

INDIANA GAMING COMMISSION

FOURTH QUARTER 2011

BUSINESS MEETING

NOVEMBER 10, 2011

The Indiana Gaming Commission Fourth Quarter 2011 Business Meeting, reported by Kathleen Andrews, RPR, Notary Public in and for the County of Hamilton, State of Indiana, held at the Hyatt Tower, Indiana Chamber of Commerce Conference Room, Indianapolis, Indiana, commencing at 1:00 p.m. on November 10, 2011.

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APPEARANCES

On Behalf of the Gaming Commission:

Tim Murphy, Chairman

Marc Fine, Commissioner, Vice Chairman

Mary Shy, Commissioner

Robert Morgan, Commissioner

Ernest Yelton, Executive Director

Jennifer Reske, Deputy Director

Adam Packer, General Counsel

Kristen Kenley, Administrative Assistant

1 CHAIRMAN MURPHY: Good afternoon, everyone,
2 and welcome to the fourth quarter meeting of the
3 Indiana Gaming Commission. The meeting is now
4 called to order.

5 I will first call the roll of the
6 commissioners. Commissioner Morgan.

7 COMMISSIONER MORGAN: Present.

8 CHAIRMAN MURPHY: Commissioner Shy.

9 COMMISSIONER SHY: Present.

10 CHAIRMAN MURPHY: Commissioner Fine.

11 VICE CHAIRMAN FINE: Present.

12 CHAIRMAN MURPHY: The Chair is present.

13 Absent are Commissioner Bell and Commissioner
14 Shields.

15 We do have a quorum. And since I'm feeling a
16 little under the weather today, I'm going to turn
17 the operation of the meeting over to Commissioner
18 Fine today. Thank you.

19 Commissioner Fine.

20 VICE CHAIRMAN FINE: Thank you. And I hope
21 you feel better.

22 The first order of business is the approval of
23 the minutes from the last meeting, and I believe
24 the Commissioners have those in their packets, and
25 I'll entertain a motion for a approval.

1 COMMISSIONER MURPHY: So move.

2 COMMISSIONER MORGAN: Second.

3 VICE CHAIRMAN FINE: All in favor, aye.

4 (Chorus of ayes.)

5 VICE CHAIRMAN FINE: All opposed?

6 They are approved.

7 The next order of business is the report of
8 our Executive Director, and I'll call upon Ernie
9 Yelton.

10 EXECUTIVE DIRECTOR YELTON: Thank you,
11 Mr. Chair, members of the Commission. Since our
12 last meeting we welcomed our newest addition to the
13 Background and Financial Investigation Division,
14 Dana Coleman. Dana, stand up, please.

15 Dana comes to us from Michigan City, where he
16 spent the last 14 years in law enforcement,
17 including two years as a counter-terrorism
18 specialist for Amtrak. He most recently served as
19 an internal affairs investigator with the Indiana
20 Department of Correction.

21 For those of you who represent the various
22 casino licensees, I positioned Dana right outside
23 my office. You have to get by him to see me. Good
24 luck.

25 The Background and Financial Investigation

1 Division has completed its investigations of Rising
2 Star and supplier Electroncek. Those reports have
3 been submitted to you, members of the Commission,
4 and Directors Brown and Leek are present should you
5 have any questions.

6 Are there any? Thank you.

7 Since the September commission meeting, the
8 IGC staff has added ten new individuals to the
9 exclusion list, which bars those patrons from
10 entering any casino in Indiana. Of those ten
11 individuals, four were placed on the exclusion list
12 for either capping, past posting, or pinching their
13 bets while at an Indiana casino, while five others
14 were placed on the exclusion list for taking
15 illegal possession of a TITO, casino chips, or U.S.
16 currency in excess of approximately \$500, or making
17 fraudulent cash withdrawals while at an Indiana
18 casino.

19 The remaining individual is Joshua Stikes, who
20 was observed manipulating an electronic roulette
21 game by taking advantage of a software problem with
22 the game. He was charged with multiple felony
23 offenses.

24 For the year 2011, we've placed 54 new
25 individuals on the list, bringing the grand total

1 to 265. We've had a few waivers since our last
2 meeting. Members of the Casino Association were
3 granted a waiver for a test period allowing a
4 photograph of the first MTL transaction for each
5 patron. This will eliminate the taking of a
6 photograph of a patron for each of their MTL
7 transactions.

8 Blue Chips received a waiver for the addition
9 of a \$10,000 tournament chip.

10 French Lick was granted a waiver for
11 increasing the aggregate amount of checks cashed
12 within seven days from \$1,000 to \$2,500 for
13 in-house cashing and for \$5,000 for checks
14 utilizing a check guarantee service.

15 And finally, Horseshoe Hammond was granted a
16 waiver for an addition of a \$100,000 tournament
17 chip.

18 Do I need to quit to enter that, Dan? Wow!

19 And Chairman, Members of the Commission, that
20 concludes the Executive Director's report. Any
21 questions, I'd be happy to answer them.

22 VICE CHAIRMAN FINE: Hearing no questions,
23 we'll proceed with the next order of business,
24 which under Old Business there was a proposed order
25 2011-207 to the Indiana Live slot machine request

1 for additional machines. That order or that
2 motion, that order was tabled last time, and it's,
3 I guess, appropriate to ask to proceed to have that
4 removed from tabling.

5 COMMISSIONER MURPHY: I move to take Order
6 2011-207 off the table.

7 COMMISSIONER SHY: I'll second.

8 VICE CHAIRMAN FINE: All in favor?

9 (Chorus of ayes.)

10 VICE CHAIRMAN FINE: Opposed? Very good. So
11 with that back on the table, is there any further
12 discussion?

13 MR. PACKER: Yes. As you may recall,
14 Commissioners, at the last Commission meeting the
15 Indiana Live Casino requested permission to add 200
16 slot machines in addition to the 2,000 slot
17 machines that it is permitted to have on its
18 premises under Indiana Code 4-35-7-11. Indiana
19 Live Casino has represented to the Commission that
20 at peak times it is running at 90 percent capacity
21 for its non-high limit slot machines, and that
22 demand is even higher for certain other popular
23 slot machines.

24 Indiana Live submitted a written request, and
25 that is in your materials. If there is any

1 discussion on this request by Indiana Live, we
2 could have it now.

3 COMMISSIONER MORGAN: I just recall on this
4 issue in the last meeting, I believe the
5 Commissioner, one of the Commissioners --

6 MR. PACKER: I believe it was Commissioner
7 Shields, Mr. Morgan.

8 COMMISSIONER MORGAN: Commissioner Shields
9 raised an issue with this. And I don't know at
10 this point if I, at least, have any issues with
11 approving this.

12 EXECUTIVE DIRECTOR YELTON: I believe Chris
13 Gray will be able to respond to those issues that
14 Judge Shields brought up at the last meeting, if
15 you wish.

16 COMMISSIONER MORGAN: Could you, please.

17 MS. GRAY: Good afternoon, Commissioners and
18 Executive Staff. We have several issues under
19 review regarding Indiana Live. One is dealing with
20 contracts, and the other one, its Level 1 license.
21 These may result in significant disciplinary action
22 against the casino, which we hope to have ready by
23 the March meeting. So I just wanted to make sure
24 that you were aware that we have two issues that
25 are, we are not quite finished with our

1 investigations on.

2 COMMISSIONER MURPHY: All of the other issues
3 are resolved?

4 MS. GRAY: Yes. We just have these two
5 outstanding.

6 VICE CHAIRMAN FINE: Chris, is it the staff's
7 opinion that they are fully cooperating? Do you
8 see progress being made, or is the momentum for or
9 against this?

10 MS. GRAY: I am not sure at this time because,
11 like I said, we are still investigating both of
12 them. So at this time I would not like to comment
13 on that one, if that's all right.

14 VICE CHAIRMAN FINE: Fair enough.

15 Any other questions for Ms. Gray? Do we want
16 to take action? If we do, we need to entertain a
17 motion.

18 COMMISSIONER MURPHY: The staff recommends
19 approval?

20 EXECUTIVE DIRECTOR YELTON: Yes, even with the
21 understanding of what Ms. Gray just said.

22 COMMISSIONER MORGAN: I would make a motion to
23 approve this.

24 COMMISSIONER MURPHY: Approve the addition of
25 the machines?

1 COMMISSIONER MORGAN: Yes.

2 COMMISSIONER MURPHY: I second the motion.

3 VICE CHAIRMAN FINE: A motion and second. All
4 in favor, indicate aye.

5 (Chorus of ayes.)

6 VICE CHAIRMAN FINE: Opposed? It stands
7 approved. So we're at 2011-207 approved.

8 Our next order of business is the voluntary
9 exclusions, and we'll call on Tammy Timberman-
10 Wright.

11 MS. TIMBERMAN-WRIGHT: Good afternoon,
12 Commissioners and Executive Staff. You have before
13 you 23 orders regarding the Voluntary Exclusion
14 Program. Pursuant to the rules of the program, the
15 identities of the voluntary participants must
16 remain confidential. Pursuant to 68 IAC 6-3-2(g) a
17 participant in the program agrees that if he or she
18 violates the terms of the program and enters the
19 gaming area of a facility under the jurisdiction of
20 the Commission, they will forfeit any jackpot or
21 thing of value as a result of the wager.

22 Under Orders 2011-214 through 2011-236, a
23 total sum of \$30,774.85 was forfeited by John Does
24 91-113. These winnings were collected at the
25 Ameristar, French Lick, Hollywood, Hoosier Park,

1 Indiana Live, and Majestic Star. These winnings
2 were withheld as required by Commission
3 regulations. Commission staff recommends that you
4 approve the remittance of these winnings for John
5 Does 91 through 113.

6 VICE CHAIRMAN FINE: Motion to approve?

7 COMMISSIONER MURPHY: I have a question. In
8 the narrative about each one of these cases, in
9 some cases we're using a term that the patron won a
10 jackpot and was relieved of that jackpot. And in a
11 couple of cases, here is one, it says John Doe had
12 obtained 1600 chips from --

13 MS. TIMBERMAN-WRIGHT: Some of it was jackpot
14 or TITO and others where they had actual chips.

15 COMMISSIONER MURPHY: Were we taking the money
16 that they came in the door with?

17 MS. TIMBERMAN-WRIGHT: No. That's when they
18 won, that was their ticket in, ticket out.

19 COMMISSIONER MURPHY: Okay. All right.

20 VICE CHAIRMAN FINE: Any further questions?
21 Do we have a motion to approve?

22 COMMISSIONER MORGAN: Motion to approve.

23 COMMISSIONER SHY: I'll second.

24 VICE CHAIRMAN FINE: Motion and second. All
25 in favor, please indicate by saying aye.

1 (Chorus of ayes.)

2 VICE CHAIRMAN FINE: Opposed, same sign. The
3 orders are approved. 2011-214 through 2011-236 for
4 VEPs 11-91 through 11-113.

5 MS. TIMBERMAN-WRIGHT: Thank you.

6 VICE CHAIRMAN FINE: The next order of
7 business is Exclusion Violation, and we'll call
8 upon Jeff Neuenschwander to proceed.

9 MR. NEUENSCHWANDER: Thank you, Your Honor,
10 Commission, Executive Staff.

11 Order 2011-237 concerns a complaint for civil
12 penalty that the Commission has filed in response
13 to an alleged exclusion violation. The complaint
14 was filed April 6, 2011, and alleged that
15 Mr. Albert Matysak entered the gaming area of Blue
16 Chip Casino on March 11 while a member of the
17 exclusion list. The Commission alleged in its
18 complaint that this was a violation of 68 IAC
19 6-1-4.5 and 68 IAC 6-1-1.

20 The complaint alleged Mr. Matysak won \$1719
21 while gaming, and the complaint sought to withhold
22 the \$1719 as a penalty per 68 IAC 6-1-4.5 and 68
23 IAC 13-2.

24 Mr. Matysak originally had been placed on the
25 exclusion list in September of 2004. He appealed

1 that placement, and there had been a hearing with
2 an ALJ in March of 2005. He then filed an
3 exception to some of the findings of that ALJ, and
4 the findings were amended, but the ALJ still
5 recommended that his placement on the list was
6 valid. And the Commission voted on that, and the
7 Commission upheld his placement on the list.

8 There is no evidence that Mr. Matysak filed
9 for judicial review within the time frame required
10 by IC 4-21.5-5-4.

11 In Mr. Matysak's answers to the current
12 complaint, he acknowledged that all the facts of
13 the complaint were true, but he pled not guilty of
14 breaking any constitutional law. Therefore,
15 Commission staff filed for summary judgment in the
16 case.

17 There was a hearing held with Judge Cook on
18 September 9, 2011. Judge Cook is an ALJ with the
19 Commission. At the hearing Mr. Matysak argued that
20 his original placement on the list was improper,
21 and that his constitutional rights were being
22 violated.

23 The Commission argued that the arguments
24 concerning the original placement on the list were
25 time-barred, and that the seizure of the \$1719 was

1 supported by law.

2 On September 29, 2011, ALJ Cook issued an
3 ordering granting the Commission's motion for
4 summary judgment. That order stated the Commission
5 is entitled to judgment as a matter of law on the
6 issues that Mr. Matysak entered the Blue Chip
7 Casino as an excluded person in violation of 68 IAC
8 6-1-1; that he won \$1719 as a result of his
9 violation of 68 IAC 6-1-1, and the Commission is
10 therefore entitled to forfeiture of the \$1719.

11 On October 18, 2011, Mr. Matysak filed a
12 motion for the ALJ to reconsider an objection to
13 the granting of the Commission's motion. That
14 motion is effectively an objection under a
15 provision of AOPA to Judge Cook's order.

