

INDIANA GAMING COMMISSION

SECOND QUARTER 2011

BUSINESS MEETING

JUNE 2, 2011

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The Indiana Gaming Commission Second Quarter 2011 Business Meeting, taken by Paula A. Morgan, Notary Public in and for the County of Hamilton, State of Indiana, held at the Government Center South Auditorium, 402 West Washington Street, Indianapolis, Indiana, commencing at 12:30 p.m. on June 2, 2011.

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APPEARANCES

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On behalf of the Gaming Commission:

Tim Murphy, Chairman

Tom Swihart, Commissioner

Mary Shy, Commissioner

Marc Fine, Commissioner

Robert Morgan, Commissioner

V. Sue Shields, Commissioner

Ernest Yelton, Executive Director

Jennifer Reske, Deputy Director

Adam Packer, General Counsel

Tami Timberman-Wright, Administrative Assistant

1 JUNE 2, 2011

2 CHAIRMAN MURPHY: Good afternoon. Welcome to the  
3 Second Quarter 2011 meeting of the Indiana Gaming  
4 Commission. The meeting is now called to order, and  
5 the first thing I would like to do is call roll of  
6 the Commissioners.

7 Commissioner Swihart.

8 COMMISSIONER SWIHART: Present.

9 CHAIRMAN MURPHY: Commissioner Fine.

10 COMMISSIONER FINE: Present.

11 CHAIRMAN MURPHY: Commissioner Shy.

12 COMMISSIONER SHY: Present.

13 CHAIRMAN MURPHY: Commissioner Morgan.

14 COMMISSIONER MORGAN: Present.

15 CHAIRMAN MURPHY: Commissioner Shields.

16 COMMISSIONER SHIELDS: Present.

17 CHAIRMAN MURPHY: All Commissioners are present,  
18 and we do have a quorum.

19 First item on the agenda is the approval of the  
20 minutes of the last meeting. Commissioners, you've  
21 been supplied with those minutes. Do you have any  
22 questions?

23 COMMISSIONER SHIELDS: Move their approval.

24 COMMISSIONER MORGAN: Second.

25 CHAIRMAN MURPHY: It's been moved and seconded.

1 All those in favor of approving last meeting's  
2 minutes, say aye.

3 (All said aye.)

4 CHAIRMAN MURPHY: Opposed? The minutes are  
5 approved unanimously.

6 The next item on the agenda is the report of the  
7 Executive Director, Executive Director Yelton.

8 EXECUTIVE DIRECTOR YELTON: Thank you,  
9 Mr. Chairman, Ladies and Gentlemen of the Commission.  
10 It's with great sorrow that we acknowledge the loss  
11 of two legends in the Indiana world of gaming. Bill  
12 Cook passed away on April the 15th. His vision and  
13 commitment to historic preservation was unequal here.  
14 His efforts of restoration of the French Lick and  
15 West Baden Hotels, coupled with the casino itself,  
16 will stand as monumental national landmarks for  
17 generations to come.

18 Two weeks ago Don Barden died. Don was the first  
19 African-American to become an owner of a casino in  
20 the United States. In 1996 he opened Majestic Star  
21 in Gary, followed by acquiring Majestic Star II from  
22 Donald Trump in 2005. He was a true gentleman,  
23 always possessing genuine optimism in his every  
24 endeavor.

25 Both of them will be greatly appreciated and

1 missed in Indiana. Would you please join me in  
2 standing in a moment of silence in their remembrance,  
3 please. Thank you.

4 For our quarterly staff report, our Background  
5 and Financial Investigations Division welcomes three  
6 new members since our last meeting. David  
7 Highfill -- David? Oh, there you are -- started with  
8 the Commission on April the 4th. He was the Chief  
9 Financial Officer of the Student Assistance  
10 Commission for more than twelve years and has  
11 extensive experience on working in audits for the  
12 Department of Workforce Development and the National  
13 Guard. He has a Bachelor of Science in Business  
14 Administration from the University of Indianapolis  
15 and a Master's Certificate in Business Administration  
16 from Tulane University.

17 Jeffrey Kirk comes to us from Kokomo, Indiana.  
18 He retired from the Kokomo Police Department after 28  
19 years of service. Jeff specialized in white-collar  
20 crime investigations and was a member of the Kokomo  
21 Police Bomb Squad for over twenty years. Jeff is  
22 married and has three grown children.

23 Mike Roberts was recently hired as a background  
24 investigator. Before joining the Gaming Commission,  
25 Mike served as our budget analyst for the State

1 Budget Agency and was the Borst Fellow for the  
2 Indiana Senate. He has a Master's in Public Affairs  
3 with a concentration in criminal justice from IUPUI.

4 Once again, we have summer interns working with  
5 us on the 16th floor of the PNC building. Alex  
6 Gillham is a junior at Wabash College, studying the  
7 classics and philosophy, which makes him a perfect  
8 fit for the Gaming Commission.

9 Rob Hunt is a second-year student at the Indiana  
10 University School of Law here in Indianapolis. He  
11 hails from Terre Haute, Indiana as an ISU graduate.  
12 Welcome.

13 The Background and Financial Investigations  
14 Division has completed its reinvestigation of our  
15 supplier licensee Patriot Gaming. The report has  
16 been provided to the members of the Commission.  
17 Directors Garth Brown and Danielle Leek are present  
18 here this afternoon if you have any questions about  
19 that particular reinvestigation. Seeing none.

20 Since the March Commission, the IGC staff has  
21 added 22 individuals to its Exclusion List, which  
22 effectively and permanently bars those patrons from  
23 entering any casino in the state of Indiana.

24 Of those 22, eight were placed on the list for  
25 exclusion for either past-posting or pinching their

1 bets while at an Indiana casino. Twelve were placed  
2 on the list due to either taking illegal possession  
3 of a TITO, casino chips, U.S. currency in excess of  
4 approximately \$500 or making fraudulent cash  
5 withdrawals while at an Indiana casino.

6 The remaining two individuals were placed on the  
7 list for the following:

8 Stephen Blandford was observed removing cards  
9 from the table after playing Mississippi Stud Poker  
10 at the Horseshoe Southern Indiana Casino. Blandford  
11 was charged with theft in the Harrison County  
12 Superior Court.

13 Stephen Walker, while employed as a dealer at  
14 Horseshoe Hammond Casino, was observed flashing cards  
15 to patrons while dealing Blackjack, in exchange for  
16 increased tips. Walker was terminated from Horseshoe  
17 Hammond.

18 And now for the year 2011, the IGC has placed 35  
19 patrons on the Exclusion List, bringing the total to  
20 245 individuals who are barred from Indiana casinos  
21 and racinos.

22 The four legislative bills involving the Gaming  
23 Commission not only passed this year but were  
24 directly sent to Governor Daniels for signature  
25 without the intervention of a conference committee.

1           The most significant initiative for the  
2 Commission was Senate Enrolled Act 325, which  
3 codified our emergency rules on local development  
4 agreements. Later this afternoon you'll be asked to  
5 consider new rules in support of those statutes, as  
6 well as approval of the new proposal from Ameristar.  
7 The bill contained an emergency clause which allowed  
8 it to become effective upon the governor's signature.

9           Senate Bill 36 modified restrictions of racino  
10 ownership. Effective this July 1, the same person or  
11 entity is eligible to own both Hoosier Park and  
12 Indiana Downs as a permit holder and as a casino  
13 licensee.

14           Senate Bill 47 was proposed by the Indiana Casino  
15 Association and was based upon the findings of the  
16 2009 Interim Study Commission on Gaming. The  
17 Commission is now empowered to grant requests from  
18 riverboats to become permanently moored vessels  
19 without marine crews or navigational systems.

20           The Commission may also sanction special  
21 land-based card tournaments on the riverboat's  
22 footprint and in compliance with any imposed  
23 requirements for conducting the tournament.

24           Finally, there are some alcohol and  
25 tobacco-related statutes that were relaxed for the

1 casinos, but they do not directly impact the Indiana  
2 Gaming Commission.

3 SEA 340 is what has become the annual charity  
4 gaming bill. It creates voluntary ticket agents that  
5 permit non-members the ability to sell raffle tickets  
6 in a prescribed manner under the oversight of and  
7 reporting to the Gaming Commission.

8 Credit cards may now be lawfully used to purchase  
9 other items at an event. They are still forbidden to  
10 be used for the gaming event itself.

11 Festivities may now extend five days, rather than  
12 four, which was the previous limit, and proceeds from  
13 related events are now exempt from the calculation  
14 for re-licensing fees.

15 Finally, a summer study committee on charity  
16 gaming, under the direction of Representative Bill  
17 Davis, will consider a comprehensive list of charity  
18 gaming issues. And, as the interim study in 2009,  
19 I've been placed on that committee as a non-voting  
20 member.

21 Finally, our Waiver Summary since our last  
22 meeting. Blue Chip's request was approved to place  
23 dedicated coverage on progressive displays showing  
24 incrementation when the display reads a minimum of  
25 \$40,000. We've done this for several other casinos

1 in the past. The Revenue Audit Department will be  
2 responsible for daily verification of the incremented  
3 amounts.

4 Hollywood was granted a waiver allowing certain  
5 U.S. coins to be used at table games.

6 Horseshoe received permission to allow a security  
7 officer to participate in the bill validator drop as  
8 a runner only. Once designated as a runner, the  
9 security officer will continue that role until the  
10 end of the drop process. Security officers will also  
11 be allowed to place the empty bill validator boxes on  
12 the casino floor. While doing either function, the  
13 security officer will be allowed to remain in their  
14 security uniform. Security officers will participate  
15 in these positions only when needed.

16 Finally, Majestic Star was granted relief from  
17 the requirement that surveillance note the time and  
18 date on the photograph taken for an MTL, sign the  
19 photograph, and forward it to the appropriate casino  
20 employee; also granted relief from surveillance  
21 notifying the appropriate employee that an acceptable  
22 photograph has been taken.

23 The relief has been granted due to the casino  
24 installing photo printers in the cages and table-game  
25 pit areas on the casino floor.

1           And that, Mr. Chair and members of the  
2 Commission, will conclude the Executive Director's  
3 report, unless there are any questions.

4           CHAIRMAN MURPHY: Questions for Executive  
5 Director Yelton? Thank you, Executive Director  
6 Yelton.

7           We'll now move on to Old Business. There  
8 actually is one item of old business involving the  
9 Hollywood license renewal. It was tabled from last  
10 meeting. However, we will defer discussion of that  
11 particular matter until later on in the agenda today.

12           Given that, we'll move on to Patron matters; and  
13 Angie Bunton, Voluntary Exclusions.

14           MS. BUNTON: Good afternoon, Commissioners. You  
15 have before you 22 orders regarding the Voluntary  
16 Exclusion Program. Pursuant to the rules of the  
17 program, identities of voluntarily excluded  
18 individuals must remain confidential.

19           Pursuant to 68 IAC 6-3-2 (g), a participant of  
20 the program agrees that if he or she violates the  
21 terms of the program and enters the gaming area of a  
22 facility under the jurisdiction of the Commission,  
23 they will forfeit any jackpot or thing of value won  
24 as a result of a wager.

25           Under Orders 2011-83 through 2011-104, a total

1 sum of \$28,219.79 was forfeited by John Does 44  
2 through 65. These winnings were collected at  
3 Ameristar, Aztar, Belterra, Blue Chip, Grand  
4 Victoria, Hollywood, Horseshoe South, Indiana Live,  
5 and Majestic Star. These winnings were withheld as  
6 required by Commission regulations. Commission staff  
7 recommends that you approve the remittance of these  
8 winnings for John Does 44 through 65.

9 CHAIRMAN MURPHY: Commissioners have any  
10 questions? I have one question. I think just one.

11 MS. BUNTON: Okay.

12 CHAIRMAN MURPHY: For example, in the first  
13 order, Order 183, John Doe No. 44, it said, had won  
14 \$1,250 in chips. And then if we go back a couple,  
15 for example, to Order 2011-89, we talk about John Doe  
16 No. 50, who had obtained \$615 in chips.

17 MS. BUNTON: I believe that's an error on that  
18 first one. I think that was a jackpot.

19 CHAIRMAN MURPHY: The difference between -- are  
20 we actually -- or I didn't think we were actually  
21 taking non-winnings from --

22 MS. BUNTON: If they are found on property with  
23 chips in their possession, that is forfeited.

24 CHAIRMAN MURPHY: We take them?

25 MS. BUNTON: Uh-huh. Because if the intent is to

1 gamble, then if they want to appeal it after we  
2 approve it, they can.

3 CHAIRMAN MURPHY: Okay. Just wanted to clarify.  
4 Thank you.

5 MS. BUNTON: Okay.

6 CHAIRMAN MURPHY: Any other questions? If not,  
7 is there a motion to approve Orders 2011-83 through  
8 2011-104?

9 COMMISSIONER SHY: I move.

10 COMMISSIONER MORGAN: I second the motion.

11 CHAIRMAN MURPHY: It's been moved and seconded.  
12 All those in favor indicate by saying aye.

13 (All said aye.)

14 CHAIRMAN MURPHY: Opposed? Orders 2011-83  
15 through 2011-104 are unanimously approved.

16 MS. BUNTON: Thank you.

17 CHAIRMAN MURPHY: Next item on the agenda is  
18 Patron Exclusion matters; Joe Hoage.

19 MR. HOAGE: Thank you, Mr. Chairman and members  
20 of the Commission.

21 The first order you have before you is 2011-105,  
22 which is an appeal of Mr. Robert Panitch's placement  
23 on the Commission's Exclusion List.

24 On November 5, 2010, Mr. Panitch was placed on  
25 the list after he was observed via video

1 surveillance, on July 19, 2010, removing two playing  
2 cards from a poker table while at the Horseshoe  
3 Hammond Casino in Hammond, Indiana. The two playing  
4 cards were later found in Mr. Panitch's wallet.  
5 Mr. Panitch was arrested and charged with conversion,  
6 an A misdemeanor, in the Lake County Superior Court,  
7 to which he later entered into a diversion agreement  
8 with the Lake County Prosecutor's Office.

9 On January 21, 2011, Mr. Panitch filed an appeal  
10 with the Executive Director. An Administrative Law  
11 Judge was assigned. After a preliminary hearing was  
12 held and upon receiving the Commission's initial  
13 discovery disclosures, on March 28, 2011, Mr. Panitch  
14 filed a motion to voluntarily withdraw his appeal of  
15 the Executive Director's decision. On April 4, 2011,  
16 the Administrative Law Judge granted Panitch's motion  
17 to withdraw his appeal.

18 With that said, you have before you an order  
19 which would affirm the Administrative Law Judge's  
20 decision, which would grant Mr. Panitch's motion to  
21 voluntarily withdraw his appeal. And Commission  
22 staff would ask that you grant that order at this  
23 time.

24 CHAIRMAN MURPHY: Any questions for Mr. Hoage on  
25 Order 105? If not, is there a motion to approve

1 Order 2011-105?

2 COMMISSIONER SWIHART: So moved.

3 COMMISSIONER SHY: Second.

4 CHAIRMAN MURPHY: It's been moved and seconded.

5 All those in favor signify by saying aye.

6 (All said aye.)

7 CHAIRMAN MURPHY: Opposed? Order 2011-105 is  
8 unanimately approved.

9 MR. HOAGE: Thank you. The next order you have  
10 before you is Order No. 2011-106, which is an appeal  
11 of Quantez Martin's placement on the Commission's  
12 Exclusion List.

13 On May 8, 2010, Martin was observed via video  
14 surveillance taking unauthorized possession of a TITO  
15 worth approximately \$891 from another patron while at  
16 the Hollywood Casino in Lawrenceburg, Indiana.  
17 Martin was charged with theft, a D felony, in the  
18 Dearborn Superior Court, and he later pled guilty to  
19 conversion as an A misdemeanor.

20 On August 26, 2010, the Executive Director placed  
21 Mr. Martin on the Exclusion List, thereafter barring  
22 him from all gaming facilities in Indiana.

23 Martin appealed the Executive Director's decision  
24 within the appropriate period of time, and an  
25 Administrative Law Judge was assigned.

1 Commission staff in the proceeding filed a Motion  
2 For Summary Judgment, and a hearing was held on  
3 May 6, 2011. On May 6 the Administrative Law Judge  
4 orally granted the Commission staff's Motion For  
5 Summary Judgment and thereafter issued a written  
6 order on May 9, 2011.

7 Martin was required and failed to file an  
8 objection to the Administrative Law Judge's finding  
9 within fifteen days of its decision.

10 And, therefore, pursuant to Indiana Code  
11 4-21.5-3-29, in light of Martin's failure to file an  
12 objection, it also requires at this time he must  
13 affirm the ALJ's decision, and Commission staff will  
14 respectfully ask that you do so at this time.

15 CHAIRMAN MURPHY: Questions for Mr. Hoage on  
16 Order 106? If not, is there a motion to approve?

17 COMMISSIONER SHIELDS: So moved.

18 COMMISSIONER MORGAN: Seconded.

19 CHAIRMAN MURPHY: It's been moved and seconded.  
20 All those in favor signify by saying aye.

21 (All said aye.)

22 CHAIRMAN MURPHY: Order 106 is approved. Thank  
23 you, Mr. Hoage.

24 MR. HOAGE: Thank you, Mr. Chair.

25 CHAIRMAN MURPHY: We'll move on to Suppliers and

1           Licensure; and Garth Brown.

2           MR. BROWN: Good afternoon, Commissioners and  
3 Executive staff. I have two orders to present to you  
4 this afternoon.

5           The first order is 2011-107, which, if approved,  
6 will grant a permanent supplier's license to Global  
7 Cash Access, Inc. On or about April 21, 2010, Global  
8 Cash Access, Inc., or GCA, submitted a supplier's  
9 license application. GCA's a provider of cash-access  
10 products, including services used for processing ATM  
11 withdrawals, credit card cash advances, and  
12 point-of-sale debit card transactions.

13           After a review of the submitted applications,  
14 Commission staff issued a temporary license to GCA on  
15 May 3, 2010. The temporary license allowed GCA to  
16 begin selling their products in Indiana.

17           Commission staff conducted a background and  
18 financial investigation of GCA, its substantial  
19 owners and key persons. Commission staff could find  
20 no derogatory information that would affect the  
21 applicant's suitability. Staff's final report  
22 regarding GCA has been available for your review.

23           Commission staff recommends that you approve the  
24 application for licensure. At this time I would be  
25 happy to answer any questions you have about the

1 findings.

2 CHAIRMAN MURPHY: Questions for Mr. Brown on  
3 Order 2011-107? If not, is there a motion to approve  
4 the order?

5 COMMISSIONER MORGAN: So move.

6 COMMISSIONER SHY: Second.

7 CHAIRMAN MURPHY: It's been moved and seconded.  
8 All those in favor signify by saying aye.

9 (All said aye.)

10 CHAIRMAN MURPHY: Opposed? Order 2011-107 is  
11 approved.

12 MR. BROWN: Thank you. The next order is  
13 2011-108, which involves a transfer of ownership for  
14 Indiana supplier licensee TCS John Huxley Europe,  
15 Ltd. and a waiver of certain requirements in 68 IAC  
16 5-2.

17 On March 19, 2009, the IGC granted a permanent  
18 supplier's license to TCS John Huxley Europe, Ltd. as  
19 a provider of several types of gaming products,  
20 including displays, layouts, gaming tables, and  
21 roulette wheels. TCS is presently wholly owned by  
22 Bertil Knutsson, through its wholly owned holding  
23 company, Pata-Pata AB.

24 On June 28, 2010, IGC received notice from TCS,  
25 stating its intent to transfer a portion of the

1 capital and voting interest in Pata-Pata AB to each  
2 of Bertil's sons, Michael Knutsson and Tristan  
3 Sjoberg. This causes each son to have an indirect  
4 ownership in TCS, the Indiana licensee.

5 Under 68 IAC 5-2, supplier licensees who are not  
6 publicly traded companies must comply with certain  
7 requirements before transferring an ownership  
8 interest, including submission of Transfer of  
9 Ownership application and suitability investigation.

10 Compliance with these requirements is time  
11 consuming and costly to both the applicant and the  
12 Commission. The policy goal of the transfer  
13 application requirements in 68 IAC 5-2 is to ensure  
14 that the party receiving the ownership interest is  
15 suitable under the supplier licensing standards.

16 Michael Knutsson has previously been investigated  
17 and found suitable by the IGC as a result of his  
18 involvement with TCS and will be holding his interest  
19 in Pata-Pata AB personally. Thus, Michael is under  
20 an ongoing duty to remain suitable under the supplier  
21 licensing standards.

22 Due to him being previously found suitable,  
23 Commission staff recommended the Commission grant a  
24 waiver of the transfer of ownership requirements in  
25 68 IAC 5-2 through the waiver provisions in 68 IAC

1 5-2-6.

