

INDIANA GAMING COMMISSION
BUSINESS MEETING
SEPTEMBER 13, 2007

ORIGINAL

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6 The above-captioned business meeting was
7 stenographically taken down by me, Robin L. Helton,
8 a notary public in and for the County of Marion,
9 State of Indiana, at 1:00 p.m., on September 13,
10 2007, at the Indiana Government Center South
11 Auditorium, 115 West Washington Street, South
12 Tower, Indianapolis, Indiana, and the following
13 transcript is a true and accurate transcript of the
14 proceedings held.
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A P P E A R A N C E S

COMMISSION MEMBERS PRESENT:

William Barrett, Chairman

Tim Murphy, Vice-Chair

Tim Walsh, Commissioner

Tom Swihart, Commissioner

James T. Cummings, Jr., Commissioner

Mary H. Shy, Commissioner

Ernest Yelton, Executive Director

Jennifer Arnold, Deputy Director

Phil Sicuso, General Counsel

Tamara Timberman, Secretary

1 CHAIRMAN BARRETT: Good afternoon, ladies and
2 gentlemen. We will call the third quarter 2007
3 meeting of the Indiana Gaming Commission to order.
4 Before we commence with the roll call, Executive
5 Director Yelton wishes to introduce a new member.

6 EXECUTIVE DIRECTOR YELTON: Thank you,
7 Mr. Chair, and Ladies and Gentlemen of the
8 Commission. Today we welcome our newest member to
9 the Indiana Gaming Commission, Mary Shy. Mary
10 comes to us from Lawrenceburg, Indiana, thereby
11 satisfying the statutory requirement.

12 Mary spent 1978 to 2003 with Proctor & Gamble
13 primarily in the IT department. When P & G
14 outsourced much of its ITs responsibilities to
15 Hewlett-Packard, Mary scaled the program management
16 office in the transfer and was employed by HP until
17 June of this year when she joined a LUCRUM, Inc.,
18 which is an IT business consulting firm.

19 When you introduce yourself to Mary today, you
20 may want to take time to wish her best wishes. She
21 returned this week from her honeymoon. Mary,
22 welcome aboard.

23 COMMISSIONER SHY: Thank you.

24 CHAIRMAN BARRETT: Thank you. We will take the
25 roll of the commissioners. Commissioner Murphy.

1 COMMISSIONER MURPHY: Present.

2 CHAIRMAN BARRETT: Commissioner Walsh.

3 COMMISSIONER WALSH: Here.

4 CHAIRMAN BARRETT: Commissioner Swihart?

5 COMMISSIONER SWIHART: Present.

6 CHAIRMAN BARRETT: Commissioner Cummings?

7 COMMISSIONER CUMMINGS, JR.: Here.

8 CHAIRMAN BARRETT: Commissioner Shy?

9 COMMISSIONER SHY: Here.

10 CHAIRMAN BARRETT: And Chair is present.

11 First order of business, we find ourselves
12 without a secretary, and I would open the floor for
13 nominations to fill that position.

14 COMMISSIONER MURPHY: Mr. Chairman, I nominate
15 Tom Swihart.

16 COMMISSIONER CUMMINGS, JR.: I second.

17 CHAIRMAN BARRETT: It's been moved and seconded
18 that Commissioner Swihart be elected as secretary.
19 All in favor.

20 (COMMISSION MEMBERS VOTED AYE)

21 CHAIRMAN BARRETT: Approved unanimously.

22 Next matter is the approval of the minutes.

23 Commissioners, you have all had a chance to review
24 the minutes in your packets. Is there a motion to
25 approve the minutes?

1 COMMISSIONER SWIHART: I move to approve.

2 COMMISSIONER: I second it.

3 CHAIRMAN BARRETT: Moved and seconded to
4 approve the minutes. All in favor I?

5 (COMMISSION MEMBERS VOTED AYE)

6 CHAIRMAN BARRETT: Approved.

7 First on the agenda then, the report from
8 Executive Director Yelton.

9 EXECUTIVE DIRECTOR YELTON: Thank you,
10 Mr. Chair. Now that the Indiana Gaming Commission
11 family has considerably grown, I will begin the
12 executive director's report with any new
13 developments in each one of our divisions.

14 First is the Division of Gaming Agents.
15 Superintendent Kevin Mahan submitted his
16 resignation in July after accepting a position in
17 the private sector. Experience has taught us that
18 the similarities and core responsibilities between
19 the two sections are nearly nonexistent. As a
20 result, the superintendent's position will no
21 longer be filled and the two sections are separated
22 into two distinct divisions, each of which will
23 report directly to the executive director.

24 The Enforcement Division will be governed by
25 the director, Kenny Rowan. Please stand and be

1 recognized.

2 And in order to properly staff the slot parlors
3 at the tracks, the division has recruited and
4 extended additional offers to 31 men and women to
5 serve as gaming agents.

6 The academy had been scheduled to commence at
7 the end of this month. However, since it seems
8 unlikely that either one of the casinos will be
9 operational until the second quarter of 2008 at the
10 earliest, that has been delayed until January 14.

11 The Background and Financial Investigation
12 Division will be headed by Director Garth Brown.
13 Interim director is Glen Lloyd, Glen can't be with
14 us this afternoon. He is acting director for
15 former Jim Beebe, who is no longer with the agency.
16 That position was posted and hopefully will be
17 filled within two months.

18 In order to accommodate the additional
19 responsibilities that the Commission has with the
20 addition of French Lick Casinos, two investigator
21 positions have been created and filled. And we are
22 proud to introduce Danielle Brooks. There she is.
23 And John Homescon. Also, yesterday, Mark Cosner
24 agreed to replace Larry Bosnick as a background
25 investigator.

1 The Division of Charity Gaming has also
2 undergone a facelift. Its director, Mark Mitchell,
3 has accepted a position with the office of the
4 inspector general; and replacing him is the former
5 assistant director Diane Freeman. And Larry
6 Galany, who was a field auditor, has been elevated
7 to deputy director.

8 Council Rollback 1510 became effective on the
9 1st of July, and the division has been hard at work
10 educating qualified organizations throughout the
11 entire state of the new changes. They have also
12 been laboring with the legal department on writing
13 and revising all of the regulations so they would
14 comply with the existing law.

15 1510 also created two new divisions for the
16 Commission's jurisdiction. The first is the Gaming
17 Control Officers Division. It is headed by Colonel
18 Larry Rawlings. And we found Colonel Rawlings from
19 the Indiana State Police where he served as deputy
20 superintendent. He has recruited three
21 supervisors. Since they will be working
22 undercover, we're not going to introduce them at
23 this time. These individuals are currently in good
24 standing as law enforcement officers, and have
25 included an additional two-week gaming specific

1 training. Although they will possess full police
2 powers, they will focus on acts of illegal gambling
3 throughout the State of Indiana beginning with a
4 concentration in the use of illegal Cherry Master
5 type slot machines.

6 The second new division is the License Control
7 Council Division. It will be led by its director,
8 Jeff Gill. Jeff comes to us from the Indiana
9 Department of Administration. I'm sure many of you
10 know him as executive director of the executive
11 branch lobbying. We reached MOU with The
12 Department of Administration where Jeff will work
13 for us 70 percent of his time and 30 percent of his
14 time with IDOA. Regretfully, because of the
15 schedule that could not be changed, today is one of
16 the 30 percent with the Department of
17 Administration.

18 Jeff has chosen Mark Peter Ura to serve as
19 assistant director. Mark worked with us this
20 summer with the Governor's internship program and
21 is scheduled to graduate from law school at the end
22 of this semester.

23 The License Control Council Division is charged
24 with prosecuting regulatory actions before an
25 administrative law judge. I guess individuals who

1 violate the Indiana illegal gambling laws.

2 In our Administrative Division we have our new
3 position, assistant director of compliance, which
4 has been filled by Angie Bunton, which you probably
5 all know. And Sherry Green has transferred from
6 the Gaming Agency to cover our first personnel
7 officer.

8 This probably should come under old business.
9 Apparently our general counsel was a little
10 remiss in not introducing one of his staff
11 attorneys when he was hired and we will try to make
12 up for that today. Mr. Ron McClain, who came to
13 the Gaming Commission from the Marion County
14 Prosecutor's Office where he served as deputy
15 prosecutor for 10 years. Prior to that, he served
16 on the Indianapolis Police Department for 21 years,
17 retiring as detective sergeant in 1996. He is a
18 lifelong resident of Indiana, attended IU
19 Bloomington, graduated from Indiana Law School in
20 Indianapolis. If you want to know his age, you
21 might ask John Hammond because he just told me he
22 went to law school with him. So welcome aboard.

23 Next, Mr. Chairman and Members of the
24 Commission, I will relate to you the waivers that
25 have been granted by the Commission since we last

1 met.

2 All casino association members were granted
3 relief from having the name of the riverboat
4 licensee imprinted on the roulette wheel. All
5 licensees were granted relief regarding the
6 location of the dealing shoe used in Pigalle poker
7 games.

8 Belterra, Caesars, French Lick, Horseshoe,
9 Majestic Star and Resorts were granted relief from
10 the number of security personnel during the bill
11 validator drop from five to four for a 60-day trial
12 period. This relief has been granted to these
13 casinos due to the fact they have not had any
14 significant drop with regulatory issues with the
15 Commission.

16 Blue Chip was granting a waiver allowing the
17 dealer to draw on a soft 17 for a double deck
18 blackjack table only.

19 Caesar's was granted two waivers. The first
20 allows the tip count team to be apprised of at
21 least two dealers instead of one dealer, and one
22 cage cashier. It was also granted a waiver to
23 utilize the computer system, recording only the
24 names of the occupational licensees with MTL
25 transaction.

1 Horseshoe was granted a waiver allowing the
2 additional purchase of three different primary chip
3 denominations without the corresponding 50 percent
4 secondary chips. These additional chips will
5 continue to be used and use the name of Horseshoe
6 Hammond, Inc. They were also granted a waiver to
7 switch the secondary chips of denomination with the
8 primary chips due to the shortage of their primary
9 chips. This is a temporary waiver as the casino
10 will purchase all new chips bearing the new name of
11 Horseshoe, LLC following all rules and regulations
12 of course, prior to the transition to the new
13 vessel.

14 Finally, granted a waiver allowing the
15 inscription of a blackjack cloth to read "Dealer
16 stands on all 17s."

17 As to the litigation, Members of the
18 Commission. The sole lawsuit remaining for the
19 Commission involves the City of East Chicago, the
20 local development agreement between it and Resorts,
21 Second Century, The Foundation. The initial ruling
22 by Judge Bradford remains on interlocutory appeal.
23 However, a panel has been established and we
24 anticipate rulings in the near future.

25 Judge Bradford, as you may know, was recently

1 appointed to the Indiana Court of Appeals, and
2 Judge David Shaheed has assumed jurisdiction of his
3 case load.

4 The Foundation's request for preliminary
5 injunction against the city's exercise of authority
6 to cancel the LDA was remanded from the Federal
7 Court back to Judge Reed in Marion County Superior
8 Court. It is scheduled for a hearing on October
9 18th of this year. As of 4:00 yesterday afternoon,
10 the Commission was informed that The Foundation had
11 mailed a motion to voluntarily dismiss the Indiana
12 Gaming Commission from that application for a
13 preliminary injunction and, therefore, we will no
14 longer be a party to that litigation.

15 Our investigation of Columbia Sussex upon the
16 request of Mayor Weinzapfel has been scheduled for
17 review at this meeting. However, the process has
18 consumed more effort than originally projected.
19 Plus there have been numerous scheduling conflicts
20 that prevented our investigator from conducting
21 interviews with Mr. Yung and Ms. Moore. Those are
22 now scheduled for October 25th and hopefully they
23 should not delay a prompt report. The results
24 should be available to all members of the
25 Commission in November.

1 Also, the Commission's lease of the 9th floor
2 of the south tower of the National City Bank
3 Building expires at the end of this month. Due to
4 the added responsibilities bestowed upon us by the
5 legislature, we presently have inadequate space for
6 all of our personnel. We have asked for some
7 employees to double up in their cubicles and yet we
8 still do not have sufficient room for the civil
9 section of gaming control officers.

10 Fortunately, IDOA has approved a new lease for
11 the agency to relocate on the 16th floor. That is
12 the only floor of the building that has a direct
13 access between the east and the south towers. This
14 move will not only considerably increase our square
15 footage but also we will have expansion room in the
16 future, if necessary. The third floor plans are
17 being processed as we speak and we anticipate a
18 relocation by no later than December 1st of this
19 year.

20 Finally, Members of the Commission, I
21 would like to present for your consideration a
22 Resolution 2007-95 entitled "A Resolution Honoring
23 Donald R. Vowels for his dedicated service on the
24 Indiana Gaming Commission."

25 It reads as follows: "Whereas, Donald R.

1 Vowels was an original member of the Indiana Gaming
2 Commission, appointed in 1993 by Governor Evan
3 Bayh; and

4 Whereas, Donald R. Vowels served as Chairman
5 from 1997 to 2005 and Secretary from 2005 until the
6 expiration of his appointment in 2007; and

7 Whereas, during his tenure, Donald R. Vowels
8 oversaw the opening of Indiana's ten riverboat
9 casinos and the opening of the gaming facility in
10 French Lick; and

11 Whereas, during his tenure, the Commission
12 earned an enduring reputation for the fair, but
13 strict, regulation of all aspects of casino gaming;
14 and

15 Whereas, through his extensive and dedicated
16 service, Donald R. Vowels faithfully ensured that
17 casino gambling was conducted in accordance with
18 the Riverboat Gambling Act, to the benefit of the
19 State of Indiana;

20 Now, therefore, be it resolved by the Indiana
21 Gaming Commission, that:

22 The Indiana Gaming Commission hereby honors
23 Donald R. Vowels for his dedicated service as a
24 loyal member of the Gaming Commission. This
25 resolution is effected immediately.

1 Adopted this the 13th day of September 2007."

2 Mr. Chair and Members of the Commission, I urge
3 your approval on this resolution.

4 CHAIRMAN BARRETT: Thank you, Executive
5 Director Yelton. I will call for a motion on
6 Resolution 2007-95.

7 COMMISSIONER MURPHY: Mr. Chairman, I so move.

8 COMMISSIONER: Second.

9 CHAIRMAN BARRETT: Moved and seconded to
10 approve Resolution 2007-95. All in favor?

11 (COMMISSION MEMBERS VOTED AYE)

12 CHAIRMAN BARRETT: Passes unanimously.

13 EXECUTIVE DIRECTOR YELTON: Thank you,
14 Mr. Chair.

15 CHAIRMAN BARRETT: I will then move on to old
16 business. The first item we have to consider is a
17 presentation by Hoosier Park Indiana Downs and
18 Mr. Haggimier I believe you are first.

19 MR. HAGGIMIER: Good afternoon, Mr. Chairman,
20 Commissioners, Mr. Yelton and staff. My name is
21 Robert Haggimier, I'm regulatory counsel to Centar,
22 Inc., and it's subsidiary Hoosier Park, LP in
23 Anderson. With me to my left is Mr. Jeff Smith,
24 who is the managing director of racing for Centaur.
25 Also with me in the audience is John Hammond, a

1 partner at Ice Miller. As you may know, Ice Miller
2 is general counsel to Centaur and its various
3 subsidiaries.

4 I must first offer apologizes for the absence
5 today of our Chairman, Mr. Ratcliff; our President,
6 Mr. McLaughlin; and our Executive Vice President,
7 Mr. Wilson; but I trust and I assure you that they
8 are productively occupied in New York meeting with
9 our investment bankers and attending rating agency
10 meetings at this very moment.

11 I wanted to update you preliminarily on one
12 very significant matter. Over the last several
13 weeks, we have had serious discussions with several
14 equity providers and have reached a preliminary
15 agreement with a party who has agreed to provide
16 capital, really equity participation capital, for
17 one-third of our anticipated capital structure.
18 As you may be aware, we are doing two projects
19 simultaneously. Just an hour ago, I received a
20 final adjudication in the Commonwealth of
21 Pennsylvania subsidiary of harness racing license
22 in that jurisdiction. So we shall be proceeding
23 there as well as here in constructing two casinos
24 simultaneously.