16 AOPA then gave us guidance on how to proceed
17 on that. Indiana Code 4-21.5-3-29(c) requires that
18 the Commission, as the ultimate authority for the
19 agency, affirm an order unless an objection is
20 properly filed. In this case an objection was
21 filed by Mr. Matysak, and so then the Commission
22 has the ultimate authority for the agency as
23 required by Indiana Code 4-21.5-3-29(d) to do one
24 of the following things: To issue a final order
25 affirming, modifying, or dissolving ALJ Cook's

1 order of September 29, 2011. The Commission may
2 also remand this matter to Judge Cook for further
3 proceedings with or without instructions. So the
4 Commission staff would ask you affirm Judge Cook's
5 order.

6 I believe there is also further comment on
7 this matter.

8 VICE CHAIRMAN FINE: Questions for
9 Mr. Neuenschwander?

10 COMMISSIONER SHY: So our options are?

11 MR. NEUENSCHWANDER: The option is statutorily
12 to affirm Judge Cook's order; you can modify it in
13 some way, or to dissolve it, or send it back down
14 to the ALJ for further proceedings with or without
15 instructions. Those are the four.

16 A lot of times when we've had -- Joe Hoage
17 used to do these and come forward and would give
18 you a hearing like this, and the option was to
19 affirm it because there was no objection. In this
20 case Mr. Matysak has objected, so now you have more
21 options.

22 COMMISSIONER MURPHY: We have choices.

23 MR. NEUENSCHWANDER: Yes.

24 COMMISSIONER MURPHY: Is there a staff
25 recommendation?

1 MR. NEUENSCHWANDER: The staff recommendation,
2 after review the staff recommends you affirm Judge
3 Cook's order.

4 VICE CHAIRMAN FINE: Other questions for
5 Mr. Neuenschwander?

6 Mr. Matysak is here, so we've promised him
7 five minutes, if you will, to respond.

8 MR. MATYSAK: I need a couple of minutes to
9 respond to his new sheet I just got this morning.

10 First of all, I disagree with his assessment
11 that there was a hearing. There was no hearing.
12 There was a phone call. So that's one of the
13 things I am objecting to is that I did not get a
14 hearing. They decided to -- well, I'll go into my
15 written statement.

16 In the present complaint the ALJ sided with
17 the staff to issue a summary judgment without a
18 hearing. It states in 68 IAC 13-2-5, "Unless
19 precluded by law or objected to by party, the
20 Commission may allow informal disposition of a
21 proceeding without a hearing." There was
22 objection.

23 Granting the summary judgment, the ALJ cited
24 IC 4-21.5-3. Going to a higher law in the
25 hierarchy of law is fine. Why not consider the

1 Indiana Constitution, Article I, Bill of Rights
2 Section 20, "In all civil cases, the right of trial
3 by jury shall remain inviolate." Well, I'm not
4 wanting a jury trial, but I want a hearing. I
5 deserve a hearing.

6 Now, I think I'll skip the rest of mine and go
7 to the 2005. The unjust and unconstitutional way I
8 was placed on the exclusion list makes it an issue
9 to be ruled on rather than be passed over. Under
10 the Indiana Code 4-22-2-45 it allows for a defense
11 if the underlying action was or caused significant
12 harm to the due process rights of an individual.

13 I don't think this is time limited. This was
14 done by the actions and procedure of the IGC by the
15 following: In the decision by the ALJ on
16 February 18, 2005, he allowed parts of a motion by
17 the IGC staff to be called statements of fact. The
18 accusations were after the hearing, so petitioner
19 was not able to confront the author of the
20 accusations. As to proving this inappropriate
21 contact, using the words of the IAC statute, if
22 there are facts, circumstances sufficient to cause
23 a prudent person to believe, the prudent person
24 would only look to the four items: The transcript
25 of the January 21, 2005, hearing, post-hearing

1 brief by the IGC staff, which I never received, the
2 findings of fact, conclusions of law, and
3 recommendations on February 18, 2005.

4 The question is, where did the ALJ get the
5 ideas for items 11 through 23 in its findings of
6 February 18, 2005, which were false? And someone
7 at the IGC staff had to know they were false.

8 Now, a prudent person might have to look at
9 the video. There are other points that show the
10 utter disregard of evidence, casting doubts on
11 their accusations in the 2005 hearing -- Probable
12 Cause Affidavit, Information Form, Indiana State
13 police Final Disposition of Case, Indiana State
14 Police Supplementary Case Report -- and forgetting
15 the second bucket of coins.

16 In a case earlier, Moore, June 11, 2009, the
17 staff admitted that in his case they convicted him
18 without -- I don't know if you call it convicted,
19 but he was put on the exclusion list, and the staff
20 did not consider a lot of the evidence that proved
21 he did not mean to fraud the casino, and he didn't.

22 VICE CHAIRMAN FINE: Mr. Matysak, about 30
23 more seconds.

24 MR. MATYSAK: No, I'm --

25 VICE CHAIRMAN FINE: Are you finished? I want

1 you to say what you need to say.

2 MR. MATYSAK: Well, the only thing I have
3 written on the bottom: Dealing with the stress and
4 resentment of not being treated fairly is why I
5 didn't proceed any legal action further in 2005.
6 Now any further action would have to be through an
7 attorney, or I'd have to find somebody who wanted
8 to take the case because -- now I forget what I was
9 going to say. That's it. You understand.

10 VICE CHAIRMAN FINE: Do any of the
11 Commissioners have any questions for Mr. Matysak?

12 COMMISSIONER MURPHY: Mr. Matysak, what would
13 you like for us to do today?

14 MR. MATYSAK: Just let me have the \$1700. I
15 was playing -- one of my points, maybe I didn't get
16 to, was the unconstitutional fines, fining someone
17 \$1700 for sitting at a machine and playing 15
18 cents. And somebody else would play 600, your fine
19 would be 600. There is no consistency. And the
20 constitution says you should, the fine should be
21 proportional to the actions.

22 COMMISSIONER SHY: Mr. Matysak, do you want to
23 be off the exclusion list? Is that what you are
24 ultimately asking?

25 MR. MATYSAK: Yes, I want that, too. That's

1 not primary. My primary thing is I'm objecting to
2 the way I was treated.

3 COMMISSIONER MORGAN: But you're not objecting
4 that you're on the exclusion list?

5 MR. MATYSAK: Yes, that's part of it. That's
6 the first part, the first or second.

7 COMMISSIONER MURPHY: Mr. Matysak, can I ask
8 you a question? You were placed on the exclusion
9 list in about 2004, and you won the jackpot in
10 2011?

11 MR. MATYSAK: 2011.

12 COMMISSIONER MURPHY: Did you know you weren't
13 supposed to be in the casino?

14 MR. MATYSAK: Yes. That's why I was playing
15 low. I was playing 15 cents on the machines.

16 COMMISSIONER MURPHY: You were aware of the
17 fact you shouldn't have been?

18 MR. MATYSAK: Yeah. I think I was even, at
19 the time I think the laws were back then when I was
20 put on it that I couldn't even go in the casino or
21 the hotel. But now I think you've changed it.

22 Also, you've changed your, the burden of proof
23 is now on the Commission staff. Back then it was
24 the ALJ had the burden on me to prove I did not do
25 these things in 2004.

1 VICE CHAIRMAN FINE: Further questions for
2 Mr. Matysak?

3 I'll entertain a motion.

4 MR. MATYSAK: Is that all? Anything else?

5 MR. NEUENSCHWANDER: If I could take a brief
6 moment to respond to a couple of Mr. Matysak's
7 points. I just want to address a couple of points
8 that Mr. Matysak brought up.

9 First, he stated that he had no hearing. In
10 this case the case was resolved by summary
11 judgment, so a hearing wasn't actually required.
12 We did look to AOPA to the statute to see how to
13 handle notice.

14 VICE CHAIRMAN FINE: Was he provided notice of
15 that?

16 MR. NEUENSCHWANDER: He participated. It was
17 a telephonic hearing. It was not extremely long,
18 but it was long, and he participated. Does that
19 answer your question?

20 VICE CHAIRMAN FINE: Yes.

21 MR. NEUENSCHWANDER: Because there was a
22 hearing, we looked at the summary judgment
23 provision. IC 4-21.5-3-23 talks about resolving
24 issues by summary judgment. It says, "A party may,
25 at any time after a matter is assigned to an

1 Administrative Law Judge move for a summary
2 judgment in the party's favor as to all or any part
3 of the issues in a proceeding." So the Commission
4 moved for that, and we were granted summary
5 judgment on all of the issues.

6 Then section (d), subsection (d) of that same
7 section states, Section 28 and 29 of this chapter
8 apply to an order granting summary judgment and
9 disposing of all issues in the proceeding.

10 Judge Cook's order is an order Commission
11 staff believes goes to all orders. And then
12 Section 28 and 29 are the orders being brought
13 forth to you today.

14 So that's why there wasn't a formal hearing
15 because there was a hearing on the motion for
16 summary judgment where the issues were resolved.

17 Does anyone have any questions on that?

18 VICE CHAIRMAN FINE: Questions for
19 Mr. Neuenschwander?

20 MR. NEUENSCHWANDER: And then second, I can
21 empathize with Mr. Matysak's concerns about maybe
22 the way his case, that there were some problems in
23 the past. Unfortunately, those are just
24 time-barred. The statute of limitations has passed
25 on those. The statute is pretty clear about how

1 long you get to appeal those.

2 In Indiana Code 4-21.5-5-5 it talks about the
3 time for filing, and it gives a 30-day deadline
4 after the person receives -- I'm sorry. "Except as
5 otherwise provided, a petition for review is timely
6 only if it is filed within 30 days after the date
7 that notice of the agency action that is the
8 subject of the petition for judicial review was
9 served." So there is a 30-day time line on that.
10 It has long since expired to consider those. Those
11 are time-barred.

12 The issue of the fines being proportional,
13 staff had argued that a fine would be proportional
14 if it was different based on the amount that you
15 won because it's directly related to the amount
16 that you won as a result of the violation. Fining
17 less than the amount of the winning would give an
18 economic incentive, if you only had to be fined
19 \$500 instead of a large fine. So the Commission
20 staff at this point would still ask to affirm Judge
21 Cook's order.

22 VICE CHAIRMAN FINE: Further questions from
23 any of the Commissioners?

24 COMMISSIONER SHY: Yes, I guess I have one.
25 We're going to rule on the, to either affirm or one

1 of the other options regarding the \$1719; correct?

2 That's the only thing we're ruling on?

3 If Mr. Matysak, though, wants to petition then
4 to be taken off the exclusion list, that's
5 separate.

6 MR. NEUENSCHWANDER: Those are separate causes
7 of action, totally separate.

8 COMMISSIONER SHY: So he understands that?

9 MR. NEUENSCHWANDER: I believe he does.

10 COMMISSIONER MURPHY: He hasn't actually
11 requested to be taken off the exclusion list?

12 MR. NEUENSCHWANDER: He has requested to be
13 taken off.

14 VICE CHAIRMAN FINE: Mr. Matysak, I don't want
15 to -- I've given Mr. Neuenschwander a chance to
16 respond. I don't want to leave you in a position
17 where you can't respond to him. You don't have to.
18 Anything further you want to say?

19 MR. MATYSAK: There was. The thing I wanted
20 to make is that all their opinions on the laws are
21 their opinions. They are attorneys' opinions.
22 They are not a judge's legal or Supreme Court
23 decision.

24 So what I'm doing is, I'm making you or asking
25 you to judge on the constitution part. I know you

1 don't want to. I've read that in one of the
2 transcripts where one of the Commissioners said, we
3 don't want to get into the constitutionality unless
4 we have to.

5 VICE CHAIRMAN FINE: I don't think that's our
6 role here today.

7 MR. MATYSAK: I'm not saying you have to. I
8 just want you to consider it.

9 VICE CHAIRMAN FINE: We'd be sitting on a
10 little higher bench. Thank you.

11 COMMISSIONER MORGAN: Thank you, sir.

12 VICE CHAIRMAN FINE: Further discussion? Is
13 there a motion?

14 COMMISSIONER MORGAN: A motion to vote to
15 affirm.

16 VICE CHAIRMAN FINE: Motion to vote to affirm
17 the recommendation, which is 2011-237.

18 COMMISSIONER MURPHY: I second the motion.

19 VICE CHAIRMAN FINE: Motion and second. All
20 in favor, indicate by aye.

21 (Chorus of ayes.)

22 VICE CHAIRMAN FINE: Opposed, same sign.

23 Order 2011-237 is approved.

24 The next order of business is Patron

25 Exclusions and Derek Young.

1 MR. YOUNG: You have before you order
2 2011-238, concerning Albert Matysak's petition for
3 removal from the exclusion list. Mr. Matysak was
4 placed on the exclusion list on September 8, 2004,
5 after being observed exhibiting suspicious slot
6 play at what is now Ameristar Casino.
7 Specifically, Mr. Matysak was observed with a
8 shortage of tokens, building up credits and cashing
9 out without playing, and rapidly feeding tokens to
10 the slot machine, which was later determined to be
11 malfunctioning by paying out more than it should
12 have.

13 Mr. Matysak appealed his placement on the
14 exclusion list, and the matter went before an ALJ
15 for a hearing in 2004. In his amended findings of
16 fact and conclusions of law, the ALJ noted that
17 some doubt existed about whether or when
18 Mr. Matysak was actually aware of the machine
19 malfunctioning. The ALJ found that there was
20 enough evidence concerning the suspicious slot play
21 to meet the threshold of placing him on the
22 exclusion list.

23 On May 31, 2011, Commission staff received
24 Mr. Matysak's petition for removal from the
25 exclusion list. I was then assigned to serve as a

1 review officer, and on August 29, 2011, a hearing
2 was conducted with Mr. Maytsak. I considered the
3 evidence submitted at the hearing and submitted my
4 findings of fact and recommendations to the
5 Commission on September 27, 2011.

6 In deciding whether a person should be removed
7 from the exclusion list, the review officer acts as
8 a neutral objective third party and must evaluate
9 certain factors that are set out in 68 IAC 6-1-11
10 to determine whether that person would be a threat
11 to the honesty and integrity of gaming, or whether
12 that person would interfere with gaming operations.

