21 request to vacate the restrictions involving Mr.  
22 DeNaples and stated that the restrictions placed on  
23 Mount Airy in the Board's September 23rd, 2009 Order  
24 shall remain in place. Again, Mr. DeNaples did not  
25 challenge the implementation or these effects of these

1 restrictions to the Board or any court of law.

2           On August 9th, 2013, Mount Airy files  
3 another Petition to Modify Board Orders seeking to  
4 allow Mount Airy to conduct business with companies in  
5 which Mr. DeNaples has an ownership in, whereby Mr.  
6 Naples would function as a gaming service provider.  
7 Mount Airy in its Petition argued, that because the  
8 June 2012 Board Order only referenced Louis DeNaples  
9 and did not reference entities in which Mr. DeNaples  
10 had an ownership interest, that Mount Airy was not  
11 prohibited from contracting with businesses in which  
12 Mr. DeNaples had an ownership interest. In that  
13 Petition, Mount Airy averred that it understood that  
14 any companies affiliated with Mr. DeNaples must comply  
15 with the applicable GSP licensure requirements.

16           On September 6, 2013, OEC filed an  
17 Answer to this Petition objecting to the relief  
18 requested because the June 2012 Board Order prohibited  
19 any businesses with which Mr. DeNaples has an  
20 ownership interest in from receiving any compensation  
21 from Mount Airy in exchange for work or services  
22 performed, no matter the level of compensation. OEC  
23 recommended that the Board should grant the relief  
24 requested by Mount Airy, and in order to assure the  
25 protection of the public interest and the maintenance



1 of the integrity of gaming in the Commonwealth that  
2 the Board require that, one, the business submit a  
3 gaming service provider application, that two, Louis  
4 DeNaples undergo a background investigation, and  
5 three, that Mr. DeNaples be found suitable by the  
6 Board prior to Mount Airy conducting any business with  
7 his company.

8           On March 20th, 2014 the Board issued an  
9 Order denying Mount Airy's Petition, stating that the  
10 Board would only reconsider the issues raised in the  
11 Petition should Mount Airy and BIE and OEC come to an  
12 agreement regarding the scope of any required  
13 background investigation of Louis DeNaples. The Board  
14 correctly stated that the question of the scope of a  
15 background investigation is one committed to BIE and  
16 OEC based on their knowledge of the facts and  
17 circumstances of each specific matter before them, and  
18 not an issue for the Board's direction or limitation.

19           Furthermore, the Board's Order stated  
20 that the Board will not authorize Mount Airy to do  
21 business with any entity affiliated with Louis  
22 DeNaples without some level of vetting of Mr.  
23 DeNaples. Despite conversations with Mount Airy and  
24 Mr. DeNaples' legal counsel regarding the vetting of  
25 Mr. DeNaples, no agree had be reached. Again, Mr.

1 DeNaples did not challenge this decision.

2                   Now we're at the current Petition where  
3 Mr. DeNaples has filed a Petition on his own behalf,  
4 again, asking the Board to vacate the restrictions  
5 placed upon him from the Board's September 23rd, 2009  
6 Order, and that businesses in which he has an  
7 ownership interest in be permitted to conduct business  
8 with Mount Airy. In addition, Mr. Naples also  
9 attempts to establish strict parameters relating to  
10 the future background investigation of himself. OEC  
11 filed an Answer to this Petition objecting to the  
12 relief requested. And that brings us to where we are  
13 today.

14                   As I stated in the beginning, the Board  
15 has the discretion to require any individual and  
16 company who is seeking to be a gaming service provider  
17 to file an application, if they believe that it is  
18 necessary to protect the integrity of gaming in the  
19 Commonwealth. OEC reminds the Board that as of this  
20 date, Mr. DeNaples is the only Pennsylvania principal  
21 license holder to have his license suspended, that Mr.  
22 DeNaples has not undergone a full background  
23 investigation since 2006, that's almost ten years to  
24 this point, and the Board has consistently elected to  
25 keep in place the core restrictions placed on Mount

1 Airy in its February 2008 Order, which precludes it  
2 from conducting business with companies in which Mr.  
3 DeNaples has an ownership interest.

4           We urge the Board not to create a  
5 precedent that would allow applicants to dictate the  
6 background investigations and licensing process.  
7 Doing so would be in complete contradiction of the  
8 mandates of the Pennsylvania Race Horse Development  
9 and Gaming Act, and requiring Mr. Naples to file an  
10 application and undergo a background investigation is  
11 necessary to ensure that the integrity of gaming in  
12 the Commonwealth is maintained, that the public is  
13 protected and that the legislative intent of the  
14 Gaming Act is achieved.

15           With that said, OEC again urges the  
16 Board to require Mr. DeNaples to file an application,  
17 submitted --- provided to him by the Board and undergo  
18 a background investigation, the scope of which will be  
19 dictated by BIE and OEC. Thank you.

20           ATTORNEY COSTOPOULOS:

21           May it please the Board?

22           CHAIRMAN:

23           Mr. Costopoulos, you kept within the  
24 seven minutes. I will give you a minute to provide an  
25 answer ---

1                   ATTORNEY COSTOPOULOS:

2                   I'll take a minute.

3                   CHAIRMAN:

4                   --- to Counsel.

5                   ATTORNEY COSTOPOULOS:

6                   He indicated that he didn't appeal  
7 during this period of time, and he goes back to '08,  
8 '09, '10. How are you going to appeal it when you're  
9 under indictment? You got to clear that up. How are  
10 you going to appeal it when the National Reserve Board  
11 is trying to vet you, you've got to clear that up.

12                   We've cleared all that up as of last  
13 May, and so he's now cleared. The precedent you don't  
14 want to set is we can vet a guy under the name of the  
15 OEC, and then when we're done, if we don't like what  
16 we got, we can vet him again next year. And then the  
17 next year after that, we can get him again. At some  
18 point it becomes very selective and personal. And  
19 that's the constitutional issue that's ripe for  
20 review. Thank you very much.

21                   CHAIRMAN:

22                   All right. Thank you, sir. Thank both  
23 sides for your presentation. At this time, the Board  
24 will take a 15-minute recess so we can deliberate on  
25 these matters in Executive Session. We will try to

1 return by, let's say, ten after 12:00.

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HEARING CONCLUDED

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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Chairman Ryan was reported by me on 9/2/15 and that I, Bernadette M. Black, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.

*Bernadette M. Black*

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Bernadette M. Black,

Court Reporter