25 Our total anticipated financing commitment is

1 roughly 930 million dollars. And comprised of
2 605 million dollars of senior debt, \$300 of
3 mezzanine financing and a 25-million-dollar
4 revolving loan commitment. I will be happy to
5 answer your questions. We expect to finalize the
6 commitment on the 300-million-dollar piece within
7 the next day. And when it is finalized, Mr. Yelton
8 and his staff will be provided with a copy of that
9 term sheet once we secure the consent of the
10 participant.

11 CHAIRMAN BARRETT: Thank you. Do the
12 commission members have any questions?

13 MR. HAGGIMIER: I should also add, we have
14 received as of last Friday the specialty
15 application for our entity, we are diligently
16 working on it and expect to begin submitting
17 individual applications within the next week.
18 Thank you for all of your assistance.

19 MR. SMITH: Thank you, Bob, the Commission,
20 Mr. Yelton, staff. It is my pleasure to be here in
21 front of you today. Again, my name is Jeff Smith.
22 We have been very busy since your last meeting. We
23 have met with Commission staff at various levels at
24 different times, seeking their guidance on the
25 design development of our facility. They have

1 given us good input. We have preliminary approval
2 of our facility design by both the Gaming
3 Commission and the Indiana Harness Racing
4 Commission as well.

5 We continue to work with furthering our design
6 and completing the contractual negotiations with
7 our general contractors and project managers. We
8 don't have those completed yet, but within days we
9 expect to have those done. We are working on our
10 financing.

11 I have a couple of people I would like to
12 introduce, you may find them somewhat familiar to
13 you. They have recently joined our team. First of
14 all, Rick Moore, would you stand.

15 Rick is our general manager of racing at
16 Hoosier Park. He has been serving as a president
17 of Hoosier Park for a number of years and involved
18 with the racetrack since we opened. He is a
19 valuable member of our team.

20 Mr. Jim Brown. You may recognize this young
21 man from the Aztar Riverboat. He was former
22 general manager from the Aztar property and has
23 been down there for 12 years or so. And he is
24 joining the Centaur team as general manager of
25 gaming at Hoosier Park.

1 And last, but certainly not least, Ed Garooto.
2 You may recognize he was former general manager of
3 the Caesar's Riverboat in Indiana. Ed has joined
4 the Centaur team to head up our gaming operation in
5 Pennsylvania.

6 So we have a wealth of talent. They are very,
7 very familiar with your staff and your procedures
8 and we share the same commitment that they have had
9 in the past in terms of meeting your every need and
10 requirement. We look forward to being in front of
11 you with more details as they progress. I will be
12 happy to try and answer any questions you may have
13 today.

14 CHAIRMAN BARRETT: Thank you, Mr. Smith. Do
15 you have any questions for Mr. Smith? Thank you.

16 MR. SMITH: Thank you very much.

17 CHAIRMAN BARRETT: On behalf of Indiana Downs,
18 Ms. Sabol.

19 MS. SABOL: Good afternoon, Mr. Chairman,
20 Members of the Commission, Mr. Yelton and staff.

21 My name is Martha Sabol and I'm with the law
22 firm of Greenberg Traurig. I am here today as
23 regulatory counsel on behalf of Indiana Downs. I'm
24 joined by Mr. Dennis Gomes, President of Gomes
25 Cordish Management; Sherry Amos, Marketing

1 Executive; and Ross Mangano; the Chairman of the
2 Board of Indiana Downs who would now like to say a
3 few words.

4 MR. MANGANO: Good morning. It's a privilege
5 to be in front of the Indiana Gaming Commission.
6 My name is Ross Mangano, and I'm the Chairman of
7 Indiana Downs. As you know, we have had a lot of
8 things to do before we're prepared for a final
9 showing of our facility and the people that will be
10 running it. We've had to deal with stockholders
11 among other things, and all of that is behind us
12 now.

13 I want to go on record today stating that we
14 are going to build a world-class facility. Second
15 to none in the State of Indiana. We have every
16 belief to be the number one gaming venue in the
17 State of Indiana. We will start by having a
18 project that will be done in various stages and we
19 will have tremendous economic development. It will
20 be an entertainment center, it will be a gaming
21 center and it will be a retail center. When all is
22 said and done, there will be more money invested in
23 our facility after five years than that is proposed
24 for the Honda plant that will be built next year.

25 That being said, in order to accomplish our

1 goals, Indiana Downs really put a lot of effort
2 into interviewing gaming companies all over the
3 United States and came up with a conclusion that we
4 have found one group that can design, build and
5 operate this facility. It is the Cordish Group out
6 of Baltimore, Maryland. And there will be slides
7 showing you what they have done and what they are
8 going to do with Indiana Downs.

9 Dennis Gomes is a person that will be running
10 our operation on a day-to-day basis and overseeing
11 it. He comes with quite a background. If anybody
12 has seen the movie Casino, Dennis Gomes is the law
13 enforcement officer in that movie. That's his
14 background. He will explain some of his expertise
15 as time goes on here.

16 I just wanted to say, again, we appreciate this
17 opportunity and we're going to work with this
18 Gaming Commission in every way that's practical
19 like we have and we will continue to do so. Thank
20 you.

21 MS. SABOL: I believe you have a copy of the
22 presentation that we're showing in front of you.
23 We thank you for the opportunity to speak with you
24 today, present our initial plans for developing a
25 first class gaming operation at Indiana Downs.

1 As Ross indicated, Indiana Downs has entered
2 into an agreement with two operating subsidiaries
3 of the Cordish Company who will develop and manage
4 the gaming operations. Just so you are familiar
5 with names, Power Plant Entertainment Casino
6 Resorts Indiana will be the developer. And Cordish
7 Gomes Gaming Management will be the gaming
8 management company. Both are operating
9 subsidiaries of the Cordish Company, which I will
10 now introduce you to.

11 The Cordish Company, its origin dates back to
12 1910 and encompasses four generations of privately
13 held family ownership. During the past 10 decades,
14 the Cordish Company has grown into a
15 multi-billion-dollar global conglomerate of
16 businesses defined by two major areas of expertise,
17 one of the leading real estate developing companies
18 and the most successful entertainment businesses in
19 the world.

20 The Cordish Company is one of the largest and
21 most respected developers in the world with
22 extensive expertise in almost every discipline of
23 real estate, including entertainment, gaming and
24 lodging, sports anchor developments, retail office
25 and residential. Widely recognized as the leading

1 international developer of large-scale urban
2 revitalization projects and entertainment
3 districts. The Cordish Company has been awarded
4 more urban and land instituted awards for
5 excellence than any other developer in the world.

6 Many of the Cordish Company's developments
7 involve public private partnerships and are of
8 unique significance to the cities in which they are
9 located. The Cordish Company has received
10 international acclaim for their hospitality
11 development and has developed two four-star Hard
12 Rock theme hotels and casinos both located in
13 Florida. These were the first Hard Rock Hotels and
14 Casinos in the United States outside of Las Vegas.
15 And these projects rank among the top casino hotels
16 in the world.

17 We are pleased to partner with such an
18 impressive group of development professionals.
19 I would now like to introduce, though, the gaming
20 expertise side of the project, and that is Dennis
21 Gomes. Dennis has over 25 years of gaming
22 experience which began in Las Vegas and law
23 enforcement. Mr. Gomes served on the Nevada Gaming
24 Control Board before moving to New Jersey when he
25 was named chief of special investigations for the

1 New Jersey Division of Gaming Enforcement.

2 He has worked as a senior executive for gaming
3 resorts and management companies, including Aztar
4 Resorts where he led the remarkable turnaround for
5 the Tropicana Casino & Resort, The Trump Taj Mahal,
6 Golden Nugget and many others. In addition,
7 Mr. Gomes has earned his MBA and he's also a CPA.
8 With that, I would like to now introduce
9 Dennis Gomes who would like to address the
10 Commission.

11 MR. GOMES: Mr. Chairman and Members of the
12 Commission, thank you for allowing me to speak to
13 you today. Before I discuss our project, I would
14 like to add some information about my background
15 and to what Martha has already told you.

16 I began my career in Nevada with the Nevada
17 Gaming Control Board in 1971. Gaming regulation
18 was in its infancy then and we're confronted with
19 the casino industry as becomes the stuff of novels
20 and movies. I would like to think that I was
21 partially responsible for changing a lot of that.
22 I supervised a number of high-profile regulatory
23 law enforcement investigations and prosecutions
24 including the Tropicana Casino's infiltration by
25 the Chicago and other mob families that led to

1 infiltration by the St. Louis mob, Caesar's Palace
2 involvement with some of Merrill Lances proteges,
3 and the Argen Corporation case which included the
4 Startess Hotel and Casino, the Marina Hotel &
5 Casino, the Hacienda Hotel & Casino and the Fremont
6 Hotel and Casino.

7 I and two other agents broke that case wide
8 open with a late-night raid that subsequently
9 proved wide-scale organized crime control at every
10 one of those casinos. I have met the need for
11 casino regulatory control. My professional and
12 personal attitudes were forged by my experience in
13 helping to create those controls. I was
14 instrumental in drafting the first set of internal
15 control regulations for the industry in Nevada. I
16 then took what I had learned to New Jersey in 1977
17 when gaming started there. I was the first chief
18 of the special investigations bureau for the New
19 Jersey Division of Gaming Enforcement and set up
20 the procedures for licenses investigation, for the
21 design of the system of internal control still used
22 there today.

23 Since our time is limited, I would like now to
24 briefly discuss our project. In regards to
25 management, I have recently identified and received

1 a commitment for the position of general manager
2 from an individual who has approximately seven
3 years of high level gaming management experience in
4 Indiana. He's creative and a natural leader and is
5 loved by his employees and has the highest level of
6 operating skill and integrity.

7 Although we are just in the preliminary design
8 stages of this project, I can tell you it will be a
9 state of the art casino resort that will be a
10 credit to the casino industry and to the State of
11 Indiana.

12 The first phase of this project will include a
13 permanent structure of approximately 48,000 square
14 feet that will house 1,000 slot machines and some
15 food and beverage facilities. We are expected to
16 have that facility completed and opened sometime in
17 the spring of next year. When the entire Phase I
18 of this project is completed, most likely by the
19 end of 2008, it will include approximately 98,000
20 square feet of casino space with 2,000 slot
21 machines, 40,000 square feet of dining and
22 entertainment space and a multi-level garage
23 structure of at least 1,200 spaces.

24 The second phase, the timing of which has not
25 yet been determined, will include the addition of a

1 hotel tower, more casino space, additional parking
2 garages and a retail and dining entertainment
3 venue. Although the completion date has not been
4 solidified yet, we are estimating a preliminary
5 completion time of approximately five years for
6 that major development.

7 Phase I and Phase II layouts that I'm showing
8 you behind you on the screen are not actual
9 depictions of the final project, but they merely
10 represent the studies that we have completed in
11 order to determine the maximum number of casino,
12 retail, dining and entertainment and hotel and
13 parking facilities that we can potentially locate
14 on the property.

15 They do, however, represent the general layout
16 of the various elements that we have finally
17 determined based on acceptable rates of return and
18 investment that would be optimum for the project.
19 Our final actual layouts will be completed shortly
20 and we will have Martha deliver them to you as soon
21 as we receive them from the architects.

22 I would now like to introduce Sherry Amos, who
23 is currently working with the Cordish Company, and
24 will give you some background regarding the
25 company's existing retail, dining, entertainment

1 and casino projects that they have developed.
2 Sherry is a nationally renown marketing executive
3 whom I've had the pleasure of working with closely
4 for over 12 years. Thank you.

5 MS. AMOS: Commissioners, ladies and gentlemen,
6 thank you for your time today. I have been in the
7 casino industry for over 24 years, specifically in
8 marketing. The last 12 years I was Vice President
9 of Marketing at the Tropicana Casino & Resort in
10 Atlantic City, New Jersey. The last three years of
11 my vice presidency there, I worked with Dennis
12 Gomes the visionary of a changing project called
13 The Quarter. It was the first Las Vegas style
14 entertainment complex, over 280 million dollars.
15 It changed Atlantic City and, as a result, places
16 like the Borgata, the Peer at Caesar's all followed
17 in suit and opened up. It was a huge success.

18 About two years ago, I went out on my own and
19 started my own marketing company. I was retained
20 by the Cordish Company to assist them in their
21 gaming division.

22 As you can see on the slides, one of the most
23 successful projects that I had a pleasure to work
24 on was the Hard Rock Hotel & Casino in Hollywood,
25 Florida. This project was 350 million dollars

1 including a four-star Hard Rock Hotel, a 6,000 seat
2 live performance venue, 350 square feet of retail
3 and entertainment. The Hard Rock Casino, 140,000
4 square feet of gaming spaces, 2,400 slots and 50
5 table games. The resort opened in May of 2005.
6 This project put the Cordish Company on the map in
7 the gaming industry as well as being the lead of
8 developers in the United States.

9 In addition to the Hard Rock, 350,000 square
10 feet of retail, dining, entertainment, with
11 nationally known tenants were all partners to this
12 facility. The Seminole Hard Rock in Hollywood,
13 Florida has surpassed all records and has been one
14 of the most successful gaming companies and
15 operators in the United States.

16 A very similar project to the Seminole Hard
17 Rock Hollywood project is the Hard Rock in Tampa,
18 Florida. The project is very similar in design
19 without the retail, dining and entertainment which
20 will be added within the next two years. Developed
21 on behalf of the Seminole Tribe, once again, this
22 150 million dollar project includes a four-star
23 Hard Rock hotel, dining and entertainment, 90,000
24 square feet of gaming spaces, 850 slot machines and
25 32 table games.

1 Another one of the Cordish Company gaming
2 projects include the Woodbine Live in Toronto.
3 This was developed as a partnership with the
4 Woodbine Entertainment Group. This is a
5 750-million-dollar retail, dining and entertainment
6 hotel expansion which will be combined with horse
7 racing, slot machines, a 14-screen cinema, skating
8 complex and a complete entertainment district.
9 This facility draws over 7 million visitors per
10 year. The casino houses over 2,800 slot machines.
11 And expansion will be complete by the fall of '09.

12 In the booklet we gave you there are some
13 photos and other Cordish projects that at your
14 leisure we would like you to take a look at. It
15 will give you an idea of the quality of the product
16 that the Cordish Company presents. It is a
17 first-class company and we are very, very excited
18 about the Indiana Downs project. This will be one
19 of our showcase properties. Thank you.

20 MS. SABOL: I trust that you can see why we are
21 so excited about this opportunity. We will work
22 very closely with Executive Director Yelton and his
23 staff to submit the proper licensing application
24 and documents and keep open lines of communication
25 as we finalize our development plans, work through

1 development processes and begin to establish our
2 system.

3 We appreciate this opportunity and we are
4 certainly available for any questions that you
5 might have. Thank you.

6 CHAIRMAN BARRETT: Does anyone have any
7 questions?

8 On behalf of the Commission, both entities did
9 a fine presentation update today. We look forward
10 to your participation and gaming within the State
11 of Indiana. Thank you for your time.

12 We will move on then to voluntary exclusion.

13 MS. BUNTON: Good afternoon. You have before
14 you the voluntary exclusion program. Pursuant to
15 the rules of the program, the identities of
16 voluntary exclusion participants must remain
17 confidential. Pursuant to 68 IAC 6-3-2(g): "A
18 participant in the program agrees that if she/he
19 violates the terms of the program that enters the
20 gaming area of a facility under the jurisdiction of
21 the Commission, they will forfeit any jackpot or
22 thing of value won as a result of a wager."

23 Under Orders 2007-59 through 68, a total sum of
24 \$21,327.29 was forfeited by John Does, 15 through
25 24. These winnings were collected at Argosy,

1 Aztar, Blue Chip, French Lick, Grand Victoria and
2 Majestic Star.

3 Please note that Order 2007-66 concerning John
4 Doe Number 22 was withdrawn. Commission staff
5 recommends that you approve the remittance of these
6 winnings as fines levied against John Does 15
7 through 24, excluding John Doe number 22.