13 The factors to be considered in the exclusion
14 termination include the nature, circumstances, and
15 date of the original conduct, the age of the person
16 at the time of the original conduct, whether it was
17 an isolated incident, the petitioner's criminal
18 history, and any inclusion of the person on another
19 jurisdiction's exclusion list.

20 In the present case, seven years has passed
21 since Mr. Matysak's original incident. He is now
22 75 years old. He explained that at the time of the
23 original conduct he believed that putting a lot of
24 tokens into a machine and building up credits and
25 playing it frequently would increase his odds of

1 winning. His explanation of what he thought he was
2 doing at that time has not changed over the years.

3 From the incident he said he learned that that
4 style of play is viewed as suspicious. He no
5 longer plays that way. Additionally, that style of
6 play is no longer possible at Indiana casinos.

7 He has no criminal record, and has presented
8 evidence that he has frequently been in other
9 jurisdictions with no problems since his exclusion.

10 As I previously mentioned, the behavior
11 exhibited by Mr. Maytsak in 2004 involved a slot
12 machine which accepted tokens. All slot machines
13 in Indiana now use TITO tickets and paper money.
14 None accept tokens.

15 The previous agenda item, in which the
16 Commission staff brought an action against
17 Mr. Maytsak for violating the terms of the
18 exclusion, constitutes a serious violation. But as
19 review officer, I have the narrow duty to consider
20 whether Mr. Matysak is an ongoing threat to the
21 integrity, credibility, orderly conduct of gaming.
22 His violation of the terms of his exclusion without
23 any additional evidence that he was cheating or
24 disrupting orderly play does not rise to such a
25 level that I would recommend denying his petition

1 for removal, especially given the other facts that
2 have come about and based on the factors that are
3 set out in the regulations.

4 Based on the totality of the factors above and
5 the specific criteria for removal under 68 IAC
6 6-1-11, I conclude that Mr. Maytsak does not
7 represent a threat to the honesty or integrity of
8 the gaming operations and would not interfere with
9 gaming operations if he were removed from the
10 exclusion list as reflected in my findings of fact.

11 Adopting my findings of fact would have the
12 effect of approving Mr. Maytsak's petition.

13 COMMISSIONER MORGAN: Motion to approve.

14 VICE CHAIRMAN FINE: Questions for Mr. Young?

15 COMMISSIONER SHY: I second.

16 VICE CHAIRMAN FINE: Motion and second to
17 approve. All in favor, indicate aye.

18 (Chorus of ayes.)

19 VICE CHAIRMAN FINE: Opposed?

20 Order 2011-238 is approved. Thank you.

21 Next order of business.

22 MR. YOUNG: Next is another petition for
23 removal, Order 2011-239, concerning the petition
24 for removal from the exclusion list of John Branum.

25 Mr. Branum was placed on a statewide exclusion

1 list on July 7, 2010, after being observed past
2 posting a bet while playing craps at French Lick
3 Casino on February 12, 2010, and February 26, 2010.
4 Mr. Branum attempted to place bets on the don't
5 pass line after the point had already been
6 established. The dealer pushed back Mr. Branum's
7 bet both times, and he was told he could not make a
8 bet at that time. He was charged with one felony
9 count of cheating in a gambling game in Orange
10 Superior Court.

11 He completed a pretrial diversion program
12 successfully, and the charge was dismissed. He
13 appealed his placement on the exclusion list,
14 stating he lacked the requisite intent to defraud
15 the casino. He was unfamiliar with the rules of
16 the game and had never been arrested, charged, or
17 convicted of a crime, nor had he ever been
18 disciplined for his actions at a casino.

19 The Commission subsequently approved the
20 settlement agreement whereby Mr. Branum would
21 withdraw his appeal but remain on the exclusion
22 list and be allowed to petition for removal after
23 one year.

24 He petitioned for removal on July 27, 2011,
25 and I was appointed the hearing officer. A hearing

1 was held October 4, 2011, and I submitted findings
2 of fact and submission of evidence and a
3 recommendation for you to review.

4 Mr. Branum is now 71 years old. He has
5 consistently maintained he had no intention to
6 cheat but did not understand the rules of craps and
7 had been drinking. He had no criminal record and
8 presented evidence he had frequented casinos in
9 other jurisdictions with no problems with the
10 exclusion. Mr. Branum also stated he no longer
11 plays craps or drinks, and he repeatedly apologized
12 for his actions.

13 Based on these factors and the criteria listed
14 in 68 IAC 6-1-11, I concluded Mr. Branum will not
15 present a threat to the honesty or integrity of the
16 gambling operation, and would not interfere with
17 gambling operations if removed from the exclusion
18 list as reflected in my findings of fact.

19 Adopting my findings of fact would have the
20 effect of approving Mr. Branum's petition for
21 removal.

22 VICE CHAIRMAN FINE: Questions for Mr. Young?
23 I'll entertain a motion.

24 COMMISSIONER SHY: I'll move to approve.

25 COMMISSIONER MURPHY: Second.

1 VICE CHAIRMAN FINE: It has been moved and
2 seconded to approve Order 2011-239. All in favor,
3 aye.

4 (Chorus of ayes.)

5 VICE CHAIRMAN FINE: Opposed? It is approved.

6 MR. YOUNG: Next we have Order 2011-240. This
7 is an appeal of Jennifer Jo Knox's being placed on
8 the Commission's exclusion. Ms. Knox was placed on
9 the exclusion list on June 23, 2011, after being
10 observed via video surveillance past posting a bet
11 while playing Texas Hold "Em Bonus Poker at
12 Horseshoe Southern Indiana Casino in Elizabeth,
13 Indiana, on June 6, 2011. Ms. Knox had previously
14 been warned in January, 2011, about past posting
15 bets by Horseshoe Southern personnel.

16 She timely filed an appeal in this matter, and
17 after a preliminary hearing from the ALJ,
18 settlement discussions were initiated and a
19 settlement agreement was entered into whereby
20 Ms. Knox would withdraw her appeal and be allowed
21 to petition the Commission for removal from the
22 exclusion list after two years of her original
23 placement on the list.

24 Ms. Knox will remain on the list until she
25 petitions to be removed, at which time you will be

1 able to make a decision as to whether to allow her
2 to be removed from the list. She will be eligible
3 to submit a petition for removal on June 23, 2013.

4 Before you is an order approving the
5 settlement agreement, and Commission staff
6 recommends you approve that order at this time.

7 VICE CHAIRMAN FINE: Questions for Mr. Young?
8 Entertain a motion.

9 COMMISSIONER MORGAN: Motion to approve.

10 COMMISSIONER MURPHY: Second.

11 VICE CHAIRMAN FINE: Motion and second to
12 approve motion 2011-2040. All in favor, aye.

13 (Chorus of ayes.)

14 VICE CHAIRMAN FINE: Opposed? Order 2011-2040
15 is approved. Thank you.

16 The next order of business is Suppliers, and
17 we'll ask Sherry Green to address this.

18 MS. GREEN: Good afternoon. You have before
19 you order 2011-241 concerning the renewal of
20 supplier licenses. Pursuant to Indiana Code 4-33
21 and 68 IAC 2-2, the Commission has previously
22 approved a permanent supplier's license for the
23 following companies: Aristocrat Technologies,
24 Incorporated, and Paltronics, Incorporated.

25 A supplier's license is valid for a period of

1 one year. Pursuant to IC 4-33-7-8 and 68 IAC
2 2-2-8, a supplier's license must be renewed
3 annually, and a payment of \$7500 for the annual
4 renewal fee must be remitted.

5 Each of these licensees has requested a
6 renewal of their license and has paid the
7 appropriate renewal fees. The Commission staff
8 respectfully recommends that you approve the
9 renewal of the licenses for these two suppliers.

10 VICE CHAIRMAN FINE: Questions for Ms. Green?

11 None. We'll entertain a motion.

12 COMMISSIONER MORGAN: I so move.

13 COMMISSIONER SHY: I'll second.

14 VICE CHAIRMAN FINE: Motion and second to
15 approve Order 2011-241. All in favor, aye.

16 (Chorus of ayes.)

17 VICE CHAIRMAN FINE: All opposed? Order
18 2011-241 is approved. Thank you.

19 Next order of business is transfer of
20 ownership, and we'll ask Garth Brown to present.

21 MR. BROWN: Good afternoon, Commissioners and
22 Executive Staff. I have two orders to present to
23 you today. The first is Order 2011-242, regarding
24 the transfer of ownership interest in Lottomatica
25 Group S.p.A.

1 On or about August 12, 2009, Lottomatica
2 Group, S.p.A. submitted a supplier's license with
3 the Gaming Commission. Lottomatica is a public
4 corporation, headquartered in Italy, is one of the
5 largest lottery operators in the world, providing
6 electronic gambling devices. Lottomatica is
7 majority owned and controlled by DeA Partecipazoni,
8 S.p.A., a privately owned company based in Italy.

9 Lottomatica mainly conducts business in
10 Indiana through two wholly owned subsidiaries,
11 Atronic Americas, LLC, and Spielo Manufacturing,
12 ULC.

13 On June 17, 2010, Lottomatica was granted a
14 permanent license to provide its products and
15 services to Indiana casinos. On June 1, 2011,
16 counsel for Lottomatica's parent company, De
17 Agostini, S.p.A., notified the Commission that due
18 to the termination of a share swap agreement with
19 its wholly owned subsidiary, DeA Partecipazioni,
20 S.p.A, it would be transferring approximately 5.86
21 percent interest in Lottomatica to Partecipazioni.

22 Pursuant to 68 IAC 5-1-1 transfers of over 5
23 percent of a publicly traded company must be
24 approved by the Commission. On July 6, 2011, the
25 transfer of ownership application and supplier

1 licenses was submitted to the Commission for
2 Partecipazioni. The Commission staff conducted a
3 background and financial investigation on
4 Partecipazioni and its key persons. Commission
5 staff could find no derogatory information that
6 would affect the applicant's suitability for
7 holding interest in Lottomatica.

8 The staff's final report regarding
9 Partecipazioni has been made available for your
10 review, and the Commission staff recommends the
11 approval of the transfer of the 5.86 percent
12 interest in Lottomatica to DeA Partecipazioni,
13 S.p.A.

14 If there are any questions, I'd be happy to
15 answer them at this time.

16 VICE CHAIRMAN FINE: Questions for Mr. Brown?
17 Hearing none, I'll entertain a motion.

18 COMMISSIONER SHY: I'll move to approve.

19 COMMISSIONER MORGAN: Second the motion.

20 VICE CHAIRMAN FINE: Motion and second to
21 approve Order 2011-242. All in favor, aye.

22 (Chorus of ayes.)

23 VICE CHAIRMAN FINE: Opposed, same sign.

24 Order 2011-242 is approved.

25 MR. BROWN: Thank you.

1 The next order, 2011-243, is regarding a
2 waiver of 68 IAC 5-2-1(c) concerning a transfer of
3 ownership interest in AC Coin.

4 In April of 2008, Atlantic City Coin and Slot
5 Company, Inc., or AC Coin, a privately owned
6 supplier licensee, notified the Commission of
7 seeking to sell 10 percent equity interest to Alea
8 Partners, LLC. After investigation of Alea and key
9 persons, the Commission, in Order 2010-39, approved
10 the transfer. Due to financing delays and waiting
11 for other regulatory approvals, the transaction did
12 not close until October 3, 2011.

13 On October 7, 2011, AC Coin notified the
14 Commission that at the time of the closing of the
15 initial transfer, AC Coin and Alea had entered into
16 a warrant to purchase shares of common stock
17 agreement whereby AC Coin would issue Alea an
18 additional 10 percent equity in the company in the
19 form of exercisable warrants. This additional
20 interest has offset any decrease in value of the
21 initial transaction due to encountered delays and
22 the current economic downturn.

23 On October 17, 2011, AC Coin advised the
24 Commission that once it receives all necessary
25 regulatory approvals, Alea intends to exercise the

1 warrants it received in additional ownership in AC
2 Coin.

3 Pursuant to 68 IAC 5-2-1(c), a person that is
4 not a publicly traded corporation may transfer an
5 ownership interest of five percent or greater in
6 riverboat licensee and supplier licensee or
7 riverboat license applicant only in the course of
8 this rule.

9 Because the exercise of the warrants will
10 transfer the additional 10 percent interest to
11 Alea, the same entity who just last year the
12 Commission investigated and found suitable, the
13 Commission staff believes there is no legitimate
14 regulatory purpose for our imposing the procedures
15 as dictated by 68 IAC 5-2, including the
16 investigation of Alea and key persons on this
17 transaction. Thus, the Commission staff believes a
18 waiver of this transfer of ownership requirement is
19 appropriate, and it will recommend the approval of
20 the waiver 68 IAC 5-2-1(c) concerning the transfer
21 of the additional 10 percent.

22 If you have any questions, I'd be happy to
23 answer those.

24 VICE CHAIRMAN FINE: Questions for Mr. Brown?
25 We'll entertain a motion.

1 COMMISSIONER MORGAN: Motion to approve.

2 COMMISSIONER MURPHY: Second.

3 VICE CHAIRMAN FINE: Motion and second for
4 approval of order 2011-243. All in favor, aye.

5 (Chorus of ayes.)

6 VICE CHAIRMAN FINE: Opposed? Order 2011-243
7 is approved.

8 MR. BROWN: Thank you.

9 VICE CHAIRMAN FINE: The next order of
10 business is Disciplinary Action, and we'll ask
11 Chris Gray.

12 MS. GRAY: Good afternoon. Order 2011-244 is
13 a settlement agreement with Bally Technologies,
14 wherein the supplier violated shipment rules.
15 Bally has agreed to a monetary settlement of \$4,000
16 in lieu of disciplinary action.

17 The Commission staff recommends that you
18 approve Order 2011-244. Any questions?

19 VICE CHAIRMAN FINE: Questions for Ms. Gray?

20 COMMISSIONER MURPHY: I have one question.
21 These, do all of these violations involve bill
22 validators?

23 MS. GRAY: Some of them were EPROMs, and some
24 of them were shipments of actual slot machines.

25 COMMISSIONER MURPHY: One is software. Is

1 that a slot machine?