2 Tristan Sjoberg has created a wholly owned  
3 holding company, Crib Goch Investment, Ltd., which  
4 will hold his interest in Pata-Pata AB. Tristan will  
5 be the sole owner, manager, and director of Crib  
6 Goch, which submitted a Transfer of Ownership  
7 application on December 10, 2010.

8 The application was reviewed, but because Crib  
9 Goch has little history and limited holdings, a full  
10 investigation of the entity would not have proven  
11 helpful to determine suitability for the license.  
12 However, a full investigation of Mr. Sjoberg was  
13 completed with no suitability issues found. The  
14 investigative report for Mr. Sjoberg was provided for  
15 your review.

16 For the above-stated reasons, Commission staff  
17 recommends that the Commission approve Order  
18 2011-108, which will waive the Transfer of Ownership  
19 application requirements for Michael Knutsson and  
20 grant the transfer of ownership from Pata-Pata AB to  
21 Crib Goch Investment, Ltd. on behalf of Mr. Sjoberg.

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

24 CHAIRMAN MURPHY: Commissioners have any  
25 questions? If not, is there a motion to approve the

1 order?

2 COMMISSIONER SWIHART: So moved.

3 COMMISSIONER FINE: Second.

4 CHAIRMAN MURPHY: It's been moved and seconded.  
5 All those in favor of approval signify by saying aye.

6 (All said aye.)

7 CHAIRMAN MURPHY: Opposed? Order 2011-108 is  
8 unanimously approved.

9 MR. BROWN: Thank you.

10 CHAIRMAN MURPHY: We'll move on to Supplier  
11 Renewals; and Sherry Green.

12 MS. GREEN: Good afternoon. You have before you  
13 Order 2011-109 concerning the renewal of supplier  
14 licenses. Pursuant to Indiana Code 4-33 and 68 IAC  
15 2-2, the Commission has previously approved supplier  
16 licenses for the following six companies: Ainsworth  
17 Game Technology, Konami Gaming, Inc., Lottomatica  
18 Group S.p.A., NRT Technology Corporation,  
19 ShuffleMaster Gaming, the United States Playing Card  
20 Company.

21 A supplier's license is valid for a period of one  
22 year. Pursuant to IC 4-33-7-8 and 68 IAC 2-2-8, a  
23 supplier's license must be renewed annually, and a  
24 payment of \$7,500 for the annual renewal fee must be  
25 remitted.

1           Each of these licensees has requested the renewal  
2 of their licenses and has paid the appropriate  
3 renewal fees. The Commission staff recommends that  
4 you approve the renewal of the licenses for the six  
5 suppliers.

6           CHAIRMAN MURPHY: Any questions involving Order  
7 109? If not, is there a motion to approve Order  
8 2011-109?

9           COMMISSIONER FINE: Motion to approve.

10          COMMISSIONER SHY: Second.

11          CHAIRMAN MURPHY: It's been moved and seconded.  
12 All those in favor signify by saying aye.

13          (All said aye.)

14          CHAIRMAN MURPHY: Opposed? Order 2011-109 is  
15 unanimously approved. Thank you, Ms. Green.

16          MS. GREEN: Thank you.

17          CHAIRMAN MURPHY: Next item on the agenda is  
18 Occupational Licensees; and Derek Young.

19          MR. YOUNG: Thank you, Mr. Chairman and the  
20 Commission. You have before you Resolution 2011-110,  
21 which is an order regarding the waiver of a provision  
22 of the Indiana Administrative Code for Jon Bor. Jon  
23 Bor was issued a Level 2 occupational license on  
24 May 8, 2008, to work as a Field Service Tech for  
25 Aristocrat Technologies, Inc., a licensed Indiana

1 supplier. Mr. Bor has worked for Aristocrat since  
2 March of 1997.

3 Recently Mr. Bor applied for renewal of his  
4 Indiana occupational license and, in so doing,  
5 disclosed that in September 2010 his renewal  
6 application for a gaming license with the Seminole  
7 Nation Gaming Commission was denied.

8 The Seminole Nation Gaming Commission uses an  
9 online application process which must be completed by  
10 a specific date. Mr. Bor missed his application due  
11 date, which led to the automatic revocation of his  
12 license in that jurisdiction.

13 68 AIC 2-3-5 (c)(6) says that in order for an  
14 applicant to be suitable for an Indiana occupational  
15 license, an applicant "must never have had a gaming  
16 license suspended or revoked in any jurisdiction."

17 In order to successfully renew his Indiana  
18 license, Mr. Bor requested a waiver of that  
19 provision, pursuant to 68 IAC 2-3-12. In his request  
20 for waiver, Mr. Bor stated that he missed the  
21 application deadline due to having worked over 70  
22 hours that week and having failed to set a reminder  
23 on his e-mail calendar.

24 Additionally, Mr. Bor has worked for Aristocrat  
25 for 14 years and, by all accounts, is a model

1 employee with no previous issues. It was actually  
2 his employer that initially contacted Commission  
3 staff about how to proceed.

4 In this situation the Seminole Nation Gaming  
5 Commission licensing standards are materially  
6 different than those of the Indiana Gaming  
7 Commission. In researching their standards, I spoke  
8 with the licensing coordinator for the Seminole  
9 Nation Gaming Commission, who stated that in their  
10 jurisdiction, when a renewal applicant misses the  
11 application deadline, their gaming license is  
12 automatically denied for six months. Then, in that  
13 jurisdiction, following that six-month period, that  
14 person is able to re-apply for licensure.

15 This differs from Indiana Gaming Commission  
16 standards in that, in identical circumstances,  
17 Commission staff would have sent Mr. Bor a reprimand  
18 letter rather than initiating any disciplinary action  
19 against him and would have only sought denial of his  
20 license renewal in extremely egregious circumstances.

21 Additionally, once an Indiana gaming license has  
22 been revoked, the individual must wait for one year  
23 to re-apply for licensure.

24 So the Seminole Nation Gaming Commission's  
25 licensing standards differ from those of the Indiana

1 Gaming Commission.

2 We should also note that Mr. Bor has a continuing  
3 obligation to timely report information that would  
4 affect his suitability for licensure. However, in  
5 the majority of situations, missing this deadline  
6 would result in a reprimand letter, which would be  
7 the result in this case, based on Mr. Bor's work and  
8 license history and the fact that he is an employee  
9 of a supplier licensee.

10 Supplier licensees don't have the everyday  
11 contact with IGC staff through the Gaming Agents that  
12 a casino employee does. Casino employees come into  
13 contact with the Gaming Agents daily and are  
14 frequently reminded of reporting obligations and  
15 deadlines, while supplier employees may only work in  
16 an Indiana casino once or twice every few weeks or  
17 months and, in many cases, frequently work throughout  
18 several different jurisdictions, all with different  
19 standards.

20 So we see this sometimes with supplier employees  
21 and normally send a reprimand letter unless there's  
22 some egregious circumstances present, unlike those  
23 here.

24 The purpose of the licensing regulations is to  
25 ensure that those who are licensed in Indiana meet

1 certain suitability requirements in order to protect  
2 the integrity and credibility of gaming in Indiana.

3 Based on Mr. Bor's work history and specific  
4 circumstances of the denial of his license renewal in  
5 the Seminole Nation Gaming Commission jurisdiction,  
6 Commission staff believes it will be impractical to  
7 deny his Indiana gaming license renewal application  
8 based solely on 68 IAC 2-3-5(c)(6), which is the only  
9 hurdle he faces in the renewal process. As such,  
10 Commission staff recommends that you grant Mr. Bor's  
11 request for a waiver.

12 CHAIRMAN MURPHY: Any questions of Mr. Young on  
13 Resolution 2011-110? If not, is there a motion to  
14 approve the resolution?

15 COMMISSIONER SHY: I move to approve.

16 COMMISSIONER MORGAN: Second the motion.

17 CHAIRMAN MURPHY: It's been moved and seconded.  
18 All those in favor signify by saying aye.

19 (All said aye.)

20 CHAIRMAN MURPHY: Opposed? Resolution 2011-110  
21 is unanimously approved. Thank you, Mr. Young.

22 We'll move on next to Casino matters, and  
23 Financing will be the first item.

24 MR. NEUENSCHWANDER: Good afternoon, Mr. Chair,  
25 members of the Commission. You have before you

1 Order 2011-111 concerning a financing matter for  
2 Caesar's Entertainment.

3 On April 5, 2011, Caesar's Entertainment, through  
4 counsel, requested an interim approval for a  
5 modification to Caesar's capital structure. The  
6 details of the modifications have been described to  
7 you in your confidential documents.

8 In accordance with the procedures identified in  
9 Resolution 2008-74, Commission Chair Tim Murphy and  
10 Executive Director Yelton considered Caesar's request  
11 and consulted with Commission Financial Analyst David  
12 Charlesworth, CFA. Chairman Murphy and Director  
13 Yelton agreed the proposed debt modification should  
14 be approved, and Director Yelton issued an interim  
15 approval letter May 9, 2011.

16 Resolution 2008-74 requires that the interim  
17 approval be reported to you for consideration and a  
18 final ratification or other direction from the  
19 Commission.

20 The Commission staff recommends that you ratify  
21 Executive Director Yelton's interim approval letter.

22 CHAIRMAN MURPHY: Any questions for  
23 Mr. Neuenschwander? If not, is there a motion to  
24 approve the order?

25 COMMISSIONER SHIELDS: I so move.

1 COMMISSIONER MORGAN: Second the motion.

2 CHAIRMAN MURPHY: It's been moved and seconded.

3 All those in favor signify by saying aye.

4 (All said aye.)

5 CHAIRMAN MURPHY: Opposed? Order 2011-111 is  
6 approved.

7 MR. NEUENSCHWANDER: Thank you, Mr. Chair. The  
8 next order is 2011-112, a financing matter regarding  
9 Boyd Gaming Corporation.

10 On October 15, 2010, Boyd Gaming Corporation,  
11 through counsel, requested permission to act upon a  
12 proposed amendment to the extension of its senior  
13 credit facility. The details of that financing are  
14 contained in your confidential documents.

15 In accordance with the procedures in Resolution  
16 2008-74, Commission Chair Tim Murphy and Executive  
17 Director Ernest Yelton considered Boyd's request and  
18 consulted Commission Financial Analyst David  
19 Charlesworth. Chairman Murphy and Director Yelton  
20 agreed that the proposed debt modification should be  
21 approved, and Director Yelton issued an interim  
22 approval letter on November 22, 2010.

23 Resolution 2008-74 requires that the interim  
24 approval be reported to you for consideration and a  
25 final ratification or other direction from the

1 Commission.

2 Commission staff recommends that you ratify  
3 Director Yelton's interim approval letter.

4 CHAIRMAN MURPHY: Any questions of  
5 Mr. Neuenschwander on Order 2011-112? If not, is  
6 there a motion to approve the order?

7 COMMISSIONER SWIHART: So moved.

8 COMMISSIONER MORGAN: Second the motion.

9 CHAIRMAN MURPHY: It's been moved and seconded.  
10 All those in favor signify by saying aye.

11 (All said aye.)

12 CHAIRMAN MURPHY: All those opposed? Order  
13 2001-112 is unanimously approved.

14 MR. NEUENSCHWANDER: Thank you, Mr. Chair. I  
15 have one more financing order for you. That is Order  
16 2011-113 concerning Ameristar Casinos.

17 On March 16, 2011, Ameristar Casinos, through  
18 counsel, requested an interim approval for a debt  
19 financing package, including a private placement of  
20 unsecured notes and new senior secured credit  
21 facilities.

22 In accordance with the procedures identified in  
23 Resolution 2008-74, Commission Chair Tim Murphy and  
24 Executive Director Ernest Yelton considered  
25 Ameristar's request and consulted with Commission

1 Financial Analyst David Charlesworth. Chairman  
2 Murphy and Director Yelton agreed that the proposed  
3 debt modification should be approved, and Director  
4 Yelton issued an interim approval letter on April 4,  
5 2011.

6 Among the terms of the financing package are  
7 private placement of senior unsecured notes due in  
8 2021 between \$700 and \$900 million, with interest  
9 rate not greater than eight-and-a-half percent, a new  
10 senior secured credit facility that consists of  
11 several parts, including a revolving loan facility of  
12 \$500 million, an A-term loan, and also a B-term loan.

13 Together the notes and the credit facility will  
14 be used to repay and permanently retire all existing  
15 outstanding indebtedness under Ameristar's existing  
16 senior secured credit facilities, to repay and retire  
17 all of Ameristar's 9.25 percent senior notes with a  
18 cash tender offer, and to fund the repurchase of  
19 approximately 26 million shares of Ameristar's common  
20 stock from the estate of Craig Nelson and to pay  
21 legal and professional costs associated with the  
22 transaction.

23 Resolution 2008-74 requires that the interim  
24 approval be reported to you at this meeting for  
25 consideration and a final ratification or other

1 direction from the Commission.

2 Commission staff again recommends that you ratify  
3 Executive Director Yelton's interim approval letter.

4 CHAIRMAN MURPHY: Any questions of  
5 Mr. Neuenschwander on Order 2011-113? If not, is  
6 there a motion to approve the order?

7 COMMISSIONER MORGAN: Move to approve.

8 COMMISSIONER SHY: Second.

9 CHAIRMAN MURPHY: It's been moved and seconded.  
10 All those in favor signify by saying aye.

11 (All said aye.)

12 CHAIRMAN MURPHY: Opposed? Order 2011-113 is  
13 unanimously approved. Thank you, Mr. Neuenschwander.

14 MR. NEUENSCHWANDER: Thank you, Mr. Chair.

15 CHAIRMAN MURPHY: Next item on the agenda under  
16 Casino matters is Disciplinary Actions; and Chris  
17 Gray.

18 MS. GRAY: Good afternoon, Commissioners. You  
19 have before you nine settlement agreements concerning  
20 disciplinary action. I will address seven agreements  
21 together, and the two from Hollywood will be  
22 addressed separately.

23 The first settlement is with Ameristar, Order  
24 2011-114, wherein the casino allowed an underage  
25 person onto the casino floor. Ameristar has agreed

1 to a monetary settlement of \$1,500 in lieu of  
2 disciplinary action. Are there any questions?

3 The second order, 2011-115, is a settlement  
4 agreement with Aztar, wherein the casino failed to  
5 verify the number of debts removed from the tables  
6 for destruction. Aztar has agreed to a monetary  
7 settlement of \$1,500 in lieu of disciplinary action.  
8 Are there any questions concerning this order?

9 The third order, 2011-116, is a settle agreement  
10 with Blue Chip and includes two counts. The first  
11 count, the casino allowed an underage person onto the  
12 casino floor. In the second count the casino failed  
13 to timely inform the Gaming Agents of a terminated  
14 employee. Blue Chip has agreed to a total monetary  
15 settlement of \$3,500 in lieu of disciplinary action.  
16 Are there any questions?

17 Order 2011-117 is a settlement agreement with  
18 French Lick, which includes two counts. In the first  
19 count the casino failed to follow the proper  
20 procedures for a fill that was incorrect. In the  
21 second count the casino allowed an underage person to  
22 enter the casino. French Lick has agreed to a  
23 monetary settlement of \$6,500 in lieu of disciplinary  
24 action. Are there any questions?

25 Order 2011-118 is a settlement agreement with

1 Grand Victoria, which includes two counts. In the  
2 first count the casino allowed an underage person on  
3 the casino floor. In the second count the casino  
4 failed to follow the proper procedure for an  
5 incorrect fill. Grand Victoria has agreed to a  
6 monetary settlement of \$4,000 in lieu of disciplinary  
7 action. Are there any questions?

8 Order 2011-120 is a settlement agreement with  
9 Horseshoe Southern Indiana, where the casino failed  
10 to verify the number of cards used at a poker table.  
11 Horseshoe Southern Indiana has agreed to a total  
12 monetary settlement of \$5,000 in lieu of disciplinary  
13 action. Are there any questions?

14 Order 2011-121 is a settlement agreement with  
15 Majestic Star and includes two counts. In the first  
16 count the casino allowed a person under the age of 21  
17 to enter the casino. In the second count the casino  
18 violated the progressive slot machine rule. Majestic  
19 Star has agreed to pay a monetary settlement of  
20 \$8,000 in lieu of disciplinary action. Are there any  
21 questions?

22 The Commission staff recommends that you approve  
23 Orders 2011-114 through 2011-121, excluding Order  
24 2011-119, which will be addressed shortly. Each of  
25 the above orders approves one of the settlement

1 agreements that we have just discussed.

2 CHAIRMAN MURPHY: Is there a motion to approve  
3 the orders?

4 COMMISSIONER MORGAN: Motion to approve.

5 COMMISSIONER SWIHART: Second.

6 CHAIRMAN MURPHY: It's been moved and seconded.  
7 All those in favor of approval of Orders 2011-114  
8 through 18 and 2011-120 to 121 signify by saying aye.

9 (All said aye.)

10 CHAIRMAN MURPHY: Opposed? The orders are  
11 unanimously approved. Thank you, Ms. Gray.

12 MS. GRAY: Thank you. Now I'll move on to  
13 Hollywood. Order 2011-122 is a settlement  
14 agreement --

15 CHAIRMAN MURPHY: Ms. Gray, I believe we have  
16 someone here from Penn National, who --

17 MS. GRAY: Do you want them to go first? Okay.

18 CHAIRMAN MURPHY: Is Tim Wilmott here?

19 MR. THAR: Chairman Murphy, members of the  
20 Commission, Executive Director Yelton, members of the  
21 staff, my name is Jack Thar. And my sole role, I  
22 hope, today is to introduce the Chief Operating  
23 Officer and President of Penn National Gaming, Inc.,  
24 Mr. Timothy Wilmott.

25 MR. WILMOTT: Good afternoon, Mr. Chairman,

1 Commission members, Executive Director Yelton. As  
2 Mr. Thar said, I'm Tim Wilmott. I'm President and  
3 Chief Operating Officer of Penn National Gaming.

4 I'd like to introduce some other members of the  
5 Penn National team who are here with me today.  
6 First, John Finamore, our Senior Vice President of  
7 Regional Operations. Mr. Finamore just received his  
8 temporary license and, through some recent  
9 organizational changes, will now have oversight over  
10 our Lawrenceburg facility.

11 Also with me is our Vice President and Chief  
12 Compliance Officer, Tom Auriemma; our Corporate  
13 Deputy Chief Compliance Officer, Jim Baldacci; the  
14 Lawrenceburg property CFO, Hubert Wang.

15 And just last week the general manager, former  
16 general manager, Tony Rodio, resigned from his  
17 position in Lawrenceburg. And in the interim we've  
18 identified Mr. Wang as the interim general manager of  
19 the facility until we've had time to find Mr. Rodio's  
20 replacement.

21 Also with me today is Mark Mason, our Director of  
22 Security. And also new to the Lawrenceburg team, a  
23 new full-time Hollywood Compliance Manager, Jason  
24 Haskin.

25 Back in the first quarter I became aware of the

1 16-count complaint that was levied against our  
2 Lawrenceburg facility from activities that occurred  
3 predominantly in the fourth quarter of 2010, into the  
4 early part of 2011.

5 Having seen that complaint, it caused me great  
6 concern. One of the first things I did was  
7 commission an internal investigation that was  
8 conducted by Mr. Thar and Mr. Auriemma and  
9 Mr. Baldacci, to understand in more detail, for my  
10 own benefit and for others at the corporate office,  
11 what was going on at the Lawrenceburg operation.

12 The result of that was a 23-page report with a  
13 detailed analysis of all the compliance managers and,  
14 just as importantly, the recommendations to fix the  
15 problems that were in Lawrenceburg. We shared that  
16 23-page report with IGC staff, and I believe you've  
17 also received copies of that as well. I want to  
18 thank staff for their help in working with us through  
19 this process.

20 Issues noted in the 23-page report have been  
21 addressed, and the recommendations for change have  
22 been implemented or are in the process of  
23 implementation.

24 There have been a number of organizational  
25 changes that are taking place. One of which was the

1 creation of a new full-time Hollywood compliance  
2 manager -- that is Mr. Haskin -- and eliminating  
3 Mr. Mason's dual role of being in charge of security  
4 and also being in charge of compliance.

5 There is active recruitment on my part, and also  
6 Mr. Finamore's, to quickly identify a new general  
7 manager and a new assistant general manager for  
8 Hollywood. And I hope to have those individuals  
9 identified in the quickest time possible. Following  
10 his temporary licensure, Mr. Finamore now, as I said  
11 before, has active oversight over Hollywood  
12 Lawrenceburg.

13 I want to let you know of my personal commitment  
14 to making sure that the recommendations in this  
15 23-page report get implemented and followed to the  
16 letter. There's no question, as I looked at the  
17 complaints, some of which is poor attention to detail  
18 and inadequate focus on basic compliance, that will  
19 be addressed and addressed very quickly.