8 CHAIRMAN BARRETT: Thank you. Do the
9 Commissioners have any questions?

10 Commission members, you have all received the
11 executive summaries on each of these cases and you
12 have had an opportunity to review those
13 accordingly. At this time I will entertain a
14 motion in case numbers VEP-07-15 through 24.

15 COMMISSIONER MURPHY: I move to approve.

16 COMMISSIONER SWIHART: I second the motion.

17 CHAIRMAN BARRETT: Moved and seconded. Orders
18 59 through 68, and excluding 66, and case numbers
19 previously cited to be approved. All in favor?

20 (COMMISSION MEMBERS VOTED AYE)

21 CHAIRMAN BARRETT: Approved unanimously.

22 We will now proceed to the discussion of the
23 MBE/WBE Disparity Study. First, the Commission
24 will hear from a member of the public, Mr. Jimmy
25 Beard.

1 MR. BEARD: Good afternoon.

2 CHAIRMAN BARRETT: Thank you for coming.

3 Pursuant to the regulation and practices of the
4 Commission, the speakers for the public will all
5 have this afternoon five minutes.

6 MR. JIMMY BEARD: Thank you for the opportunity
7 to speak to you today. I looked at your Web site
8 and I see from the record there is a quote that
9 says "We are dedicated to assuring all Hoosiers the
10 gaming in Indiana is conducted with unquestioned
11 integrity, strictly within the bounds of the law
12 and regulations." And I'm sure that everybody
13 intends to do that.

14 Our state has instituted some legislative
15 guidelines as it relates to minority and
16 women-owned businesses working in the gaming
17 industry.

18 With these guidelines in place, there still needs
19 to be some tweaking of this process to develop MBE
20 and WBE businesses. I'm here today to share my
21 experience and the experience of another minority
22 business in doing business with the riverboat.

23 It's too late for any action on your part for
24 me but for the MBEs that are just beginning their
25 road and entrepreneurship and seeking to do

1 business with the casino boats in Indiana, the
2 tweaking of the policy is really necessary. Should
3 you decide to do nothing, it wouldn't be because
4 you did not know or you were not informed.

5 I have copies of correspondence for myself with
6 the casino boat and copies to the Commission which
7 you have in your possession. In the interest of
8 time, to make this long story short, in 2001 I was
9 given a letter of the volume of business that a
10 casino boat was going to do with us. That volume
11 was 90 to \$100,000 a week. We geared up, via
12 staff, computers, increasing our capacity to handle
13 it. The volume consistently never got over \$55,000
14 a week.

15 My wife was encouraged to seek WBE status in an
16 effort to increase the volume, but after thousands
17 of dollars in legal fees, she acquired the status
18 and was never used as a WBE. The food business is
19 a high-volume, low-margin business. For every
20 dollar spent with us, our portion of that was about
21 10 cents. Without the volume, it doesn't work.
22 We have been told by different people that our
23 competitors are operating on three to five percent
24 and God bless them if they can do that.

25 Most casinos have national contracts with large

1 food suppliers, severely limiting MBEs and WBEs
2 from the purchase of products that the casino
3 needs. A minority supplier called me about three
4 years ago from Gary. He worked for a supplier to
5 the casino and was encouraged to go out on his own
6 to acquire MBE status so that the casino could
7 purchase product from him. He leaves a 15-year
8 job, signs a three-year lease for office space and
9 warehouse space only to be told that the casino had
10 changed their minds and that they were going in
11 another direction. As he spoke with me he says,
12 "Jimmy, I can see the casino boat from my office."
13 He said that if he had something in writing he
14 thought that would put him in a better position,
15 but knowing through experience if there is not a
16 mechanism to enforce it, even if you get it in
17 writing, it's not going to mean anything.

18 Last month Caesars took in about 25 million
19 dollars. They gave 5 million to the winners and
20 probably about 7 million to the State of Indiana.
21 Argosy took in about 29 million dollars, paid 6
22 million dollars to the winners and 11 million
23 dollars to the State of Indiana. This is
24 disheartening in the wake of skyrocketing property
25 taxes, and closing inner-city schools and public

1 safety funds being cut. We found a way to get a
2 revenue stream to the casinos. We really need to
3 find a way to get majority business legitimately in
4 the mainstream of the businesses.

5 With all of that being said, I have had a great
6 opportunity to work with French Lick. The French
7 Lick casino has been very creative in how they have
8 done this business. And they have the best coffee,
9 obviously, in this town because it comes right here
10 from Indiana, it is processed, packaged, roasted
11 and --

12 CHAIRMAN BARRETT: You have one minute, sir.

13 JIMMY BEARD: -- delivered here. I'm done.

14 CHAIRMAN BARRETT: Thank you. Do any of the
15 Commission members have any questions for
16 Mr. Beard? Thank you, sir.

17 JIMMY BEARD: Thank you.

18 CHAIRMAN BARRETT: The casino in which
19 Mr. Beard's company does not wish to speak so we
20 will move on.

21 Ms. Arnold, the disparity study.

22 MS. ARNOLD: Thank you, Chairman Barrett.

23 At our last meeting, Drew Klacik from the
24 Center of Urban Policy, Debbie Wilson of Engaging
25 Solutions, and Glenn Lawrence of Coleman Stevenson

1 presented the results of the Commission's disparity
2 study. Since that time, Engaging Solutions has
3 conducted interviews in order to collect anecdotal
4 data and Coleman Stevenson, through attorney
5 Gerald Coleman, has provided a final legal opinion
6 in regard to the study and the action we intend to
7 take as a result.

8 Commissioners, since all of these individuals are
9 here today, I would like to take the opportunity to
10 thank them for their work on this important
11 project.

12 As we discussed previously, the study found
13 statistically relevant disparity in the area of
14 women business enterprise, or WBE, construction.
15 As a result, you have before you Resolution
16 2007-58, which sets a goal of 10.9 percent
17 utilization in that category, effective on January
18 1st. In accordance with the legal opinion we have
19 received, setting the purchasing goal at the level
20 of capacity determined through a statistical
21 analysis is appropriate.

22 Regarding the other categories, while no
23 statistically relevant disparity was found, the
24 Commission has the authority to annually review
25 utilization. Should utilization fall below

1 capacity in any category for calendar year 2008,
2 staff may recommend that goals be set in those
3 areas.

4 Also on the subject, Commission staff will
5 continue to monitor MBE and WBE utilization through
6 the new purchase tracking system. Staff also
7 intends to post a draft of a revised MBE/WBE
8 administrative rules on our Web site in the coming
9 weeks. We welcome comments from the casino
10 industry, business owners, and other members of the
11 public. After gathering and considering the
12 information, we plan to promulgate amendments to
13 our MBE/WBE regulations prior to January 1st.

14 If there are no questions or comments at this
15 time, your approval of Resolution 2007-58 is
16 respectfully requested.

17 CHAIRMAN BARRETT: Do the Commission members
18 have any questions?

19 Okay. You have received Resolution 2007-58 in
20 your packets, you have had an opportunity to review
21 it, I will call for a motion.

22 COMMISSIONER SWIHART: Move to approve.

23 COMMISSIONER MURPHY: Second.

24 CHAIRMAN BARRETT: It's been moved and seconded
25 to adopt Resolution 2007-58. All in favor?

1 (COMMISSION MEMBERS VOTED AYE)

2 CHAIRMAN BARRETT: Approved unanimously. Thank
3 you.

4 Mr. McClain, occupational license matters.

5 MR. McCLAIN: Thank you, Mr. Chairman. Good
6 afternoon members of the Commission, staff and
7 guests. I will be reporting this afternoon on
8 several applicants for occupational license with
9 felony convictions.

10 Order Number 2007-69 concerns Lisa Jacobs.
11 Lisa Jacobs was issued a temporary occupational
12 license to work at French Lick Resort Casino. She
13 did not disclose on her application a felony
14 conviction for maintaining a common nuisance in
15 Marshall County, Indiana in 1992. This conviction
16 was discovered and confirmed by the Commission
17 staff. The Commission staff revoked her license
18 and issued a Notice of Denial for her permanent
19 license. She was informed of the opportunity to
20 request a felony waiver, she did not respond to
21 that opportunity, and the Commission staff has had
22 no further contact with Ms. Jacobs. The Commission
23 staff recommends that you deny her application.

24 CHAIRMAN BARRETT: Any questions?

25 Okay. Again, you have received all of the

1 summaries in all of the matters, so as to the
2 denial, cause number 07-10, is there a motion?

3 COMMISSION MURPHY: So moved.

4 COMMISSIONER SWIHART: Second.

5 CHAIRMAN BARRETT: Moved and seconded to deny
6 the application for the license. All in favor?

7 (COMMISSION MEMBERS VOTED AYE)

8 CHAIRMAN BARRETT: Approved unanimously.

9 MR. McCLAIN: Thank you.

10 Order number 2007-70 concerns Lafe Mason.
11 Lafe Mason received a temporary license to work at
12 French Lick Casino. He disclosed some misdemeanor
13 arrest but did not disclose a conviction for
14 dealing in stolen property as a felony in Polk
15 County, Florida. This conviction, again, was
16 discovered and confirmed by the Commission staff.
17 The Commission staff revoked his temporary license
18 and issued a Notice of Denial. He was informed of
19 the opportunity of a waiver, he did not respond,
20 and the Commission staff has had no further contact
21 with Mr. Mason. Commission staff recommends that
22 you deny his application.

23 CHAIRMAN BARRETT: Any questions? Entertain a
24 motion on 07-11.

25 COMMISSION MURPHY: Mr. Chairman, I move to

1 approve.

2 COMMISSIONER SWIHART: Second.

3 CHAIRMAN BARRETT: Moved and seconded to deny
4 the application. All in favor?

5 (COMMISSION MEMBERS VOTED AYE)

6 CHAIRMAN BARRETT: Order 2007-70 approved
7 unanimously.

8 MR. McCLAIN: Thank you.

9 Order Number 2007-71 concerns the application
10 of Stephen Moy. Mr. Moy received a temporary
11 license to work at Majestic Star Casino. He
12 disclosed an arrest on his application, but
13 indicated that the charges had been dismissed. The
14 Commission staff discovered he failed to disclose
15 one or more felony convictions. He was instructed
16 to produce documents regarding his conviction, and
17 a review of the documents revealed he was indicted
18 and convicted of a Federal crime of an illegal
19 gambling business in the United States District
20 Court, Northern Illinois in 1991.

21 I was appointed the review officer by the
22 Executive Director, and upon reviewing Mr. Moy's
23 record it became apparent that due to the specific
24 nature of his offense he was not eligible for a
25 waiver. He suffers from a lifetime

1 disqualification because his felony is in violation
2 of Federal law and is also a felony of gambling.
3 He was informed that he had a right to appeal the
4 matter to an administrative law judge and he did
5 not appeal.

6 The Commission staff recommends that you deny
7 his application.

8 CHAIRMAN BARRETT: Thank you. Any questions?
9 Entertain a motion?

10 COMMISSION SWIHART: So move.

11 COMMISSIONER MURPHY: Second.

12 CHAIRMAN BARRETT: Moved and seconded to deny
13 the application. All in favor?

14 (COMMISSION MEMBERS VOTED AYE)

15 CHAIRMAN BARRETT: Approved unanimously.

16 MR. McCLAIN: Thank you.

17 Order 2007-72 is in regards to Mary Wisdom.
18 Mary Wisdom received a temporary license to work at
19 Casino Astar. She indicated on her application
20 that she had not been arrested. She did not
21 disclose a felony arrest for welfare fraud in
22 Vanderburgh County, Indiana, which was discovered
23 by the Commission staff.

24 The Commission staff requested documentation
25 from her to clarify the situation of her arrest,

1 she failed to respond to that, at which time her
2 temporary license was revoked. She was informed of
3 the opportunity to file a felony waiver, she did
4 not respond, and the Commission staff has had no
5 further contact with her.

6 The Commission staff recommends that you deny
7 her application.

8 CHAIRMAN BARRETT: Any questions? If not,
9 entertain a motion.

10 COMMISSIONER MURPHY: I move to approve the
11 denial.

12 COMMISSION WALSH: I second.

13 CHAIRMAN BARRETT: All in favor?

14 (COMMISSION MEMBERS VOTED AYE)

15 CHAIRMAN BARRETT: Order approved unanimously.

16 MR. McCLAIN: Thank you, sir.

17 Order Number 2007-73, Christopher Newport. He
18 received a temporary license to work at Horseshoe
19 Casino. He disclosed several arrests on his
20 application to indicate they were misdemeanors.
21 The Commission staff is investigation proved he
22 failed to disclose one or more felony convictions.
23 He was requested to provide documents and the
24 documents revealed he was convicted of criminal
25 sexual assault in Cook County, Illinois in 2002.

1 He was informed of the opportunity to request a
2 waiver of his felony, however, due to the specific
3 nature of his offense he was also informed that he
4 would not be eligible for a waiver because of a
5 disqualification till 2014. He did not request a
6 waiver, he did not appeal this opinion, and the
7 Commission staff recommends that you deny his
8 application.

9 CHAIRMAN BARRETT: Any questions? If not, I
10 will entertain a motion.

11 COMMISSION MURPHY: Mr. Chairman, I move that
12 we approve the denial.

13 COMMISSIONER SWIHART: Second.

14 CHAIRMAN BARRETT: All in favor?

15 (COMMISSION MEMBERS VOTED AYE)

16 CHAIRMAN BARRETT: Thank you, Mr. McClain.

17 Mr. Packer?

18 ADAM PACKER: Before we move on to felony
19 waivers, which will be presented by Mr. McClain and
20 me, I would like to present an update on the felony
21 proceedings.

22 A few Commission meetings ago it became clear
23 to the Commission staff that the commissioners were
24 not receiving adequate information on felony
25 applicants for occupational licenses to have a full

1 understanding of the felony waiver process, to make
2 informed decisions on felony waiver applications.
3 So I began to report the numbers of convicted
4 felons who apply for occupational licenses, and
5 this is the quarterly update on that matter.

6 Since I last reported to you at the June
7 meeting, there have been 12 individuals who have
8 applied for occupational licenses with felony
9 convictions on their records. Of those 12,
10 including some of the individuals that Mr. McClain
11 presented to you a moment ago, four did not proceed
12 any farther in the process. Did not request a
13 waiver, did not obtain any more information about a
14 waiver. That was four individuals. Also four
15 individuals informed us they were not eligible for
16 waivers due to lifetime bans for the reasons of the
17 character of their convictions or that not enough
18 time has elapsed since the expiration of their
19 sentence or their probation. And four individuals
20 have proceeded through the application process
21 through the threshold question of statutory
22 eligibility and through the waiver hearing process.
23 One of those four individuals it has been
24 determined is not eligible for a waiver because of
25 statutory reasons. Three of those individuals will

1 be presented to you today on their felony waiver
2 applications.

3 So to sum up, 12 individuals have applied for
4 occupational licenses. Of those 12, three of those
5 individuals have had waivers that have proceeded to
6 the where they are right for presentation to the
7 Commission. I will turn it back over to
8 Mr. McClain for one of those three individuals.

9 Thank you Mr. Chairman.

10 MR. McCLAIN: Order 2007-74 regarding a felony
11 waiver request of Gregory Staten. Gregory Staten
12 received a temporary occupational license to work
13 at French Lick Resort Casino. He disclosed on his
14 application that he had been arrested for
15 misdemeanor battery in Nevada in 2001. He did not
16 disclose he was convicted of a felony of attempted
17 robbery in Nevada in 1979 and a felony charge of
18 driving under the influence in Nevada in 1984.
19 These arrests were discovered again during a
20 background investigation by the Commission staff.

21 This was a rather involved case because Mr.
22 Staten was asked to produce documentation regarding
23 his arrest. He did so immediately. He also
24 provided the Commission staff with an explanation
25 of his failure to disclose. In 2000, Mr. Staten

1 retained an attorney and had his criminal record
2 sealed as is permitted under Nevada law. On the
3 advice of his attorney, he did not disclose this on
4 his application. His arrests were discovered
5 during a background investigation. When he was
6 instructed to submit court, background
7 documentation, he complied immediately. His
8 failure to disclose a felony arrest does not appear
9 to be deceptive.