2 MS. GRAY: Yes. That has to do with a slot
3 machine.

4 COMMISSIONER MURPHY: Thank you.

5 VICE CHAIRMAN FINE: Further questions? I'll
6 entertain a motion.

7 COMMISSIONER MORGAN: Motion to approve.

8 COMMISSIONER SHY: I'll second.

9 VICE CHAIRMAN FINE: Motion and second to
10 approve Order 2011-244. All in favor, with aye.

11 (Chorus of ayes.)

12 VICE CHAIRMAN FINE: All opposed? Order
13 2011-244 is approved. Thank you.

14 The next order of business is Occupational
15 Licensees. I'll ask Derek Young to begin with
16 this.

17 MR. YOUNG: Before you now is order 2011-245.
18 This is an order regarding Laura Long's
19 occupational license.

20 On May 7, 2007, she was issued a permanent
21 Level 2 occupational license to work as a poker
22 dealer at Horseshoe Southern Indiana Casino. Her
23 occupational license was timely renewed from 2008
24 through 2011.

25 On March 3, 2011, she submitted her license

1 annual renewal form, on which she disclosed an
2 arrest for driving under the influence from
3 September 27, 2008, in Harrison County, Indiana.

4 She later pleaded guilty to a misdemeanor offense.

5 Pursuant to 68 IAC 2-3-9.1 all occupational
6 licensees are required to notify the Commission in
7 writing anytime the licensee has been arrested,
8 indicted, charged, convicted, or pleaded guilty to
9 any felony or misdemeanor within 10 calendar days
10 of the event. Ms. Long notified the Commission of
11 her arrest 888 days late.

12 In lieu of a disciplinary action being filed,
13 the Commission staff offered Ms. Long a settlement
14 agreement, which would have her voluntarily
15 relinquishing her occupational license for a period
16 of two days. She would not be eligible to use
17 vacation or other paid leave time during that
18 two-day period. Ms. Long agreed to the terms of
19 the settlement.

20 The order before you would approve the
21 settlement agreement entered into by the parties,
22 and Commission staff recommends that you approve
23 that order at this time.

24 VICE CHAIRMAN FINE: Questions for Mr. Young?
25 We'll entertain a motion.

1 COMMISSIONER MORGAN: Move for approval.

2 COMMISSIONER SHY: I'll second.

3 VICE CHAIRMAN FINE: Motion and second to
4 approve Order 2011-245. All in favor, with aye.

5 (Chorus of ayes.)

6 VICE CHAIRMAN FINE: Opposed? Thank you.

7 Order 2011-245 is approved. Thank you.

8 And then with respect to Waivers, Lea

9 Ellingwood would address us.

10 MS. ELLINGWOOD: Thank you. Rodney Elkins has
11 been an Occupational Licensee in Indiana since 1998
12 when he began working in marine-related positions
13 at Casino Aztar. Since that time Mr. Elkins has
14 held a number of marine-related positions in
15 Indiana casinos.

16 In September he submitted a Level 1
17 Occupational License application to be a captain at
18 Casino Aztar. Indiana Administration Code 68 IAC
19 2-3-5(c)(10) prohibits an applicant, whose duties
20 will be to operate or navigate a riverboat, from
21 having violated a criminal statute involving
22 alcohol.

23 Mr. Elkins was convicted of driving under the
24 influence four times from 1984 to 1992. However,
25 since becoming an Occupational Licensee in 1998,

1 Mr. Elkins has by all accounts been a model
2 employee. The current investigation of Mr. Elkins
3 has found him to be otherwise suitable to hold a
4 Level 1 license.

5 The Commission has in the past granted a
6 waiver of this administrative rule, allowing an
7 applicant to obtain a Level 1 license to be a
8 captain.

9 Based on the nature and the age of the
10 offenses, Commission staff recommends that the
11 Commission adopt order 2011-246 and issue a waiver
12 of that administrative rule, which will allow
13 Mr. Elkins to work at Casino Aztar as a captain.

14 VICE CHAIRMAN FINE: Questions for
15 Ms. Ellingwood? If not, I'll entertain a motion.

16 COMMISSIONER MORGAN: Motion to approve.

17 COMMISSIONER MURPHY: Second.

18 VICE CHAIRMAN FINE: Motion and second to
19 approve Order 2011-246. All in favor, with aye.

20 (Chorus of ayes.)

21 VICE CHAIRMAN FINE: Opposed? Order 2011-246
22 is approved. Thank you.

23 We'll move on to Casino Disciplinary Actions
24 and ask Ms. Gray to address us.

25 MS. GRAY: Good afternoon again.

1 Commissioners, you have before you nine
2 settlement agreements concerning disciplinary
3 actions. The first settlement is with Aztar, Order
4 2011-247, wherein the casino failed to timely
5 notify the gaming agents of a termination.

6 Aztar has agreed to a monetary settlement of
7 \$2,000 in lieu of disciplinary action. Are there
8 any questions?

9 VICE CHAIRMAN FINE: I asked if we were going
10 to take them separately or together.

11 MS. GRAY: I usually take them all together.
12 Is that okay?

13 VICE CHAIRMAN FINE: Yes. So if there are no
14 questions, continue on.

15 MS. GRAY: The second order, 2011-248, is a
16 settlement agreement with Belterra, wherein the
17 casino violated the rule requiring that the
18 internal space of an electronic gaming device must
19 not be readily accessible when the door is closed.

20 Belterra has agreed to a monetary settlement
21 of \$2,500 in lieu of disciplinary action. Are
22 there any questions concerning this order?

23 The third order, 2011-249, is a settlement
24 agreement with French Lick which includes two
25 counts. In the first count the casino allowed an

1 underage person onto the casino floor.

2 The second count violated the rule requiring
3 vendors to receive and wear a vendor's badge while
4 on the casino floor.

5 French Lick has agreed to a total monetary
6 settlement of \$9,000 in lieu of disciplinary
7 action. Are there any questions?

8 Order 2011-250 is a settlement agreement with
9 Hollywood which includes seven counts. In the
10 first count the casino allowed an employee to work
11 on the casino floor without an Occupational
12 License.

13 In the second count the casino allowed patrons
14 through the drop area on several occasions.

15 The third count violated the rule regarding
16 notification of tournaments.

17 In the fourth count the casino allowed an
18 incorrect table fill to be completely processed and
19 did not realize the fill was incorrect until the
20 table closed.

21 Count V violated the sensitive key rule.

22 In the sixth count the casino had unsecured
23 chip trays on several craps tables.

24 In Count VII the casino allowed an underage
25 person on the casino floor.

1 Hollywood has agreed to a monetary settlement
2 of \$72,000 in lieu of disciplinary action. Are
3 there any questions?

4 COMMISSIONER SHY: I don't know if it's a
5 question or a concern about the number of counts
6 against Hollywood. I have questions for staff from
7 Hollywood. Should I wait until we go through the
8 rest of them?

9 EXECUTIVE DIRECTOR YELTON: No. Right now
10 would be appropriate.

11 COMMISSIONER SHY: There is a new compliance
12 manager?

13 MS. GRAY: The new GM is here as well.

14 MR. HASSON: Good afternoon, Commissioners,
15 members of the Executive Staff. I'm Joe Hasson.
16 I'm the new general manager of Hollywood
17 Lawrenceburg, and I had an opportunity to meet you
18 at the last meeting.

19 I've been on the ground now at Hollywood, I'm
20 into my ninth week now, and I'm pleased to be able
21 to talk to you about the issues. I wish that it
22 were under better circumstances that I could talk
23 to you, but certainly to the extent that you have
24 questions, I'm prepared to answer.

25 COMMISSIONER SHY: I guess I'd just like to

1 understand how you think things are going since
2 these incidents. You said nine weeks. That's fair.

3 MR. HASSON: It's very clear to me -- I'm a
4 30-year veteran of the industry. Long before
5 joining the industry, I was a practicing CPA. So
6 things like internal controls, matters of
7 compliance, regulations are very ordinary to me.
8 They are important to me both personally and
9 professionally.

10 And what I've noticed is a congruence of
11 something that Ms. Gray mentioned at the last
12 meeting that I couldn't fully appreciate because I
13 was so new at that time, and it was a question or a
14 comment about the culture of Hollywood
15 Lawrenceburg. It's very clear to me now, after
16 having been on the ground for a period of time,
17 that compliance clearly needs to be the No. 1
18 priority of the team of people. And they are good
19 people at Hollywood Lawrenceburg.

20 Changes that I've made recently that give me
21 great confidence that we can right the ship, so to
22 speak, include myself, the assistant general
23 manager, and the chief financial officer being
24 active members of the compliance committee at
25 Hollywood Lawrenceburg. There are no matters in

1 front of the compliance committee now that do not
2 come directly to our collective attention.

3 And the other change that I've made that I
4 think is critically important is that all matters
5 involving corrective measures, all matters
6 involving counseling and/or discipline or matters
7 involving personnel involved with compliance
8 problems must be approved by the compliance
9 committee. There cannot be a solution that the
10 compliance committee is not aware of, and that the
11 compliance committee does not endorse.

12 And if the compliance committee takes
13 exception to a proposed corrective action or a
14 counseling matter, the compliance committee, of
15 course, is empowered to take action that it deems
16 appropriate under the circumstances. And I think
17 that that will move the business in a very
18 different and appropriate direction in terms of
19 curing the compliance matters that we're confronted
20 with.

21 The other thing that is terribly important,
22 and sometimes it tugs at my heartstrings, but it's
23 important as the general manager, is that changes
24 in personnel have to be made from time to time when
25 circumstances like this arise. With regard to one

1 particular aspect of our business, I found that the
2 leader of the business, after I had a chance to
3 come to know that member of the team, was not fully
4 capable of guiding the team of people in a
5 compliant manner. What I did is the toughest job
6 that a general manager can ever be asked to do, but
7 it's an essential job, and that is I dismissed him
8 from the team.

9 I'm hoping that I'll see far fewer dimensions
10 of that as time goes forward, but unfortunately I
11 am prepared to make those changes, if they need to
12 be made, for those that can't modify behavior or
13 practice to come into compliance standards.

14 That's how I see it globally in the nine or so
15 weeks that I've been there. I can also assure you
16 that -- I mentioned the 30 years that I've had the
17 good fortune to do this in the industry. I am
18 confident that what I've seen at Hollywood, I've
19 seen in other places. Not all piled into one place
20 and not all at one time, but across the span of my
21 career I've seen these things before. And I've not
22 bumped into anything where I have to scratch my
23 head and say, gee whiz, we have no solution for
24 that. We have solutions. They simply need to be
25 applied in standard manners and in good practices.

1 People that have joined me most recently at
2 Hollywood Lawrenceburg, Scott Saunders, the
3 assistant general manager, he was there before I
4 got there. I had worked with Scott previously in
5 the Las Vegas marketplace. He is someone who
6 preceded me by X-number of months to Hollywood, and
7 I am confident that he brings the kind of skill-set
8 that I need to help me to govern the business in a
9 compliant manner.

10 Jeannie Magdefrau, who was introduced to you
11 at the last meeting as well -- she is the chief
12 financial officer, a 15 plus year veteran of the
13 industry -- she brings the kind of skill-set,
14 understanding, and personal professional discipline
15 to the business as well.

16 The sum total of all that, along with the good
17 people that already work at Hollywood Lawrenceburg,
18 all sum total becomes the answer to what confronts
19 us now. And, again, I'm confident that we can cure
20 this.

21 COMMISSIONER SHY: Anything related to the
22 employees that you are dealing with?

23 MR. HASSON: Yes. With regard to the
24 employees, certainly first and foremost for me is a
25 clear message from the top. When I think of a

1 clear message from a top in what we call town-hall
2 meetings, I introduced myself to all members of the
3 team to Hollywood Lawrenceburg, and I reminded them
4 that a general manager's job can have many, many,
5 many dimensions to it. Certainly, the general
6 manager can look at gaming, lodging, food,
7 beverage, entertainment, and transportation. But I
8 said apart from all that, my single foremost
9 priority is compliance, because Hollywood
10 Lawrenceburg needs to restore its good reputation
11 with the citizens in the great State of Indiana.
12 We owe that obligation as a consequence of having a
13 privileged license in the State.

14 Our obligation is to perform as a compliant
15 corporate citizen, and I wanted to make sure that
16 the staff, and it included all members of the staff
17 in attendance across multiple days that we held
18 these meetings, I wanted to make sure they heard
19 that message directly from me; not in a filtered-
20 down way, not reading it in a newsletter, but
21 hearing it in a direct way from me as the newcomer.

22 Now, there was plenty of praise as well. I
23 reminded the team that this has been a successful
24 business over a long period of time, and it once
25 knew great compliance. There was a period of time

1 where we didn't find ourselves in this kind of
2 quicksand, and that I was confident that having
3 joined the team that I was both anxious, eager, and
4 confident that we would find solutions.

5 I want to share with you one simple solution
6 that made it tangible for the team. I think,
7 Ms. Gray, you mentioned controlled keys as one of
8 the elements that we've been tangled in. I asked
9 myself first and foremost, raising my hand first,
10 what can management better do with regard to keys.
11 We have electronic key watchers. We have all kinds
12 of procedures.

13 The question I asked of the team is, if you
14 hold a sensitive key, why is it not attached to
15 your body? It needs to be on a key back, as we
16 call it, or a key tender, or it needs to be on a
17 bungee cord attached to your arm. And jokingly I
18 told the team, because I think that this resonates
19 with the line level staff, if your pants were to
20 fall off, I would understand why you've lost a key.
21 Or if your arm were to become separated from you, I
22 would understand how you lost a key. But short of
23 those matters, which I know as a casino executive
24 won't happen -- there is not much chance of that
25 happening -- my point became that this kind of

1 back-to-basics solution becomes what it is that we
2 will do in many corners, in many dimensions of our
3 business. This is just the first
4 easy-to-illustrate example. Keys must be attached
5 to your body.