20 There are others in there that I characterize as  
21 more egregious, just blatant disregard, for example,  
22 for passenger counting, which is just truly  
23 inexcusable.

24 Everyone at that property knows that this is  
25 something that has to be fixed and will be fixed very

1 quickly. And it's in the process of being repaired.  
2 I think if you look at our more recent complaint, it  
3 certainly has shown improvement. But the obvious  
4 test will be what goes on moving forward. And to be  
5 able to sustain a higher level of compliance is my  
6 commitment to the Gaming Commission here in Indiana  
7 today.

8 I want to thank you for your time. I'm  
9 available, my team's available, to answer any  
10 questions you may have of me or of anybody from Penn  
11 National.

12 CHAIRMAN MURPHY: Commissioners have any  
13 questions or comments of Mr. Wilmott?

14 COMMISSIONER SHIELDS: I would just make a  
15 comment that I think I made my position rather clear  
16 at the last meeting that I was not prepared to accept  
17 what I considered to be inappropriate  
18 recommendations, as far as a penalty was concerned,  
19 for the conduct of your casino in Lawrenceburg.

20 I am prepared to change my mind now because I  
21 think you have paid proper attention to what I think  
22 was a very serious problem. And I appreciate the  
23 fact that we are now on your radar, and I hope you'll  
24 be there as far as the operation in Lawrenceburg.

25 MR. WILMOTT: You have my commitment.

1           CHAIRMAN MURPHY: Any other questions or  
2 comments?

3           COMMISSIONER FINE: Mr. Wilmott, I want to say I  
4 commend your presence today, and I appreciate your  
5 sincerity. Thank you, sir.

6           MR. WILMOTT: Thank you.

7           CHAIRMAN MURPHY: Any other questions or  
8 comments? Thank you, Mr. Wilmott. Thank you for  
9 introducing and bringing your team.

10           Now, Ms. Gray, would you like to proceed with  
11 Order 2011-122, the Hollywood settlement agreement.

12           MS. GRAY: Order 2011-122 is a settlement  
13 agreement with Hollywood Casino and includes 16  
14 counts. In the first count the casino did not timely  
15 inform the Gaming Commission of three employee  
16 terminations.

17           In the second count the casino did not notify the  
18 Gaming Agents when live table games used in a  
19 tournament were returned to normal play.

20           In the third count a patron was allowed onto the  
21 casino floor without entering through the turnstiles.

22           The fourth count violated the rule regarding  
23 tournament notification and approval.

24           Count V violated the rule requiring an inspection  
25 of the roulette wheel involved prior to opening of

1 the roulette table.

2 In the sixth count a float lid was left  
3 unsecured.

4 In Count VII the number of cancelled decks of  
5 cards was changed on log without verifying the number  
6 of decks.

7 In the eighth count employees who were not part  
8 of the drop team were allowed to walk through the  
9 drop area.

10 In Count IX Gaming Agents were not timely  
11 notified of apparent criminal activity taking place  
12 at a live table game.

13 Count X violated the rules regarding credit  
14 extensions.

15 In Count XI the casino failed to timely verify  
16 cage transfers.

17 In Count XII casino employees failed to follow  
18 proper procedures for recording multiple transactions  
19 over \$3,000.

20 In Count XIII the casino allowed an underage  
21 person to enter the casino.

22 Count XIV violated the state fire code by  
23 exceeding the total capacity of the casino club.

24 Count XV violated the rule requiring all patrons  
25 boarding or exiting the casino to pass through an

1 approved patron-tallying system.

2 In Count XVI numerous employees failed to timely  
3 disclose information to the Gaming Agents.

4 Hollywood has agreed to pay a total monetary  
5 settlement of \$109,000 in lieu of disciplinary  
6 action. The Commission staff recommends that you  
7 approve Order 2011-122.

8 CHAIRMAN MURPHY: Any questions of Ms. Gray on  
9 the order?

10 COMMISSIONER SHIELDS: I move for approval.

11 COMMISSIONER SHY: I second it.

12 CHAIRMAN MURPHY: It's been moved and seconded.  
13 All those in favor of approving Order 2011-122  
14 signify by saying aye.

15 (All said aye.)

16 CHAIRMAN MURPHY: Opposed? Order 2011-122 is  
17 unanimously approved.

18 MS. GRAY: Order 2011-119 is another settlement  
19 agreement with Hollywood, involving three counts.

20 In the first count the casino failed to inform  
21 the Commission staff of a change in the procedure for  
22 counting the number of holdover patrons when  
23 computing the admission tax.

24 In the second count the casino failed to properly  
25 close a table game.

1           In the third count the casino allowed an underage  
2 person on the casino floor.

3           Hollywood has agreed to a total monetary  
4 settlement of \$18,500 in lieu of disciplinary action.  
5 The Commission staff recommends that you approve  
6 Order 2011-119.

7           CHAIRMAN MURPHY: Any questions of Ms. Gray  
8 regarding Order 2011-119? If not, is there a  
9 motion --

10           COMMISSIONER MORGAN: Motion to approve.

11           COMMISSIONER SWIHART: Second.

12           CHAIRMAN MURPHY: It's been moved and seconded.  
13 All those in favor signify by saying aye.

14           (All said aye.)

15           CHAIRMAN MURPHY: Opposed? Order 2011-119 is  
16 approved. Thank you.

17           MS. GRAY: Thank you.

18           CHAIRMAN MURPHY: We'll now move on to License  
19 Renewals; and Adam Packer.

20           MR. PACKER: Thank you, Mr. Chairman.

21           CHAIRMAN MURPHY: Adam, before you start --

22           MR. PACKER: Yes.

23           CHAIRMAN MURPHY: -- one item I would like to  
24 note is the first subject is renewal of Hollywood.

25           MR. PACKER: That's right.

1           CHAIRMAN MURPHY: And that is the matter I  
2 referred to earlier under Old Business and is being  
3 brought off the table from the last meeting.

4           MR. PACKER: Okay. Thank you. As the Chairman  
5 stated, in Old Business we had an outstanding license  
6 renewal for Hollywood that was not addressed at the  
7 March Commission meeting. It is before you today.

8           Since the Chairman mentioned the Hollywood  
9 renewal in the Old Business section of the agenda,  
10 we've heard from President and Chief Operating  
11 Officer Tim Wilmott, we've heard from Jack Thar,  
12 we've heard from Chris Gray, and we've heard from two  
13 of the Commissioners that the conditions that were in  
14 place in March that led to the tabling of Hollywood's  
15 renewal have largely been resolved, if not completely  
16 resolved, to staff's satisfaction and apparently to  
17 the satisfaction of at least two Commission members.

18           So at this time Commission staff would recommend  
19 that we proceed with Hollywood's renewal in the  
20 normal course.

21           The Commission renewed Hollywood's riverboat  
22 owner's license on March 4 of 2010, and that renewal  
23 was good through December 9 of 2010.

24           On December 8, 2010, the Executive Director  
25 issued an interim renewal of Hollywood's license.

1           At the March 17 meeting, this year, obviously,  
2 Commission tabled the renewal of Hollywood's casino  
3 license.

4           You may recall that on March 4 of 2010 the  
5 Commission approved a written Power of Attorney for  
6 Hollywood, which identified Larry Kinser as  
7 trustee-in-waiting. It is staff's opinion that this  
8 March 4, 2010, approval expires upon the renewal of  
9 the license unless the approval itself is renewed.

10           On May 31 of 2011 Hollywood indicated that it  
11 wishes to continue to have Mr. Kinser as  
12 trustee-in-waiting. It is staff's recommendation  
13 that the Commission renew Hollywood's license and  
14 also renew its approval of Larry Kinser as  
15 trustee-in-waiting for Hollywood, and Commission  
16 staff has prepared an order accordingly.

17 Mr. Chairman.

18           CHAIRMAN MURPHY: Any questions of Mr. Packer?  
19 Any questions or comments of Mr. Packer regarding the  
20 Hollywood renewal? If not, is there a motion to  
21 approve Order 2011-123?

22           COMMISSIONER SWIHART: Motion to approve.

23           COMMISSIONER SHY: I second.

24           CHAIRMAN MURPHY: It's been moved and seconded.  
25 All those in favor signify by saying aye.

1 (All said aye.)

2 CHAIRMAN MURPHY: Opposed? Order 2011-123 is  
3 approved. Thank you, Mr. Packer.

4 MR. PACKER: Thank you. Order 2011-124 is the  
5 renewal of Ameristar's owner's license. The  
6 Commission renewed Ameristar's riverboat owner's  
7 license on June 17 of 2010. That renewal renewed the  
8 license through April 14 of this year.

9 Ameristar requested renewal and paid its renewal  
10 fee in a timely fashion, and the Executive Director  
11 issued an interim renewal on April 19, 2011, in which  
12 the license was renewed until such time as the  
13 Commission is able to consider the renewal at a  
14 formal business meeting.

15 On March 4, 2010, the Commission also approved a  
16 written Power of Attorney for Ameristar, in which  
17 Ameristar identified Angela Frost as a  
18 trustee-in-waiting.

19 On March 8 Ameristar requested renewal of the  
20 Commission's approval of Ms. Frost as  
21 trustee-in-waiting. It is staff's recommendation  
22 that the Commission renew Ameristar's license and  
23 renew its approval of Ms. Frost as trustee-in-waiting  
24 for Ameristar, and we've prepared Order 124  
25 accordingly.

1           CHAIRMAN MURPHY: Any questions of Mr. Packer  
2 regarding Order 2011-124? If not, is there a motion  
3 to approve the order?

4           COMMISSIONER SWIHART: So moved.

5           COMMISSIONER SHIELDS: Second.

6           CHAIRMAN MURPHY: It's been moved and seconded.  
7 All those in favor signify by saying aye.

8           (All said aye.)

9           CHAIRMAN MURPHY: Opposed? Order 2011-124 is  
10 unanimously approved. Thank you, Mr. Packer.

11           MR. PACKER: Thank you. Order 125 is the renewal  
12 of Horseshoe Hammond's riverboat owner's license. On  
13 June 17, 2010, the Commission renewed Horseshoe  
14 Hammond's riverboat owner's license, which was good  
15 through June 19 of 2011. Horseshoe Hammond has  
16 requested a renewal and paid its renewal fee in a  
17 timely fashion. There's no need for an interim  
18 renewal because the renewal date is still a couple  
19 weeks in the future. But it is Commission staff's  
20 practice that when a renewal falls within two or  
21 three weeks, the Commission go ahead and address it  
22 at that Commission meeting.

23           On March 4, 2010, the Commission approved a  
24 written Power of Attorney for Horseshoe Hammond, in  
25 which it indicated that Charles Atwood would be

1 trustee-in-waiting for Horseshoe Hammond. On May 20  
2 Horseshoe Hammond requested a renewal of the  
3 Commission's approval of Mr. Atwood as  
4 trustee-in-waiting.

5 It is staff's recommendation that the Commission  
6 renew Horseshoe Hammond's riverboat owner's license  
7 and also its approval of Mr. Atwood as  
8 trustee-in-waiting, and Commission staff has prepared  
9 Order 125 accordingly. Mr. Chairman.

10 CHAIRMAN MURPHY: Any questions of Mr. Packer on  
11 Order 2011-125? If not, is there a motion to approve  
12 the order?

13 COMMISSIONER SHY: Move to approve.

14 COMMISSIONER SWIHART: Second.

15 CHAIRMAN MURPHY: It's been moved and seconded.  
16 All those in favor signify by saying aye.

17 (All said aye.)

18 CHAIRMAN MURPHY: Opposed? Order 2011-125 is  
19 unanimously approved.

20 MR. PACKER: Thank you, Mr. Chairman. For  
21 Order 126, the Commission is considering the renewal  
22 of the Majestic Star I and II licenses.

23 In light of the passing of Mr. Barden, Kay  
24 Fleming is here on behalf of Majestic Star to address  
25 the renewal of the license, the passing of

1 Mr. Barden, and other related issues. So it's  
2 appropriate at this time for Ms. Fleming to come up.

3 CHAIRMAN MURPHY: Welcome, Ms. Fleming.

4 MS. FLEMING: Good afternoon. I'm Kay Fleming,  
5 here on behalf of the Majestic Star Casino, LLC and  
6 Majestic Star Casino II, Inc. As you are probably  
7 all aware, Mr. Barden passed away on May 19, was  
8 buried on May 27, and they are now in the process of  
9 administering his will.

10 It is my understanding that there is a meeting  
11 this afternoon with the entity, which is a bank, that  
12 was named as the trustee under the will. And that  
13 information has not been made public because his  
14 family has not been made aware, and they would like  
15 to keep that confidential.

16 I understand and have been advised we can provide  
17 more information following the meeting this  
18 afternoon. But with the burial on the 27th, the  
19 holiday weekend, and just now getting back to work,  
20 that meeting -- this is the first day they were able  
21 to schedule the meeting with the potential trustee.

22 Consolidated financial statements have been filed  
23 and are being submitted to the Gaming Commission that  
24 outline the reporting procedure that is in place  
25 following Mr. Barden's passing.

1           Mr. Barden was the Chief Executive Officer,  
2           President, and Chairman of the Board. Those  
3           positions will remain vacant at this point. The COO,  
4           the Senior Vice President and General Counsel, and  
5           the Senior Vice President and Chief Financial  
6           Officer, all of who are licensed as Level 1's in  
7           Indiana, will report directly to the Board of  
8           Directors, all of whom are licensed. And two outside  
9           directors will take the lead role in managing the  
10          company. Those outside directors are John O'Brien  
11          and Pat Cruzen.

12           And during the very late stages of Mr. Barden's  
13          illness, this was the informal procedure that had  
14          been put in place because Mr. Barden's health did not  
15          allow him to address the day-to-day operations. So  
16          it is a formalization of that procedure that has been  
17          put into place. That information has been filed and  
18          is public and will continue.

19           The operations will continue as they have been  
20          under the Bankruptcy Court and under the procedures  
21          that have been set up, and any changes to that would  
22          require both the approval of the Gaming Commission  
23          and the Bankruptcy Court.

24           CHAIRMAN MURPHY: Questions for Ms. Fleming?

25           COMMISSIONER FINE: No will has been probated?

1 MS. FLEMING: They are meeting this afternoon on  
2 that. But because of his death and then the funeral  
3 on the 27th -- I talked with the -- I cannot remember  
4 her exact title. She's the Vice President of Barden  
5 Development, Inc., of which Mr. Barden was sole  
6 shareholder, and which was the ultimate parent  
7 company of the Majestic Star. She was able only to  
8 get the meetings with the attorneys this afternoon.

9 COMMISSIONER MORGAN: I'm sorry. What is your  
10 position with the casino?

11 MS. FLEMING: I represent them as outside counsel  
12 and Indiana regulatory counsel.

13 EXECUTIVE DIRECTOR YELTON: Can you inform the  
14 Commission members of an estimated discharge in  
15 bankruptcy for the Majestic Star entities?

16 MS. FLEMING: My understanding is fourth quarter.

17 EXECUTIVE DIRECTOR YELTON: And, to your  
18 knowledge, you still believe that to be a viable  
19 date?

20 MS. FLEMING: Yes.

21 CHAIRMAN MURPHY: Any other questions of  
22 Ms. Fleming? Thank you. It was very informative.

23 MS. FLEMING: Thank you.

24 CHAIRMAN MURPHY: Mr. Packer.

25 MR. PACKER: In addition to Ms. Fleming's

1 remarks, Commission staff received a letter from  
2 Attorney MacArthur Drake, on behalf of Gary City  
3 Council Members Roy Pratt and Mary Brown, and that  
4 letter has been distributed to all Commission members  
5 and is part of the record of today's proceedings.

6 The Commission renewed Majestic Star's -- the  
7 riverboat owner's licenses for both Majestic Star  
8 casinos on September 16 of 2010, and those licenses  
9 are good through today. The two Majestic Stars  
10 requested renewal and made their renewal-fee payments  
11 in a timely fashion.

12 On March 4 of 2010 the Commission approved a  
13 written Power of Attorney for the Majestic Star  
14 casinos, which named House Advantage, LLC as the  
15 trustee-in-waiting. On May 24 the Majestic Star  
16 casinos requested renewal of that approval,  
17 maintaining House Advantage, LLC as  
18 trustee-in-waiting.

19 It is staff's recommendation that the Commission  
20 renew the riverboat owner's licenses for Majestic I  
21 and Majestic II and renew its approval of House  
22 Advantage, LLC as the trustee-in-waiting for both  
23 Majestic Star casinos. Mr. Chairman.

24 CHAIRMAN MURPHY: Questions of Mr. Packer  
25 regarding Order 2011-126?

1           COMMISSIONER FINE: I have one question. Does  
2 ownership itself grant a renewal?

3           MR. PACKER: The outcome of Mr. Barden's will is  
4 an ongoing concern for Commission staff, as well,  
5 obviously, as it is for you, Mr. Fine. The matter of  
6 the renewal at this moment hinges upon control of the  
7 operation. Commission staff is confident that  
8 control and operation of the casinos is in good hands  
9 and is being done with full continuity of management,  
10 full continuity of control.

11           The ownership issue will have to be addressed at  
12 some point in the future, through either our transfer  
13 regulations or some other mechanism. But for  
14 purposes of renewing the license to operate, this  
15 continuity of management is, in Commission staff's  
16 opinion, the driving factor.

17           COMMISSIONER FINE: Thank you, sir.

18           CHAIRMAN MURPHY: Other questions of Mr. Packer  
19 on Order 2011-126? If not, is there a motion to  
20 approve?

21           COMMISSIONER SWIHART: So moved.

22           COMMISSIONER SHY: I'll second.

23           CHAIRMAN MURPHY: It's been moved and seconded.  
24 All those in favor of approval signify by saying aye.

25           (All said aye.)

1           CHAIRMAN MURPHY:  Opposed?  Order 2011-126 is  
2  unanimously approved.  Thank you, Mr. Packer.

3           MR. PACKER:  Thank you.

4           CHAIRMAN MURPHY:  We'll now move on to Boxing and  
5  Mixed Martial Arts; Leah Ellingwood.

6           MS. ELLINGWOOD:  Thank you.  Today you have, for  
7  the first time, disciplinary action regarding boxing  
8  and mixed martial arts.  Those actions are addressed  
9  in Orders 2011-127 through 2011-132.  And in each of  
10 those instances the licensee has entered into a  
11 proposed settlement agreement with the Commission.  
12 The Commission staff asks that you approve each of  
13 those.

14           The first order is Order 2011-127.  Cut Throat  
15 MMA, a licensed promotor, held a professional MMA, or  
16 mixed martial arts, event on November 6, and it  
17 failed to timely submit ticket stubs and unsold  
18 tickets to the Commission after the event.  This is  
19 important information because it's the information  
20 the Commission uses to determine the amount of ticket  
21 taxes due.

22           Normally staff would be inclined to just send a  
23 reprimand letter to a licensee, but this is the  
24 second time that this has happened.  So the first  
25 time that it happened, we did send a reprimand

1 letter. It happened a second time, and we initiated  
2 these proceedings. The licensee and the Commission  
3 staff have agreed to a fine of \$300. Staff  
4 recommends approval of this settlement agreement.

5 And just for your own edification, Cut Throat MMA  
6 has had a subsequent event, and they did timely turn  
7 in their ticket information.

8 CHAIRMAN MURPHY: Any questions of  
9 Ms. Ellingwood?

10 COMMISSIONER SHY: I have a question. Since this  
11 is the first one, how have you determined the amount  
12 of the fine?

13 MS. ELLINGWOOD: We looked at other  
14 jurisdictions. We looked at the number of times the  
15 incident had occurred, the seriousness, in our  
16 opinion, of the violation.

17 As I said, and as you know, since this is the  
18 first time we're getting started on it, we're kind of  
19 feeling some of these things out. But we feel  
20 confident that, based on the reaction that we got and  
21 our research on what other jurisdictions have done,  
22 that this is consistent in the industry.

23 CHAIRMAN MURPHY: Put this in context for me. A  
24 \$300 fine is -- what would be the total gate on  
25 something like this?

1 MS. ELLINGWOOD: On this particular event, that  
2 I'm not sure. The director of that division is here.  
3 He may be able to answer more specifically that  
4 question.

5 MR. MEANS: Good afternoon. For an event that  
6 took place that Cut Throat did, they usually would do  
7 a gate of about -- probably top out about thirty  
8 thousand. But that factors in several other  
9 expenses, as far as renting a venue, paying the  
10 fighters, paying the ticket tax.