10 Members of the legal division of the Commission
11 staff discussed the propriety of denying the
12 application based on conviction in the record that
13 had been sealed. Nevada law allows the Gaming
14 Commission and the Nevada State Gaming Control
15 Board to inspect otherwise concealed criminal
16 records to determine the suitability of the person
17 to hold a state gaming license. The Commission
18 staff concluded that Indiana law inquires an
19 inquiry where a felony conviction is indicated. On
20 that basis, Mr. Staten was informed of the felony
21 waiver opportunity. He did file a timely request
22 for felony waiver.

23 Once again, I was appointed as a hearing
24 officer by the Executive Director on August 15,
25 2007, a felony waiver was held at French Lick

1 Casino. Mr. Staten testified, as well as his wife
2 of 15 years, and a fellow employee of French Lick
3 Casino. He provided testimony as to his
4 rehabilitation. He stated that he was wild and
5 foolish in his younger years, resulting in drug use
6 and the arrests that have been discussed herein.
7 Mr. Staten believes his prison term was a positive
8 factor in his life that forced him to receive drug
9 treatment and helped him to find some positive
10 goals.

11 After his first arrest, part of his probation
12 condition was to acquire gainful employment. He
13 acquired gaming training at his own expense and
14 began his career in the gaming industry. He worked
15 in the gaming industry in Nevada from 1980 till
16 2004 when he relocated to Indiana for family
17 reasons. I believe he has demonstrated, both
18 through his personal characteristics and his work
19 history in Nevada, which was confirmed through the
20 records, that he has been rehabilitated and he
21 poses no threat to the integrity of gaming in
22 Indiana. Therefore, I recommend the Commission
23 grant his waiver request.

24 CHAIRMAN BARRETT: Thank you.

25 Commission members, do you have any questions?

1 COMMISSIONER MURPHY: Mr. McClain, I'm assuming
2 there was no weapon involved?

3 MR. McCLAIN: I'm glad you asked that, Mr. Vice
4 Chairman. At the felony waiver hearing he gave a
5 pretty good explanation. He stated he was 18 years
6 old. I must also include the information that this
7 attempted robbery did occur in a casino setting,
8 but we did not consider it was actually a gaming
9 offense. He stated he found himself in a casino.
10 He doesn't remember anything other than the fact
11 this was in the old days when the change girls had
12 a tray with money in it where they walked around
13 and made change. He saw the money, he grabbed the
14 money, he ran out of the casino, and the next thing
15 he knew he was in the back of a police car. That
16 was his attempted robbery.

17 He also explained his DUI conviction. He went
18 out after work at the casino one night, got drunk,
19 hit a parked car, jumped a curve, struck a
20 pedestrian, and that's why it was a felony.

21 CHAIRMAN BARRETT: That was my question, it was
22 a felony because there was an injured person?

23 MR. McCLAIN: Yes, there was injury to a
24 person.

25 CHAIRMAN BARRETT: Not death?

1 MR. McCLAIN: No. He said at the time that the
2 law in Nevada was very strict as far as DUI. There
3 was no such thing as a plea bargain. If you were
4 convicted you do jail time, which he did. He
5 served one year of a two year sentence.

6 CHAIRMAN BARRETT: It wasn't like a PCR or
7 setting aside or do you know?

8 MR. McCLAIN: Well, the whole legal staff
9 discussed this. We discussed it pretty carefully.
10 The effect of sealing a record in Nevada is as if
11 the event never occurred. With one exception. And
12 that exception in the law is that the Gaming
13 Commission and Gaming Control Board have a right to
14 look at the sealed record. And we thought by the
15 same token that the Indiana Gaming Commission had a
16 right to look at the concealed record. Having done
17 so, we held a felony waiver hearing and I presented
18 the results today.

19 CHAIRMAN BARRETT: Where was he employed in
20 Nevada before he came here?

21 MR. McCLAIN: Mr. Chairman, he was a craps
22 dealer at Fitzgeralds in '95. He was a craps
23 dealer at the Stardust '95 to '97. A dealer at New
24 York New York from '97 to '98. A craps dealer at
25 Stardust from '95 to 2001. Craps dealer in 2000

1 and 2002 at the Venetian. Craps dealer at the
2 Stardust again in 2002 and 2003. Back to the
3 Venetian in 2002 to 2004.

4 CHAIRMAN BARRETT: When did he avail himself
5 (inaudible).

6 MR. McCLAIN: In 2000.

7 CHAIRMAN BARRETT: He continued to work in the
8 gaming industry after that?

9 MR. McCLAIN: He worked in the gaming industry
10 both before and after he had his record sealed.

11 CHAIRMAN BARRETT: And under Nevada law the
12 Nevada Gaming Control Board had a right to ask
13 about those records?

14 MR. McCLAIN: Yes, they did.

15 CHAIRMAN BARRETT: Do you have reason to
16 believe that he was aware of that exception?

17 MR. McCLAIN: I don't know if he was aware of
18 it. I know in my conversation with the people at
19 the Nevada Gaming Commission that they were aware
20 of his criminal history. In Nevada they have a
21 license and they have a permit. A permit is for
22 lower-level employees and a license for owners and
23 key personnel. A felony conviction does not
24 prohibit being issued a permit in Nevada.

25 CHAIRMAN BARRETT: Do you see what I'm trying

1 to get at. I have availed myself to the statutory
2 remedy provided by Nevada law and allowed you that
3 statutory remedy as a whole in it from the Gaming
4 Commission he knew it because the analogy is
5 directed regardless of what's going on here. So
6 I'm trying to find out what about that issue you
7 have found out. It sounds like you don't know.

8 MR. McCLAIN: I really don't know. I just got
9 the impression in my conversation with him that
10 there was no intent to be deceptive.

11 CHAIRMAN BARRETT: Does anyone else have any
12 questions? We will entertain a motion on the
13 request for the felony waiver disqualification
14 and --

15 COMMISSIONER SWIHART: I will move to accept
16 the waiver.

17 COMMISSIONER WALSH: I will second.

18 CHAIRMAN BARRETT: Move and seconded to accept
19 the waiver. All in favor?

20 (COMMISSION MEMBERS VOTED AYE)

21 CHAIRMAN BARRETT: Approved unanimously.

22 MR. McCLAIN: Thank you, Commissioners.

23 ADAM PACKER: The next felony waiver on the
24 agenda is matter number 2007-76. We are skipping
25 75, as you may know. Lucette Abell. Ms. Abell

1 applied for a level 3 occupational license to work
2 as a front desk operator, telephone operator at
3 French Lick Resort Casino. In her application, she
4 enclosed criminal records from four criminal
5 convictions. They showed a period of alcohol
6 problems on the part of Ms. Abell for approximately
7 an 18-month period of time in 1999 and 2000. The
8 culminating arrest of that period of time was a
9 December 4th felony DUI arrest. She pled guilty to
10 the felony DUI and that was the reason that her
11 application for occupational license was denied.

12 She fit the statutory requirements to proceed
13 through the felony waiver process to a hearing. I
14 conducted the hearing in French Lick. In the
15 hearing, Ms. Abell testified as to the reason for
16 this 18-month period of alcohol periods. And her
17 testimony was corroborated by the fact that an FBI
18 investigation by Commission staff turned up no
19 additional criminal activity especially with regard
20 to alcohol since the 2000 DUI conviction. Ms. Abel
21 was involved in a bitter divorce at the time of
22 these alcohol-related crimes. She completed the
23 divorce, moved out of town, has been remarried
24 since, went through alcohol counseling.

25 She had a witness with her at the felony waiver

1 hearing who is a counselor with a community service
2 organization in the Springs Valley area that works
3 with people with substance abuse and felony
4 convictions to find them employment and keep them
5 on the right path. Ms. Abell was very
6 straightforward with me about her alcohol problems
7 during 1999 and 2000. And in fact, the statute for
8 felony waivers contemplates the situation where a
9 social condition is part of the felony conviction
10 that occurred. And it's one of the factors for
11 rehabilitation that the Commission staff and
12 Commission considers.

13 For me, that is the strongest point of
14 Ms. Abell's case is the fact that she was involved
15 in a situation that -- I don't want to say caused
16 this problem, but contributed to this problem.
17 Once she extricated herself from the divorce and
18 from this relationship, she has had no further
19 problems.

20 Her position is such that the integrity of
21 gaming is not at risk. She is a telephone operator
22 with the front desk personnel at the French Lick
23 Casino. The only reason this position is licensed
24 is that she has access through the computer system
25 to the comp system. If a patron calls in and

1 wishes to reserve a room, she looks up that
2 patron's information and can convey that person's
3 information about the comps to the individual.
4 Because of the access to the comp system, there is
5 some relationship to gaming and that's the reason
6 that she is licensed. Her position does not
7 involve the cage, it does not involve cash, it
8 doesn't involve the kinds of sensitive dealings
9 that would raise additional red flags.

10 For the reason that her problem appears to have
11 been put behind her, that is corroborated by the
12 FBI investigation, she was forthright, she has pled
13 guilty to all the charges, she has gone through
14 rehabilitation and counseling, and the fact that
15 her position is such that she is not a license
16 risk, it is my recommendation through my findings
17 of fact and representation that has been presented
18 to you that the request for waiver by Lucette Abell
19 be approved.

20 CHAIRMAN BARRETT: Does anyone have any
21 questions? The Chair will entertain a motion;
22 FW-07-06 application, to approve the felony waiver.

23 COMMISSIONER SWIHART: Move to approve the
24 felony waiver.

25 COMMISSIONER WALSH: Second.

1 CHAIRMAN BARRETT: All in favor?

2 (COMMISSION MEMBERS VOTED AYE)

3 CHAIRMAN BARRETT: Approved unanimously.

4 ADAM PACKER: The next matter on the felony
5 waivers is the final matter of felony waivers
6 today. It is in the matter of Freddie Ross. Order
7 2007-77. It's Felony Waiver 07-09. Mr. Ross has
8 also applied for a level 3 occupational license
9 with French Lick Resort Casino. Mr. Ross has
10 applied for a position as a maintenance man in the
11 maintenance department. He is currently working in
12 the housekeeping department at West Baden Springs
13 Hotel. Mr. Ross has applied for a level 3
14 occupational license despite the fact that he will
15 be working primarily in the West Baden Springs
16 Hotel for the reasons that the French Lick
17 management wished to have all of their maintenance
18 personnel licensed with casino access in case that
19 an emergency or staff shortage requires that
20 emergency personnel from West Baden or the golf
21 courses or other non-casino areas of the resort are
22 needed aboard the casino.

23 Mr. Ross has experience in electrical and
24 plumbing work and other types of maintenance, and
25 that's the type of work that he will be doing.

1 Like Ms. Abell, he would not have unsupervised
2 access to sensitive areas. If there was a problem
3 in a sensitive area, he would be able to work in
4 that area, but he would be supervised.

5 The conditions of Mr. Ross's conviction were
6 that in 1993 he pled guilty to and was convicted of
7 marijuana possession. The crime he pled guilty to
8 was the exact crime he was charged with. I believe
9 that is significant in this case because in
10 marijuana cases we often see someone initially
11 charged with dealing or a 10-pound marijuana
12 possession or trafficking or one of those types of
13 charges and then pleads down to the 30-gram felony
14 or misdemeanor charge.

15 In Mr. Ross's case, the court records show that
16 he was charged with one charge of marijuana
17 possession and it was the 30-gram felony. That was
18 the exact crime he pled guilty to.

19 In Mr. Ross's explanation during the felony
20 waiver hearing, he explained that it was for
21 personal use, he was not a dealer, he wasn't
22 distributing, and that, in this case, is the most
23 important factor I believe. He is not a risk to
24 set up a distributing network or to bring illegal
25 drugs into the casino or into the regulated area.

1 Additionally, the character of his position is such
2 that he will only have occasional access to the
3 casino. His position is primarily going to be in
4 the West Baden Springs Hotel area. The rest of my
5 findings of fact and recommendation has been
6 presented to you in the written materials. I
7 welcome any questions. My recommendation for
8 Mr. Ross is that his felony waiver be approved.

9 CHAIRMAN BARRETT: I will call for a motion
10 regarding Mr. Ross's waiver.

11 COMMISSIONER MURPHY: I move to approve.

12 COMMISSIONER SWIHART: Second.

13 CHAIRMAN BARRETT: Moved and seconded. All in
14 favor?

15 (COMMISSIONER MEMBERS VOTED AYE)

16 ADAM PACKER: Thank you, Mr. Chairman.

17 CHAIRMAN BARRETT: Supplier licensee matters,
18 Ms. Rich.

19 KESHA RICH: Good afternoon. You have before
20 you Order 2007-78 concerning the renewal of
21 supplier licenses. Pursuant to Indiana Code 4-33
22 and 68 IAC 2-2, the Commission has previously
23 approved a permanent supplier's license for the
24 following companies: GEMACO, Inc., Progressive
25 Gaming Corp.,; Atronic Americas, LLC; Glory (USA),

1 Inc.; GPI USA, Inc.; GPI SAS, Inc.; Western Money
2 Systems; and Global Surveillance Associates, Inc.

3 A supplier's license is valid for a period of
4 one year. Pursuant to IC 4-33-7-8 and 68 IAC
5 2-2-8, a supplier's license must be renewed
6 annually and a payment of \$5,000 for the annual
7 renewal fee must be remitted. Each of these
8 licensees have requested renewal of their license
9 and has paid the appropriate renewal fees. The
10 Commission staff recommends that you approve the
11 renewal for the licenses of the eight suppliers.

12 CHAIRMAN BARRETT: Any questions?

13 COMMISSIONER SWIHART: I will move to accept.

14 COMMISSIONER MURPHY: Second.

15 CHAIRMAN BARRETT: Moved and seconded to
16 approve Order 2007-78. All in favor?

17 (COMMISSION MEMBERS VOTED AYE)

18 KESHA RICH: Thank you.

19 CHAIRMAN BARRETT: Ms. Gray?

20 CHRISTINA GRAY: Good afternoon, Commissioners.
21 You have before you nine settlement agreements
22 concerning disciplinary actions. The first
23 settlement is with Argosy Casino, Order 2007-79,
24 regarding cashing of checks in a one-week period
25 over the aggregated amount. Argosy has agreed to a

1 monetary settlement of \$7,500 in lieu of a
2 disciplinary action and Commission staff recommends
3 approval of this settlement agreement.

4 CHAIRMAN BARRETT: Do the members have any
5 questions? I will call for a motion to accept or
6 reject the settlement agreement.

7 COMMISSIONER MURPHY: Mr. Chairman, I move to
8 accept the settlement agreement.

9 COMMISSIONER SWIHART: Second.

10 CHAIRMAN BARRETT: All in favor?

11 (COMMISSION MEMBERS VOTED AYE)

12 CHRISTINA GRAY: The second order, Order
13 2007-80, is a settlement agreement with Belterra,
14 and includes four counts. In the first and second
15 counts, slot machine and bill validator access
16 doors were found unsecure. That is violating the
17 sensitive key rules. The third count involved two
18 underaged persons being allowed to board the
19 casino. This is the first and second time in the
20 last six months. In the fourth count, failed to
21 properly ship live gaming device equipment.

22 Belterra has agreed to a total monetary
23 settlement of \$22,000 in lieu of a disciplinary
24 action. Commission staff recommends you approve
25 the settlement agreement.

1 CHAIRMAN BARRETT: Do members of the Commission
2 have any questions? Call for a motion?

3 COMMISSIONER WALSH: I will make a motion to
4 approve.

5 COMMISSIONER MURPHY: Second.

6 CHAIRMAN BARRETT: Moved and seconded. All in
7 favor?

8 (COMMISSION MEMBERS VOTED AYE)

9 CHRISTINA GRAY: Order 2007-81 is a settlement
10 agreement with Blue Chip including two counts, one
11 violating the delivery of live gaming devices and
12 the other was the third time in the past six months
13 that an underaged person was allowed in the casino.