6 And then my management team, as a byproduct,
7 is in a position to observe for it or to observe in
8 advance that it's not being complied with rather
9 than waiting for the key error to take place.

10 That's one example that I give, and that's the kind
11 of communication that has been given to the staff
12 level members as well as to the executive committee
13 at Hollywood Lawrenceburg.

14 VICE CHAIRMAN FINE: Other questions?

15 COMMISSIONER MURPHY: Yes. This may be more
16 of a comment. I have to say I'm very glad to hear
17 you use the term, internal control, because that's
18 clearly important with respect to Hollywood. And I
19 think that's a real step in the right direction.
20 But I'm looking at some numbers here that I just
21 think should be read into the record so we can kind
22 of frame the issue that Hollywood has, at least in
23 my mind.

24 And I'm looking at the last, the total fines
25 for all casinos for the last six months, and

1 Hollywood is the proud owner of 59 percent of them.
2 And just in violations, for all gross violations,
3 it's almost 30. That's out of 12 casinos, and
4 that's setting quite a standard. And I think
5 that's what we want to see go away.

6 I think what you're talking about hopefully
7 will do that. But I want to remind you just a
8 meeting or two ago we heard from Mr. Wilmott, and
9 he was saying the same kind of things. Now you're
10 there, and hopefully that's a step he's taken in
11 the right direction. But this isn't the first time
12 we've heard this. So a compliment and a little bit
13 of admonishment.

14 MR. HASSON: I understand. I appreciate the
15 compliment. Frankly, I appreciate the urgency of
16 what it is that you're describing to me. I'd like
17 to think, because I had worked in my career
18 elsewhere with Mr. Wilmott in the past, I would
19 like to think that part of the reason I'm at
20 Hollywood right now is because I've worked with
21 Mr. Wilmott in the past, and that he recognizes
22 what I can bring to the team to help them through
23 troubled times and to emerge on the other side of
24 this.

25 As you mentioned -- as a past practicing CPA,

1 it's near and dear to me. It's much like riding a
2 bicycle. It's not something you should forget when
3 you're sitting in the corner office. Internal
4 controls, compliance with standards, standard
5 operating policies and procedures, all critically
6 important and my No. 1 priority at Hollywood
7 Lawrenceburg.

8 COMMISSIONER MURPHY: Thank you.

9 MS. GRAY: Any more questions from me on that?

10 Order 2011-251 is a settlement agreement with
11 Hoosier Park wherein the casino allowed an underage
12 person on the casino floor on three separate
13 occasions.

14 Hoosier Park has agreed to a monetary
15 settlement of \$9,000 in lieu of disciplinary
16 action. Are there any questions?

17 Order 2011-252 is a settlement agreement with
18 Horseshoe Hammond wherein the casino violated the
19 rules requiring the removal and counting of all
20 dropped bill validators. Horseshoe Hammond has
21 agreed to a monetary settlement of \$1,500 in lieu
22 of disciplinary action. Are there any questions?

23 The seventh order, 2011-253, is a settlement
24 agreement with Indiana Live and includes three
25 counts.

1 In the first count, the casino allowed a
2 person under the age of 21 onto the casino floor on
3 two separate occasions.

4 In the second count, the casino failed to
5 timely notify the gaming agents of a terminated
6 employee.

7 In the third count, the casino allowed a
8 patron to enter the employee entrance and walk
9 around the back of the house.

10 Indiana Live has agreed to pay a total
11 monetary settlement of \$14,000 in lieu of a
12 disciplinary action. Are there any questions?

13 Order 2011-254 is a settlement agreement with
14 Majestic Star, wherein the casino failed to timely
15 notify gaming agents of a terminated employee.

16 Majestic Star has agreed to pay a monetary
17 settlement of \$2,000 in lieu of disciplinary
18 action. Are there any questions?

19 The final order, 2011-255, is a settlement
20 agreement with Rising Star, wherein the casino
21 violated the rule requiring surveillance and audio
22 coverage in any area of the security office where a
23 person may be detained and questioned.

24 Rising star has agreed to a monetary
25 settlement of \$15,000 in lieu of disciplinary

1 action. Are there any questions?

2 COMMISSIONER SHY: Basically, what happened?

3 MS. GRAY: Basically, the director of security
4 was conducting interviews and questioning employees
5 in his office where there was no camera coverage at
6 all.

7 COMMISSIONER SHY: Didn't he understand he
8 shouldn't be?

9 MS. GRAY: I'm assuming that he should have
10 known so, yes, I feel he should have.

11 COMMISSIONER SHY: Are you comfortable they
12 have explained the rules?

13 MS. GRAY: Yes. In fact, when this was
14 brought to their attention, he no longer does it
15 there. They have another area where there is
16 coverage, and he conducts all the interviews there.

17 VICE CHAIRMAN FINE: Further questions for
18 Ms. Gray?

19 MS. GRAY: The Commission staff recommends
20 that you approve orders 2011-247 through 2011-255,
21 each of which approves one of the settlement
22 agreements that we have just discussed.

23 COMMISSIONER SHY: I move to approve.

24 COMMISSIONER MURPHY: Second.

25 VICE CHAIRMAN FINE: Moved and seconded to

1 approve orders 2011-247 through 2011-255. All in
2 favor, indicate by aye.

3 (Chorus of ayes.)

4 VICE CHAIRMAN FINE: All opposed? Thank you.
5 Orders 2011-247 through 2011-255 inclusive are
6 approved.

7 MS. GRAY: Thank you.

8 VICE CHAIRMAN FINE: Thank you.

9 The next order of business is transfer of
10 ownership, and we'll ask Adam Packer to address
11 that matter.

12 MR. PACKER: Thank you, Mr. Vice Chair.

13 On November 23, 2009, entities that hold The
14 Majestic Star I and II casino licenses, their
15 parent company and other related entities, filed
16 voluntary petitions under Chapter 11 of the United
17 States Bankruptcy Code in the United States
18 Bankruptcy Court for the District of Delaware.

19 On March 10 of 2011 the bankruptcy judge
20 entered an order confirming the Second Amended
21 Joint Plan of Reorganization for these entities,
22 which we can call Majestic Star for purposes of
23 shorthand. Two portions of that plan of
24 reorganization require Commission action; namely,
25 the approval of new owners and the approval of an

1 exit financing package.

2 And I could give you some of those details,
3 but I understand that there are people,
4 representatives here who can speak to that. But I
5 would like to highlight two things that I think
6 really are the key points of these two issues.

7 The details of the reorganization plan and the
8 portions of that plan that require action have been
9 provided to you in the materials. The plan
10 addresses Majestic Star's indebtedness in what we
11 nonbankruptcy people would call the usual way,
12 where high priority creditors get equity in the
13 reorganized entity as an exchange for the debt they
14 held pre-petition. Ownership of the licenses then
15 would transfer from the Don Barden related, his
16 estate, to new entities, dozens of new entities,
17 all of which were pre-petition creditors.

18 One of those high priority creditors, Wayzata
19 Opportunities Fund II, will have equity high enough
20 to trigger the licensure requirements for a
21 substantial owner. Wayzata and its key persons
22 have submitted suitability applications. And the
23 background and financial investigations division
24 has completed its investigations, and those final
25 reports have been provided to you.

1 The reorganized entity also proposes an exit
2 financing, or rather the proposed reorganized
3 entity also proposes an exit financing package that
4 will consist of approximately, up to approximately
5 \$158 million in new debt.

6 Dr. Charlene Sullivan at Purdue University has
7 completed an analysis and description of that
8 financing package, and that has also been in your
9 materials for your review.

10 For a more detailed presentation regarding
11 Wayzata and regarding the future of Majestic Star,
12 Commission staff has asked Kay Flemming to
13 introduce herself and then some other people who
14 will talk to that.

15 So, Mr. Vice Chair, I'll turn it back to you.

16 VICE CHAIRMAN FINE: Ms. Flemming, you can
17 have the podium, if you like.

18 MS. FLEMING: Thank you. I'll be very brief.
19 I am here on the behalf of the company, The
20 Majestic Star, LLC, and The Majestic Star II, Inc.
21 I've been their local regulatory counsel for many
22 years. Also here on behalf of Majestic Star, Larry
23 Buck, the general manager of the two properties;
24 Peter Rusthoven, who has led the negotiations with
25 the City of Gary on the local development

1 agreement, and David Meyer from Kirkland & Ellis,
2 in case there are bankruptcy questions that I would
3 never attempt to answer.

4 With that I want to thank the Commission staff
5 for all their hard work and their continued working
6 with us -- Ernie, Jenny, Adam, Danielle, Garth, and
7 everyone -- all the other members of the Commission
8 staff who have worked with us diligently to get us
9 to this point today. We thank everyone. We thank
10 you for your consideration.

11 And with that I'll introduce Doug Brown from
12 Bose McKinney, who is representing Wayzata
13 Opportunities Fund II. Thank you.

14 MR. BROWN: Thank you, Kay.

15 Mr. Chairman, members of the Commission, Judge
16 Yelton, members of the staff, thank you for the
17 opportunity to address you. I'm Doug Brown, a
18 partner with Bose, McKinney & Evans, and it is our
19 privilege to represent BNY Mellon Bank in its
20 capacity as the indentured trustee of the senior
21 secured note holders in The Majestic Star projects.

22 Pursuant to your approval and subject to the
23 bankruptcy plan, the single biggest holder of
24 senior secured notes, Wayzata, would become a
25 substantial owner in The Majestic Star properties.

1 Majestic Star is, as you know and with your
2 approval, is going to emerge from bankruptcy. And
3 at that point new governance procedures will occur.
4 There will be a new five-member board of directors.
5 Under the agreement two of those board members will
6 be appointed by Wayzata.

7 I'm joined here today represented by Wayzata
8 by Pat Halloran, who is to my immediate left. Pat
9 is the CEO and managing principal of Wayzata.
10 Wayzata is a very, very well known, very well
11 respected investment manager with billions of
12 dollars under its management.

13 To his left is Joe Deignan, who is a
14 vice-president and also a principal of Wayzata.
15 Those two gentlemen, subject to your approval, will
16 be the two Wayzata designees on the board of
17 directors of Majestic Star after it emerges from
18 bankruptcy.

19 So with that brief introduction, with your
20 indulgence may I invite to the microphone, please,
21 Mr. Halloran, who will tell you a bit about
22 Wayzata, its business and aspirations for Majestic
23 Star. Thank you.

24 MR. HALLORAN: Good afternoon. As Doug said,
25 my name is Pat Halloran. I'm the managing partner

1 for Wayzata Investment Partners.

2 Just a brief history on us. We started this
3 group in the late 1980s. We were part of Cargill's
4 Financial Markets Group. Cargill is headquartered
5 in Wayzata, Minnesota, at the world headquarters.
6 That's where we started. We worked with that group
7 for about 15 years, and in 2004 we spun out on our
8 own. So it's a partnership that's owned by the
9 employees of the company.

10 We manage five funds. We're a manager for
11 about seven and a half billion dollars of
12 investments of capital, actually. And the capital,
13 most of it comes from state pension funds
14 throughout the U.S. That includes Indiana Public
15 Employer Retirement Fund. So we have capital
16 that's long-term capital.

17 We get into investments that are long term in
18 nature, take a long time to turn around. We've
19 been in this investment, I think, for about two or
20 three years now and, you know, the first couple of
21 phases are done. I think we've lopped off about
22 300 million in debt in bankruptcy, which will be a
23 good start to get this company back on the street.

24 Clearly, getting through the bankruptcy
25 process, there's a lot of things you have to do,

1 and it's taken a lot of effort on our part. I
2 think the next phase is to get the company out of
3 bankruptcy, get it stabilized, hopefully improve
4 morale, and get the right people in the right
5 positions and incentivize people to do the right
6 thing. That's sort of what we do for gaming
7 companies and throughout sort of our portfolio of
8 companies.

9 Then, finally, we've got six offices
10 throughout the world. We've got offices in Boston,
11 Houston, Minneapolis. Wayzata is a suburb of
12 Minneapolis. And then outside the U.S. we are in
13 London, Mumbai. Any questions?

14 COMMISSIONER MURPHY: How often -- say you are
15 a long-term investor. How often do you turn over
16 the company side of your portfolio?

17 MR. HALLORAN: It can range anywhere from
18 three to seven years. On average it's probably
19 around five, five and a half years.

20 COMMISSIONER SHY: Do you have any specific
21 plans, any comments you can make on what you want
22 to do with the property?

23 MR. HALLORAN: It's a bit early just because
24 we've just reconstituted the board. We've talked
25 about the new board. So the new board has a lot in

1 front of them as far as strategic plan, three year
2 plan, and getting all the right people in the right
3 places and incentivizing those people to do the
4 right things. So it's too early in the process to
5 say.

6 COMMISSIONER SHY: I would think that if you
7 made the decision to do this, you would have some
8 idea, some reasoning about what you need to do.

9 MR. HALLORAN: I think there are probably a
10 lot of dreams, but we've got to kind of collect
11 them and see what we can execute on.

12 VICE CHAIRMAN FINE: Mr. Halloran, I know
13 there was a little bit of issue with respect to the
14 payment on the license. I want to ask you, money
15 has been received, not yet deposited but received.
16 And I want to ask you, do you consider that matter
17 resolved, the checks deposited if you are approved
18 today? There is no further contesting of the
19 amount of the fee or the payment of the fee?

20 MR. HALLORAN: Yes. It sounds like it's all
21 settled.

22 COMMISSIONER MURPHY: It's resolved.

23 VICE CHAIRMAN FINE: Further questions for
24 Mr. Halloran?

25 COMMISSIONER MORGAN: He brought up the fee

1 has been paid. That's positive.

2 MR. HALLORAN: Sure. Very good. Thank you.

3 VICE CHAIRMAN FINE: I'm told that Mike Hile
4 has asked to address us for ten minutes.

5 MR. HILE: Thank you for that privilege. I'm
6 here on behalf of the City of Gary. Also with me
7 here is Susan Severtson, corporation counsel.