11 CHAIRMAN MURPHY: So that's just a gross number.

12 MR. MEANS: That's just gross, yes.

13 MS. ELLINGWOOD: Any other questions? We'll keep  
14 Andy close, just in case.

15 We'll just go ahead through the rest of the  
16 orders then. Orders 2011-128 and 2011-129 are  
17 somewhat related. As you know, the Commission  
18 provides oversight for professional mixed martial  
19 arts events and professional boxing events, but the  
20 Commission licenses sanctioning bodies who provide  
21 oversight for amateur mixed martial arts events.  
22 Part of that oversight includes making sure that the  
23 Commission's administrative rules are followed.

24 On March 19, Bout Management Federation, a  
25 licensed sanctioning body, provided oversight of an

1 amateur mixed martial arts event, which was conducted  
2 by Drive MMA, who's a licensed promotor. Our  
3 administrative rules require that a promotor obtain  
4 \$5,000 medical and \$5,000 accidental death benefit  
5 coverage for each fighter. Drive MMA only obtained  
6 \$2,500 for each of those coverages, and Bout  
7 Federation allowed the event to go on anyway.

8 Order 2011-128 outlines a settlement agreement  
9 with Bout Federation, under which it would pay a fine  
10 of \$500. And Order 2011-129 outlines a settlement  
11 agreement with Drive MMA, under which it has agreed  
12 to a fine of \$250.

13 I think I might have misspoke. Order 2011-128  
14 outlines the agreement with Bout Federation, the  
15 sanctioning body.

16 Staff recommends approval of both of these  
17 settlement agreements. Are there any questions on  
18 this one?

19 COMMISSIONER SWIHART: So they violated the  
20 insurance agreement, both of them?

21 MS. ELLINGWOOD: Yes.

22 COMMISSIONER SWIHART: One is \$500, and the other  
23 is \$250. Why the difference?

24 MS. ELLINGWOOD: Because Bout Federation is  
25 responsible for providing oversight and making sure

1 that all of the rules are followed. So, basically,  
2 the buck ends with them. They are the last word on  
3 actually making sure that everything's followed and  
4 the event is ready to go. So we felt it appropriate  
5 to fine them more heavily than the promotor.

6 COMMISSIONER SWIHART: Okay.

7 MS. ELLINGWOOD: Mixed Martial Arts Consulting, a  
8 licensed sanctioning body, provided oversight of an  
9 amateur mixed martial arts event on October 12. The  
10 Commission's administrative rules prohibit  
11 sanctioning bodies from allowing fighters who are  
12 suspended in the Association of Boxing Commission  
13 Registry from fighting at an event.

14 During the October 12 event, Mixed Martial Arts  
15 Consulting allowed a fighter who was under medical  
16 suspension to fight. The fighter was a late  
17 substitution, and we think that the sanctioning body  
18 just happened to miss his name when they did the  
19 website check. Mixed Martial Arts Consulting has  
20 since adopted a new process that would ensure the  
21 mistake doesn't happen again.

22 Order 2011-130 outlines a settlement agreement  
23 under which the sanctioning body would pay a fine of  
24 \$500.

25 And, finally, the last two orders are fairly

1 similar in nature. In mid-April of this year, as  
2 required by the Commission's administrative rules,  
3 two fighters were subjected to drug testing  
4 immediately after their event and were subjected to  
5 testing because they each were championship battles.  
6 In lieu of -- both of the fighters failed those  
7 tests, in violation of our administrative rules.

8 In lieu of disciplinary action, we entered into  
9 proposed settlement agreements with each of them.  
10 Orders 2011-131 and 2011-132 outline the terms of  
11 that settlement agreement. Under 2011-131, the  
12 fighter would pay a fine of \$700. Under 2011-132,  
13 the fighter would pay a fine of \$250.

14 Obviously, the fines assessed in each of those  
15 are different. The reason for the discrepancy is  
16 twofold. First, the fighter under 2011-131 had  
17 previously failed a drug test in another state. So  
18 we felt like that was a good justification for  
19 increasing the amount of his fine.

20 The second reason was the amount of money paid to  
21 the fighter for participating in the event. The  
22 first fighter got \$4,000 for showing up. The second  
23 fighter got \$300.

24 Commission staff, again, recommends adoption of  
25 these settlement agreements. I'm happy to answer any

1 questions you may have, as is Andy.

2 COMMISSIONER SHY: I have a question. You  
3 previously talked about the medical suspension. Is  
4 that, like, from an injury?

5 MS. ELLINGWOOD: Right. When a fighter is  
6 injured, depending on how bad the injury is, they're  
7 automatically put -- they can be automatically put on  
8 medical suspension, so they're not allowed to fight  
9 in any jurisdiction.

10 In this instance, I believe the fighter was  
11 actually on a medical suspension out of Kentucky.  
12 And, actually, the medical suspension, I think, just  
13 recently ended, so he should be able to fight again.

14 COMMISSIONER SHIELDS: I'm still trying to work  
15 my way through this whole area.

16 MS. ELLINGWOOD: Me too.

17 COMMISSIONER SHIELDS: Are fighters licensed in  
18 any way?

19 MS. ELLINGWOOD: Fighters are licensed.  
20 Professional fighters, professional boxers and mixed  
21 martial artists, are licensed. Amateur fighters are  
22 not licensed.

23 COMMISSIONER SHIELDS: These gentlemen who failed  
24 their drug tests are professionals?

25 MS. ELLINGWOOD: They are.

1           COMMISSIONER SHIELDS: Are there licensing  
2 consequences for this?

3           MS. ELLINGWOOD: Well, we're doing the settlement  
4 agreement in lieu of a disciplinary action. So  
5 that's the action that we would take against the  
6 individual fighter.

7           When it comes time to renew their licenses, the  
8 fact that they have failed or have had other  
9 disciplinary actions definitely factors into the  
10 decision of whether or not to re-license them.

11          COMMISSIONER SHY: I have a question, another.  
12 Are the drug tests looking for illegal drugs or for,  
13 like, steroids and enhancement drugs?

14          MS. ELLINGWOOD: This particular test, the drug  
15 that was picked up was not a performance-enhancing  
16 drug, but the test should pick that up.

17          CHAIRMAN MURPHY: The last one was fined the \$750  
18 for --

19          MS. ELLINGWOOD: The \$750 fine should be Order  
20 2011-131. Yes, that's right.

21          CHAIRMAN MURPHY: Okay. What would Mr. Revish  
22 have been paid for his --

23          MS. ELLINGWOOD: He was paid \$4,000.

24          CHAIRMAN MURPHY: Okay.

25          MS. ELLINGWOOD: That was just to participate in

1 the event.

2 CHAIRMAN MURPHY: Any other questions of  
3 Ms. Ellingwood? If not, is there a motion to approve  
4 Orders 127 through 132?

5 COMMISSIONER SWIHART: Motion to approve.

6 COMMISSIONER MORGAN: I'll second.

7 CHAIRMAN MURPHY: It's been moved and seconded.

8 All those in favor signify by saying aye.

9 (All but Commissioner Shields said aye.)

10 COMMISSIONER SHIELDS: I abstain. I will  
11 abstain.

12 CHAIRMAN MURPHY: All right. Orders 127 through  
13 132 are approved with five affirmative votes and one  
14 denial.

15 MS. ELLINGWOOD: Thank you.

16 CHAIRMAN MURPHY: Next item on the agenda will be  
17 rules; and Julien Agnew.

18 MR. AGNEW: Good afternoon, Commissioners.  
19 Before you is Resolution 2011-133. It's a resolution  
20 adopting an emergency rule regarding the conduct of  
21 charity gaming.

22 During the 2011 legislative session, Senate  
23 Enrolled Act 340 was enacted into law, effective  
24 July 1. This act made significant changes to the  
25 charity gaming statute, including the creation of a

1 volunteer ticket agent. It allows bingo workers to  
2 participate in a limited manner at bingo events. It  
3 allows organizations to use credit cards for  
4 non-gaming purchases, and it removes related  
5 activities from the calculation of gross revenue, and  
6 it increases the number of days an organization can  
7 conduct a festival. Neither the existing statute nor  
8 the current rule structure provides adequate  
9 oversight to these changes.

10 This emergency rule also incorporates the  
11 following changes made to eliminate redundant  
12 language, standardize language, to reorganize some  
13 rule sections for clarity, and to update the rules to  
14 reflect current industry gaming practices. These  
15 changes include clarifying the definitions of  
16 operators and workers, adding new definitions for  
17 dispensing devices and exempt events, clarifies the  
18 information required for license applications --  
19 that's for a qualified organization or a distributor  
20 or a manufacturer -- expands and clarifies the  
21 grounds for denial of a license application, adopts,  
22 by reference, the NAGRA bingo standards, clarifies  
23 language related to separate and segregated banking  
24 accounts, clarifies language related to the  
25 recordkeeping for qualified organizations and for

1 manufactures and for licensed distributors, and it  
2 expands and clarifies the grounds for disciplinary  
3 actions.

4 The staff respectfully requests and asks that you  
5 adopt these emergency rules and, in doing so, find  
6 that, pursuant to Indiana Code 4-32.2-3-3(b), the  
7 need for this amendment is immediate and substantial,  
8 such that non-emergency rule-making procedures are  
9 inadequate to address the need and that the emergency  
10 rule is likely to address this need.

11 Commission staff will continue the formal rule  
12 promulgation process to make this a final rule. If  
13 you have any questions --

14 CHAIRMAN MURPHY: Questions of Mr. Agnew on  
15 Resolution 2011-133?

16 COMMISSIONER SHY: I have a question. What does  
17 it mean to infer that someone could have limited  
18 participation?

19 MR. AGNEW: What the statute provides now is that  
20 a bingo worker, if they sell bingo packs, essentially  
21 the bingo cards and bingo supplies, prior to the  
22 bingo event and then they have no further gaming  
23 duties after that, they can then participate.

24 COMMISSIONER SHY: Okay.

25 CHAIRMAN MURPHY: Other questions of Mr. Agnew?

1 If not, is there a motion to approve Resolution  
2 2011-133?

3 COMMISSIONER SWIHART: So moved.

4 COMMISSIONER MORGAN: Second.

5 CHAIRMAN MURPHY: It's been moved and seconded.  
6 All those in favor signify by saying aye.

7 (All said aye.)

8 CHAIRMAN MURPHY: Opposed? Resolution 2011-133  
9 is unanimously approved.

10 MR. AGNEW: Thank you.

11 CHAIRMAN MURPHY: Thank you, Mr. Agnew.

12 MR. NEUENSCHWANDER: Good afternoon again,  
13 Mr. Chairman, members of the Commission. I have  
14 before you Order 2011-134, an order concerning a  
15 rule-making concerning a final rule for server-based  
16 gaming. You've voted on several emergency rules on  
17 this in the past, and today we're going to present  
18 you with a final rule.

19 This rule-making will add a rule concerning  
20 server-based gaming. It is necessary because at  
21 least one Indiana casino has already started  
22 utilizing server-based gaming under the emergency  
23 rule. Other Indiana casinos have expressed an  
24 interest in using this technology also.

25 Due to the new technology involved in

1 server-based gaming, our existing rules covering  
2 electronic gaming devices weren't sufficient to  
3 properly regulate the new devices. The new rule  
4 addresses issues unique to server-based gaming, to  
5 allow the Commission to ensure that the integrity of  
6 gaming is protected with the new gaming devices.

7 Commission staff has taken this rule through a  
8 promulgation process, beginning with posting of a  
9 notice and intent in the *Indiana Register*  
10 November 10, 2010. The proposed rule was posted on  
11 March 16, 2011. Commission staff then held a public  
12 hearing on April 11, 2011. No members of the public  
13 attended the hearing, but several entities made  
14 written comments at later dates. Commission staff  
15 considered all of the comments and made changes to  
16 the rule. Commission staff has prepared a change  
17 list that summarizes these changes between the  
18 proposed rule and the final rule.

19 The IEDC does not object to the economic impact  
20 of this rule. The State Budget Agency has  
21 recommended the proposed version of this rule be  
22 adopted and will have to approve the final version  
23 before it's fully promulgated.

24 The Commission staff asks you to approve this  
25 rule.

1           CHAIRMAN MURPHY: Any questions of  
2 Mr. Neuenschwander? If not, is there a motion to  
3 approve Resolution 2011-134?

4           COMMISSIONER SHY: I move to approve.

5           COMMISSIONER SHIELDS: Second.

6           CHAIRMAN MURPHY: It's been moved and seconded.  
7 All those in favor signify by saying aye.

8           (All said aye.)

9           CHAIRMAN MURPHY: Opposed? Resolution 2011-134  
10 is unanimously approved.

11          MR. NEUENSCHWANDER: Thank you. The next  
12 resolution is 2011-135. This is actually concerning  
13 an emergency rule regarding server-based gaming. At  
14 our March meeting, you'll recall, you approved an  
15 emergency rule concerning the server-based gaming.  
16 Since that time, we've worked on the promulgated rule  
17 that you just voted to approve.

18          Since the passage of that emergency rule in  
19 March, we've made several improvements, which are  
20 reflected in the final rule that you just voted on.  
21 And even though you just approved the final rule, it  
22 will still have to go through the Attorney General's  
23 office and the Governor's office, so it will not be  
24 in effect for some time.

25          Therefore, Commission staff believes it is

1 appropriate to pass a new emergency rule that will  
2 reflect the improvements made since the March rule.  
3 By approving the new emergency rule, you will  
4 effectively be keeping the emergency rule in sync  
5 with the final rule as it's promulgated.

6 So Commission staff respectfully asks that you  
7 adopt the emergency rule before you and, in doing so,  
8 find, pursuant to Indiana Code 4-32.2-3-3(b), the  
9 need for this amendment is immediate and substantial,  
10 such that the non-emergency rule-making procedure is  
11 inadequate to address the need, that the emergency  
12 rule is likely -- and that the emergency rule is  
13 likely to address that need.

14 The Commission staff will continue with the  
15 regular rule-making process for the permanent rule,  
16 to finish that out, and formally adopt the final  
17 rule. Commission staff requests that you approve the  
18 emergency rule.

19 CHAIRMAN MURPHY: Questions of Mr. Neuenschwander  
20 on the resolution? If not, is there a motion to  
21 approve Resolution 2011-135?

22 COMMISSIONER SWIHART: So moved.

23 COMMISSIONER FINE: Second.

24 CHAIRMAN MURPHY: It's been moved and seconded.  
25 All those in favor signify by saying aye.

1 (All said aye.)

2 CHAIRMAN MURPHY: Opposed? Resolution 2011-135  
3 is approved.

4 MR. NEUENSCHWANDER: Thank you. The next  
5 resolution is 2011-136. This concerns the final rule  
6 concerning the withholding of child support from the  
7 winnings of delinquent obligors.

8 You'll recall, also, you've passed emergency  
9 rules on this topic, and now we're ready to present  
10 you with a final rule.

11 The legislature enacted Indiana Code 4-33-4-27  
12 and 4-35-4-16 in 2010 to require that delinquent  
13 child support be withheld from casino winnings. The  
14 rule before you today is necessary to set up specific  
15 procedures under which the above code may be  
16 enforced.

17 While Commission staff worked on the promulgation  
18 of this current rule, you have passed emergency rules  
19 that have assisted in enforcing compliance with those  
20 statutes. At this time we're ready with the  
21 permanent rule to take the place of the emergency  
22 rule.

23 Commission staff has taken this rule through the  
24 promulgation process, beginning with the notice of  
25 intent that was posted in the *Indiana Register* on

1 August 18 of 2010. The proposed rule was posted in  
2 the *Register* on March 16 of 2011.

3 Commission staff held a public hearing on  
4 April 12, 2011. No members of the public attended  
5 the meeting. Commission staff, however, received  
6 written comments from several entities. Commission  
7 staff consider all of these comments and made changes  
8 to the proposed rule that are described in the change  
9 list included in your materials. The changes were  
10 not changes any party would consider controversial,  
11 as they involved changes of location of the proposed  
12 sections, specifically moving some from 68 IAC 15-15  
13 to 68 IAC 9, omitting some sections that were  
14 redundant, adding the definition of obligor for  
15 clarification, and several technical and formatting  
16 changes that were suggested by LSA. IEDC does not  
17 object to the economic impact of this rule.

18 The State Budget Agency has recommended the  
19 proposed version of the rule be approved and allowed  
20 to approve the final version before it's promulgated.

21 Commission staff requests that you approve this  
22 final rule.

23 CHAIRMAN MURPHY: Any questions of  
24 Mr. Neuenschwander on this resolution? If not, is  
25 there a motion to approve Resolution 2011-136?

1 COMMISSIONER SHY: I move.

2 COMMISSIONER SWIHART: I second.

3 CHAIRMAN MURPHY: It's been moved and approved --  
4 and seconded. Sorry. All those in favor of approval  
5 of Resolution 2011-136 signify by saying aye.

6 (All said aye.)

7 CHAIRMAN MURPHY: Opposed? Order 2011-136 is  
8 approved. Thank you, Mr. Neuenschwander. Proceed.

9 MR. NEUENSCHWANDER: Thank you, Mr. Chairman.  
10 The next resolution before you is 2011-137,  
11 considering an emergency rule also on the withholding  
12 of support from delinquent child support obligors.

13 You'll recall, at the November 2010 meeting  
14 Commission passed Resolution 2010-215. That was an  
15 emergency rule similar to the one that you just  
16 passed as a final rule. Commission staff filed that  
17 emergency rule, and it will expire on July 5, 2011.  
18 Again, the final rule that you just passed will not  
19 go into effect immediately because it has to go  
20 through the Governor's office and the Attorney  
21 General's office to be approved.

22 The Commission staff has taken note of the fact  
23 that the currently-in-place emergency rule will  
24 expire on July 5. So, therefore, it is appropriate  
25 to pass an emergency rule to fill the gap between the

1 time that the emergency rule expires, the current  
2 one, and then the final rule be effective.

3 The proposed emergency rule is almost exactly the  
4 same as the proposed final rule that you just  
5 approved, except several technical and formatting  
6 changes have been made to put it into emergency-rule  
7 format.

8 Commission staff recommends that you approve this  
9 emergency rule.

10 CHAIRMAN MURPHY: Any questions on the  
11 resolution? If not, is there a motion to approve  
12 Resolution 2011-137?

13 COMMISSIONER SHY: Move to approve.

14 COMMISSIONER MORGAN: Second.

15 CHAIRMAN MURPHY: It's been moved and seconded.  
16 All those in favor signify by saying aye.

17 (All said aye.)

18 CHAIRMAN MURPHY: Opposed? Resolution 2011-137  
19 is unanimously approved.

20 MR. NEUENSCHWANDER: Thank you, Mr. Chair. I  
21 have one more emergency rule for you today, and that  
22 is Resolution 2011-138, considering local development  
23 agreements.

24 As Director Yelton mentioned in his opening  
25 remarks, the recently finished session of the Indiana

1 General Assembly resulted in the passage of a bill  
2 that will impact the casino gambling business and  
3 will require the Commission to address outstanding  
4 issues in rule-making.

5 You will recall that Resolution 2011-81 at the  
6 March Commission meeting was passed. This resolution  
7 adopted a new emergency rule regarding local  
8 development agreements, including reporting  
9 provisions, a ban on for-profit entities being  
10 specified recipients, and clarification of the  
11 Commission's authority over local agreements.

12 Senate Enrolled Act 325 essentially codified the  
13 emergency rule that you adopted in March. Senate  
14 Enrolled Act 325 establishes the authority of the  
15 Commission over local development agreements,  
16 requires annual reports concerning local development  
17 agreement payments, and establishes procedures for  
18 the modification of a local development agreement.

19 The bill does not contain certain details such as  
20 the format and deadlines of the reports. For these  
21 reasons, the Commission is left to fill in some of  
22 the details that were not covered in the bill and,  
23 therefore, the statute. The emergency rule is  
24 presented to you today and addresses those details.

25 The Commission staff recommends that you adopt

1 the emergency rule 138.

2 CHAIRMAN MURPHY: Any questions on the  
3 resolution? If not, is there a motion to approve  
4 Resolution 2011-138?

5 COMMISSIONER SWIHART: So move.

6 COMMISSIONER MORGAN: Second the motion.

7 CHAIRMAN MURPHY: It's been moved and seconded.  
8 All those in favor signify by saying aye.

9 (All said aye.)

10 CHAIRMAN MURPHY: Opposed? Resolution 2011-138  
11 is unanimously approved. Thank you.

12 MR. NEUENSCHWANDER: Thank you, Mr. Chairman.

13 CHAIRMAN MURPHY: The final item on the agenda is  
14 the Ameristar Local Development Agreement. But prior  
15 to getting into that subject, since we have several  
16 speakers, we'd like to take a short, five-minute  
17 recess.

18 (A recess was taken.)

19 CHAIRMAN MURPHY: Thank you, everyone. As I  
20 mentioned, the final item on the agenda today is the  
21 Ameristar Local Development Agreement.