14 Blue Chip has agreed to a total monetary
15 settlement of \$19,500 in lieu of a disciplinary
16 action and the Commission staff recommends that you
17 approve the settlement agreement.

18 CHAIRMAN BARRETT: Do the Commission Members
19 have any questions?

20 COMMISSION SWIHART: I have one. The third
21 time in the last six months. What steps have been
22 taken to try and remedy the problem?

23 CHRISTINA GRAY: Well, they have increased
24 their security staff at the boarding entrance to
25 help with the problem. And as you know, when a

1 security employee allows an underaged person
2 through, normally they are terminated. I know they
3 are diligently working on this issue.

4 CHAIRMAN BARRETT: They might be prepared to
5 have a much larger fine than \$4,500.

6 With no further questions, I will call for a
7 motion on Order 2007-81.

8 COMMISSION MURPHY: Mr. Chairman, I move for a
9 motion to approve.

10 COMMISSION SWIHART: Second.

11 CHAIRMAN BARRETT: Moved and seconded. All in
12 favor?

13 (COMMISSION MEMBERS VOTED AYE)

14 CHAIRMAN BARRETT: Approved unanimously.

15 CHRISTINA GRAY: The fourth order is Order
16 2007-82, is a settlement agreement with Caesars
17 involving five counts. The first count violated
18 the rule regarding the surveillance coverage of the
19 detention room. The second count involved an
20 underaged person being allowed to board the casino.
21 The third count violated the VIP rule, when a VIP
22 participant was allowed to cash checks. Count four
23 violated the card verification rules. Count five
24 violated the rule requiring cards note being
25 utilized at a table game to be secured. Ceasar's

1 has agreed to a total monetary settlement of
2 \$29,000 in lieu of a disciplinary action and the
3 Commission staff recommends approval of this
4 settlement agreement.

5 CHAIRMAN BARRETT: Do the Commission members
6 have any questions?

7 I have one. In lieu of the \$1,500 fine, is
8 this the first time in six months?

9 CHRISTINA GRAY: Yes, it was.

10 CHAIRMAN BARRETT: Call for a motion on
11 07-CS-03?

12 COMMISSIONER SWIHART: Move to approve.

13 COMMISSION MURPHY: Second.

14 CHAIRMAN BARRETT: Moved and seconded to
15 approve. All in favor?

16 (COMMISSION MEMBERS VOTED AYE)

17 CHRISTINA GRAY: Order 2007-83 is a settlement
18 agreement with French Lick involving three counts.
19 The first count involves the violation of the
20 electronic gaming device coin test rule. In the
21 second count, three underaged persons were allowed
22 to board the casino. This is the first, second and
23 third time in the past six months. The third count
24 violated the rule regarding the cards not being
25 utilized and table game to be secured. French Lick

1 has agreed to a total monetary settlement of
2 \$24,000 in lieu of disciplinary action and the
3 commission staff recommends approval of this
4 settlement agreement.

5 CHAIRMAN BARRETT: Any questions? You know I
6 have one. This is the third violation and the last
7 one was third violation and same time period frame
8 for half of the violation, half the amount.

9 EXECUTIVE DIRECTOR YELTON: The policy of the
10 Commission is the first violation is \$1,500, second
11 is \$3,000 and the third is \$4,500. And it goes up
12 \$1,500 for a 6 month period. So \$1,500, \$3,000 and
13 \$4,500.

14 CHAIRMAN BARRETT: Any questions on that? Then
15 I will call for a motion.

16 COMMISSIONER SWIHART: Move to approve.

17 COMMISSIONER WALSH: Second.

18 CHAIRMAN BARRETT: Moved and seconded to
19 approve. All in favor?

20 (COMMISSION MEMBERS VOTED AYE)

21 CHAIRMAN BARRETT: Approved unanimously.

22 CHRISTINA GRAY: Order 2007-84 is a settlement
23 agreement with Grand Victoria and it involves two
24 counts. The first count involves the failure to
25 monitor the entrance and exits to the casino as

1 well as other support area. In the second count,
2 two underaged persons were allowed in the casino.
3 This is the third and fourth time in the past six
4 months.

5 Grand Victoria has agreed to a monetary
6 settlement of \$15,500 in lieu of a disciplinary
7 action and the Commission staff recommends approval
8 of this.

9 CHAIRMAN BARRETT: Any questions? Then I will
10 call for a motion on 07-GV-02.

11 COMMISSIONER SWIHART: Move to approve.

12 COMMISSIONER MURPHY: Second.

13 CHAIRMAN BARRETT: Moved and seconded to
14 approve. All in favor?

15 (COMMISSION MEMBERS VOTED AYE)

16 CHAIRMAN BARRETT: Approved unanimously.

17 CHRISTINA GRAY: Order 2007-85 is a settlement
18 agreement with Horseshoe Casino wherein the casino
19 filed several RG-1s late. Horseshoe has agreed to
20 a monetary settlement of \$15,000 in lieu of a
21 disciplinary action. The Commission staff
22 recommends approval of this settlement agreement.

23 CHAIRMAN BARRETT: Do the Commission members
24 have any questions?

25 COMMISSIONER SWIHART: Why were they late?

1 CHRISTINA GRAY: As far as I know, they had an
2 employee that didn't sign it so it wasn't filed
3 timely. The RG-1 requires two signatures and one
4 of the signatures wasn't there.

5 COMMISSIONER MURPHY: So then it was filed?

6 CHRISTINA GRAY: They are not supposed to be
7 able to file it until they have both signatures.

8 COMMISSIONER MURPHY: Was it filed but
9 rejected?

10 CHAIRMAN BARRETT: Was it tendered?

11 CHRISTINA GRAY: No, it wasn't filed until the
12 second person realized it and signed it and then
13 filed it.

14 EXECUTIVE DIRECTOR YELTON: Was this a weekend?

15 CHRISTINA GRAY: Yes, on Tuesday they were
16 supposed to file three RG-1s together and two it
17 landed on a Tuesday, so there were two weekends
18 involved. So in total there were actually seven.

19 CHAIRMAN BARRETT: Thank you.

20 Any other questions? Call for a motion.

21 COMMISSIONER SWIHART: Move to approve.

22 COMMISSION MURPHY: Second.

23 CHAIRMAN BARRETT: Moved and seconded to
24 approve. All in favor?

25 (COMMISSION MEMBERS VOTED AYE)

1 CHAIRMAN BARRETT: Approved unanimously.

2 CHRISTINA GRAY: Order 2007-86 is a settlement
3 agreement with Majestic Star I and II involving
4 nine counts. The first count involves the
5 violation of securing a roulette wheel when the
6 roulette table is not open for gaming activity. In
7 the second count the casino failed to balance the
8 roulette wheel after it had been removed and then
9 replaced for a layout change. The third count
10 involves the failure to follow proper procedures
11 for paying jackpots during a coupon ticket server
12 outage. The fourth count involves the improper
13 setting on a slot machine and the failure to coin
14 test the machine. In the fifth count, eight bill
15 validator boxes without locks on them were placed
16 into the slot machines. In the sixth count, two
17 underaged persons were allowed to board the casino.
18 This was the first and second time within the last
19 six months. Count seven and eight involve the
20 violation of the live gaming rules regarding cards
21 not being utilized at a table game to be secured
22 and playing cards to be inspected before being
23 placed into play. The final count involved a
24 revoked EPROM chip in a slot machine.

25 Majestic Star has agreed to pay a total

1 monetary settlement of \$51,500 in lieu of a
2 disciplinary action. The Commission staff
3 recommends you approve the settlement agreement.

4 CHAIRMAN BARRETT: Do the Commission members
5 have any questions? If not, I will call for a
6 motion.

7 COMMISSION MURPHY: I move to approve.

8 COMMISSION SWIHART: Second.

9 CHAIRMAN BARRETT: It's been moved and
10 seconded. All in favor?

11 (COMMISSION MEMBERS VOTED AYE)

12 CHAIRMAN BARRETT: Approved unanimously.

13 CHRISTINA GRAY: The final Order, 2007-87, is a
14 settlement agreement with Resorts involving two
15 counts. The first count involves revoked EPROMS in
16 the slot machines, and the second one, a VIP
17 participant was paid a jackpot of over \$1,200.

18 Resorts has agreed to pay the total monetary
19 settlement of \$13,732 in lieu of a disciplinary
20 action. The Commission staff recommends you
21 approve the settlement agreement.

22 CHAIRMAN BARRETT: Any questions? I will call
23 for a motion on 07-RS-01.

24 COMMISSIONER MURPHY: I so move.

25 COMMISSIONER WALSH: Second.

1 CHAIRMAN BARRETT: All in favor?

2 (COMMISSION MEMBERS VOTED AYE)

3 EXECUTIVE DIRECTOR YELTON: Chris, there may be
4 some inconsistency in our materials. With Argosy
5 is that \$10,000 or is that \$7,500?

6 CHRISTINA GRAY: With Argosy it should be
7 \$7,500.

8 EXECUTIVE DIRECTOR YELTON: The statement in
9 the executive summary should be correct. Is that
10 right, Chris?

11 CHRISTINA GRAY: Yes.

12 CHAIRMAN BARRETT: Mr. Sicuso, financing.

13 GENERAL COUNSEL SICUSO: Thank you,
14 Mr. Chair.

15 We are taking a second financing matter off the
16 agenda and requesting Majestic Star 2007-89 will
17 not be before you today.

18 Regarding Pinnacle, Order 2007-88, this order
19 as proposed would ratify an interim approval and
20 was extended by Executive Director Yelton on
21 September 6, 2007. The interim approval authorized
22 Pinnacle a proposed 2 billion dollar bank financing
23 without receiving prior approval from the
24 Commission and without having satisfied additional
25 requirements. The reading materials contain a full

1 analysis of this transaction along with
2 recommendation for outside financial consulting.

3 And as Resolution 2006-10, Executive Director
4 Yelton interim approval, must come before you at
5 the next Commission meeting for final ratification
6 and opportunity to a direct additional or different
7 action.

8 Commission staff recommends that you ratify
9 interim approval by adopting 2007-88 for Pinnacle.

10 CHAIRMAN BARRETT: Do the Commission members
11 have any questions? If not, then I will call for a
12 motion to approve or disapprove Order 2007-88.

13 COMMISSIONER SWIHART: Move to approve.

14 COMMISSIONER CUMMINGS, JR.: Second.

15 CHAIRMAN BARRETT: Moved and seconded. All in
16 favor?

17 (COMMISSION MEMBERS VOTED AYE)

18 CHAIRMAN BARRETT: Approved unanimously.

19 Ladies and gentlemen, we are going to take a
20 15-minute break. Thank you.

21 (AT THIS TIME THERE WAS A BRIEF RECESS TAKEN,
22 AFTER WHICH THE FOLLOWING PROCEEDINGS WERE HAD:)

23 COMMISSIONER BARRETT: Ladies and gentlemen, we
24 will resume. We are now to the section of
25 transfers for today. This is an Ameristar Resorts

1 matter. I will first call on representatives from
2 Ameristar.

3 MR. CHAMPION: Good afternoon, Mr. Chairman and
4 Members of the Commission, Executive Director
5 Yelton and staff.

6 My name is Joe Champion and I'm from the law
7 firm of Bingham & McHale, and I'm here with my
8 partner, Matt Troyer. We represent here, in the
9 State of Indiana, Ameristar Casinos in the
10 regulatory matters.

11 I want to thank you for the opportunity to meet
12 with you today and present a request to transfer
13 for the riverboat owner's license for Resorts East
14 Chicago which is up for your consideration.

15 I would like to make some introductions on
16 behalf of the Ameristar team. The Ameristar CEO
17 and President, John Boushy; also from Ameristar,
18 Tom Steinbauer, Senior Vice President of Finance
19 and CFO; Peter Walsh, Vice President and General
20 Counsel; Tim Wright, Senior Vice President and
21 General Manager of Ameristar Kansas City. Tim will
22 become the Senior Vice President and General
23 Manager of Resorts East Chicago at the close of
24 this acquisition. Troy Stremming, Vice President
25 of Governmental Affairs and Norm Richardson, Vice

1 President of Compliance.

2 From Resorts, I would like to recognize
3 Joe DeRosa, General Manager of Resorts East
4 Chicago; Nick Amato, General Counsel of Resorts
5 International Holdings; and Jack Thar, Indiana
6 Regulatory Counsel to Resorts International.

7 With that, I ask Troy Stremming, Ameristars
8 Vice President of Governmental Affairs, to begin
9 the presentation.

10 TROY STREMMING: Good afternoon Commissioners,
11 Executive Director Yelton, Staff.

12 I would like to start today's presentation by
13 just giving you an overview of what we are here to
14 discuss. First, I will provide background on
15 Ameristar including how we started our gaming
16 company, briefly discuss our properties as well as
17 some of our successful integrations in the
18 Ameristar family, as well as our current
19 performance.

20 Next John Boushy, our CEO and President, will
21 talk about our business philosophy and beliefs.
22 Then he will speak to the Resorts East Chicago
23 transaction, outlining our plans for a smooth
24 transition.

25 We will also review our plans for re-branding

1 and upgrades we have in store for the facility as
2 well as longer term expansion plan.

3 Before I begin the formal portion of my
4 presentation, I would like to take a moment to
5 thank Executive Director Yelton and the staff for
6 committing the resources necessary to complete
7 licensing investigation within such a short time
8 period. We certainly appreciate your guidance and
9 cooperation throughout this process.

10 Now I will begin with some basic information
11 about Ameristar. Our company was founded in 1954
12 in Jackpot, Nevada in the high plateau country on
13 the Idaho border. Our two original properties
14 still operate there, Cactus Pete's and the
15 Horseshoe.

16 In 1993 our founder, Craig Nelson, took the
17 company public on NASDAQ. The initial offering
18 price for the company was \$5.50 per share, which
19 put the value of the company at approximately 27
20 million dollars. As you can see from this chart,
21 which is on slide five, we have experienced
22 tremendous growth since that time. Today, our
23 equity is valued at 1.6 billion or 60 times our
24 initial value.

25 Last year, Ameristar generated 1 billion

1 dollars in net revenues. Once we add the East
2 Chicago property, we estimate annualized revenues
3 at approximately 1.3 billion dollars pro forma for
4 2006.

5 Today, Ameristar is proud to employ 7,200 team
6 members across the country. The addition of the
7 East Chicago property will bring us to
8 approximately 9,000 team members companywide.

9 As you can see on the map on slide six, we
10 currently operate seven properties in five states
11 across the United States, from Nevada to
12 Mississippi. Our corporate office is located in
13 Las Vegas, Nevada. Our properties have one thing
14 in common. They exemplify the highest quality and
15 design in construction. Each one offers
16 outstanding dining and entertainment options, along
17 with state of the art gaming technology.

18 This year, Ameristar earned 75 first-place Best
19 of Honors from the annual Casino Player Magazine's
20 reader survey. All of the Ameristar branded hotel
21 properties earned the best overall hotel casino in
22 the respective markets. We look forward to
23 acquiring the latest addition to the Ameristar
24 family with Resorts East Chicago, where we will be
25 able to extend our distribution channels to the

1 Chicagoland area which you know is the third
2 largest gaming market in the United States.

3 Now on slide seven, I will turn to a discussion
4 of our successful brand integrations. Ameristar
5 has a proven track record of success with our prior
6 acquisitions in Missouri as well as Black Hawk,
7 Colorado. Our St. Charles, Missouri property is an
8 excellent example of a successful integration.
9 We acquired the property in the year 2000 and while
10 it was operating as simply a casino with limited
11 shortside facilities, we immediately implemented
12 Ameristars operating and management motto along
13 with a 230-million-dollar project between the years
14 of 2000 and 2003, completely building a new entire
15 facility. As a result, we improved revenue by
16 133 percent and evened it by 241 percent and saw a
17 76 percent increase in the number of team members
18 at the property, which equated to 800 new jobs.

19 At the end of 2004, we acquired the former
20 Mountain High Casino in Black Hawk, Colorado.
21 We invested, we updated all of the slot product,
22 expanded the gaming floor by creating additional
23 space on the second level, we added additional
24 parking, re-branding, and renovated all of the
25 restaurants and bars at the facility. And that

1 investment is clearly paying off.