8 Thank you, Commissioners, for the opportunity
9 to speak in front of you today, and Executive
10 Director Yelton for permitting the same.

11 We're technically here on a transfer of
12 ownership issue, but as I've heard Director Yelton,
13 and I believe the statute made clear, suitability
14 is always an issue when it comes to any kind of
15 licensing approval, transfer, et cetera.

16 I'm going to address the suitability issue
17 that the City of Gary has made known to you all
18 before. We've made, at a previous licensing
19 hearing raised the issue. We are in continued
20 negotiations to resolve but at that time we were
21 invited to always bring the issue back up should
22 satisfactory resolution not have occurred.

23 Unfortunately, that's where we are as of
24 today. I'm speaking of the fact that the City of
25 Gary believes that the existing, The Majestic

1 entities are not performing under existing local
2 development agreements. And we all know that the
3 Supreme Court has made it clear that LDAs are your
4 method of making sure that gaming revenues get
5 routed as the statute requires to local economic
6 development, and that the terms of those LDAs
7 become part and parcel of the license.

8 Consequently, if they aren't performing under an
9 LDA, they've breached their license agreement, and
10 we believe it to be unsuitable for their licensure.

11 I'm going to simplify this because I have only
12 ten minutes. I did present a group of documents to
13 the Executive Director earlier, which have all the
14 relevant documents for your review should you need
15 them, but I will go quickly through this. These
16 facts are uncontested by anyone. As part and
17 parcel of The Majestic's confirmation of the plan
18 of reorganization, they reserved in their
19 confirmation order, a copy of which is presented to
20 you, the ability to assume or reject their existing
21 LDA contracts. That reservation was made in part
22 and parcel continuing to try to negotiate with us
23 to try to come to a resolution. What that means is
24 as of today's date they have not committed one way
25 or the other as to whether they will abide by our

1 LDAs, or whether they will seek to reject them.

2 If they reject them, they allegedly would be
3 gone, and we would have a damage claim under it.

4 Or whether they will be bound by what kind of LDA
5 going forward. I'll discuss that again later, but
6 I just want to raise that issue. At this present
7 time there is no existing commitment by The
8 Majestic entities to operate pursuant to any LDA.

9 Secondly, it's undisputed that under the
10 existing LDAs they are holding at least \$14 million
11 that would have been due and owing thereunder but
12 for one reason: They claimed or alleged a setoff,
13 an ability to offset those against claims that they
14 say the City owes The Majestic.

15 Now, let's go through that issue. And so, in
16 essence, if there is no setoff capability here,
17 then there would be no right to have withheld those
18 funds, and withholding those funds is a violation
19 of their license agreement.

20 So what rights of setoff are there? Well, you
21 the Commission, you the Indiana legislature, have
22 already made it real clear via legislation that
23 there is no right to setoff against an LDA. How
24 has it done that? Most recently the legislation in
25 4-33-23-7 made it real clear you have jurisdiction

1 to make sure that the economic development
2 agreements comply with the purposes of the
3 agreement and also to make sure that disbursements
4 to unspecified recipients comply with the purposes
5 of the agreement.

6 Indirectly, the unspecified recipient
7 provision, if you permitted a setoff against LDA
8 funds, the gaming entity that owes LDA funds could
9 at any time go to any creditor of the municipality,
10 even a disputed creditor, buy that claim, take that
11 claim as an assignment, and offset it against LDA
12 funds; thereby making sure that that recipient
13 receive funds that should have gone for economic
14 development.

15 It's an indirect route. I don't think you
16 would desire that to happen. In fact, that is
17 exactly what has happened here. I will go through
18 that in a little more detail as well.

19 So by permitting setoff, obviously your
20 statutory scheme doesn't permit setoff because it
21 would permit this unspecified way of routing funds
22 out of economic development, which is in violation
23 of the statutory scheme. In addition, the
24 legislature passed 4-33-23-13, which requires that
25 there be a special bank account and that it be

1 segregated and the funds go immediately to the bank
2 account within five days of receipt.

3 You have promulgated rules, including your
4 emergency order, implementing the provisions of
5 that statute, making it clear that there needs to
6 be a segregated account.

7 There are reports from the recipients what
8 account it is, where it is, who has signatory
9 rights, et cetera, et cetera, further evidencing
10 that statutory concern. So, clearly, in the
11 legislative scheme the LDA revenues, which are
12 supposed to go pursuant to the license to local
13 economic development, are not general funds
14 permitted for offset; otherwise, you defeat the
15 purpose.

16 Secondly, general state law precludes setoff
17 in this scenario. Indiana Code 34-55-12-1 provides
18 that collection of a claim or a judgment against a
19 municipality may only be collected from an
20 appropriation made for that purpose. Secondly, it
21 goes on and says that execution for purposes of
22 collection is prohibited against any real or
23 personal property owned by a city or town or in the
24 interest, or any property in which the city or town
25 has an interest. So by permitting a setoff of LDA

1 funds in which the City has an interest, Indiana
2 Code 34-55-12-1 is violated.

3 Consequently, from a policy point of view,
4 there is no right to setoff. If there is no right
5 to setoff, they are in default under their license
6 agreements and not suitable to be licensed.

7 So let's assume that you don't buy my
8 arguments on a policy issue, even though I think
9 the statutes are clear. There also is no factual
10 basis for a setoff here. And I won't get into the
11 nitty-gritty of a certain mayor did a certain
12 thing, et cetera, et cetera. We don't need to for
13 these purposes.

14 What we can look at specifically is that in
15 1999, when the LDA agreements were first entered
16 into with Majestic and Trump, they are
17 straightforward, bald agreements that provide that
18 the monies come to the City for economic
19 development. At that time the City made no
20 commitments, obligations for any kind of road
21 building, environmental remediation, or anything to
22 The Majestic Casinos.

23 At or about that same time the City did make
24 written commitments to an entity called Gary New
25 Century. Gary New Century is a Barden related

1 entity, and it was buying a bunch of the land that
2 surrounded the casino, and it promised to make 70
3 plus million dollars of investment and development.
4 And conditioned upon that, the City made promises
5 to build a road and to do some environmental
6 remediation. They were all conditioned. They were
7 triggered. There are disputes among the parties
8 whether all the conditions were triggered.

9 In 2004, when apparently Mr. Barden or
10 Majestic's owners at that time decided that The
11 Majestic should become the owners of the land
12 surrounding the casino, apparently GNC wanted to
13 cash out. Majestic paid and bought the land that
14 surrounded it, and GNC assigned a portion of its
15 contract, in which the City made commitments to GNC
16 based on development commitments, to The Majestic.
17 That is the only way there was potentially any
18 obligation from the City to The Majestic that would
19 permit, that would allegedly set up a setoff.

20 What was the purpose of that? The Majestic
21 wanted to set up an opportunity of a setoff. So in
22 essence what you have here is an assigned claim
23 from a third party to a regulated entity that had
24 an obligation to pay over LDA funds for economic
25 development, who have been attempting and holding

1 out the payment of those funds to an economically
2 distressed city and continuing to perform under the
3 rubric, not perform under their LDA, and therefore
4 are not suitable.

5 VICE CHAIRMAN FINE: You have another 30
6 seconds, if you would like.

7 MR. HILE: To go on real quickly, even if they
8 were to have a setoff right under the law, there is
9 a restriction on the amount of debt that a City can
10 take on. So any agreement that it made with GNC is
11 above that limit, and the statute said that debt
12 would be void; therefore, not available for setoff.

13 Secondly, any environmental remediation
14 commitments are covered strictly by a statute that
15 require certain approvals and procedures which were
16 not followed in conjunction with that GNC statute,
17 so it fails as to that purpose as well.

18 I will, because of the time, I will go on and
19 say that if for some reason you do not adopt our
20 objection and agree to go forward and license, it
21 is very important that any ongoing licensure or
22 approval be restricted specifically in the
23 following fashions: That The Majestic take no
24 action in their bankruptcy case regarding the
25 existing executory contracts; i.e. assume or reject

1 them. Those are held in abeyance under the deal.
2 Otherwise, the City is forced to go to Delaware and
3 try to protect its rights and interests. And we
4 are here in front of you today, and you have the
5 jurisdiction to make these determinations, and that
6 would be an unfair scenario. So they should be
7 restricted from assuming or rejecting those
8 licenses while they are obligated to continue under
9 our interim arrangement that we've been working
10 under, which would require the payment of at least
11 a minimum amount of funds agreed to thereunder,
12 continue to negotiate in good faith. And finally,
13 they should be obligated, because under that deal
14 there would be freed up the nearly \$14 million they
15 are holding, there would be approximately \$7
16 million to \$10 million, closer probably to \$8
17 million that would have been freed up and available
18 for the City of Gary to use for the purposes that
19 it's entitled. And as a restriction on any
20 licensure, those funds should be a part and be
21 turned over.

22 I believe that's use of my time unless there
23 are any questions.

24 VICE CHAIRMAN FINE: Questions for Mr. Hile?

25 COMMISSIONER MORGAN: I have a couple of

1 questions for you. Adam, we have a signed LDA at
2 this point; correct?

3 MR. PACKER: Yes. It's Commission staff's
4 opinion that there is an LDA that's signed by the
5 City of Gary and signed by The Majestic Star
6 entities.

7 COMMISSIONER MORGAN: My question is, on the
8 LDA that is in effect or in existence, what funds
9 have you been receiving thus far?

10 MR. HILE: Well, I would have to know exactly
11 what LDA Commission staff believes is in place to
12 be able to tell you what funds have been received.

13 COMMISSIONER MORGAN: Can I ask you this
14 question: As the City of Gary, what have you
15 received to date in funds from The Majestic Star
16 Casinos? How much money have you received?

17 MR. HILE: For the whole period of the LDA
18 relationship?

19 COMMISSIONER MORGAN: No. Let's say for the
20 last year.

21 MR. HILE: For the last year we received
22 approximately \$3 million thus far. That is not
23 under an LDA. That is under what is a term sheet
24 that would provide a basis for definitive documents
25 for an LDA, which are provided for you.

1 It is subject to several conditions. One of
2 the conditions is an environmental remediation
3 condition that apparently is not satisfied, and the
4 parties are continuing to negotiate. But it is
5 merely an interim arrangement.

6 COMMISSIONER MORGAN: Okay. I just asked a
7 couple of questions because I have the materials.
8 So you have \$3.2 million in the last year that
9 you've received.

10 MR. HILE: Correct.

11 COMMISSIONER MORGAN: The City of Gary. And
12 you are the steward of that money.

13 MR. HILE: Correct.

14 COMMISSIONER MORGAN: For the benefit of
15 redevelopment for the City of Gary.

16 MR. HILE: For economic development for the
17 City of Gary, correct, uh-huh.

18 COMMISSIONER MORGAN: So can you give me some
19 examples what are we doing with that money at this
20 point?

21 MR. HILE: As you know, Commissioner, or I
22 assume you know, the City of Gary has been in a
23 very distressed financial condition. No. 1, the
24 main reason being the constitutional caps on taxes,
25 property taxes, the City has gone from a budget of

1 66 million down to a approximately 30 million, 33
2 million. In that process it has had to manage and
3 save, and has done that all through the time that
4 it was receiving nothing from The Majestic because
5 The Majestic was holding it pursuant to a setoff
6 rate.

7 COMMISSIONER MORGAN: I understand that.

8 \$3 million.

9 MR. HILE: So I'm going forward. As to the \$3
10 million, I would submit to you that the City of
11 Gary has on its own continued the building of the
12 ingress/egress road, and has done so from general
13 funds, but these would be included in those funds.
14 So the ingress/egress roads to the casino has been
15 completed, as far as what you might consider
16 economic development.

17 But I would go on and say to you that in a
18 city that is distressed, that may not be able to
19 pay its police force, its fire department, or do
20 other basic government services, economic
21 development is being able to provide those services
22 so that someone will even consider you as a locale
23 to move into, a company, a corporation or whatever.
24 And to devote or require that it be used for some
25 specific construction of something or otherwise

1 probably would be somewhat short-sighted at this
2 time.

3 COMMISSIONER MORGAN: Okay. Thank you.

4 COMMISSIONER MURPHY: Is that another way of
5 saying they are using most of the money for
6 operating expenses?

7 MR. HILE: The money comes into their casino
8 fund. It is appropriated in the normal fashions
9 for operations, but, yes, most any dollars that the
10 City receives goes to pay normal operating
11 expenses, which include infrastructure and other
12 kinds of capital projects that they undertake.

13 VICE CHAIRMAN FINE: Other questions of
14 Mr. Hile? Thank you.

15 We have ten minutes reserved for Peter
16 Rusthoven.

17 MR. RUSTHOVEN: Thank you, Mr. Chairman,
18 Mr. Acting Chairman, Commissioners, Executive
19 Staff. I trust this is not going to be a Lou
20 Gehrig Wallick type situation. I hope you feel
21 better.

22 Mr. Hile is a zealous advocate, and I can say
23 with all sincerity that I have come over the course
24 of our discussions to regard him as a friend, and I
25 have great respect for him.

1 I think a few things got lost on the accuracy
2 front in the midst of his zealous advocacy. Let me
3 go through some of those, and then I can explain
4 where we are in negotiations and what's going on.

5 When this controversy began in early 2008 it
6 wasn't, the payments were not ceased as a setoff.
7 Payments were ceased because Mr. Barden and
8 Majestic believed that the City had breached its
9 agreements, and therefore was not entitled to
10 payments under these contracts because it had not
11 done what it said it would do.

12 They are a complicated set of contracts. All
13 I can tell you is in 2005, I believe it is, when
14 Majestic acquired the Trump boat, all of those
15 agreements, the parties signed what's called a 2005
16 amendment that in our view, and it's quite a
17 straightforward kind of view, brought all these
18 agreements together; that all of them were part of
19 economic development, casino operations in the
20 City. That's our view.