22 COMMISSIONER SHIELDS: Before we go down that  
23 path, could I please hear from Mr. Funk, our counsel,  
24 about the status of the -- I believe there were  
25 mediations. I'm wondering what the status of those

1 mediations are.

2 CHAIRMAN MURPHY: Mr. Funk.

3 MR. FUNK: May I?

4 CHAIRMAN MURPHY: Please.

5 MR. FUNK: Mr. Chairman and members of the  
6 Commission, Judge Yelton and other members of the  
7 staff, I apologize if anything I say today duplicates  
8 my comments to the Commission at its meeting in March  
9 of this year, when mediation was briefly discussed.

10 The history of the mediation is that in late 2010  
11 counsel for Ameristar proposed to various interested  
12 parties, through their counsel, the idea of a  
13 mediation to hopefully be able to constructively  
14 address and resolve the many issues then pending and  
15 still pending in the series of lawsuits involving the  
16 City of East Chicago, East Chicago Second Century,  
17 the Foundations of East Chicago, the State of  
18 Indiana, the Office of the Attorney General, and the  
19 Indiana Gaming Commission.

20 Ameristar proposed, as I recall, as a possible  
21 mediator Judge Sanford Brook. And some of you who  
22 have served on the bench, and maybe the rest of you  
23 as well, knew Judge Brook as a distinguished member  
24 of the trial bench in St. Joseph County, Indiana. He  
25 was then appointed to the Indiana Court of Appeals,

1 where he served for a relatively few number of years  
2 before being selected by his peers to serve as Chief  
3 Judge with the Indiana Court of Appeals. And Judge  
4 Brook left the Court of Appeals several years ago to  
5 join a distinguished mediation and arbitration firm  
6 in Denver, Colorado. Since then it was my  
7 understanding he has assisted parties, at least  
8 nationally, if not internationally, in resolution of  
9 their civil litigation through the mediation process.

10 When I last addressed you in March, the mediation  
11 was scheduled for April 25 and 26 of 2011. And, Your  
12 Honor, Judge Shields, the mediation in fact was  
13 conducted by Judge Brook on those two days at the  
14 Indiana State Government Center.

15 The parties were represented by their counsel  
16 and, to some extent, by representatives of the  
17 parties themselves. The City of East Chicago  
18 participated. Ameristar participated. The  
19 Foundations of East Chicago participated. The Office  
20 of the Attorney General participated. I think that's  
21 everyone, including the Commission, through myself as  
22 your outside counsel, concerning the East Chicago  
23 Local Development Agreement litigation.

24 During the course of those two days, the actual  
25 negotiations of which are confidential, Judge Brook

1 explored settlement of the litigation in detail,  
2 sometimes one-on-one with individual parties,  
3 sometimes having the parties meet without him, and  
4 sometimes him meeting with parties in combination.

5 Many aspects of the existing litigation, as well  
6 as many aspects of a proposed new local development  
7 agreement, were discussed, analyzed, and negotiated  
8 during that two-day mediation, which ended in an  
9 adjournment because a settlement of the existing  
10 litigation was not achieved and an agreement as to a  
11 new LDA was not reached.

12 Subsequent to April 26, Judge Brook continued to  
13 negotiate -- Judge Brook continued to assist the  
14 parties in their negotiations with one another by  
15 speaking and e-mailing with a lot of us often,  
16 including, to me, e-mails and a telephone  
17 conversation over Memorial Day weekend. It's my  
18 understanding Judge Brook similarly communicated with  
19 other parties, through their counsel, up through and  
20 including this past weekend.

21 And a resolution has not been reached of the  
22 litigation. And as of the close of business  
23 yesterday, a resolution had not been reached with  
24 respect to the terms and conditions of the new LDA,  
25 which the Commission, as you know, ordered Ameristar

1 to file by today.

2 I believe, Your Honor, that's a fair assessment  
3 of the status of the mediation.

4 COMMISSIONER SHIELDS: Thank you very much.

5 MR. FUNK: Questions?

6 CHAIRMAN MURPHY: Any other questions of  
7 Mr. Funk?

8 MR. FUNK: Thank you.

9 CHAIRMAN MURPHY: I would like to call on Adam  
10 Packer now.

11 MR. PACKER: Thank you, Mr. Chairman.  
12 Commissioners, as you know, in the March 17, 2011,  
13 Commission meeting you passed Resolution 2011-82,  
14 which, among other things, directed Ameristar to  
15 request modification or termination and replacement  
16 of its local development agreement for East Chicago,  
17 Indiana, and that that request was to be made at the  
18 business meeting of the Commission in June of 2011.

19 And, as Mr. Funk told you, an agreement on a new  
20 local development agreement has not been reached. So  
21 pursuant to the requirements and the provisions of  
22 the new LDA law, Senate Enrolled Act 325,  
23 specifically Section 15, which addresses what a  
24 development provider, i.e., a casino licensee, is  
25 required to do when there has been a disapproval of a

1 development agreement.

2 In this case, as you recall in 2006, part of this  
3 development agreement was disapproved by the  
4 Commission, and Ameristar has complied with those  
5 requirements as set forth in Senate Enrolled Act 325  
6 and submitted a proposed modification to the local  
7 development agreement for East Chicago.

8 As part of this discussion, there have been a  
9 number of submissions made to the Commission,  
10 document submissions. And, for the record, those are  
11 Ameristar's Petition For Modification, the City of  
12 East Chicago's submission, the Foundations of East  
13 Chicago's submission, the Office of the Indiana  
14 Attorney General's submission, a proposal for a new  
15 LDA that the City made in March of 2011, an objection  
16 by Attorney Lee McNeely on behalf of East Chicago  
17 Second Century, correspondence that the Commission  
18 has received from various groups and individuals in  
19 the Lake County and East Chicago area, and an  
20 objection filed by Attorney William Bock on behalf of  
21 the City of East Chicago.

22 A number of parties have requested time to speak  
23 before the Commission, and at this time it's  
24 appropriate to bring those speakers up, Mr. Chairman.

25 CHAIRMAN MURPHY: Thank you, Mr. Packer. First

1 up today to speak will be the counsel for Ameristar,  
2 Rusty Denton.

3 COMMISSIONER MORGAN: Mr. Chairman, do you have  
4 an allotment of time?

5 CHAIRMAN MURPHY: Yes, I was just getting ready  
6 to do that.

7 COMMISSIONER MORGAN: Sorry.

8 MR. CHAMPION: Thank you, Mr. Chairman. My name  
9 is Joe Champion, along with Rusty Denton. We'll be  
10 well within our allotted time.

11 CHAIRMAN MURPHY: Okay. You have twenty minutes.

12 MR. CHAMPION: Members of the Commission,  
13 Executive Director Yelton, staff, as I said, my name  
14 is Joe Champion. I'm a partner, along with Rusty  
15 Denton, at the law firm of Bingham McHale here in  
16 Indianapolis. We are the gaming and litigation  
17 counsel for Ameristar East Chicago. And with us  
18 today from the company is Matthew Block and Rachel  
19 Dawson.

20 We're here to present the proposed modified LDA  
21 as required by the March 2011, specifically the  
22 Resolution 2011-82. On behalf of Ameristar, we would  
23 like to thank the Commission and staff for making  
24 sure, or ensuring, that the LDA funds are spent  
25 properly on local development.

1           As you know, Ameristar acquired this property in  
2           2007 from Resorts, and with it came this LDA issue,  
3           along with a significant amount of litigation. As  
4           Mr. Funk stated, Ameristar has led the efforts to get  
5           a global resolution for all parties, including a  
6           two-day mediation in April, consisting of all  
7           parties. That was led by Judge Brook.  
8           Unfortunately, no resolution could be reached.

9           So based on IAC 4-33-23, Section 15, Ameristar's  
10          obligated to submit a modified LDA. During our  
11          presentation, we're going to give you a brief  
12          overview of the LDA, an overview of litigation, our  
13          attempts to get an agreed LDA with all the parties,  
14          and our efforts to resolve this. We'll discuss the  
15          proposed modified LDA. And we'd like you to note  
16          that what we are proposing, we do believe, is in the  
17          best interest of all parties. And, with that, I'll  
18          have my partner, Rusty Denton, talk about that idea.

19          MR. DENTON: Thank you, Mr. Chairman, members of  
20          the Commission, Executive Director Yelton, staff. I  
21          appreciate the opportunity this afternoon to speak to  
22          you about this matter.

23          As my partner, Joe Champion, just said, the  
24          agreement that we're dealing with today was created  
25          by Showboat seventeen years ago and was inherited by

1 the subsequent licensed owners. Under that  
2 agreement, Showboat agreed to distribute 3.75 percent  
3 of its adjusted gross receipts; one percent to the  
4 City, one percent to two separate foundations, and  
5 .75 percent to East Chicago Second Century. There  
6 have been a number of other documents that relate to  
7 that initial agreement which was a 1984, April 1984,  
8 development agreement. And I'll refer to all those  
9 wrapped up together, as we indicated in our petition  
10 and proposed resolution, as the East Chicago  
11 Development Agreement.

12 As I said, all of the licensed owners since  
13 Showboat have been complying with this agreement,  
14 subject to some held funds, which we'll talk about in  
15 a moment. Originally the projections for the  
16 adjusted gross -- for the LDA payments were about \$7  
17 million a year, that 3.75 percent of AGR would yield  
18 about \$7 million a year after the first year or so.

19 And that was a gross underestimation. During  
20 period 2003 and 2006, the LDA payments totaled \$11.1  
21 million a year, substantially over what the City and  
22 Showboat originally projected.

23 Since then the revenue for the boat has been down  
24 substantially. But even with that lower revenue,  
25 Ameristar, for example, in 2010, paid \$9.2 million,

1 over \$2 million over what the original projections  
2 were. So there's been a significant amount of money  
3 paid in LDA funds for East Chicago, but,  
4 unfortunately, that money has been held and hasn't  
5 been able to be used.

6 In 2007 those two foundations I referenced merged  
7 into one entity called Foundations of East Chicago.  
8 And East -- that entity got its funds until they were  
9 held as part of a litigation.

10 Litigation began over six years ago when East  
11 Chicago Second Century filed the first lawsuit in  
12 2005. There have been many, many claims,  
13 counterclaims, cross-claims, too many to try to  
14 mention. We've listed the cause numbers and the  
15 particular lawsuits in our proposed resolution. They  
16 are currently pending, all of the claims are  
17 currently pending, in two Marion County Superior  
18 Court cases. And there have been multiple appeals in  
19 these cases resulting in phenomenally four Indiana  
20 Superior Court decisions. And that is why we're here  
21 before you today, because this litigation has  
22 continued.

23 This Commission has taken regulatory action with  
24 respect to the East Chicago Development Agreement, as  
25 already mentioned, in 2006, as a result of an

1 investigation with the Commission and the Indiana  
2 Attorney General's Office.

3 The Commission entered its Resolution 2006-58 on  
4 June 8, 2006, ordering Ameristar, at the time called  
5 Resorts, to come up with a plan for how to -- well,  
6 first off, disapproving of any further payments to  
7 Second Century, which was receiving .75 percent under  
8 the agreement, and then ordering Resorts, at the  
9 time, to come up with a plan for how to take care of  
10 that issue. And the plan was implemented to hold the  
11 .75 percent in a separate, segregated account until  
12 the dispute was resolved, to make sure those funds no  
13 longer flowed to Second Century. And that account  
14 has stayed in place since we began putting money into  
15 it June 15, 2006. We refer to that account as the  
16 .75 Account. And there's another account I'll refer  
17 to in a moment.

18 Essentially the litigation is between the City,  
19 Foundations of East Chicago, and Second Century,  
20 serving competing claims to the 2.75 percent of the  
21 3.75 percent total. That's the issue.

22 Ameristar has been in the middle. Ameristar has  
23 been in the middle and has tried to at least maintain  
24 some sense of neutrality throughout this process.

25 Concerned about the possibility of multiple

1 liability, or paying funds to the wrong party,  
2 Ameristar has gone to trial courts in these cases and  
3 asked for interpleader-type relief, asking the trial  
4 courts to allow us to put disputed money in these  
5 held accounts. We were already keeping .75 in the  
6 .75 Account.

7 And we received that request. In December 2007  
8 Judge S.K. Reid first issued her order requiring  
9 Ameristar to put the two percent that formerly went  
10 to Foundations into what we call the Two Percent  
11 Account. And then a few days later Judge Shaheed  
12 ordered Ameristar to continue paying the .75 into the  
13 .75 Percent Account. So since December 2007 we,  
14 Ameristar, have been obligated by those orders to  
15 continue paying 2.75 percent into these held  
16 accounts.

17 Members of the Commission, those accounts  
18 currently hold \$30.2 million. There is about \$11.1  
19 million in the .75 Account and about \$19.1 million in  
20 the Two Percent Account.

21 As I said, Ameristar has tried to remain neutral  
22 throughout this entire process, except it has  
23 consistently recognized its obligation to pay local  
24 development funds under the local development  
25 agreement until it is replaced.

1           And it has consistently urged the parties to try  
2 to come together to reach an agreement to open the  
3 spigot, if you will, and get the money flowing to the  
4 community, where it was intended, as opposed to in  
5 bank accounts, collecting interest.

6           Frustrated with over six years of litigation and  
7 all these appeals, Ameristar, in December 2010,  
8 decided to lead the effort to reach some sort of  
9 global resolution. And, as your counsel has  
10 mentioned, we were able, fortunately, to get the  
11 parties to agree to use Judge Sanford Brook as the  
12 neutral third party.

13           We knew it would be difficult, after all this  
14 litigation and contentiousness involved, we knew it  
15 would be difficult to get the parties to sit down and  
16 actually work through the issues. And we thought the  
17 best way to do it was to get someone like Judge  
18 Brook. And I can only agree with what Mr. Funk has  
19 said about Judge Brook. He is one of the most  
20 respected mediators in the country and has done an  
21 admirable job working with the parties over the past  
22 few weeks.

23           He did hold a two-day mediation on April 25 and  
24 26. And I apologize if Mr. Funk said this and I  
25 didn't catch it, but Second Century also participated

1 in that mediation. I didn't hear that, but maybe --  
2 if he said it, I apologize. All the interested  
3 parties, as far as we could tell, were at the  
4 mediation.

5 I want to point out that Judge Brook spent a  
6 substantial amount of time, before that two-day  
7 mediation, taking submissions from the parties,  
8 confidential submissions, and spending time on the  
9 phone trying to understand the parties' positions and  
10 conducting pre-mediation negotiations. Very helpful  
11 stuff that we thought would allow us to hit the  
12 ground running on April 25 and 26.

13 A two-day mediation is somewhat unusual, at least  
14 in my experience, and even more unusual that it  
15 didn't result in a settlement, but it didn't.

16 And I can confirm what counsel has said to you,  
17 that Judge Brook has not stopped. From the very next  
18 day, April 27, he began working with the parties over  
19 the phone and electronically, with e-mail and other  
20 communications, trying to get the parties to reach an  
21 agreement, as late as even yesterday.

22 And I am personally aware of the extraordinary  
23 efforts of Judge Brook on this matter, working late,  
24 late into the night, even Colorado time, 10:00, 11:00  
25 at night, over the weekends, on Memorial Day weekend.

1 He estimated to me that his efforts involve literally  
2 hundreds and hundreds of hours of effort on the part  
3 of himself and the parties. Your counsel is aware of  
4 the confidential details of the mediation and why it  
5 didn't work out. Suffice it to say, there has been  
6 no agreement yet.

7 And that leads us to today. As Mr. Packer  
8 pointed out, Resolution 2011-82 requires Ameristar to  
9 either bring a new LDA to replace the old one or  
10 propose a modification. And our hope and our goal  
11 was always to come to you today with a local  
12 development agreement agreed to by all of the parties  
13 involved, particularly Ameristar, the City,  
14 Foundations of East Chicago, one that would replace  
15 the existing LDA.

16 And we remained hopeful to the very end that that  
17 would happen. And that is why we waited, Ameristar  
18 waited, until the last possible moment to take the  
19 other path. And that is to propose a modification,  
20 as opposed to a new LDA. We remained optimistic to  
21 the very last moment that there might be an  
22 agreement, and so we waited and waited before we put  
23 a modification in the record that might interrupt the  
24 possibility of an agreement before today. But we  
25 felt like we had no choice at the end of the day

1 yesterday and had to propose our agreement.

2 Now, there is still the possibility we will be  
3 asking you to adopt the modified LDA. There's still  
4 a possibility that after today the parties could  
5 reach an agreement to replace it with a modified LDA.  
6 I'm still optimistic about that. And if we do that,  
7 if that can be done, then there's a mechanism under  
8 Senate Enrolled Act 325 that allows the parties to do  
9 that, under Section 14. And I can't speak for all  
10 the parties, but I can guess that everyone will try  
11 to work in a good-faith effort to see if we can reach  
12 that resolution.

13 But that brings us to Ameristar's petition, which  
14 asks for two things and two things only. First, the  
15 modified local development agreement that we proposed  
16 as Exhibit 1A to the petition.

17 And, second, our petition asks -- Ameristar asks  
18 the Commission to allow Ameristar to use \$10 million  
19 of the funds in the .75 Account to help Ameristar pay  
20 for a \$35 million contribution it is considering  
21 making to replace the Cline Avenue Bridge in East  
22 Chicago. I'm going to talk about that in a moment.

23 I want to talk about the modified LDA first. And  
24 I want to point out that we submitted with our  
25 petition the LDA, the modified LDA, as Exhibit 1.

1 And we discovered last night a couple of drafting  
2 errors that we corrected with an Exhibit 1A that we  
3 submitted to you today. You also have, if you don't  
4 have enough exhibits, an Exhibit 1B. It's a  
5 line-item copy that shows the very few changes we  
6 made.

7 We discovered two errors. We had omitted, from  
8 an earlier draft that we had, a provision that made  
9 sure there are no third-party beneficiaries to the  
10 agreement.

11 And, secondly, we took out the word "replace,"  
12 which was from a previous draft that dealt with an  
13 agreement. We wanted to make it clear this is a  
14 modification, not an agreement, so we took the word  
15 "replace" out twice.

16 So the Exhibit 1A that you have before you is  
17 Ameristar's proposal on the modified LDA, and it is a  
18 complete -- it would modify the existing development  
19 agreement in its entirety.

20 The main features of the modified LDA are this:  
21 First, it requires Ameristar to pay 3.25 percent,  
22 equally distributed to the City and to Foundations of  
23 East Chicago. We believe, Ameristar believes, that  
24 that's fair to everyone. At that amount, 1.625 to  
25 each of those two parties, the City is getting

1 substantially more than it was getting before, which  
2 was one percent.

3 Foundations is taking less. They were getting  
4 two percent before. They are taking less. And that  
5 is a compromise from the original agreement.

6 Second Century is not getting any money under the  
7 agreement, so we covered that ground.

8 Ameristar is paying less than the 3.75 percent it  
9 was paying before, which, as I said before, we think  
10 is fair, considering that, in our view, three percent  
11 would be fair, considering that that's the average in  
12 the area, northwest part of the state, for AGR  
13 payments by other folks.

14 Another main feature of the agreement, those  
15 payments, that 3.25 percent payment split equally  
16 between the two parties -- excuse me, specified  
17 recipients, under the statute, goes right to the  
18 designated account, what's called Designated Account  
19 in the agreement, but what's referred to as the  
20 separate, segregated account in the statute,  
21 Section 13 of the statute. That ensures that the  
22 money goes right from us into the account covered by  
23 the statute, immediately controlling -- having that  
24 money governed by the limits and controls of the  
25 statute and the Commission's authority.

1           Second, the funds in those accounts can only be  
2 used for the specific economic and other development  
3 purposes specified in the agreement -- the specific  
4 purposes are Section 2 of the agreement -- and also  
5 reasonable and necessary expenses, overhead expenses  
6 and administrative costs.

7           Another main feature is that, an important  
8 feature, is that the agreement provides that the  
9 Commission continues to have the authority to monitor  
10 and enforce the agreement, that the Commission is  
11 vested with that authority, not the licensee, and  
12 that the Commission maintains and has all of the  
13 authority granted to it under Senate Enrolled Act  
14 325.

15           We believe that this new modified LDA is fair to  
16 all the parties. It's in the best interest of  
17 everyone that's involved, particularly the community.  
18 And we would be asking the Commission to adopt the  
19 modified LDA which we submitted as Exhibit 1A.

20           That takes me to our second proposal, and that is  
21 to use the \$10 million for the Cline Avenue Bridge.  
22 You may be aware that the Indiana Department of  
23 Transportation condemned the bridge, as being unsafe,  
24 in November of 2009. That decision and the  
25 condemnation of the bridge has resulted in a

1 substantially material adverse impact on Ameristar's  
2 revenues.