2 Today, the property has increased net revenues
3 47 percent, evened out by 92 percent, and there are
4 now 77 more team members at that facility than the
5 day we started.

6 In terms of Ameristar's financial performance
7 and stability, we also have a proven track record.
8 This is set forth for you on slide eight. As you
9 can see from the chart on the screen, the net
10 revenues, net income, EBITDA and net income and
11 earnings per share, we have experienced steady
12 strong growth. Over a three-year span, revenues
13 increased 38 percent and adjusted earnings per
14 share increased 62 percent. As a matter of fact,
15 during the last three quarters we have received
16 record financial results. In the most recent
17 second quarter, Ameristar set records for net
18 revenues, operating income, and EBITDA.

19 We remain committed to doubling our EBITDA over
20 the next three to five years with our 50/50 growth
21 strategy. That is, we expect to achieve this
22 doubling through disciplined expansions at
23 selective properties that we currently own,
24 combined with the strategic acquisitions like
25 Resorts East Chicago. Our strong performance

1 represents our commitment to invest and reinvest in
2 our properties so that we provide Ameristar class
3 best in market facilities and experiences to our
4 guests.

5 Now with that brief overview, I will now turn
6 the presentation over to John Boushy, Ameristars
7 President and CEO.

8 MR. BOUSHY: Thanks, Troy, and good afternoon.
9 I would like to begin by starting with our business
10 philosophies which you will find on slide nine.
11 Basically, we have this unwavering belief that
12 guests reward quality. And so what we do is that
13 we make sure we are providing our guests with the
14 best quality experience that we can through a very
15 clear approach. First, we create the best
16 facilities in the market. As you can see on slide
17 nine, you see representations of our restaurants
18 and our casinos that we operate in other parts of
19 the country.

20 Secondly, we believe to complement the best
21 facilities, we provide the best product. By the
22 best product, we mean the best food quality, we
23 mean the best slot layout, the best table layout,
24 we mean the best entertainment in the market so
25 that all of the things that our guests experience

1 are absolutely top notch.

2 Thirdly, we believe what brings this all
3 together is providing the best service, because its
4 through the combination of facility and product and
5 service that we really create the guest experience.
6 In order to have our team members engaged to
7 provide that best service, we strive to be their
8 employer of choice.

9 During their commitment and loyalty of our team
10 members to be employer of choice, we provide them
11 something more than just a job. We provide them
12 with an opportunity to grow, with a clear
13 understanding about what it is that is expected of
14 them, and we reward them as they perform their
15 duties and create the guest experience that we
16 expect. Bringing all of this together, the best
17 facilities, the best product, the best service, all
18 linked together by our commitment to be the
19 employer of choice, is how we ultimately continue
20 to deliver the best experience in the markets in
21 which we operate.

22 Another component that you will see on slide 10
23 related to our beliefs is about the fact that we
24 are team oriented, because it's not just one of our
25 team members that creates the guest experience, but

1 all of our team members together. And how they not
2 only help our guests and service our guests, but
3 how they help each other to create a great guest
4 experience that we expect.

5 And at the same time we are performance
6 oriented. We define our expectations and we
7 inspect what we expect to make sure that our guests
8 are getting the best experience that we can
9 possibly provide to them.

10 We are committed to diversity and inclusion and
11 we embrace that through all levels of our
12 organization.

13 We are focused on continuing the opportunities
14 and creating additional opportunities in the
15 minority- and women-owned business enterprises. We
16 paid attention largely today to a lot of the goals
17 that we intend to strive to achieve and/or exceed
18 as we come into the State of Indiana.

19 We do have substantial experience in operating
20 in jurisdictions with requirements similar to those
21 that exist here in Indiana. We believe that
22 responsible gaming is good for the industry.

23 We believe it is important that we proactively
24 create awareness and promoting responsible gaming.
25 And a part of that is making sure that our team

1 members not only understand that underaged gaming
2 and the access to our casino facilities by
3 underaged patrons should not be allowed, and it
4 should be prevented.

5 We also want to make sure that our team members
6 know how to be able to interact with somebody,
7 should that individual or guest believe they
8 require help. So we have very proactive approaches
9 to creating awareness about responsible gaming
10 kinds of services.

11 Finally, we have a long-standing history of
12 commitment to our communities. This is manifested
13 in several ways. You see we have about 7,200 team
14 members. Those members and the company together in
15 2006 contributed over 8.6 million dollars in
16 charitable contributions to various entities. What
17 is even more remarkable than that, in my opinion,
18 is that 75 percent of our team members voluntarily
19 contribute to charitable organizations during the
20 year. That is twice the national average. We
21 believe that is because we are a company that
22 fundamentally cares about people.

23 You have had a chance to review something that
24 I believe I have a copy of it here. It is called
25 Making a Difference. This is the way -- this is

1 not just a title of a magazine. It is a commitment
2 that we make and we try to achieve in every single
3 market in which we operate.

4 Turning now to the Resorts East Chicago
5 purchase, and I will be very brief because I'm sure
6 you are familiar with the transaction. We
7 announced the acquisition in early April of this
8 year at a price of 675 million dollars,
9 approximately, with 25 million dollars in escrow.
10 We have gone through the financing, which I believe
11 you have been able to see the details on that. We
12 have completed all of the structure associated with
13 our financing and received final board approval for
14 that earlier today. We are going to be moving from
15 about 917 million dollars to 1.6 billion dollars
16 and we have capacity to go beyond that to make sure
17 we can fund our growth strategies not only here in
18 Indiana but also elsewhere in the United States.
19 With your approval today, we are prepared and
20 expect to close the transaction on the morning of
21 September 18th.

22 Part of how we have really prepared ourselves
23 for this is that we have developed a strategy
24 around continuity, which is described on page 13.
25 We intend to transition the facility but continue

1 to use the same procedures, the same systems, the
2 same control, the same name, the same IT systems
3 and all of the things that many times create
4 challenges when transferring a license. We have
5 been able to work in conjunction with Colony and
6 Resorts to really mitigate or eliminate many of the
7 risks that typically are associated with a
8 transaction.

9 We intend to remain open during the entire
10 transition, while recognizing that portions of the
11 facility may need to be closed off for a period of
12 time as we go through an orderly and controlled
13 transition from ownership by Colony to ownership by
14 Ameristar.

15 We fully expect to increase revenues at Resorts
16 East Chicago, and you have seen that our operating
17 model is one of coming into a property, investing
18 in that property and really helping it grow.
19 We will really need experienced team members to
20 serve this increased volume, and we expect to
21 retain East Chicago's current team members with
22 limited and few exceptions.

23 Finally, we intend to honor the licensees of
24 existing obligations under the local development
25 agreement as modified by the plan of action

1 submitted by Resorts to the Commission in June of
2 2006. While there are other parties disputing
3 portions of the LDA, their dispute does not in any
4 way minimize our obligation and commitment to the
5 East Chicago community and to Northwest Indiana in
6 general.

7 The general focus of our property upgrades is
8 documented on page 18, once the transition is
9 completed. And we really want to give our team
10 members an opportunity to go through the
11 transition, take a deep, deep breath, and then get
12 on with the improvements that we intend to bring to
13 East Chicago. We expect to conduct a general
14 refreshing of the property with upgrades in the
15 food and beverage area. You have heard us describe
16 the quality of product that we expect to have. We
17 expect to replace carpet, repaint, make changes on
18 the casino floor and add appropriate quality
19 product including an on-site bakery, because we
20 find our guest enjoys fresh baked goods.

21 The property improvements are going to begin
22 promptly after the initial transaction, and we will
23 also begin to implement the Ameristar operating and
24 marketing approaches. It is our expectation that
25 these will come together and will be completed in

1 time to re-brand the facility from Resorts to
2 Ameristar and we hope to complete that no longer
3 than 12 months from the day of closing.

4 Longer term. We continue to consider various
5 options for expansion of our facility, or what will
6 be our facility upon your approval and our close of
7 East Chicago. We are considering a new
8 single-level vessel with additional structured
9 parking, more food outlets -- more quality food
10 outlets, enhanced entertainment options, better
11 access through all of the property, all to create
12 the kind of guest experience that Ameristar is
13 known for in other locations around the country.

14 We have already begun to discuss with the city
15 so that we can complement the lakefront development
16 process that they are undergoing. And we expect to
17 undertake some form of expansion at the property in
18 the fairly near foreseeable future once we get
19 through re-branding, and we look forward to working
20 with you as we continue to move forward on that.

21 Since I am a definite believer that the mind
22 can absorb what the seat can endure. On slide 16,
23 my nervousness today is only exceeded by our
24 excitement that we have in coming to the great
25 State of Indiana, of becoming an operator in the

1 Chicagoland market, and with your approval we
2 definitely look forward to begin to operate the
3 facility on September 18th.

4 I too, in addition to Troy, would like to
5 extend my appreciation to the Indiana Gaming
6 Commissioners and to Executive Director Yelton,
7 because you have done an admirable job in
8 investigating our company thoroughly in coming to a
9 recommendation here today, and we very much
10 appreciate that.

11 We are now prepared to take any questions that
12 you might have.

13 COMMISSIONER WALSH: Mr. Boushy, I'm the only
14 member from Lake County on this council. Assuming
15 this gets approval, welcome to Lake County.

16 What do you plan on doing with the charitable
17 foundation holdings, long-term plan?

18 MR. BOUSHY: Could I ask Troy -- oh, the
19 charitable foundation holdings; okay. The
20 charitable foundation holdings are governed by two
21 individuals, co-trustees, Gordy Kanowski
22 (phonetic), who is also Ameristar's co-chairman and
23 executive vice president, and Ray Nielson, who is
24 Craig Nielson's son, and also co-chairman of
25 Ameristar.

1 They are currently determining what it is that they
2 intend to do over a period of time related to the
3 stock that is held by the foundation.

4 The stock is approximately 45 percent of all of
5 the Ameristar outstanding stock. The estate first
6 has to go through all of the inventory that the
7 estate is doing, probating the estate, finalizing
8 the estate and making sure it actually settles with
9 the Internal Revenue Service as to what the state
10 tax is going to be. We expect that that process --
11 which I have been told by the state representatives
12 will take anywhere from two to four years,
13 depending upon what the Internal Revenue Service
14 review of that is.

15 And then finally, once that happens and the
16 stock actually moves from the estate to the
17 foundation, the foundation is a not-for-profit
18 entity, can only hold up to 20 percent of a before
19 profit entity. So therefore, the estate at some
20 point in time has five years to actually take its
21 ownership down. So therefore, at some point in
22 time the estate will have to find ways to lower its
23 percentage. Part of that might come in the way of
24 the fact that Ameristar might continue to double in
25 size, as we have had a history in doing so, and in

1 doing so we may have equity offerings, and part of
2 that might be due to a partial sell of their stock.

3 So at this point, the exact outcome -- to
4 directly answer your question, the exact outcome of
5 their shareholdings is probably 7 to 10 years off
6 in terms of what the time frame is and certainly
7 any transaction that we would undergo related to
8 that would be reviewed and approved by regulatory
9 bodies.

10 COMMISSIONER WALSH: How many times have you
11 had discussions with Mr. Ron Barden? He owns 9 to
12 10 percent of your stock.

13 MR. BOUSHY: If I could have our Chief
14 Financial Officer, Tom Steinbauer, answer the
15 question.

16 MR. STEINBAUER: Good afternoon, ladies and
17 gentlemen. I tend to communicate with the larger
18 shareholders, either their analyst or Mr. Barden
19 personally, once a month or once every two months.

20 COMMISSIONER WALSH: More frequent than that I
21 would guess, just curious.

22 MR. STEINBAUER: We like to keep in contact
23 with the larger shareholders and their analyst.
24 They like to stay up to date on what the company is
25 doing.

1 COMMISSIONER WALSH: Thank you.

2 MR. STEINBAUER: Thank you.

3 COMMISSIONER MURPHY: Is it part of your
4 strategy to stay out of the regional markets?

5 MR. BOUSHY: Certainly as the company was
6 growing the strategy was to grow in the regional
7 markets, and frankly that is because we think we
8 bring a different kind of operating strategy, one
9 that is more quality oriented. Frankly, one that
10 is more investment oriented than a lot of our
11 competitors in the regional markets. I would say
12 that as we become larger, we certainly have a
13 strong desire to be in some of those markets. I
14 would say from a priority standpoint, not
15 withstanding 37 million dollars an acre of land
16 price in Las Vegas with the most recent
17 transaction, we would certainly hope to be able to
18 have some kind of an operation in Las Vegas, and
19 Atlantic City is another one. At the end of the
20 day, they have to be commercially viable.

21 Our view is to continue to look for
22 opportunities, opportunities with our growth
23 strategy. While it is very clearly defined and we
24 articulated the 50/50 growth strategy that Troy
25 mentioned about internal growth and external

1 growth, for example, East Chicago being one
2 component of our external growth strategy, we
3 continually look for opportunities. So I think as
4 we get to be a larger company, we will more than
5 likely be in one, if not both, of those markets.

6 CHAIRMAN BARRETT: Anything further?

7 Thank you, sir.

8 MR. BOUSHY: You're welcome. Thank you.

9 CHAIRMAN BARRETT: On behalf of Resorts,
10 Mr. Amato, Mr. DeRosa, Mr. Thar?

11 MR. AMATO: Mr. Chairman, Vice Chairman,
12 Members of the Commission, Executive Director
13 Yelton, and Jenny Arnold and Phil Sicuso. First of
14 all, assuming this transfer goes through on behalf
15 of Colony Resorts International, I would like to
16 congratulate John Boushy and his entire team. I
17 have been involved in several transfers, and I must
18 say quite candidly, this has been the easiest and
19 most pleasant of all. A large part is through
20 Ameristar but a large part is through the
21 Commission and the staff.

22 You know, sometimes it's hard to say good-bye.
23 When I was flying down here, I put notes together
24 on a plane and when I got to Jack Thar's office, I
25 asked his secretary to type them. The reason I

1 want to read them is because I want to make sure I
2 remember everything I thought about on that
3 airplane.

4 Chairman Barrett and this Commission and your
5 staff have a gaming environment which allows a
6 company like Colony and Resorts International and
7 their investors to come to the State of Indiana
8 with full confidence that the integrity of gaming
9 will not be an issue while conducting gaming
10 operations. We all know the reputation of the
11 state and regulated gaming environment is set by
12 the Commission and staff upon whose shoulders it
13 falls to carry the message forward, which you do in
14 a firm and no nonsense approach, to the issues that
15 matter, yet with a grace and style and not
16 universally seen in the gaming world, I can tell
17 you that, combining a warm and relaxed atmosphere.

18 I've greatly enjoyed the professional
19 relationship that I have developed with
20 Ernie Yelton, with Jenny Arnold and with
21 Phil Sicuso. During a short period of time, they
22 have earned our utmost respect and admiration. I'm
23 always comfortable in knowing that the confidential
24 information remains as such and I'm dealing with
25 people whose word is their bond and the bond will

1 not be broken.

2 You and your staff, Chairman Barrett, are an
3 example of days gone by when people were
4 straightforward in their request and a second
5 agenda had not yet become a popular alternative.
6 You are always accessible day and night and any
7 hour in between and you have always returned my
8 phone calls. And despite our geographical
9 distances, you were never out of touch and I
10 sincerely thank you for that.

11 In summary, the quality of the gaming oversight
12 in Indiana is unparalleled and that is why you and
13 the State of Indiana enjoys such success in your
14 endeavor. Our company and limited partner
15 investors value the integrity and strict licensing
16 and regulatory environment and benefit us
17 financially. Quite frankly, we will miss your
18 guidance and our working relationship. We are
19 thankful for the time we have spent in Indiana and
20 we hope to do business in this fine state once
21 again.

22 On behalf of Colony Capital and Resort
23 International, Chairman of Colony and Resorts
24 International Tom Barrack, our President and CEO
25 Nick Ribis, our Executive Vice Presidency and CEO

1 Robert Wagner, Joe DeRosa, who I'm happy to say is
2 staying with our company and myself, we want to
3 thank you for this great opportunity and hope to
4 see you again soon. Thank you very much.