21 The City disagrees. I will point out that as
22 the Commission, as has been litigated, specifically
23 the City sought a preliminary injunction that would
24 require the payments to continue, and they lost.
25 That was taken to the Court of Appeals of Indiana,

1 and the Court of Appeals affirmed that the
2 preliminary injunction should not be granted. The
3 City attempted to take that to the Indiana Supreme
4 Court, which declined to review it.

5 Again, a lot of law here, but there's a number
6 of factors as to whether you bring an injunction.
7 One is suffering irreparable harm, and one is if
8 you show a likelihood of success on the merits.
9 All I will say here is that the injunction was
10 denied. So we have not been using the withheld
11 money, as the Commission has been kept informed
12 throughout. That money that was not paid over this
13 period of time is held in a segregated interest-
14 bearing account. It continues to be so held.

15 We, of course, understand the Commission's
16 jurisdiction over this matter and have tried to
17 continue to abide by it. I will say specifically,
18 because Commissioner Morgan asked the question, I
19 believe the amount that the City has received over
20 the course of gaming -- one, I think it was 108 --
21 it's somewhere in the multiple hundreds of millions
22 range. I think 300 million might be the figure I'm
23 remembering. If it's other than that, I apologize.

24 On the GNC agreement, this is what I'm going
25 to get into on the problems we're facing in the

1 negotiations right now. It's our view, and we
2 don't think there's much doubt about this, GNC did
3 invest \$70 million as part of the attempted
4 redevelopment there. What is going on in the
5 negotiations now, we came to you in March with a
6 settlement term sheet, and we were really pleased
7 and believed that this had been put to bed.

8 Here's the problem we ran into, and I have to
9 give you a little background. The property that
10 most needs remediation is something called the
11 Lehigh property. It used to be the Lehigh Cement
12 Factory. Back when this property was being
13 acquired by, I would just say Majestic, in that
14 deal there was like a \$40 million value on that
15 property. That's what the company thought it was
16 getting. In that agreement, the City agreed that
17 it would do environmental remediation on that
18 property, which has not occurred.

19 Now we come to negotiations that we've been
20 going through with the City which led to the
21 settlement term sheet that we brought to you. We
22 thought we had this resolved. It went into detail,
23 including how basically this 14 million, a huge
24 chunk of it would be used to construct roadway
25 improvements for casino access that the City in our

1 view was committed to and had not done. To the
2 extent that those funds were not needed for the
3 roadway, eventually the City would get that money.

4 Some of the money, which is in yet another
5 account -- all of these things are so complicated.
6 There is yet another account which is going to be
7 devoted in part under any discussions the parties
8 have had to some of the environmental remediation.
9 But there was, as often with deals, there were
10 conditions before we would close, things that had
11 to be true or else this deal was really a kind of
12 different deal. And one of the conditions was
13 this: That the environmental remediation costs
14 would not exceed \$3 million.

15 We commissioned a study from a reputable group
16 to go do all the core boring and testing that they
17 do in these situations. And when the report came
18 back, the environmental remediation, depending on
19 the standard of remediation, if you were going to
20 do it, for example, for what's called commercial
21 industrial standard, those remediation costs would
22 be up to \$14 million or more. If you were going to
23 do it through what's called residential standard,
24 those remedial costs would be \$35 million.

25 This is a major economic change, particularly

1 for a company that believed that when it acquired
2 the company it had a \$40 million worth and the City
3 was going to do the environmental remediation.

4 This is a difficult problem. It's a difficult nut
5 to crack because of economic conditions.

6 The City of Gary is a distressed fiscal
7 financial municipal unit. It's got problems. One
8 of the reasons that I think pushed this along is
9 that we agreed as part of the term sheet that we're
10 going to keep making those payments. So we resumed
11 paying that \$500,000 a month is what it roughly
12 averages out to. We've continued to do that.
13 We've continued to do that even when this problem
14 arose because of what the environmental remediation
15 reports came out.

16 But the City is distressed and it's difficult.
17 Majestic is coming out of bankruptcy. Everybody
18 knows what the problems have been economically. So
19 we are trying to figure out a way to get this done,
20 to bridge this gap in such a way that the company
21 is, you know, the property can be environmentally
22 remediated, if there is going to be development on
23 it, which the City wants and which we want.

24 I'm not supposed to get into it, and I won't
25 violate the rule that you don't get into settlement

1 discussions and what their substance are. I don't
2 think Mr. Hile would have a problem if I say this:
3 The amounts that we're talking about are not \$35
4 million. We recognize the situation. We're not
5 talking about \$40 million, and nobody is saying
6 anything like that.

7 We have been exchanging proposals even this
8 week. Both sides have submitted proposals and
9 responses, and I think I can say that there has
10 been movement on both sides.

11 One thing you did not hear was any suggestion
12 that nobody is not negotiating in good faith. We
13 are going to continue to do that. I want to get
14 this done.

15 If I can make it personal, we finally got the
16 East Chicago thing done. This one I don't think is
17 more challenging than that; although it's got its
18 challenges. And I do know that everybody at the
19 company, every conversation I've had with
20 representatives, with the people who emerge as its
21 new owners, wants to get this done. So we're going
22 to keep doing it.

23 Let me talk a little bit about the bankruptcy
24 plan situation. The bankruptcy plan contemplates,
25 the confirmation plan, order for getting

1 confirmation, contemplates that the parties are
2 going to keep going on this issue, keep trying to
3 negotiate this issue. And it will either go away
4 or it won't. But if we down the road come to some
5 kind of impasse, you can bet the first people we
6 are going to be talking to are here in terms of how
7 we proceed and what makes sense. So there should
8 be no concern about that. People understand who
9 holds the golden ticket, if you will. The
10 Commission gives the license. That's important.

11 So, obviously, if we reach an impasse, and
12 it's my devout hope we will not, we will come here.

13 Finally, with respect to some of the parade of
14 horrors that Mr. Hile was leading the march on --
15 that's something lawyers do sometimes.

16 VICE CHAIRMAN FINE: Another 30 seconds.

17 MR. RUSTHOVEN: Thank you. Obviously, we have
18 not used the money for any type of diversionary
19 purposes and will not do so. We need to keep
20 moving forward on this. I can tell you that we are
21 absolutely committed to resolve this environmental
22 problem, and we're making a lot of progress on it.
23 But I think it would be pretty disruptive if we got
24 into interfering with licensure or transfer of
25 ownership when everybody knows this has got to go

1 forward. Both the State, City, everyone stands to
2 benefit from continued operations.

3 If anyone has any questions, I'd be happy to
4 answer.

5 COMMISSIONER SHY: Can I sum it into two
6 things. You'll continue to pay under the interim
7 agreement.

8 MR. RUSTHOVEN: We are, yes. It's a provision
9 of the interim agreement.

10 COMMISSIONER SHY: And continue to negotiate
11 in good faith.

12 MR. RUSTHOVEN: Yes.

13 COMMISSIONER SHY: I have no further
14 questions.

15 VICE CHAIRMAN FINE: Further questions of
16 Mr. Rusthoven?

17 MR. RUSTHOVEN: Thanks very much.

18 VICE CHAIRMAN FINE: Mr. Halloran, if I can
19 ask one other question. I appreciate Commissioner
20 Shy is interested to know what the long term or
21 maybe near term plan would be for the boats. What
22 about the management on the boat? What's the plan
23 there? If this is approved, how will you handle
24 the current management on a going forward basis?

25 MR. HALLORAN: I think the new board will be

1 evaluating current management, and we've got a firm
2 hired to search out for executives throughout the
3 country to see if they fit the needs that the
4 company has. So it's all part of the next phase of
5 our process here. I can't tell you anything about
6 the person that's running the boat.

7 VICE CHAIRMAN FINE: So when you run into
8 these situations, that's a standard part of what
9 you go through with everybody.

10 MR. HALLORAN: Yes, exactly. It's very
11 methodical. I would say a lot of times the
12 situation we get into is a combination of way too
13 much debt and poor management. It's a bad
14 combination, so we try to change that.

15 VICE CHAIRMAN FINE: Questions of
16 Mr. Halloran? Thank you.

17 MR. HALLORAN: Sure.

18 VICE CHAIRMAN FINE: Mr. Packer, as much as
19 there is an order in front of us, perhaps it's a
20 slightly unusual one, and maybe you would just sort
21 of refresh us as to what we're looking at.

22 MR. PACKER: Sure. If the Commission is
23 inclined to approve Order 256, there are a series
24 of usual conditions that we've grown accustomed to
25 placing on license transfers that are part of the

1 reorganization plan from bankruptcy: That the
2 financing must close; that the Commission must
3 receive all the financing documents; that all the
4 key players must remain in full compliance with the
5 gaming laws, et cetera. But it sounds like, based
6 on the discussion that we've had with Mr. Brown,
7 Mr. Halloran, Mr. Hile, Mr. Rusthoven, that the
8 Commission is inclined to place at least one, maybe
9 two additional conditions on the order if it is, if
10 the Commission decides to pass the order, to
11 approve the order. And it sounds like one would be
12 that Wayzata, Majestic Star, any other relevant
13 affiliates would not contest the payment of a
14 \$2 million fee under Indiana Code 4-33-4-21(d). So
15 that would be one that it sounds like the
16 Commission is interested in imposing.

17 The other one, I think probably Commissioner
18 Shy has, at least from my vantage point, summarized
19 it best when she said continue to pay under the
20 LDA, your interim agreement, or however the
21 Commission wants to phrase it, and continue to
22 negotiate in good faith on the environmental
23 remediation and the other issues regarding this
24 outstanding money.

25 If the Commission is inclined to approve the

1 Order 256 and wants to add those conditions to the
2 order, Commission staff would be happy to prepare
3 an order accordingly for the chairman and the
4 secretary to sign. If that is your will, and you
5 express that in your motion, then staff can
6 definitely handle that. If that's what you were
7 looking for, Mr. Vice Chair.

8 VICE CHAIRMAN FINE: Yes. Thank you.

9 COMMISSIONER MORGAN: Yes.

10 VICE CHAIRMAN FINE: Further questions?

11 COMMISSIONER MORGAN: I think Adam summarized
12 where I think we're at here to include those.

13 VICE CHAIRMAN FINE: We'll entertain a motion.

14 COMMISSIONER SHY: I move to approve with the
15 three conditions Adam just reviewed.

16 COMMISSIONER MURPHY: I second.

17 VICE CHAIRMAN FINE: It's moved and seconded
18 to approve order 2011-256 with the conditions that
19 Mr. Packer has artfully stated. All in favor,
20 indicate with aye.

21 EXECUTIVE DIRECTOR YELTON: Just for
22 clarification, I'm not sure I understand what you
23 mean. There are traditional conditions that are
24 always in every transfer order -- approval by
25 bankruptcy, blah, blah, blah. I presume you still

1 want those in there as well.

2 VICE CHAIRMAN FINE: Absolutely.

3 MR. PACKER: I think there would be a total of
4 five conditions, if I'm hearing correctly:
5 Financing close; we get all the appropriate
6 financing documents; all entities and relevant
7 persons remain in compliance with the gaming laws,
8 regulations, other policies, et cetera. Those are
9 sort of the standard conditions.

10 And then the two that have come out of this
11 discussion in the past half hour, one, not seeking
12 repayment or contesting the payment of the fee and,
13 two, continue to pay and to continue to negotiate
14 in good faith on the outstanding issues. So that
15 would be a total of five.

16 VICE CHAIRMAN FINE: You lumped good faith
17 negotiations and continue to pay together.

18 MR. PACKER: Right. That would be one, and
19 not contesting the payment would be two, and the
20 old fashioned conditions would be the other three
21 for a total of five. If the Commission is okay
22 with that, that would be the way I would prefer to
23 structure it.

24 VICE CHAIRMAN FINE: Is that what was
25 intended?

1 COMMISSIONER SHY: Yes.

2 COMMISSIONER MURPHY: And all but the last
3 two, as you've described, are already in the plan.

4 MR. PACKER: All right.

5 VICE CHAIRMAN FINE: Well, the very last one,
6 he took two and made it one.

7 MR. PACKER: If the Commission wants to make
8 it two, we can make it two.

9 VICE CHAIRMAN FINE: Good faith negotiation
10 and continue to pay will be one.

11 MR. PACKER: Your scriveners will act
12 accordingly.

13 VICE CHAIRMAN FINE: Again, we'll call for a
14 vote. All in favor, indicate by saying aye.

15 (Chorus of ayes.)

16 VICE CHAIRMAN FINE: Opposed? Order 2011-256
17 is approved with the appropriate additions.

18 The next order of business, we'll ask Sarah
19 Tait to address.

20 MS. TAIT: Thank you. Members of the
21 Commission before you are two orders, 2011-257 and
22 2011-258, regarding the annual casino license
23 renewals for Belterra and Horseshoe Southern
24 Indiana casinos.

25 Belterra's renewal date was October 22, 2011.

1 Under Resolution 2030-13, the Executive Director
2 has issued an interim renewal of Belterra's license
3 in order to bridge the time gap between Belterra's
4 renewal date and this meeting.

5 Horseshoe Southern Indiana's license is set to
6 expire on November 15, 2011. Both casinos have
7 filed the required paperwork and fees.

8 At the March, 2010, business meeting, by order
9 2010-55, the Commission approved the power of
10 attorneys for each casino. That approval expires
11 upon the renewal of each license. For that reason,
12 all casinos must either request renewal of the
13 power of attorneys concurrently with the request
14 for renewal or present the Commission with a new
15 power of attorney, naming a new trustee-in-waiting.

16 Belterra has requested the renewal of Mr. Ron
17 Gifford, and Horseshoe Southern Indiana has
18 requested the renewal of Mr. Charles Atwood as
19 their respective power of attorneys.

20 The Commission staff recommends you approve
21 Orders 2011-257 and 2011-258, renewing Belterra's
22 and Horseshoe Southern Indiana's casino licenses.

23 VICE CHAIRMAN FINE: Questions for Ms. Tait?

24 We'll take those together, if you will. We'll
25 entertain a motion.

1 COMMISSIONER MORGAN: Motion to approve.

2 COMMISSIONER SHY: I'll second.

3 VICE CHAIRMAN FINE: Motion and second to
4 approve Orders 2011-257 and 2011-258. All in
5 favor, indicate with aye.

6 (Chorus of ayes.)