3 CHAIRMAN MURPHY: Excuse me, Mr. Denton. You  
4 have five minutes.

5 MR. DENTON: Okay. Thank you. And we have been  
6 working preliminarily with INDOT, discussed possibly  
7 replacing the bridge -- or not replacing the bridge.  
8 Ameristar understands that it would cost well over a  
9 hundred million dollars to do that. Well over a  
10 hundred million dollars. Ameristar has been in  
11 preliminary discussions with INDOT about the  
12 possibility of contributing \$35 million.

13 That would be a significant economic development  
14 project for East Chicago, giving direct access for  
15 Chicago-area residents to the property, and otherwise  
16 benefitting the businesses in the area. We think it  
17 falls squarely within the economic development  
18 purposes of the original agreement and would be a  
19 more appropriate use for the .75 Account funds  
20 currently being held by Ameristar. Ameristar is  
21 asking for only \$10 million of the .75 Account, that  
22 it would use toward this \$35 million contribution  
23 that it may be making.

24 And we realize that if the Commission were to  
25 adopt the resolution and approve that, Ameristar

1 would still have to go to the trial court and ask the  
2 trial court to modify that order, Held Order No. 2.  
3 And there may be opposition to that, but that is a  
4 step that has to be done.

5 Even if the Commission adopts this petition and  
6 approves of the \$10 million, and even if we're able  
7 to convince the court to release the money, Ameristar  
8 will not withdraw the money or use the money for the  
9 bridge unless it actually enters into this agreement  
10 to fund the bridge with a \$35 million contribution.

11 And, I must say, the discussion is still very  
12 much in the preliminary stage. Ameristar believes  
13 that the project is important to the community, but  
14 it must also be satisfied that it's going to have a  
15 return on its investment.

16 That is a tough call for Ameristar, as a  
17 business, to make. And it was a close call even  
18 before the Illinois legislature passed its gaming  
19 expansion bill this week. So we will be monitoring  
20 that bill very closely, trying to assess the impact  
21 on the northwest Indiana gaming environment and  
22 whether it's appropriate to make that contribution  
23 that's been preliminarily discussed with INDOT.

24 Again, Ameristar requests that the Commission go  
25 ahead and approve the \$10 million release so we can

1 go to court and ask the court to modify it. But I  
2 want to reiterate that Ameristar, even with those  
3 approvals, will not actually withdraw or use the  
4 money for the project unless it actually enters into  
5 an agreement with INDOT to contribute the \$35 million  
6 contribution toward the bridge.

7 One other thing I want to note is that the  
8 litigation is still pending. And as long as the  
9 litigation is still pending, Ameristar is obligated  
10 under Held Order 1 and Held Order 2 to pay 2.75  
11 percent of its AGR into those two accounts. And so,  
12 until that is resolved, 2.75 percent of the AGR of  
13 the new LDA, 2.75 percent of the 3.75 percent, will  
14 not flow. It will continue to be held in those  
15 accounts unless something happens. And that is  
16 accounted for in the resolution we've proposed to  
17 you, so you can see that there.

18 In conclusion, Ameristar asks that the Commission  
19 adopt the petition that we have -- or, excuse me,  
20 approve the petition Ameristar has submitted, adopt  
21 the modified local development agreement, and approve  
22 the use of \$10 million toward the \$35 million bridge  
23 contribution that Ameristar is considering making.

24 I'll be happy to answer any questions now.

25 CHAIRMAN MURPHY: Any questions for Mr. Denton?

1 Thank you.

2 MR. DENTON: Thank you very much.

3 CHAIRMAN MURPHY: Very informative. Next up on  
4 the speaker agenda will be the Indiana Attorney  
5 General, Mr. Zoeller. Welcome, Mr. Zoeller.

6 MR. ZOELLER: Thank you, Mr. Chairman,  
7 Commission, Your Honor, staff. I stand before you  
8 today to give you a little more history of other  
9 litigation, as if you haven't heard enough about  
10 litigation. But a little bit of the background comes  
11 from the past eight years that the state of Indiana  
12 has been engaged in litigation arising out of the  
13 administration of former East Chicago Mayor Robert  
14 Pastrick.

15 Some of you may know of the RICO case that  
16 resulted in the City of East Chicago being  
17 adjudicated, for the first time in U.S. history, as  
18 the corrupt enterprise in a RICO statute. It  
19 resulted in a \$108 million judgment.

20 I bring this to your attention because it was  
21 during this period of time that the federal courts  
22 have ruled that the City of East Chicago was the  
23 corrupt organization, that the so-called letter  
24 agreements, the previous LDA, was entered into.

25 Now, I bring this up just to give you a little

1 bit of history, that this is well before any members  
2 of this Gaming Commission were around. There's  
3 nobody in the City administration, elected or  
4 appointed, that are still part of the original. So  
5 this is not really meant as a criticism but just to  
6 lay that on the table so you recognize that the local  
7 development agreements, which in the courts have all  
8 been referred to as letter agreements, you recognize  
9 that this has come with somewhat of a complicated  
10 past.

11 Included, the only LDA that had a for-profit  
12 entity -- Second Century was the only for-profit  
13 entity in any LDA, which we're still in litigation  
14 with to try to find out what happened to over \$16  
15 million that were meant for economic development  
16 purposes.

17 While this history is regrettable, I think it is  
18 important to recognize that this is something that  
19 has to be addressed and, hopefully in the new  
20 agreements or modifications, whichever way the Gaming  
21 Commission chooses to go, that you can't ignore this  
22 history.

23 One of the things that I try to publicly advocate  
24 in the litigation and in my comments about the new  
25 LDA is that we need to regain some credibility and

1 integrity and the trust of the people of East  
2 Chicago, who I can testify have not received the full  
3 benefit of the economic development from the previous  
4 letter agreements.

5 I don't come before you to advocate or offer any  
6 recommendations regarding a precise distribution of  
7 economic development revenues or economic development  
8 priorities. I've never tried to stand in the way of  
9 the mayor and the elected officials, the Foundations,  
10 any of the participants who are responsible for that,  
11 but have sought to bring greater attention to the  
12 need for transparency and accountability. Not to say  
13 that anyone is being punished because, again, I  
14 recognize that these are all new players. And the  
15 Gaming Commission of the past approved this, so  
16 there's plenty of fault to go around.

17 But I think this is an opportunity and a need  
18 that I want you to recognize, that you have the  
19 opportunity in this new modification or a new LDA to  
20 restore some trust that has been lost on the people  
21 of East Chicago.

22 But today the only new thing -- which I've said  
23 most of that publicly before. But today I also come  
24 to add my voice to Mayor Copeland in advocating for  
25 the people of East Chicago regarding the amount of

1 gaming revenue dedicated to economic development in  
2 their city.

3 Now, as Attorney General, I, too, represent the  
4 citizens of East Chicago, as well as the 6.5 million  
5 people of our state. So, in that capacity, I would  
6 urge the Indiana Gaming Commission to require the  
7 East Chicago licensee to maintain the current level  
8 of economic development support, the full 3.75  
9 percent of the licensee's adjusted gross revenues,  
10 under any new or modified local development  
11 agreement.

12 I would offer three points that I think  
13 underscore the need for that. First, the Gaming  
14 Commission's enabling legislation requires you to,  
15 "Select among competing applicants the applicants  
16 that promote the most economic development in a home  
17 dock area." Unfortunately, in the original letter  
18 agreement, the City of East Chicago, in this LDA,  
19 never benefited from a competitive bidding process  
20 over this licensee, the previous, the original  
21 licensee. So there's really no telling what an open  
22 and fair application and competition would have  
23 included.

24 The second point that I want to make is that the  
25 history of the problems that have plagued the

1 previous agreements have all been to the detriment of  
2 the citizens of East Chicago. There's a lot of blame  
3 to go around, but you really can't fault the people  
4 that were to have benefited from the economic  
5 development funds.

6 I do think that, as a representative of the state  
7 and the citizens of East Chicago, I, too, think that  
8 we need to focus on the true beneficiaries who have  
9 been denied under all of the litigation, under all of  
10 the problems that surrounded the earlier agreements.  
11 But it's all been to the detriment of the people of  
12 East Chicago.

13 So that's the second reason why I think the full  
14 3.75 percent is required, so that the intent of  
15 economic development benefits to the citizens and to  
16 the City of East Chicago can finally be realized.

17 The third point is that, in comparison with other  
18 riverboat gaming communities now served by LDAs, the  
19 City of East Chicago can demonstrate much greater  
20 needs than any. If you've traveled around the state,  
21 as I have, and visited all of the cities and counties  
22 where there are riverboat gaming operations -- in  
23 French Lick -- you can see the economic development  
24 benefits that have been realized in those  
25 communities.

1           If you travel the streets of East Chicago, I  
2 would ask you to take a good, hard look and see if  
3 you can recognize the benefits of the 3.75 that were  
4 never fully realized in those communities.

5           So, again, I believe that the Commission should  
6 continue to require the same level of financial  
7 obligation of the licensee, assuming that you have  
8 either a new LDA or a modification.

9           A point that I don't include in the written  
10 statement is that if you think of it this way, the  
11 licensee purchased the license in an open, fair  
12 process and understood the obligation, at the time,  
13 to be 3.75. That's what it was then, that's what  
14 they've continued to pay, and it's what it is in any  
15 LDA that's been offered.

16           The benefit of those funds have not been realized  
17 by the City. But to adjust the LDA downward at this  
18 point just simply benefits the licensee in an  
19 obligation that they knew going into the purchase, to  
20 the detriment of the citizens of East Chicago. Thank  
21 you.

22           CHAIRMAN MURPHY: Thank you. Any questions?

23           COMMISSIONER SHIELDS: I have one. You said that  
24 the 3.75 is the only amount that has ever been  
25 offered. What are you saying there?

1 MR. ZOELLER: Well, I mean, all the letter  
2 agreements and all of the litigation, I don't know  
3 that there was ever an additional amount outside of  
4 those three letter agreements. So the high-water  
5 mark might have been 3.75, but I don't think there's  
6 ever been more than that. I may stand corrected.

7 COMMISSIONER SHIELDS: Thank you.

8 CHAIRMAN MURPHY: Other questions? Thank you,  
9 Mr. Zoeller.

10 MR. ZOELLER: Free legal advice.

11 CHAIRMAN MURPHY: Thank you. Next up will be the  
12 City of East Chicago representatives. Am I right in  
13 assuming this is Mr. Bock --

14 MR. BOCK: You are, Mr. Chairman.

15 CHAIRMAN MURPHY: -- and Mayor Copeland?

16 MR. BOCK: This is the mayor of East Chicago, and  
17 he will lead off.

18 CHAIRMAN MURPHY: Welcome.

19 MAYOR COPELAND: Let me start off by just telling  
20 the Commission thank you for giving me the  
21 opportunity to speak here today. I'm in awe with  
22 this whole process. I came here about six-and-a-half  
23 years ago -- I was an elected official, councilman at  
24 large -- and sat on the right-hand side of the  
25 Foundations because at that time the mayor had wanted

1 to annihilate the Foundations. And I had saw some of  
2 the good work that they had done in the community,  
3 and I thought that they had the right to exist.

4 But we fast forward to today. And I wish I could  
5 tell you all the legalese and all the other terms and  
6 the depth and the breadth of the house bills, but I  
7 can't. But I can tell you the condition of my city.  
8 And it simply comes down to this question: Can the  
9 creation be greater than the creator?

10 The City of East Chicago, it says the Foundations  
11 of East Chicago. It doesn't say the Foundations of  
12 the Foundation. They were born out of us. Second  
13 Century came out of us. And now they sit here today,  
14 telling you that they are of equal footing to the  
15 City of East Chicago. They come here today and will  
16 tell you that they know what's best for us, but yet  
17 some of the members there make six figures, but yet  
18 they don't reside in our community. They have a  
19 Board with no members that reside in our community.  
20 We cannot elect a new Board. The Board is in a  
21 perpetual state of being the Board.

22 But every four years, as an elected official, we  
23 are subjected to the will of the people. I tell you,  
24 to date, that the boats have brought upwards of  
25 \$400 million into the City of East Chicago. Walk

1 down those very streets and see if you can find it.  
2 You see crumbling infrastructure. You see no  
3 economic development. There's enough blame to go  
4 around.

5 And every time you want to see a horror story,  
6 you'll see it anytime the money has not been  
7 appropriated through the City Council. I am of the  
8 belief that all monies must be appropriated through  
9 the City Council so that you have some accountability  
10 process. The last time it was not appropriated  
11 through the City Council, we had a \$23 million  
12 fiasco. Concrete Gate they called it.

13 Then we had \$16 million in economic development  
14 that came, said it was going to be in housing. We  
15 have no accountability there. Second Century, no  
16 insult to them, but they were a for-profit. And they  
17 said they had the right to protect their books,  
18 oversee their books. And they thought that maybe  
19 they're right, because they was a private entity, to  
20 maybe not show their books. But we did not get  
21 accountability for that money, and we cannot tell you  
22 today where that \$16 million went.

23 The Foundations have received \$84 million with  
24 their share. I cannot tell you where the \$84 million  
25 is. They will tell you wonderful programs that they

1 say they have done. They can tell you how benevolent  
2 they have been with our dollars. But I can tell you  
3 my sons and daughters would be equally as benevolent  
4 if they had control of those dollars.

5 I tell you that -- when I say the creation can  
6 never be greater than the creator, it reminds me of  
7 my son wanting to drive the car. And I got to the  
8 point I couldn't drive it. And every time I wanted  
9 to go somewhere, I asked him to take me because I  
10 could not drive the car because my eyesight had  
11 failed me.

12 And he got accustomed to driving the car, driving  
13 the car, and then he'd tell his friends it was his  
14 car. And then when it came to the point that I  
15 wanted my car back, he thought he had sole possession  
16 of the car. Why? Because he felt that I couldn't  
17 operate the car, couldn't use the car. But he failed  
18 to realize that I am the owner of the car.

19 This is what I liken this to, that the  
20 Foundations of East Chicago do not have the right to  
21 exist unless we give it to them, especially if they  
22 are going to act on our behalf. And how can they act  
23 on our behalf if they are never asking us what we  
24 want? They may think they know what's best for us.  
25 But if we never have any input, are they really doing

1 the greater good? Can I not say they are doing any  
2 good? No, can't say that. But are they doing the  
3 greater good?

4 Ameristar, they sail in here. And just as quick  
5 as they sail in here, if the winds change in Chicago,  
6 they will sail out of here. So why should we be  
7 subjected -- our fate be subjected to them?

8 They came in. They started off -- and, again,  
9 always look at the greater good. They came, they  
10 approached me, and they said, "Mayor, our revenues  
11 are down because of Cline Avenue." When Cline Avenue  
12 went down, they said their revenues went down.

13 They simply asked one thing of me, and I did not  
14 hesitate. They asked me to take back Riley, Dickey  
15 Road -- it goes Riley, Dickey, to Michigan Avenue, to  
16 912. The City of East Chicago is in dire straits.  
17 We are \$15 million in debt. I did not hesitate  
18 because INDOT told them that they would not assume  
19 the responsibility of maintaining Cline Avenue and  
20 also maintaining Riley and Dickey.

21 The City of East Chicago could not afford to take  
22 Riley and Dickey back because the state came in and  
23 seized it. But I looked at the greater good, and I  
24 told Ameristar, even though we could not afford it,  
25 that we would take back Riley and Dickey. And,

1 therefore, it altered the course, and then Cline  
2 Avenue could be considered to go up.

3 They told me -- they looked me right in my eye,  
4 and they said with that obligation of us taking Riley  
5 and Dickey, that they would put forth monies and they  
6 would petition the State to say if the State kicked  
7 in and the federal government kicked in and they  
8 kicked in, that there was an opportunity that Cline  
9 can go up.

10 Now, since they find themselves, they think, in  
11 sole control of the LDA, they want to write in that  
12 they can take \$10 million. I was always told that  
13 the boat was not built on winners. It was built on  
14 losers. And I ask you to not make us a casualty in  
15 this because now they think they can seize upon the  
16 weakness of the financial situation the City is in  
17 and think that they can now take away \$10 million.

18 Also, in this same situation, they think they can  
19 now come and take a half a percent off. When they  
20 came in here and they competitively came in here  
21 seeking to compete for that new license, it was under  
22 the auspice of 3.75 percent. How can they alter the  
23 game in the middle of the stream? You cannot.

24 The one thing I can tell you, that I stand here  
25 before you today, humble, because of one reason. If

1 it was not for this Commission, we would not even --  
2 some people think this fight is about 3.75. Some  
3 think it's about the \$29 million. The Foundations  
4 will tell you the \$19 million belongs to them, but  
5 yet they're the Foundations of East Chicago.

6 Second Century may say that the \$10 million  
7 belongs to them, but in all of this they have  
8 conceded that they are willing to give it up. And  
9 they were a for-profit.

10 But you have the Foundations of East Chicago, who  
11 is a not-for-profit, but yet they only are subsidized  
12 by us. Any of the not-for-profits look high, wide,  
13 far for any dollars that they can confiscate so that  
14 they can survive. But we are the only sole source of  
15 their revenue. They get all of their dollars from  
16 us, but then we can't tell them how we want to  
17 distribute the dollars.

18 But, at the end of the day, all of this would be  
19 for nothing if it was not for the wisdom of this  
20 Commission. The Commission locked up these dollars.  
21 I told you I cannot tell you where the \$84 million is  
22 at that the Foundations have had to this date. I  
23 cannot tell you the total of where the \$400 million  
24 went.

25 But I can tell you, as living proof as I stand

1 here today, everybody in this room knows where the  
2 \$29 million is at because everybody -- once you  
3 locked that money up, a funny thing happened. The  
4 money stopped disappearing. It started piling up.  
5 And now, when we put forth some type of  
6 accountability, you will surely see that we will get  
7 a bang for our buck, and we will truly see where this  
8 money goes.

9 The Foundations are saying that they have no  
10 accountability process that they can give us. We say  
11 we already have a council body that appropriates all  
12 monies over maybe -- if you take the total course of  
13 all the monies that come through the City of East  
14 Chicago, \$220 million goes through the City of East  
15 Chicago.

16 But the monies that come through our budgetary  
17 process and every other means that is spent by the  
18 executive side, me being the Chief Executive, gets  
19 scrutinized by the Council. Now, how can the  
20 creation not be scrutinized by that same process?

21 In that same process is built in where a State  
22 Board of Accounts will come in and do an independent  
23 audit. And if something goes wrong, then you will  
24 see the Attorney General come in and investigate.  
25 How can the Foundations now exist outside of the

1 process that I must submit to?

2 I tell this body, in your wisdom, six-and-a-half  
3 years ago you locked up the very dollars that will  
4 give this city the opportunity to start anew. And  
5 we're truly blessed for that. And I stand before you  
6 humble, for that very reason. And I would ask you to  
7 continue down that same line of locking this money  
8 up.

9 Today the Board is asking you to make a decision  
10 to blindly allow them to do whatever they want. That  
11 would be wrong. Not only that, they added a  
12 provision inside of there that said that if we do not  
13 concede to their actions, that they are now going to  
14 take the one percent and reduce it to a half percent.

15 Now they're going to come in here -- let me see.  
16 They're going to take \$10 million that don't belong  
17 to them. Because they already benefited from that  
18 money they had to expend out. They're not showing  
19 you the profits they have made over that time. They  
20 did not share with you that since the time that Cline  
21 went down, the people have found their way back to  
22 that boat and their profits have gone up 14 percent.  
23 All of these things are not revealed.

24 But the true constant in all of this is the  
25 actions that you have taken have allowed all of these

1 parties to be subjected to some type of  
2 accountability process. And I will tell you that if  
3 you ever err, err on the side of the people because  
4 the people have truly lost in all of this. The  
5 people have truly lost in all of this.

6 And I will just tell you that we have an all-new  
7 government now. We have an ally in the Attorney  
8 General, who simply said -- when he first came, he  
9 said that he believes that all of these monies belong  
10 to the people of the City of East Chicago. And for  
11 that I truly say he is right. All of these dollars  
12 belong to the City of East Chicago.

13 This is a new agreement. Why must it look like  
14 the old? If our sister cities, Gary, Hammond, and  
15 other cities don't have a Foundation, why can't we  
16 say the Foundations shouldn't exist if there is no  
17 accountability mechanism?

18 I was an ally of the Foundations because I saw  
19 some of the good they have done. But I can't give  
20 you \$84 million worth of reasons of all the good they  
21 have done.

22 So I would just humble myself before this body.  
23 I will tell this body that we have found sanctuary in  
24 this body. We have found protection in this body.  
25 And I will say that this body will always serve its

1 greater good when it errs on the side of the people,  
2 and especially the people of the City of East  
3 Chicago, who have truly had to suffer an injustice  
4 and a gross misrepresentation of accountability.