5 MR. DeROSA: Good afternoon. I just wanted to
6 take a couple of minutes. It is a quick three
7 years. Three years is a long time but has rushed
8 by us. And I just want to thank you again. The
9 communication has been exceptional day or night and
10 we've always managed to find a solution to
11 problems.

12 Executive Director Yelton, you should be proud
13 of your staff. And Commissioners, you should be
14 very happy with the job done here. We are very
15 comfortable with the transition plan we have in
16 place. Ameristar Resorts has worked very well over
17 the last few months, and I think you've seen it
18 almost seamless, and I don't see any problems
19 whatsoever. Thank you, again, and thank you for my
20 time here, I appreciate it.

21 CHAIRMAN BARRETT: Do the Commission members
22 have any questions? Then let me review a few
23 matters before we proceed.

24 First, we have received all of the reports on
25 the financial aspects of the proposed transaction.

1 I want to go back to our last meeting in which
2 Executive Director Yelton discussed with us the
3 provisions of Section 302 of the 2007 budget bill.
4 Section 302 of the 2007 budget bill provides that
5 the City of East Chicago has the authority, upon
6 transfer of the interesting license of controlling
7 interest in this license, to adopt an ordinance
8 avoiding any term of the local development
9 agreement currently in existence between the
10 current licensee and the city. And that statute is
11 the subject of the litigation that Executive
12 Director Yelton advised us on earlier today,
13 notifying us that there has been a dismissal as to
14 our participation. However, the litigation will on
15 the constitutionality of that provision goes on.
16 All of that is by way of background. The city and
17 the foundation have agreed to hold in advance any
18 operation of Section 302 until November 19th. And
19 given where we are today, it is my position that
20 the mere existence of the statute should have no
21 bearing on the matter of the transfer of the
22 license, on what we are called upon to consider
23 today. If anyone would like to comment or discuss
24 that issue further, I would be happy to do so.

25 Executive Director Yelton, do you have any

1 comments?

2 EXECUTIVE DIRECTOR YELTON: Yes, on behalf of
3 the executive staff, you have before you the result
4 of the investigation conducted by our Financial
5 Background Investigation Division. I think I speak
6 on behalf on behalf of Jenny and Phil to indicate
7 that we, too, have appreciated the professional
8 relationship we have had with Resorts and Bob and
9 Joe and the relationship we have developed with
10 Nick. He has been a very, very compliant licensee.
11 And he has always been accessible to us and very
12 receptive to many requests the Gaming Commission
13 has made. We, too, hope you come back.

14 Also, we have had the opportunity to look very
15 closely at Ameristar. The North American Gaming
16 Regulations Association was held in Kansas City
17 this year and Mr. Sicuso was not allowed to go
18 because of the conflict in his schedule, but
19 several of us went and we did make a visit to the
20 Ameristar facility there and we were quite
21 impressed with its operation.

22 Your executive staff, having reviewed all of
23 the information about Ameristar, will strongly
24 recommend that you approve the transfer of the
25 license from Resorts to Ameristar.

1 CHAIRMAN BARRETT: Thank you.

2 Do the Commission Members have any questions?

3 Then I will call for a motion on Order 2007-90.

4 COMMISSIONER MURPHY: I move to approve the
5 transfer.

6 COMMISSION WALSH: I will second that.

7 CHAIRMAN BARRETT: All in favor?

8 (COMMISSION MEMBERS VOTED AYE)

9 CHAIRMAN BARRETT: The transfer was unanimously
10 approved.

11 Then we will move on to reinvestigation of
12 Majestic Star I and II. We do have some members of
13 the public who have timely requested permission to
14 address the Commission. We are going to begin with
15 these proceedings and with those addresses by
16 members of the public. As I stated earlier to
17 Mr. Beard, the limitation is five minutes. I show
18 the first person is Councilman Pratt followed by an
19 attorney for the city.

20 COUNCILMAN PRATT: Thank you, Mr. Chairman,
21 Members of the Commission and staff.

22 I'm Roy Pratt. I have been elected for the
23 last 24 years to the Gary Common Council and, God
24 willing, in the next election I will have an
25 opportunity to serve another four.

1 I want to give you some background quickly, if
2 I may. In 1987, Gary was in bad shape. The
3 downtown was in -- nothing was there. Our police
4 cars were not running. Fire equipment was bad.
5 Gary was going through a turn in which U.S. Steel
6 had laid off people, and we had horrible economic
7 conditions. I went to Vegas and I came back and at
8 the same time in Southern Indiana they were saying,
9 "Let's sell off the northern portion of our state."
10 And Gary in particular, "Let it flow out into Lake
11 Michigan."

12 I was looking at an opportunity of how we could
13 improve so I met Bonds (phonetic). The former
14 mayor had just been elected. And so I went to the
15 meeting and I took a beating in '87 because I said
16 to myself, "If that's the attitude" -- and Indiana
17 had just passed allowing gambling in the State of
18 Indiana. So I said, "Why don't we have a casino --
19 build two casinos and let them come and that will
20 improve our economy." I presented that to the
21 mayor and, to make a long story short, it came
22 about.

23 The riverboats have been very good for the City
24 of Gary. They have produced money and they have
25 produced resources; but what we had at that

1 particular time was -- in 1994 I was president of
2 the council, I was teaching at the time so I could
3 not attend all of the meetings, but the mayor and
4 deputy mayor gave me all the facts of what was
5 taking place. And what was taking place is that we
6 had two developers. Everyone in the State of
7 Indiana had one. We had the opportunity of
8 presenting two developers to retrieve a license.
9 We selected Majestic by the mayor and a company
10 called Monarch. It was sent to the state and the
11 Commission at that time denied that and they chose
12 Trump.

13 Now, I want to put something else in the record
14 so that you will understand. At that particular
15 time I was talking about downtown, but it went to
16 the lake; but I sponsored a resolution signed by
17 the mayor and the majority of the council members
18 putting it on 80/94. 80/94 is one of the busiest
19 highways in the United States near I-65. So I
20 sponsored that resolution, it was passed and sent
21 to the Gaming Commission.

22 I mention that for a number of reasons. I
23 wanted to recommend -- the bottom line here is,
24 because I only have a short period of time, that we
25 had two developers. And Mayor Bonds always said,

1 "The reason we had the two developers is because we
2 recommended the idea and we needed desperately the
3 economic development which brought gaming to the
4 State of Indiana." We had two developers, not so
5 much the two licenses.

6 I then also talked, and sometimes people get
7 this mixed up when I talk about it, Mr. Vowels,
8 whom you gave a resolution to. I called him one
9 time because he was recommended and because he had
10 been there. He said, "I don't think you need but
11 one license to operate at Buffington Harbor". I
12 then called a friend for many years, Representative
13 Smith. He said, "No, you need two." So I wrote
14 Mr. Yelton, to you, and asked you. You said, "No,
15 he needed both licenses."

16 My whole point is, the bottom line is, if we
17 lose one of the licenses we have lost the economic
18 development that we have. When Mr. Barden came in,
19 he laid off a tremendous number of people because
20 he didn't need all of the people that he had when
21 he had one. He had a monopoly.

22 CHAIRMAN BARRETT: You have one minute left,
23 sir.

24 MR. PRATT: Okay.

25 You cannot say that you can go to one site and

1 have two McDonald's in the same block and you don't
2 have a monopoly. The bottom line is, I ask -- so
3 many people say, "Why are you fighting this
4 millionaire." Well, that's the school I came from.
5 My school said, "I don't care how much money you
6 have, if you're right, go out and battle." And
7 that's why I'm here. I'm here to ask you to make
8 sure that we get two developers so that we don't
9 have a monopoly. Make sure we have someone else
10 giving money.

11 The record will show -- the study that was done
12 by your organization that asked you to bring back
13 the facts will show that it astounded people that
14 Mr. Barden -- not only had he gave a tremendous
15 amount of contribution, but many of the companies
16 that he hired came from as far as Lafayette,
17 Hammond, East Chicago, South Bend. They had
18 contracts but he was giving donations. The bottom
19 line is, I'm not angry with Mr. Barden. All I'm
20 saying is that when I mentioned to him the site of
21 80/94 he said, "My people have indicated to me that
22 I will be competing against myself." Well Mr.
23 Barden represents his people and he's a good
24 businessman, he's a slick talker. I represent the
25 citizens of the City of Gary, so I don't care.

1 Thank you, sir, I hope you will take this into
2 consideration and revoke the second license. We
3 are not opposed to him having one, but we would
4 like the second license to go to another developer
5 and you can take the two million that he spent and
6 get it from the other developer and --

7 CHAIRMAN BARRETT: Thank you.

8 MR. PRATT: I will answer any questions that
9 you have.

10 CHAIRMAN BARRETT: Mr. Drake.

11 MR. DRAKE: Good afternoon to the Chair, the
12 Commissioners, the staff, and those that are
13 interested in the remarks pertaining to this far
14 northwest corner of Indiana. Obviously, in
15 Indianapolis, northwest part of the state. You ask
16 what state and we say Gary. What we would like to
17 note is that the resolution that was passed by the
18 Gary City Council last week is a resolution which
19 has been faxed to the Gaming Commission. We would
20 ask you to enter that into your record. We also
21 have sent a statement by Attorney Drake for the
22 Gary City Council to the Indiana Gaming Commission
23 on 9/13/07. And we would ask that statement to be
24 added to the record. That statement was sent to
25 the Commission staff. I spoke briefly to Ms.

1 Arnold's office, which has the statement. However,
2 there has to be some clerical changes and we were
3 not able to reproduce it. That is it, Mr. Chair,
4 that you have.

5 Attached to the statement are two news articles
6 and it indicates something that I guess is what
7 Councilman Pratt was talking about. One of the
8 things that the City of Gary had to consider was
9 whether or not gaming would be an overall benefit
10 to the city. The pioneer in this state, the City
11 of Gary, held an election. As far as I know, it
12 was the only community that did that to determine
13 whether or not the majority of the people would
14 want gaming in their community, because there are
15 pluses and minuses, I'm sure the Commission is well
16 aware, and there are negative impacts. We'd
17 appreciate the Commission looking at what the
18 economic impact is on Gary and in compliance with
19 your regulatory duties in that regard every three
20 years.

21 Well, we think that the Commission's financial
22 analysis of its records and the report that comes
23 from the Center of Urban Policy and Environment
24 indicates something that we are concerned about.
25 There is a down trend before the combination of the

1 licenses in November of '05. If you look at just
2 one element, the total tax revenue was at 34
3 million. The year after, it was 27 million. That
4 is a 25 percent drop. Based on what I have seen
5 briefly by looking at the report, I just actually
6 received it today, that trend continues. Before
7 and after we think is telling, because when you
8 have two developers in the community it's not just
9 that you have one managing one license and another
10 one managing the other license, it is a certain
11 amount of spinoff from those developers that you
12 will not have when you have one developer running
13 an operation of two licenses. You will not have
14 the same side benefits.

15 What can you do about it? We addressed these
16 matters in a statement. We would ask the
17 Commission to do its administrative duties to look
18 and see if this impact is an impact that is not to
19 the economic benefits of Gary. That was the
20 primary purpose of the gaming statute. The City of
21 Gary has the occasion to be joined with the Indiana
22 Gaming Commission in defending the existence of
23 this very Commission and very gaming industry in
24 the state. And we went to the Indiana Supreme
25 Court on that question, and I was one of the

1 lawyers who represented the defendants when
2 starting out in that action.

3 One of the reasons that justifies the existence
4 of this entity and why it is not unconstitutional
5 under the state's constitution is because the
6 cities that have this benefit have something that
7 others do not have. A lot of economic problems.
8 The stress factors for the City of Gary was twice
9 that from any other city in this state. The loss
10 of the gross revenue in Gary, Indiana, the rate of
11 unemployment, the poverty level. Those stress
12 factors we considered when the statute was adopted
13 justified what the statute gave to Gary two
14 developers. The general statute when you change
15 the restriction to say now you can have two
16 licenses if you are a developer, that is one thing.
17 That section that gives Gary two licenses is
18 another thing. If you read the whole statute in
19 its entirety as a whole, instead of isolating on
20 that one section, the Commission, we believe, could
21 interpret that amended change to two licenses in
22 '03 not to apply to the only place in the state
23 where there are two licenses.

24 It is one thing to have one license -- if you
25 are an owner, to have one on Lake Michigan and one

1 on the Ohio River. When you have two licenses in
2 the same city, the only place you can have it is in
3 Gary, Indiana. We think the overall statute would
4 preclude that because of the very facts that we see
5 unfolding as we go through this. We ask that the
6 Commission consider the question as to how at the
7 time you approve and renew the license, the time
8 you approve the transfer, there was some facts that
9 we think the Commission did not know.

10 CHAIRMAN BARRETT: Thank you, Mr. Drake.

11 MR. DRAKE: We wish you would consider those
12 facts.

13 CHAIRMAN BARRETT: State Representative
14 Vernon Smith.

15 MR. SMITH: Good afternoon. Let me begin by
16 thanking you for allowing me this opportunity to
17 stand before you and share my thoughts. I know I'm
18 restricted to five minutes but I would like to
19 indulge your patience to ask if I could read a
20 letter from my colleague first, and then if I am
21 able to make my comments.

22 EXECUTIVE DIRECTOR YELTON: I will read that in
23 the record before we're done.

24 MR. SMITH: Okay, then, I won't read the letter
25 and I'll just make my comments.

1 Let me share with you that I'm a native of
2 Gary, Indiana. I love Gary, Indiana. It is my
3 desire to be buried there. When I was a child, I
4 was so proud of Gary, because Gary was in its
5 heyday. It was the pinnacle of Northwest Indiana,
6 and it was a star of the state.

7 When I went away to college to the University
8 of Bloomington, my college friends begged me to
9 come home for the weekend. I went back to work on
10 my doctorate at Indiana University, and I had to
11 beg my friends to come home and visit me. Gary
12 made a tremendous change. And I was quite
13 depressed with what was happening in our city at
14 the time. I served as a city council member with
15 the Honorable Roy Pratt, who spoke to you a moment
16 ago, and I spent time on the city council. When
17 Roy brought the idea to the city counsel about
18 gaming, although I don't believe in luck, I don't
19 believe in chance, I believe in blessings, I bought
20 into it because we were desperate. Gary needed
21 life infused into it. So I supported the concept.
22 I got the opportunity to become a legislator and I
23 had a chance to vote for the legislation that
24 created gaming in this state.

25 Let me just share with you that the casinos

1 have been so important to the life of Gary. Our
2 former mayor misused the money, it could have been
3 used much more wisely than what it was used. He
4 did not listen to the people. He was not a public
5 servant. He did not listen. So I disagree with
6 the choices that have been made; but if the monies
7 had not been there we could not have survived and
8 be where we are at this point.

9 To get to the point at hand, Mr. Barden.
10 Mr. Barden believes in Gary. I say this because
11 not only did he invest once in Gary but he invested
12 twice in Gary. I believe that substantiates that
13 he believes in Gary. All of the casinos in Lake
14 County -- you just heard a discussion about one --
15 in Lake County changed ownership. Mr. Barden has
16 been steadfast in supporting Gary and providing for
17 the economic development and vitality of our
18 community. I think that should be rewarded, not
19 punished. I think that it's noteworthy that he
20 believes in the area that is depressed.

21 There are a few corporations in Gary. Most of
22 you are familiar with Indianapolis and how you have
23 been able to attract all kinds of corporations
24 here. So you have a lot of foundations, you have a
25 lot of dollars that can be used for charitable

1 purposes. That is not the case in Gary, Indiana.
2 We are a depressed economic region of our state.
3 The state has not chosen to invest or infuse money
4 into our area. They have treated us as a
5 stepchild. The only real hope we have is this
6 casino -- or these casinos that are operated by
7 Mr. Barden. With the few corporations that we
8 have, we get past our utilities, our one hospital,
9 and we have no one to go to for charitable causes.