7 VICE CHAIRMAN FINE: Opposed? Thank you.

8 Next up is Lea Ellingwood on boxing/mixed
9 martial arts and disciplinary actions.

10 MS. ELLINGWOOD: Thank you. In October of
11 2010 Cut Throat MMA, LLC was granted a promoter's
12 license, which expired on September 30, 2011.
13 Under that license Cut Throat MMA conducted a
14 number of professional mixed martial arts events,
15 including one on May 22 in Hammond, Indiana.

16 On September 14, Cut Throat submitted a
17 renewal promoter's application. During the course
18 of its licensure Cut Throat violated Commission's
19 Administrative rules and Indiana statutes on at
20 least two occasions, the last of those which
21 resulted in a settlement agreement that the
22 Commission approved at its June, 2011, meeting.

23 Later, as a result of an investigation
24 conducted by Commission staff regarding an incident
25 related to the May 22nd event, or 21st event

1 rather, Commission staff came to believe that Cut
2 Throat was an active participant in falsification
3 of medical documents; specifically, fighters' blood
4 tests. For these reasons Commission staff believes
5 Cut Throat is unsuitable to have its promoter's
6 license renewed.

7 Commission staff respectfully asks that the
8 Commission adopt Order 2011-259, which denies Cut
9 Throat MMA's promoter's license.

10 VICE CHAIRMAN FINE: Questions for
11 Ms. Ellingwood?

12 COMMISSIONER MURPHY: Ms. Ellingwood, what was
13 Cut Throat's position on this? Did they deny?

14 MS. ELLINGWOOD: Yes, they did. Part of the
15 investigation that Commission staff did was
16 interviews with some of the fighters whose blood
17 tests had actually been falsified. And the
18 documents that we got we thought were pretty
19 conclusive proof, with the information that we had
20 been given by that fighter, that they had in fact
21 been a participant, active participant in the
22 falsification.

23 VICE CHAIRMAN FINE: No further questions?
24 I'll entertain a motion.

25 COMMISSIONER SHY: Move to approve.

1 COMMISSIONER MORGAN: Second.

2 VICE CHAIRMAN FINE: It's been moved and
3 seconded to approve Order 2011-259. All in favor,
4 indicate by saying aye.

5 (Chorus of ayes.)

6 VICE CHAIRMAN FINE: All opposed? Thank you.
7 Order 2011-259 is approved.

8 MS. ELLINGWOOD: The Commission will notice on
9 the public agenda there is a matter for World Class
10 Production. World Class Production just within the
11 last two days has withdrawn its promoter's license
12 application. Accordingly, there is no longer any
13 issue for the Commission to consider, so Commission
14 staff has withdrawn that order for consideration.

15 The next order before you is regarding Knock
16 Out Sports Promotions, which is another promoter
17 licensed by the Commission, who conducts
18 professional boxing events. Knock Out Sports
19 conducted an event in Gary, Indiana, and as
20 required by Indiana statute and our administrative
21 rules obtained a \$10,000 surety bond, which is
22 conditioned upon "the payment of tax imposed, the
23 officials and contestants, and the compliance with
24 this chapter and the valid rules of the
25 Commission."

1 Although Knock Out Sports did timely give to
2 Commission staff all of the records that we needed
3 to determine what tax is due, they failed to make
4 all the required payments timely. Specifically,
5 they haven't paid all of the ticket tax, and they
6 haven't paid all of the fighters involved to the
7 tune of about \$4,500.

8 Pursuant to Resolution 2010-127 the Commission
9 must approve the recovery of required payments
10 through the exercise of that surety bond.

11 Commission staff has had some success working with
12 Knock Out to get some of those payments made. But
13 as I explained, we're still short.

14 Yesterday, Knock Out Sports did advise us that
15 they would be able to have all the payments made in
16 full within two weeks. As a result, Commission
17 staff asks that you approve order 2011-261, which
18 will allow staff to make a claim against the surety
19 bond in the event that all payments haven't been
20 made by November 28.

21 COMMISSIONER SHY: So nothing will happen
22 until the two weeks?

23 MS. ELLINGWOOD: Right. The idea is Knock Out
24 Sports will continue to work with us to get all the
25 tax paid and fighters paid. And if they don't by

1 the end of the month, then we'll issue a claim.

2 COMMISSIONER MURPHY: Have we had to resort to
3 that?

4 MS. ELLINGWOOD: We have only on one other
5 occasion.

6 COMMISSIONER MURPHY: Was it successful?

7 MS. ELLINGWOOD: It was successful. On that
8 occasion, though, we had received some of the tax
9 due and some of the fighters had been paid. So we
10 filed a claim for the remainder that was left, and
11 the Attorney General's office also helped us
12 collect some of the tax that was due that was not
13 covered by the bond.

14 EXECUTIVE DIRECTOR YELTON: But, also, I
15 believe this bond will cover all the balance in
16 case it does not; correct?

17 MS. ELLINGWOOD: Exactly. The lowest amount
18 of bond that we have set for a fight is \$10,000.
19 That's pretty much the standard. And the bond
20 amount is determined by the information we get
21 during the permit application, which tells us how
22 many tickets they are going to sell, the size of
23 the venue, that kind of thing. \$10,000 was the
24 appropriate amount of bond for this event, and they
25 are only short \$4,500, so we shouldn't have any

1 problem getting paid.

2 VICE CHAIRMAN FINE: I'll entertain a motion.

3 COMMISSIONER SHY: Move to approve.

4 COMMISSIONER MORGAN: Second.

5 VICE CHAIRMAN FINE: There is a motion and a
6 second to approve Order 2011-261. All in favor,
7 indicate by saying aye.

8 (Chorus of ayes.)

9 VICE CHAIRMAN FINE: Opposed? Order 2011-261
10 is approved.

11 Next is our Rules and Jobie Jerrells.

12 MR. JERRELLS: Thank you, Mr. Vice Chair.
13 Before you today is Resolution 2011-262. This is a
14 resolution adopting an emergency rule regarding the
15 conduct of charity gaming.

16 You may recall Senate Enrolled Act 340 became
17 effective July 1st of 2011. In anticipation of
18 that legislation, the Commission approved on
19 June 2, 2011, Resolution 2011-133.

20 In the interim period since the effective date
21 of both the legislation and the emergency rule, the
22 charity gaming division has worked with its
23 qualified organizations, as well as participated in
24 three legislative study committee meetings, and as
25 a result of that process has changed its emergency

1 rules.

2 The staff respectfully requests the Commission
3 to adopt Resolution 2011-133 as an emergency rule.

4 And should the Commission pass the resolution,
5 staff will continue to conduct the formal
6 rule-making procedure. Thank you.

7 VICE CHAIRMAN FINE: Questions for
8 Mr. Jerrells? I'll entertain a motion for
9 Resolution 2011-262.

10 COMMISSIONER MURPHY: I so move.

11 COMMISSIONER MORGAN: Second the motion.

12 VICE CHAIRMAN FINE: Order 2011-262 has been
13 moved and seconded. All in favor, indicate by
14 saying aye.

15 (Chorus of ayes.)

16 VICE CHAIRMAN FINE: Opposed? Resolution
17 2011-261 is passed.

18 MR. JERRELLS: Thank you.

19 VICE CHAIRMAN FINE: Next, Lea Ellingwood will
20 again address us.

21 MS. ELLINGWOOD: Resolution 2011-263 is really
22 a housekeeping matter. It's a resolution regarding
23 the renewal of those administrative rules which are
24 scheduled to expire January, 2012. All
25 administrative rules adopted by agencies are

1 automatically good for seven years. Unless they
2 are readopted, they will expire.

3 The two rules that are scheduled to expire
4 January, 2012, are 68 IAC 15-3-3 and 68 IAC 15-5-2.

5 The first is an administrative rule regarding
6 cash reserve requirements. Essentially, it deals
7 with things like requirements, the requirement that
8 a casino have enough cash or equivalent to protect
9 patrons against default in gaming debts and to
10 ensure payments of winning wagers.

11 15-5-2 is an administrative rule regarding the
12 calculation of taxes, which talks about RG-1,
13 submission of wagering tax.

14 The Commission staff respectfully requests you
15 adopt Resolution 2011-263, readopting those rules.

16 VICE CHAIRMAN FINE: Questions for
17 Ms. Ellingwood?

18 COMMISSIONER SHY: I'll move to approve.

19 COMMISSIONER MORGAN: I second the motion.

20 VICE CHAIRMAN FINE: It's been moved and
21 seconded to approve 2011-263. All in favor, say
22 aye.

23 (Chorus of ayes.)

24 VICE CHAIRMAN FINE: Opposed? Thank you,
25 Resolution 2011-263 is passed.

1 Next, Jeff Neuenschwander.

2 MR. NEUENSCHWANDER: Thank you, Mr. Vice
3 Chair.

4 Resolution 2011-264 concerns an emergency rule
5 regarding local development agreements. As you all
6 know, at the summer session the Indiana General
7 Assembly passed Senate Bill 325, which is the bill
8 related to local development agreements, and that
9 bill is now codified in Indiana Code 4-33-23.

10 You'll recall that you passed Resolution
11 2011-138 at the June Commission meeting. This
12 resolution adopted an emergency rule that filled in
13 some details that were not covered in the statute,
14 including details on reports required by the
15 Indiana Code 4-33-23, details for the modification
16 of LDAs to recognize Commission authority over LDAs
17 required by the new statute, appropriate methods of
18 payment of LDA funds, and other details. That rule
19 is set to expire on November 29.

20 Commission staff is working on a permanent
21 rule that will take the place of these emergency
22 rules, but the permanent rule process is still
23 ongoing. In the meantime, Commission staff has
24 made changes to update the emergency rule,
25 including changes in Section 2 to utilize clear

1 language has been drafted as part of the permanent
2 rule process, and changes to Sections 4 and 5 to
3 correct citations.

4 Commission staff believes that the emergency
5 rule is important to address the important issues
6 contained while the permanent rule is still being
7 promulgated.

8 Commission staff respectfully recommends that
9 you adopt that new emergency rule.

10 VICE CHAIRMAN FINE: Questions for
11 Mr. Neuenschwander? If not, we'll entertain a
12 motion.

13 COMMISSIONER MORGAN: Motion to approve.

14 COMMISSIONER SHY: Second.

15 VICE CHAIRMAN FINE: Moved and seconded to
16 approve Resolution 2011-264. All in favor,
17 indicate by saying aye.

18 (Chorus of ayes.)

19 VICE CHAIRMAN FINE: All against, indicate by
20 saying aye. Resolution 2011-264 is approved.
21 Thank you.

22 Mr. Packer, I believe you are up again.

23 MR. PACKER: Thank you, Mr. Vice Chair.

24 The final resolution for your consideration
25 today is Resolution 2011-265, which would adopt a

1 final rule regarding participation in promotions by
2 immediate family members of Level 1 and certain
3 Level 2 licensees.

4 As you will remember back at the March
5 meeting, you passed Resolution 76, which authorized
6 an emergency rule concerning immediate family
7 members of Level 1 and 2 licensees participating in
8 casino promotional events. During the effective
9 time of that emergency rule, staff had extensive
10 discussions with casino licensee executives, with
11 the Casino Association of Indiana, and internally
12 regarding the casinos' contention that the
13 emergency rule that we passed in March was overly
14 burdensome to achieve the policy goal of enhancing
15 the credibility of promotional activities. And
16 after this back and forth we came to some agreement
17 on some points that could be amended that would
18 reduce the burden on the casinos while still
19 preserving the credibility of promotional
20 activities and thereby the credibility of gaming in
21 Indiana.

22 After this discussion and analysis, we
23 prepared another emergency rule, which you passed
24 at the September meeting in Resolution 201, which
25 adopted the new emergency rule that took into

1 consideration some of these changes, such as
2 increasing the dollar amount that was prohibited
3 instead of putting the burden on the casinos to
4 catch these people before they entered the
5 promotion, to catch them after they had won, so
6 that the casinos didn't have to spend as much time
7 weeding through the entrants. If they got a roster
8 of people who had won a drawing or a promotion,
9 they could weed through that smaller number of
10 people to determine if any one of these people
11 violated the rule, and a few other changes to make
12 it less overly burdensome.

13 During the time that the September emergency
14 rule has been in effect the staff has taken a
15 proposed rule-making through the formal
16 promulgation process. This proposed rule that has
17 gone through this process mirrors the emergency
18 rule that you passed in September with all of the
19 changes. And the rule has gone to a public
20 hearing. It has gone through the full process.

21 The State Budget Agency recommends approval.
22 The Indiana Economic Development Commission does
23 not object to the economic impact of the rule.
24 Commission staff did not receive any public
25 comments regarding the rule at the October 17

1 public hearing.

2 And at this time the staff recommends adopting
3 Resolution 265, which would adopt this proposed
4 rule as a final rule and allow us to publish the
5 final rule regarding promotional activities.

6 VICE CHAIRMAN FINE: Thank you. Questions for
7 Mr. Packer? If not, we'll entertain a motion with
8 respect to the approval of Resolution 2011-265.

9 COMMISSIONER MURPHY: I move for approval.

10 COMMISSIONER SHY: I'll second.

11 VICE CHAIRMAN FINE: The motion is moved and
12 seconded to approve Resolution 2011-265. All in
13 favor, say aye.

14 (Chorus of ayes.)

15 VICE CHAIRMAN FINE: Opposed? Resolution
16 2011-265 is approved.

17 That concludes our formal portion of the
18 meeting. I should announce that our next meeting
19 is scheduled for March 15, and with that I'll
20 entertain a motion to adjourn.

21 COMMISSIONER MORGAN: I so move.

22 COMMISSIONER MURPHY: Second the motion.

23 VICE CHAIRMAN FINE: We are adjourned. Thank
24 you.

25 (Adjourned at 3:04 p.m.)