5 This will go down in the annals of history as the  
6 squandering of many opportunities. Some people have  
7 went to their graves with the opportunities that this  
8 money could have provided.

9 I will close with saying this: My city has been  
10 surrounded by industry, and that industry has heaped  
11 millions and millions upon millions, tons, of  
12 emissions on our city. But there was a tradeoff with  
13 the steel mills. The sickness and illness came in,  
14 but yet opportunity came. We were able to educate  
15 our children. The next generation rose above the  
16 previous generation. That was a tradeoff. Some may  
17 say it was not an equal one. Just all depends on who  
18 you talk to.

19 We have the gaming industry. Just as they tell  
20 you that --

21 CHAIRMAN MURPHY: Mr. Mayor, you have ten  
22 minutes.

23 MAYOR COPELAND: Yes, sir. Just as they show you  
24 in their commercials the people that say Harrah when  
25 they hit a jackpot, they do not show you the misery

1 that also comes from this industry.

2 And I say again, just like in the steel industry,  
3 there must be a tradeoff. And that tradeoff is this:  
4 If the City of East Chicago is given the opportunity  
5 to take in all of these dollars that have come and  
6 this relationship that we have created, that you will  
7 see now, with the oversight of the Attorney General,  
8 with the oversight of this Commission, you will see  
9 the City of East Chicago rise and go in a new  
10 direction.

11 And with that, I will close by just again telling  
12 you I am humbled to be before this Commission, and  
13 thank you for your guidance and your wisdom.

14 CHAIRMAN MURPHY: Thank you, Mr. Mayor.

15 MR. BOCK: Mr. Murphy, did I hear you say that he  
16 had about ten minutes?

17 CHAIRMAN MURPHY: You actually have about eight  
18 minutes.

19 MR. BOCK: Eight minutes? Okay. Thank you,  
20 Mr. Murphy.

21 You know, obviously, if this were an easy problem  
22 to solve, we wouldn't have four Supreme Court  
23 opinions. But there's some very basic issues that I  
24 will try to get to in eight minutes.

25 What you've heard from the Attorney General and

1 the Mayor of East Chicago is a plea to this  
2 Commission to allow the people of East Chicago to  
3 determine their destiny. They voted, in a referendum  
4 in 1997, to have a riverboat in their community. And  
5 they asked for the responsibility to manage the funds  
6 from that boat, and they've never been given that  
7 opportunity.

8 The opportunity was taken away by the Pastrick  
9 administration. And the lion's share of economic  
10 development funds were segregated to East Chicago  
11 Second Century and two percent to two foundations,  
12 which were supposed to have Board membership  
13 representing the community and have Board leaders  
14 elected by public officials in the city.

15 And, unfortunately, however, as the Mayor has  
16 shared, those foundations didn't always do what the  
17 people in the city, the newspapers in the area have  
18 felt was appropriate.

19 And so for six years the City of East Chicago has  
20 asked for the opportunity, the endorsement, to let  
21 the people and their elected representatives  
22 distribute this money and pursue economic development  
23 in the City of East Chicago.

24 In the face of that, in 2007 the Foundations,  
25 quote/unquote, reorganized. They now have a

1 six-member Board of individuals who do not have to be  
2 from the City of East Chicago. In fact, most, if not  
3 all, are not. They don't have to listen to the City,  
4 or city government, in terms of how funds are spent.

5 This is an entity -- and the mayor says the  
6 creation is not greater than the creator. This is a  
7 new creation, not part of the original economic  
8 development agreement, that is here before you today  
9 saying that they're entitled to receive multimillions  
10 of dollars a year to come to people that live outside  
11 the community, to spend how they choose, contrary to  
12 what two administrations and what the common council  
13 consistently says are the interests of the city.

14 So the Supreme Court --

15 CHAIRMAN MURPHY: Mr. Bock, five minutes.

16 MR. BOCK: Thanks. When we made this argument to  
17 the trial court and to the Court of Appeals and said  
18 that this is a new entity which doesn't have any  
19 oversight within the city, it's completely different  
20 from what was structured in the original economic  
21 development agreements, the trial court agreed and  
22 said the Foundations, as they now exist, don't even  
23 have standing because they do not look like the  
24 entity that was in the original agreement. The Court  
25 of Appeals agreed, and the Supreme Court said that

1 argument has considerable force. And so we advance  
2 that argument to the Commission, as the Supreme Court  
3 directed us to do.

4 You have two decisions before you, and I think  
5 one is relatively easy. The other is quite hard.  
6 The decision that Mr. Denton presented to you -- and  
7 I appreciate everything that Mr. Denton has done. We  
8 want to work with the boat, and he's worked hard to  
9 try and reach an agreement, but we haven't reached an  
10 agreement yet. But we hope maybe that we will.

11 But I, unfortunately, didn't hear him ask you to  
12 set aside their proposal. So now I'm going to ask  
13 you to adopt the City's proposal because Mr. Denton's  
14 agreement is hard. The City's agreement is easy.

15 The City's agreement, which we submitted to you  
16 on March 11, 2011, is give the money, the 3.75  
17 percent, to the Common Council of East Chicago so  
18 that there's oversight by the State Board of  
19 Accounts, oversight by the Attorney General, and so  
20 that the people of East Chicago and their elected  
21 representatives can determine their own destiny.  
22 Don't apportion it out. Don't tell the people of  
23 East Chicago who has to do the economic development  
24 in their city. Allow them to make the decision.

25 They voted for gaming in their community in a

1 referendum in 1997. You have the opportunity to tell  
2 the people of East Chicago that you trust them and to  
3 fulfill the promise that they thought that they were  
4 voting for.

5 Please do that. Please tell Mayor Copeland, the  
6 members of the Council, some of whom are here today,  
7 and the citizens of East Chicago that you trust them  
8 with their destiny. Thank you.

9 CHAIRMAN MURPHY: Thank you, Mr. Bock. Any  
10 questions? Thank you, Mr. Bock. Thank you,  
11 Mr. Mayor.

12 MAYOR COPELAND: Thank you.

13 CHAIRMAN MURPHY: Next up will be the  
14 Foundations. And you also have twenty minutes.

15 Thank you, Mr. Chairman. My name is Peter  
16 Rusthoven. I'm with the firm of Barnes & Thornburg.  
17 This is my partner, Jay Boyd, who represents the  
18 Foundations.

19 At the outset, I want to kind of apologize in  
20 advance. I've been battling something the last  
21 couple of days, and it's possible I may break into a  
22 sweat right in front of you. If so, that is not  
23 because of the big lights. Although, it was true in  
24 a prior lifetime Judge Shields could induce that in  
25 me. In this case, it's just whatever I'm dealing

1 with.

2 I want to begin by thanking the Commission and  
3 its staff for all the incredible efforts that it made  
4 to push this important agreement, if at all possible;  
5 Commission's counsel, Mr. Funk, who has behaved in a  
6 reasonable, conciliatory, productive, constructive  
7 way that you would like in your counsel.

8 And we, obviously, have come today to praise  
9 Sandy Brook. And I will add my gratitude to -- we  
10 call him our Sandy Brook, who is now nationally  
11 recognized as a mediator. He did a fabulous job and  
12 really worked hard on this. And my present  
13 disappointment, other than having this not go away,  
14 is his efforts deserve to be crowned with success.

15 That said, the Commission now has to make the  
16 decision. I'll explain to you why the Foundations  
17 are here to support the Ameristar proposal. It is  
18 less money for us, seventeen-and-a-half percent less  
19 money for us. Two reasons. Three.

20 One, we recognize that it is vitally important  
21 that gaming succeed in this venue. We've witnessed  
22 difficulty in the Lake County venues. The Attorney  
23 General mentioned the needs of East Chicago. I've  
24 been involved -- as Commission staff knows, Gary is  
25 also a community that's in need, also a boat that's

1 had difficulty. We recognize that it's important for  
2 the venture to succeed. And given the dollar figures  
3 that Mr. Denton recited to you, we don't think that  
4 that's an unreasonable decision for them to take.  
5 Would we like more? Sure. But we don't think that's  
6 unreasonable, and that's why we support it.

7 Second, we believe that everybody has to give for  
8 this to move forward, and so we're willing to do that  
9 as part of a cooperative effort.

10 And then, third, it's just important that it move  
11 forward. Our Foundations have not received any  
12 funding since the end of 2007. And we'll talk about  
13 how that got into place. We have dipped into amounts  
14 that we've reserved in an endowment and, at one  
15 point, were criticized by the City for not spending  
16 everything.

17 Let me just start -- I want to correct several  
18 things that have been said here. Sometimes accuracy  
19 is the victim of advocacy. People say things that  
20 are not supported.

21 We have never received \$84 million. The nearest  
22 I can figure is that is the City's projection based  
23 on its percentage starting in 1994. I'm just  
24 guessing that's where it comes from. In fact, our  
25 revenue didn't start until 1997. We've received,

1 over just more than a decade, some \$56 million, and  
2 another  
3 \$19 million is sitting in escrow right now. So those  
4 are the figures we're talking about. We'll talk  
5 later about the accountability.

6 Let's give a little history. How did this come  
7 about? In the beginning, when this was being  
8 proposed and several community groups were talking  
9 about the position they would take in the referendum,  
10 they insisted on appointment of a task force, a  
11 citizens task force, which came to the then-Mayor Bob  
12 Pastrick and said we will not support gaming in this  
13 referendum unless you support the recommendations of  
14 this task force, in terms of how the economic  
15 development money goes.

16 And that includes that a substantial portion of  
17 this does not go through the City. It's taken  
18 outside the political process and is used by private  
19 non-profit -- and, yes, there was a for-profit,  
20 Second Century, who could do some things that  
21 non-profits couldn't do, but they can defend  
22 themselves.

23 For the non-profits, they did not want it to go  
24 through the political process. They wanted it to be  
25 under Foundations. That would be non-profits who

1 could do things the City couldn't do. There are  
2 investments we can make that the City can't make.  
3 That are projects -- obvious example involves  
4 churches and things like that -- that we can support  
5 that the City can't support. There are reasons for  
6 this kind of structure. And the task force said we  
7 will not support this referendum if all this money is  
8 going to go through the City. That's where this  
9 started.

10 Now, we've heard a lot about accountability, and  
11 we've heard some things about the wisdom of the  
12 Commission. It's even been suggested by one prior  
13 speaker, including the Commission, as I heard it,  
14 that there was plenty of fault to go around. I don't  
15 think that's true of the Commission. I think the  
16 Commission's decisions in this, including how money  
17 gets spent, have been wise.

18 Let's remember what we're talking about here. We  
19 are not talking about the substantial revenues that a  
20 municipality gets in tax. We're talking about  
21 additional revenues under private agreements, which  
22 exist in every gaming venue where gaming companies  
23 agreed to more.

24 Who's got authority over that? According to the  
25 Supreme Court, the State of Indiana, and according to

1 the legislature, you do.

2 And that money was never intended -- it's not  
3 required by the statute. Everybody's done it. But  
4 it was never intended to just be a supplement to  
5 general city revenues. It was intended to support  
6 economic development-related things, like community  
7 development and the like that work into economic  
8 development. So it wasn't just to add to the City's  
9 revenues for whatever purpose. It was for these  
10 other purposes, subject to your oversight.

11 How wise was the decision that the Commission  
12 made? It has always struck me -- I mean no sarcasm  
13 here. It has always struck me as odd that the City  
14 has attacked this from the beginning as some corrupt  
15 thing under the Pastrick administration when the  
16 City's position is all the money should have gone to  
17 the Pastrick administration. And that's what would  
18 have happened had this gone on.

19 The City presented -- and I, again, mean no  
20 disrespect here. These are unfortunate things when  
21 they happen. The City came before you several times,  
22 introducing a mayor who was described as the reformed  
23 mayor of East Chicago, to whom all the money should  
24 go instead of the private Foundations. And this  
25 happens to be the very week in which that reformed

1 mayor has been incarcerated on conviction of a  
2 felony. Under the City's position, all -- had the  
3 Commission adopted it, all the money would have gone  
4 to that administration.

5 Let's talk, if we can, about accountability.  
6 First of all, let me just cover this. All our Board  
7 members do reside in East Chicago. None of them make  
8 six figures. I don't know where this is coming from.

9 Accountability, though, has to do with can you  
10 see what's happening; do you have the information you  
11 need. Among the documents we handed to you today  
12 that Mr. Packer referred to, the very last of these  
13 is a letter written to the Attorney General -- Deputy  
14 Attorney General Charles Todd in 2007. This was  
15 where the new merged entity came about.

16 And participating in those discussions we had  
17 with the Attorney General, and very constructively  
18 so, was the then-general counsel of the Commission  
19 because issues were raised about how can we see more  
20 clearly what you're doing? How can you have a more  
21 streamlined structure? How can we do this? And we  
22 agreed to do these things.

23 And if you look at the letter that we sent to  
24 Mr. Todd, it describes, in February of 2007, we're  
25 going to establish a new merged entity. It's going

1 to have a smaller board. It's going to be more  
2 accountable. It also is not going to include  
3 representatives of the constituents, if you will,  
4 that applied for money, including the City of East  
5 Chicago.

6 And I will tell you on my honor, as an attorney,  
7 that was because the Attorney General did not want  
8 them there and told us that. It did not want  
9 representatives of the City of East Chicago on the  
10 Board of Foundations that would be deciding grants,  
11 including grants that would go to the City of East  
12 Chicago.

13 So that's why this board structure was done, as  
14 part of our discussions with the Commission, with the  
15 Attorney General, Commission staff, about, okay, all  
16 this is going on. How do you want us to restructure  
17 and be so that we can be more accountable to you?

18 I would also point out some of the things that  
19 are in the statute that has just been passed. This  
20 is Senate Enrolled Act 325. Here's the things it  
21 requires a recipient to report to the Commission:  
22 Total dollar amounts of economic development  
23 payments, parties or specified recipients that  
24 receive economic development payments, any other  
25 items related to economic development payments the

1 Commission may require, information on disbursements  
2 of economic payment monies, a report specifying  
3 everything that the recipient does, a conflict of  
4 interest statement, bylaws to the Commission,  
5 positive economic development payments into a  
6 separate and segregated bank account.

7 CHAIRMAN MURPHY: Mr. Rusthoven, ten minutes.

8 MR. RUSTHOVEN: Thank you very much. These are  
9 all things we have done. We have supplied  
10 information to this Commission since at least 2007.  
11 We supplied all that. You can go on our website and  
12 click something and get our audited financial  
13 statements. So the statement that no one knows where  
14 our money is going is simply incorrect. And that's  
15 because we have worked with the Commission.

16 Let me read something also that the Attorney  
17 General said in the case against Mayor Pastrick that  
18 he talked about. This is -- and I'm quoting from --  
19 it's in the federal court document in the case, which  
20 we will supply identification to you, the RICO case.  
21 It's Document 578.

22 I'm quoting now. "Along with the Attorney  
23 General's investigation of Second Century, described  
24 above, the Attorney General also conducted, at the  
25 request of the IGC, an investigation of the

1 Foundations' two predecessor entities. This  
2 investigation was initiated by the Attorney General's  
3 issuance of a civil investigative demand to the  
4 Foundations in August of 2006. In its CIE issued to  
5 the Foundations, the Attorney General demanded, inter  
6 alia, a list of all assets held by the Foundations, a  
7 list of all the Foundations' current projects, grant  
8 programs, schedules of grants and their stats, a list  
9 of any and all subsidiaries, joints ventures, or any  
10 other business relationship in which the Foundations  
11 have or have had a financial interest since 2000, any  
12 documents identifying loans or guarantees of loans  
13 made by the Foundations, a list of the names and  
14 addresses of all current officers, directors, and  
15 employees of the Foundations, along with their yearly  
16 compensation, and a copy of any grant evaluations and  
17 exit reports completed by the officers, directors,  
18 and employees of the Foundations either before or  
19 after a grant board."

20 Still quoting, "The Foundations responded  
21 completely to the CIE and produced all requested  
22 documentation. In addition, certain requested  
23 materials were made available for inspection by the  
24 Attorney General's deputies at the Foundations'  
25 offices. The information and documentation provided

1 by the Foundations is current through August of 2006.  
2 This document was filed by the Board in 2009. The  
3 Attorney General has neither requested nor received  
4 further materials from the Foundations. Using the  
5 materials obtained through the CIE, the Attorney  
6 General compiled an investigative report of the  
7 Foundations, similar to the one prepared on Second  
8 Century. Unlike the Second Century report, the  
9 Foundations report does not make any conclusions or  
10 recommendations."

11 We have been subjected, and I would say rightly  
12 so, from the standpoint of the Commission, to the  
13 scrutiny that is appropriate for people who receive  
14 funds through the local development agreement. The  
15 results of that scrutiny have been that no adverse  
16 action has been taken against us or recommended  
17 against us.

18 We continue to serve the people of East Chicago,  
19 a great many of whom think we are doing quite a good  
20 job indeed and do not want to see this money put back  
21 into the political process.

22 The letters we submitted to you are just a  
23 representative sampling, including a letter from  
24 Purdue University Calumet, the local organizations,  
25 all saying great job.

1           Here are some of the -- in the Supreme Court,  
2 here are some of the amicus curiae, friends of the  
3 court, in support of us: Saint Stanislaus Church,  
4 Twin City Ministerial Alliance, Northwest Indiana  
5 Foundation, Neighborhoods Incorporated of Hammond,  
6 St. Catherine Hospital of Hammond, Workforce  
7 Development Services, and Calumet College of  
8 St. Joseph, and also William H. Hudnut, who formerly  
9 was the mayor of Indianapolis and has acquired quite  
10 a national reputation in terms of charitable and  
11 foundation work. They all supported us.

12           I don't think all these people would have  
13 supported us in this way had it not been that we were  
14 doing a good job, that we made every effort to  
15 cooperate with this Commission, that we have made  
16 every effort to cooperate with the Attorney General.

17           If you'll forgive a personal note, the thing that  
18 bothers me most, among many things in this  
19 litigation, is our cooperation with the Attorney  
20 General and our restructure of the Foundations that  
21 the Attorney General requested in discussions, which  
22 the Commission general counsel then helped  
23 participate in, that's now been turned against us, as  
24 if somehow we're bad.

25           Let's talk quickly about the law. And we will

1 spare much of that. It has been represented to  
2 you -- and you know that this is a mistake -- that  
3 you put the freeze on our funds. Not so. The freeze  
4 on our funds came at our request, our request, after  
5 the trial court -- after the City had this provision  
6 that supposedly authorized them to grant the money in  
7 the last days of the 2007 legislature, and the budget  
8 bill. And Judge Reid thought that that was  
9 constitutional and effective.

10 And we said we're going to appeal this. Please  
11 don't pay money to the City in the interim. We'll  
12 never see it.

13 So that's what's sitting in that escrow account,  
14 at the request of the Commission. Although, we have  
15 a motion filed to now release that because the  
16 Supreme Court has said there's no basis for the City  
17 to have these funds. We have deferred that until  
18 after this meeting. It's currently set for a hearing  
19 on June 7 at 2:30 in the afternoon.

20 And, you know, we understand there's a Commission  
21 resolution currently in place. And we will continue  
22 to honor that, of course, but we will present our  
23 arguments to the judge, depending on what the  
24 situation is, so he can at least say what he thinks  
25 the law is on these facts.

1 CHAIRMAN MURPHY: Five minutes.

2 MR. RUSTHOVEN: Thank you very much. The Supreme  
3 Court, quite wisely -- yes, the Supreme Court said  
4 that it thought, not aware of all the background,  
5 that there was considerable force to the argument  
6 that the current structure of the Foundations is  
7 different from the Foundations as they were initially  
8 established. And that has to do with corporate  
9 structure and the like.

10 But you didn't hear the whole context. What do  
11 they say? They said, yeah, that's got some force.  
12 And that's what a court does when it hears an  
13 argument that it thinks has got something to it. But  
14 they said, you know, that's really an argument  
15 that's, first and foremost, in the jurisdiction of  
16 the Gaming Commission. And that's where we go with  
17 that. If you think, because of some change in  
18 government structure, these Foundations are no longer  
19 the right recipients, then you get to evaluate that.  
20 And the Supreme Court said we're not going to  
21 evaluate that.

22 And with respect to the argument that we didn't  
23 even have standing, the court said, no -- that's the  
24 one part Judge Reid flatly reversed -- of course they  
25 have standing. And why do they say we have standing?

1 Because the Foundations are receiving funds under a  
2 Commission-approved agreement, incorporating the  
3 license. And while the Commission might decide to  
4 take action in the future that would interrupt that  
5 flow of funds, you know, they ain't done it yet, and  
6 the Foundations have standing to protect that.

7 Now, I have no desire for Mayor Coleman (sic) to  
8 do anything but succeed in a very difficult  
9 situation. He has now come on the heels of a couple  
10 of administrations that had their difficulties. And,  
11 like any municipal executive, he looks at his fiscal  
12 situation. That's as it should be.

13 But these funds were not intended to supplement  
14 general municipal revenues. They were to foster  
15 economic development and related things, such as  
16 community development and educational things.

17 This Commission gets to decide how best that's  
18 done. We have been doing that for several years. We  
19 think our record is quite good. In fact,  
20 newspapers -- and we'll supply this, if necessary.  
21 Newspapers in northwest Indiana, in fact, are  
22 editorializing that they believe the Second Century  
23 cutoff is correct and that funds should continue to  
24 go to us. So we have been considerably supported by  
25 the community, and I think we continue to be so.

1           We have been fully accountable. We have been an  
2 open book. We will continue to be an open book. We  
3 can do things that the City cannot do. And we will  
4 continue, as insisted by the original citizen task  
5 force, which is why people like ministers and stuff  
6 were willing to not oppose the referendum, to keep it  
7 out of a political process that has been described by  
8 the elected Attorney General of this state as  
9 corrupt.

10           I'm not saying Mayor Coleman is corrupt, by any  
11 means. I'm not saying that at all. I don't want to  
12 be misunderstood. But we have heard over and over  
13 again that, at least in recent history, you couldn't  
14 trust these funds going through a city  
15 administration.

16           The kind of accountability information we have  
17 been able to supply to you, grant recipients, who  
18 gets what, where the monies have gone -- and I say  
19 this with no disrespect. It relates, I guess, to the  
20 Pabey administration more than -- apparently Mayor  
21 Coleman has just taken office. But I believe that  
22 the Commission has attempted, through its staff, to  
23 get that kind of information from the City about its  
24 one percent, even under this agreement, and has been  
25 unable to do so, unable to find any accounting that

1 tracks through how that money gets used for the  
2 purposes of this Commission. Under the legislature  
3 on Supreme Court decisions, it's supposed to  
4 supervise.

5 We are willing to give up a substantial part of  
6 what we received in the past. We think it has to go  
7 forward, we think the agreement has to succeed, and  
8 we will continue to work to try and put this all to  
9 rest. But we think it's very important that the  
10 Commission take the action today, as the single-most  
11 important step to start moving this substantially  
12 toward a solution that -- and Sandy Brook couldn't do  
13 this without your taking this action. I don't think  
14 it could be done. I think your taking this action,  
15 A, would be fair, even if that's where it ends up,  
16 and will move the ball substantially forward. Do the  
17 members have any questions?

18 COMMISSIONER SHIELDS: I just have one question.  
19 Or two, actually. I thought I understood you to say  
20 that all Board members of the Foundation are  
21 residents of the City of East Chicago?

22 MR. RUSTHOVEN: Yes.

23 COMMISSIONER SHIELDS: Okay. And, secondly, what  
24 is the paid staff, in terms of numbers?

25 MR. RUSTHOVEN: Oh, my goodness. Jay, you may

1 know more about that than I do. Jay's the real  
2 worker.

3 COMMISSIONER SHIELDS: I understand.

4 MR. BOYD: There are seven members of the staff.

5 COMMISSIONER SHIELDS: Seven staff members?

6 MR. RUSTHOVEN: Seven Board members?

7 MR. BOYD: No. There are five people on the  
8 Board of Directors. The Board of Directors do not  
9 receive salaries. They receive fees for attending a  
10 four-hour meeting, as a meeting charge in general.  
11 The staff runs from an executive director to a  
12 receptionist, to the grant officers and compliance  
13 officers.

14 COMMISSIONER SHIELDS: So there's an executive  
15 director, a compliance officer, a --

16 MR. BOYD: Grants officer.

17 COMMISSIONER SHIELDS: Receptionist?

18 MR. BOYD: There's a receptionist.

19 COMMISSIONER SHIELDS: Probably IT somewhere.

20 MR. BOYD: There's an administrative assistant  
21 and a data coordinator.

22 COMMISSIONER SHIELDS: That's six.

23 MR. BOYD: And there was an outside person who's  
24 actually a contracted employee. He does accounting  
25 work.

1 MR. TAYLOR: There's also an administrative  
2 assistant.

3 MR. RUSTHOVEN: The person who supplied that  
4 information today is Russell Taylor, who's the  
5 Executive Director of the Foundations. And I also  
6 should have introduced George Weems, who is our Vice  
7 President.

8 COMMISSIONER SWIHART: Let me follow up. I took  
9 the liberty of also downloading your last audited  
10 financial, which was 2009. And I also downloaded the  
11 2009 990-PF. And you said no one had six figures.  
12 Well, Russell Taylor, according to the 2009 tax  
13 return, his salary was \$148,220.

14 MR. BOYD: That's correct. He is not a member --

15 MR. RUSTHOVEN: He's not a member of the Board of  
16 Directors. The speaker said we were paying the  
17 Directors six figures, as I understood it.

18 And one of the things, when we were having  
19 discussions with the Attorney General and the  
20 Commission staff participating, was, you know, they  
21 wanted us to address things like compensation for  
22 Directors and the like, and we did.

23 No one would say that there have not been  
24 improvements made over the course of this time. No  
25 one stands up in front of you and no one stands up in

1 front of any court and says my client is perfect in  
2 every way and has been since day one. We've learned  
3 things. We do it better. There were issues raised,  
4 and we tried to respond to them. And a big part of  
5 responding to them was culminated in these  
6 discussions with the Attorney General in 2007 that  
7 led to the new government structure.

8 COMMISSIONER MORGAN: I have a couple questions  
9 for you. In terms of -- for the sake of a dollar  
10 taken in, how much of that dollar would be  
11 administrative costs?

12 MR. BOYD: A good synopsis of that, Commissioner,  
13 is this: Exclusive of the funds that have been  
14 embargoed through the order --

15 COMMISSIONER MORGAN: So you're talking actual  
16 dollars?

17 MR. BOYD: Actual dollars received over time.  
18 Our numbers showed we received \$56 million. And  
19 \$32 million of those have been spent in grants.  
20 \$9.4 million was put into an endowment account,  
21 which, if the boat ever leaves, we'll be able to get  
22 scholarships to kids in East Chicago for a long time  
23 to come.

24 COMMISSIONER MORGAN: That money is allocated?

25 MR. BOYD: That money is locked up, to use the

1 Mayor's words, for the people in East Chicago, for  
2 these causes. We've robbed the endowment over the  
3 past years while there's nothing coming in, in order  
4 to continue to support food banks, heating projects,  
5 gun buybacks. You name it, we've done it. We've put  
6 \$2.1 million into a housing project, a capital  
7 expenditure. And about \$890,000 per year has been  
8 spent administratively on rent, books, computers,  
9 salaries, travel, conferences, and not some small --  
10 a significant portion of it to legal and professional  
11 fees that we have spent fighting to make --

12 COMMISSIONER MORGAN: But taking the legal out of  
13 it, what is the percentage of a dollar for  
14 administrative, running your Foundations?

15 MR. BOYD: Quick math is -- it's about twenty  
16 percent.

17 COMMISSIONER MORGAN: Twenty percent. Okay. And  
18 I have one more question for you.

19 So the \$56 million actual dollars, how much of  
20 that went to East Chicago?

21 MR. BOYD: Well, 100 percent.

22 COMMISSIONER MORGAN: 100 percent?

23 MR. RUSTHOVEN: If you mean East Chicago  
24 Development, yes.

25 COMMISSIONER MORGAN: He's trying to clarify.

1 MR. BOYD: Some funds and some grants every year  
2 go to parks or to the school system, to the police  
3 department, to the fire department. There's been --  
4 even with all of the litigation, support of city  
5 programs has continued.

6 COMMISSIONER MORGAN: Okay.

7 COMMISSIONER SWIHART: I have a follow-up  
8 question. Looking at the audited statement, on  
9 note 17, there's a little concern. And I want an  
10 explanation of the rationale the way this North  
11 Harbor is set up with this for-profit and your  
12 subsidiaries, wholly owned subsidiaries, the  
13 rationale behind this.

14 MR. RUSTHOVEN: Let me give a summary, and then  
15 Jay, I think, can give more detail, if necessary.

16 North Harbor is what's called a Section 42,  
17 affordable housing project. It was determined, after  
18 that was started, the Development had been put in  
19 place, that it would be better if it were ultimately  
20 owned by a non-profit, and we were asked to be that  
21 non-profit. After a thorough review, internal review  
22 of that, we agreed to do that.

23 That is 61 units. They've been fully occupied  
24 since the beginning. It's been reviewed at different  
25 times by the State Department of Revenue, by the IRS.

1 This was -- all documents related to the North Harbor  
2 project were among those provided to the Attorney  
3 General and provided to Commission staff. So this  
4 was all -- predates the time that the Attorney  
5 General did his investigation, where he came back and  
6 said I've got no recommendation against the  
7 Foundations.

8 More detailed information, Jay can -- Jay's  
9 probably familiar with what Section 42 actually says  
10 in terms of affordable housing and the like, but  
11 that's --

12 MR. BOYD: First of all, where's my map? In any  
13 event, there is a housing project that is owned by a  
14 for-profit limited partnership called North Harbor  
15 Limited Partnership, of which there is one general  
16 partner that has a one-percent interest and a  
17 99-percent limited partner that is the Indiana --  
18 Great Lakes Capital Firm, which consists of a series  
19 of bank investors that buy tax-credit projects.

20 The one-percent general partner is a company  
21 called -- it's an Indiana for-profit corporation  
22 called North Harbor, Inc., and it owns that miniscule  
23 interest in the project. But that interest will flip  
24 into a big number when the tax credits burn out after  
25 a 20-year compliance period in the project, as

1 Section 42 housing projects do.

2 MR. RUSTHOVEN: I told you he knew too much about  
3 this.

4 MR. BOYD: Then that general partner is owned by  
5 a company called North Harbor Property, Inc., which  
6 is an Indiana non-profit corporation that qualifies  
7 as a title holding corporation under Section  
8 501(c)(2) of the Internal Revenue Code. Its sole  
9 beneficiary is Foundations of East Chicago, as  
10 successor by merger to East Chicago Community  
11 Development Foundation, which supplied the additional  
12 capital to make that a higher-than-normal-quality  
13 affordable housing project.

14 MR. RUSTHOVEN: I should also mention I do know  
15 this about it. This project -- Mike Higbee, who used  
16 to be head of Metropolitan Development for the City  
17 of Indianapolis under the Goldsmith and Hudnut  
18 administrations and, I think, has got a national  
19 reputation, this is sort of his project, in terms of  
20 putting it together and designing it.

21 Also, this was reviewed and approved by the  
22 Indiana Housing Finance Authority, which is now, I  
23 think, the Indiana Development Finance Authority, and  
24 it has won awards from organizations in this state  
25 that look at housing projects like this.

1           So, yes, it's an unusual structure, a complicated  
2 structure. I'm glad you follow it, Mr. Swihart. I  
3 have a little trouble with it. But basically it's so  
4 you could provide affordable housing to the citizens  
5 of East Chicago under a federal statutory program.

6           COMMISSIONER MORGAN: And how much money is  
7 allocated to the North Harbor project, of the  
8 funds that --

9           MR. RUSTHOVEN: Of the \$56 million, it was, like,  
10 \$2.1 million.

11          MR. BOYD: The total capital cost of that project  
12 was, like, seven-and-a-half million dollars, of which  
13 we have \$2.1 million in deferred funds. It's a  
14 complicated financial structure, but that was the  
15 additional capital injection into the project.

16          COMMISSIONER SWIHART: Okay. So these loan  
17 receivables will be paid back in funds released to  
18 you; is that what you're saying?

19          MR. BOYD: A long time in the future.

20          CHAIRMAN MURPHY: I just have one further  
21 question. On the Directors' fees, give me just a  
22 sense of context on the dollar amount of those.

23          (Inaudible comment from the audience.)

24          COMMISSIONER MORGAN: I'm sorry. What was the  
25 question?

1 MR. RUSTHOVEN: It's \$250 per meeting.

2 CHAIRMAN MURPHY: Okay. Any other questions?

3 MR. RUSTHOVEN: Thank you very much.

4 CHAIRMAN MURPHY: Thank you, Mr. Rusthoven.

5 Adam, I'll turn it back over to you.

6 MR. PACKER: Okay. As you know, Commissioners,  
7 Resolution 2011-82 directed Ameristar to request  
8 modification or termination and replacement. As  
9 we've heard today, because there's not been an  
10 agreement to replace the existing LDA with an  
11 agreed-to LDA, the appropriate format for that  
12 request, under the resolution, is a request for  
13 modification presented by Ameristar. And the  
14 authority for that lies in 4-33-23, Section 15, which  
15 comes from Senate Enrolled Act 325. Ameristar has  
16 done that with their submission to you today.

17 Commission staff's opinion is that Ameristar has  
18 complied with Section 15 of Senate Enrolled Act 325  
19 and the will of the General Assembly in further  
20 defining the Commission's role in the LDA process  
21 through that law. And the Commission staff thereby  
22 recommends approval of Resolution 2011-139.

23 Mr. Chairman.

24 CHAIRMAN MURPHY: Thank you, Mr. Packer. Do the  
25 Commissioners have any further questions on

1 Resolution 2011-139?

2 COMMISSIONER MORGAN: Yes, I had a question for  
3 Mr. Packer. Even if the Commission approves this  
4 today, this is still going to be resolved in the  
5 courts, correct?

6 MR. PACKER: Yes, that's a good question,  
7 Commissioner Morgan. One of the things Rusty Denton  
8 talked about in his remarks today was that there are  
9 still outstanding court orders that govern 2.75 --  
10 that govern the direction of 2.75 percent of  
11 Ameristar's adjusted gross revenues under an LDA.

12 And the resolution before you would direct  
13 Ameristar to continue to comply with the outstanding  
14 court orders. In some, it would modify the East  
15 Chicago LDA with the terms that have been presented,  
16 direct Ameristar to comply with the new terms of the  
17 modified agreement, subject to the outstanding court  
18 orders that govern the placement of that two percent  
19 that was originally going to the Foundations and the  
20 .75 that was originally going to East Chicago Second  
21 Century. So those will remain in place. We don't  
22 want Ameristar to be in contempt of court.

23 COMMISSIONER SWIHART: One other question. If we  
24 approve this, then transparency goes into effect?

25 MR. PACKER: Transparency is already in effect

1 because Senate Enrolled Act 325 was effective upon  
2 signature of the document. So that list of  
3 accountability measures that Mr. Rusthoven laid out  
4 for you came directly from that statute. Those are  
5 already in place, and the Foundations --

6 COMMISSIONER SWIHART: The one percent the City's  
7 getting?

8 COMMISSIONER MORGAN: One percent?

9 EXECUTIVE DIRECTOR YELTON: Also, to supplement  
10 what Mr. Packer said, the emergency rule that you  
11 adopted today on the new statutes regarding local  
12 development agreements indicates that we're going to  
13 start the reporting process the 1st of July.

14 COMMISSIONER SWIHART: Okay.

15 EXECUTIVE DIRECTOR YELTON: However, 325, in  
16 about two or three different sections, requires all  
17 participants, in any fashion, to comply with any  
18 additional restrictions or requests by the  
19 Commission. So if there would be any possible  
20 transfer of any money before July 1, we have the  
21 authority to ask that to be as transparent as --

22 COMMISSIONER SHIELDS: And let me ask one other  
23 question then. The impact of the proposal would be  
24 that, in fact, the funds available to City of East  
25 Chicago would now be .5 percent?

1 EXECUTIVE DIRECTOR YELTON: Until a court action.

2 COMMISSIONER SHIELDS: That's right.

3 EXECUTIVE DIRECTOR YELTON: Then, according to  
4 this proposal, it would go up to 1.625 percent.

5 COMMISSIONER SHIELDS: Okay. I just wanted to  
6 make sure I understood. Thank you.

7 CHAIRMAN MURPHY: Also, one final point. The  
8 modified local development agreement we're looking at  
9 here does not speak to the escrowed money.

10 EXECUTIVE DIRECTOR YELTON: Which one?

11 CHAIRMAN MURPHY: 139.

12 EXECUTIVE DIRECTOR YELTON: It's actually  
13 segregated.

14 CHAIRMAN MURPHY: Segregated account.

15 MR. PACKER: It does address one of the  
16 segregated accounts. If you look at the resolution  
17 that's been offered on Page 5, it says Ameristar's  
18 authorized to withdraw and use \$10 million from the  
19 .75 Account to help pay for the contribution to the  
20 Cline Avenue Bridge Project, as that project may be  
21 designed and/or managed by INDOT. The Commission  
22 authorizes and directs Ameristar -- and this is  
23 important -- to seek, from the court that issued the  
24 order, modification of the order.

25 CHAIRMAN MURPHY: So those monies are already

1 under a court order?

2 MR. PACKER: Right. So this resolution would  
3 direct Ameristar to go back to the court to get  
4 release of that money before it can use it for Cline  
5 Avenue.

6 What this resolution does not address is  
7 disposition of any of the two-percent segregated  
8 account, of monies that were going to the  
9 Foundations --

10 CHAIRMAN MURPHY: I understand.

11 EXECUTIVE DIRECTOR YELTON: And, also, this does  
12 not forbid any other entity who believes it has an  
13 interest in that segregated account to approach the  
14 court for an order, which obviously we would comply  
15 with, that should be different from what the  
16 resolution calls for.

17 COMMISSIONER SWIHART: So it's money going  
18 forward?

19 EXECUTIVE DIRECTOR YELTON: Yes.

20 CHAIRMAN MURPHY: Any other questions? If not,  
21 is there a motion to approve or disapprove Resolution  
22 2011-139?

23 COMMISSIONER MORGAN: Move to approve.

24 COMMISSIONER SHIELDS: I second.

25 CHAIRMAN MURPHY: It's been moved and seconded.

1 All those in favor signify by saying aye.

2 (All said aye.)

3 CHAIRMAN MURPHY: Opposed? Resolution 2011-139  
4 is unanimously approved.

5 EXECUTIVE DIRECTOR YELTON: Mr. Chairman, there  
6 remains one other issue that was referred to by  
7 counsel, and particularly by Mr. Rusthoven.

8 The Commission, on March the 11th of this year,  
9 entered a resolution that required Ameristar not to  
10 release any of the funds in both segregated accounts  
11 without prior approval of the Commission.

12 This resolution just passed deals with the issue  
13 of the Two Percent -- no, .75 Percent Account. That  
14 remains at least -- or, excuse me, the Two Percent  
15 Account.

16 We asked for that restriction because we felt it  
17 was vitally important to preserve those funds during  
18 the mediation process. I imagine Judge Shields would  
19 understand the reason behind that, the rationale  
20 behind that.

21 Now that -- two things. Now that mediation has  
22 failed, has not been successful, unfortunately. And,  
23 also, there has been a pending motion for the court  
24 to determine who legally has the right to those  
25 funds. And on three occasions, I believe, prior to

1 today that has been set for hearing. And, upon our  
2 request, Mr. Rusthoven was kind enough to continue  
3 that.

4 So we believe, after consulting with our  
5 attorney, Mr. Funk, it would be appropriate for you  
6 now to modify that resolution from March 11, 2011,  
7 that would remove the requirement for Ameristar to  
8 request prior approval before the release of funds  
9 and let the court do its job and determine who  
10 legally is entitled to that money. We've never  
11 issued any order previous to that date that would  
12 apply to those funds. I would ask you, if you would,  
13 to please modify that resolution.

14 COMMISSIONER SHIELDS: I so move.

15 COMMISSIONER MORGAN: Second the motion.

16 CHAIRMAN MURPHY: It's been moved and seconded.  
17 All those in favor of approval of Resolution  
18 2011-140 -- is that correct?

19 EXECUTIVE DIRECTOR YELTON: Yes, 140. Thank you.

20 CHAIRMAN MURPHY: -- signify by saying aye.

21 (All said aye.)

22 CHAIRMAN MURPHY: Opposed? Resolution 2011-140  
23 is unanimously approved.

24 The next item on the agenda is our next meeting,  
25 and that will be -- that is scheduled, right now, for

1 September 15 at --

2 EXECUTIVE DIRECTOR YELTON: Potentially we may be  
3 looking at being entertained by Commissioner Fine in  
4 Evansville, but that's --

5 CHAIRMAN MURPHY: Tentative at this point. If  
6 there's no more business before the Commission, I  
7 would entertain a motion to adjourn.

8 COMMISSIONER SWIHART: So moved.

9 COMMISSIONER SHIELDS: Seconded.

10 CHAIRMAN MURPHY: It's been moved and seconded.

11 All those in favor?

12 (All said aye.)

13 CHAIRMAN MURPHY: Opposed? We stand adjourned.

14 Thank you, everyone.

15 (Proceedings concluded at 3:45 p.m.)

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