10 I'm very active in my community and I know that
11 Mr. Barden has been a tremendous, a tremendous
12 corporate citizen of our community. He deserves to
13 be rewarded for his intuitiveness, his commitment,
14 and his vision for our area. He has plans for us.
15 He needs support, not this community fighting him.
16 I came along to represent my colleagues from Gary,
17 Indiana to indicate that we fully support
18 Mr. Barden and his renewal of his license.

19 One of the former speakers who was talking
20 about one of the other licenses and transfer of the
21 license said something about making a difference.
22 I studied Bobbie Kennedy and one of the things that
23 he said is that every individual can make a
24 difference and every individual has an obligation
25 to make the world a better place to live.

1 I wholeheartedly believe that Mr. Barden is a
2 person who has made a difference to Gary, Indiana
3 and he is making for us a better place to live. I
4 urge you to support him and give him the renewal of
5 his license.

6 CHAIRMAN BARRETT: Thank you.

7 EXECUTIVE DIRECTOR YELTON: If I may, Mr. Chair
8 and the Commissioners, I indicated to Senator
9 Rogers that I would enter in the record the letter
10 he was referring to and I will read it dated
11 September 11th of this year.

12 "Dear Indiana Gaming Commission: We are
13 writing this letter to support Majestic Star
14 Casino's application for license renewal.
15 Majestic Star's commitment to fulfill its
16 obligation to the City of Gary and to the State of
17 Indiana is exemplary for the high expectations we
18 as legislators have. Majestic Star has been a
19 leader in giving jobs and opportunities to citizens
20 and businesses of Gary, Indiana. Not only do they
21 significantly contribute to jobs and other economic
22 development opportunities, the Majestic Star Casino
23 is also a contributor to local charitable and city
24 endeavors. Majestic Star is a viable corporate
25 citizen and continues to positively impact the

1 economy of both the City of Gary and the State of
2 Indiana. Based upon the past record of service to
3 this city and state, we highly recommend that the
4 Commission award both license renewals to
5 Don Barden of Majestic Star Casino.

6 Thank you, Commission, for allowing our input
7 into this very important process. We are certain
8 that Majestic Star Casino will continue to provide
9 their high level of service in the years to come.

10 Sincerely Earline Rogers, Indiana State
11 Senator; Charley Brown, Indiana State
12 Representative; Vernon Smith, Indiana State
13 Representative."

14 In addition, Members of the Commission, as
15 Mr. Drake indicated, we will also enter into the
16 record the resolution adopted by the Gary Common
17 Council on the 4th of September and it's entitled
18 "Resolution urging scrutiny of the riverboat
19 licensing transactions and any necessary
20 appropriate action to prevent franchise of the
21 citizens of Gary." Each one of you have a copy.

22 Also in the record, and this is something that
23 Mr. Drake is probably not aware of, we received
24 yesterday from Mayor Rudolph Clay, from the City of
25 Gary, his veto message where that resolution was

1 vetoed on two grounds. One, that he indicates it
2 was not approved by the city executive as required
3 by Indiana law, and that "Even beyond this
4 technicality, the resolution should not stand. The
5 City of Gary is currently in negotiations with
6 Mr. Barden in seeking ways to improve the
7 operations of the Majestic Star Casinos. The
8 passage of this resolution is not promoting a good
9 working relationship between the parties." That
10 was dated September 11, 2007.

11 And all of these three will be entered as part
12 of the record.

13 CHAIRMAN BARRETT: Thank you, Executive
14 Director Yelton.

15 Do the Commission Members have any discussion
16 or questions? Mr. Barden is here so if you have
17 questions, now is the time to raise them.

18 COMMISSIONER SWIHART: Yes, I have a comment
19 and a question to Representative Smith. Being a
20 resident of the region for 47 years, I understand
21 the issues and concerns that you have. I do have a
22 question for Mr. Barden.

23 Sir, we have received financial reports and my
24 concern is with the four, the New Buffalo Casino
25 opening and Blue Chip increasing their footprint

1 and Resorts going through expansion, what is your
2 market plan for the future of Gary?

3 MR. BARDEN: Commissioner, Chairman Barrett,
4 Mr. Yelton and staff, thank you for the question.
5 Our plan has been, if you will, handicapped by the
6 uncertainty that has been created somewhat by
7 Mr. Pratt, but also by the talk of the Indiana
8 casino plan base coming to Gary, secret
9 negotiations behind the scene and all of that.
10 Nevertheless, I recognize as a business person the
11 competitive nature of the market we are in. We
12 know we have to move expeditiously to address that
13 concern, in light of what is happening at Four
14 Winds as well as Horseshoe, and in the future it
15 looks like Resorts is going to do something in the
16 next 18 to 24 months in terms of a single-level
17 vessel. To that end, I have engaged architects and
18 engineers. We are remaster planning the site and
19 looking at avenues to bring in additional equity,
20 capital into the company to be in the position to
21 compete in the very near future with our
22 competitors.

23 Now, we have been handicapped not just recently
24 but for a number of years because unlike our
25 competitors at Horseshoe -- our nearest competitors

1 which is Resort and Horseshoe, they have had their
2 own improvements and bridges and all of those
3 things completed for a number of years. We have
4 been struggling to get ours completed for a number
5 of years. Our site is farther distanced from the
6 main highway than theres are, but they have direct
7 ramps and highways right into their garages and
8 right into their properties. We have to go
9 underneath the track and over two other tracks to
10 get to our property. We finally got one of the
11 overpasses completed into our garage and then just
12 here in May and June, the down ramp going to the
13 other part of the property. All of that has
14 inhibited us to be competitive and cost tens of
15 millions of dollars in revenue. It has also been
16 difficult for us to commence other development that
17 we want to do because if you don't have highways in
18 and out, it is difficult to attract other investors
19 to come -- not only to come and invest with you,
20 but it's difficult for you to do it yourself
21 because you cannot justify the investment.

22 I want to thank Representative Smith for
23 expressing his knowledge that I'm committed to
24 Gary. I have over a 500-million-dollar investment
25 there and have not made a profit. We have taken

1 management fees to the tune of -- I think in the
2 aggregate over 11 years of 18 million dollars. I
3 invested 24 million out of my pocket when I first
4 went to Gary, my own cash at the time; but I
5 continually reinvested in Gary and I want to
6 continue to do so in the right environment and
7 proper environment. Now I'm forced to make
8 additional investment because of competition
9 because I want to succeed. That's the entrepreneur
10 nature of me as a person. So I'm committed to Gary
11 and I want to do all of the things to make us
12 competitive.

13 You have to understand some more of the
14 history, if I may expand about Gary's two licenses.
15 The historic thing of that is that Gary is supposed
16 to get all the casino licenses and they added East
17 Chicago and Hammond after it came back a second
18 time around to try and get it passed. Gary was
19 given two licenses and given a year in advance
20 before the other ones could open so Gary could get
21 a head start in development, but Gary drug its feet
22 and was unable to open except for one week before
23 the other competitors opened, so we had no
24 competitor advantage.

25 The other reason that justified two licenses at

1 the time was that when this law was passed, you had
2 to sail out into the lake, which gave Gary a little
3 advantage because you could board one vessel at any
4 time during the day, 24/7, whereas if you went to
5 one of the other casinos and you missed it before
6 the door was closed, even in the wintertime; but
7 once the law changed for dockside in 2002, I
8 believe it was, Gary lost that advantage of one
9 boat being available to board at any time.

10 Now, with the law changed to have two owners
11 and all of the money I've invested and with Trump
12 being a parasite off of us for certainly the last
13 eight years having fear of people under service,
14 parasiting off of our marketing, we had to buy him
15 out. I had to buy the other property to put myself
16 in a position to make improvements for the day that
17 has now arrived, when the competitors are making
18 improvements and coming into their second and third
19 generations of improvements. We're behind because
20 we have been impeded by the infrastructure that was
21 promised to us, who now say they don't have the
22 money to do it. Gary has always -- with the
23 combined vessels we've always -- if you add all the
24 revenues of the two vessels, we have always been
25 below Resorts and Horseshoe, even with the two.

1 So if there is one thing that comes out of this
2 and the turmoil that has been caused by Mr. Pratt,
3 and that is that Gary really because of the market
4 size, because of the demographics, because of the
5 reputation, if you will or not, is only big enough
6 for one license. So you have another license that
7 could be relocated to another market, not
8 necessarily within the same market because I'm not
9 sure it's justified. You can do additional revenue
10 by making improvements at one location than you can
11 by having two McDonald's in one location.

12 Thank you, I hope that answers your question,
13 sir.

14 CHAIRMAN BARRETT: Thank you. Any further
15 questions?

16 Commissioners, you have received and had the
17 opportunity to review the investigative reports
18 from our outside consultants regarding what has
19 been disclosed to us in those reports. It occurs
20 to me it might be prudent to have -- what President
21 Reagan used to say, "trust and verified." And
22 verification can come in the form of more frequent
23 review of finances. And, in fact, that was part of
24 the recommendation that was made and I would like
25 to talk about that. Any thoughts regarding that.

1 COMMISSIONER SWIHART: I recommend a minimum
2 support just to see where -- the progress that
3 needs to be improved.

4 CHAIRMAN BARRETT: Do you want a discussion on
5 that?

6 COMMISSIONER MURPHY: What would be the time
7 frame? Is it 45 days?

8 EXECUTIVE DIRECTOR YELTON: It depends on the
9 entity. 45 days is reasonable, is it not,
10 Mr. Barden?

11 MR. BARDEN: Yes, 45 days. I would like to
12 voluntarily suggest -- because I think we are going
13 to need your help with some of the issues in Gary.
14 I think we should meet quarterly if that's okay
15 with your consultants, we can keep them up to date,
16 and with the staff. I would like to do that. I
17 think this is a partnership. The State of Indiana
18 has a very strong vested interest in our success
19 and so do I personally.

20 EXECUTIVE DIRECTOR YELTON: Also in response to
21 your question, Commissioner Swihart. We have been
22 working closely with Mr. Barden, and if there is a
23 fatal result today, I assure you the Commission
24 staff will be working more closely with Mr. Barden
25 in the future. He has always been receptive and

1 very cooperative to any request the staff has made
2 of him and his company.

3 COMMISSIONER MURPHY: My point on this, I ask
4 for quarterly financial information --

5 EXECUTIVE DIRECTOR YELTON: Yes, I agree.

6 COMMISSIONER MURPHY: Reasonable requests to
7 leave the meeting with an idea of that --
8 (inaudible).

9 MR. BARDEN: We can work within 15 days of each
10 quarter calendar, if that's okay.

11 CHAIRMAN BARRETT: The time frame shortened?

12 MR. BARDEN: Yes. We are audited.

13 COMMISSIONER SWIHART: We are not requesting an
14 audit.

15 MR. BARDEN: I understand. Let's say by the
16 15th of the month after each quarter.

17 CHAIRMAN BARRETT: So October 15th.

18 MR. BARDEN: Well, that's almost around the
19 corner. How about fourth quarter?

20 EXECUTIVE DIRECTOR YELTON: How about October?

21 MR. BARDEN: That's fine. I don't have a
22 problem with that. Is 15 days enough time? It's
23 not. 45 days of the quarter?

24 MR. SAYLOR: Good afternoon, we currently file
25 with the FCC on a quarterly basis. 45 days at the

1 end of our quarter, we file our 10 Qs. Typically
2 drafts and preliminary filings are ready somewhat
3 earlier than that. 15 days is kind of quick,
4 especially to consolidate all of the entities.

5 MR. BARDEN: I don't think they are asking for
6 audited reports, they just want to monitor our
7 performance. Kirk Saylor is our COO, by the way.
8 If it's okay, if we can do it within the -- to
9 comply with the FCC, then we don't have any
10 problems, even though it's not required to submit
11 quarterly. Is that what you are saying?

12 MR. SAYLOR: At the outside, 45 days.

13 MR. BARDEN: At the end of each calendar
14 quarter.

15 COMMISSIONER MURPHY: Is the FCC (inaudible)?

16 MR. SAYLOR: They review it, yes, they do.

17 COMMISSIONER MURPHY: That is part of the 45
18 days?

19 MR. SAYLOR: That is the requirement from the
20 FCC. Typically if they give us 60 days, it takes
21 60; 30 it takes 30. It's pretty typical. We have
22 more entities we have to consolidate. All of our
23 debt is covered by three operating properties, so
24 it is not just Majestic Star. It's Fitzgerald
25 properties as well.

1 COMMISSIONER SWIHART: Do we need the hole ball
2 of wax or specifically seek consolidation,
3 (inaudible)?

4 MR. SAYLOR: It's really the big picture of the
5 entity as opposed to just the Majestic Star
6 property.

7 COMMISSIONER MURPHY: Is there an update for
8 the Majestic Star property?

9 MR. SAYLOR: Yes, sir.

10 COMMISSIONER SWIHART: So 45 days?

11 EXECUTIVE DIRECTOR YELTON: I'm sure you can
12 put for the time period that is realistic to meet,
13 we want timely records and accurate and timely.
14 They say 45, that is probably appropriate.

15 CHAIRMAN BARRETT: You are reporting to the FCC
16 every 45 days?

17 MR. BARDEN: Yes.

18 CHAIRMAN BARRETT: There is an offer --

19 COMMISSIONER MURPHY: I have a motion to
20 request financial statements every 45 days.

21 CHAIRMAN SWIHART: Second.

22 CHAIRMAN BARRETT: Moved and seconded. All in
23 favor?

24 (COMMISSION MEMBERS VOTED AYE)

25 CHAIRMAN BARRETT: I should have asked one

1 clarification, that is to commence on November
2 15th; correct?

3 COMMISSIONER MURPHY: Right.

4 CHAIRMAN BARRETT: Thank you.

5 Is there anything further as to this licensee?

6 EXECUTIVE DIRECTOR YELTON: No.

7 The Members of Commission can recall the
8 license for Majestic Star I and II would expire --
9 it expired between the last meeting, but at that
10 time we didn't have the reports ready, Dr.
11 Sullivan's report was not ready, the background
12 financial investigative report was not ready. So
13 we went ahead and renewed the license for another
14 year with the understanding that the issue of
15 suitability would be determined by this Commission
16 at any time. So today your options would be if
17 there is to be a continuation of the license for
18 Majestic I and II, Mr. Barden is to do nothing
19 because it has already been done; or the only other
20 alternative would request executive staff to
21 commence disciplinary action toward revoking
22 Mr. Barden's license.

23 Anything else, sir?

24 GENERAL COUNSEL SICUSO: That is correct.

25 CHAIRMAN BARRETT: Any discussion on that?

1 COMMISSION SWIHART: When you say "license," do
2 you mean licenses?

3 EXECUTIVE DIRECTOR YELTON: Plural, yes.

4 MR. PRATT: Mr. Chairman, may I ask a question?

5 CHAIRMAN BARRETT: No, sir, you would open up a
6 whole quorum.

7 Any further discussion of the Commission
8 Members?

9 MR. PRATT: I do believe there was one
10 portion -- I think I had about 15 seconds left.

11 CHAIRMAN BARRETT: Actually, you had about six
12 minutes. I'm going to move on at this time. Thank
13 you.

14 The next matter before the Commission is
15 renewal of the license, 2007--91.

16 ANDREW KLINGER: Good afternoon, Commissioners.
17 The next item on the agenda is Order 2007-91. This
18 order is in reference to the renewal of the
19 riverboat owner's license for Blue Chip Casino,
20 LLC. Blue Chip submitted the request to renew the
21 riverboat owner license in Michigan City, Indiana,
22 and submitted the annual renewal fee of \$5,000.
23 Pursuant to the authority delegated to the
24 executive director by this Commission in Resolution
25 2003-13, Executive Director Yelton extended the

1 license of Blue Chip from August 16th until today's
2 date so that the Commission could consider this
3 renewal at a regular business meeting. At this
4 time the Commission staff has found that Blue Chip
5 has substantially complied with all of the
6 directives of the Indiana Code 4-33 and Title 68 of
7 the Administrative Code. And the staff would
8 recommend that the Commission renew the license of
9 Blue Chip at this time.

10 CHAIRMAN BARRETT: Commission Members, do you
11 have any questions? If not, I will call for a
12 motion to renew the license.

13 COMMISSIONER SWIHART: I move to grant the
14 renewal.

15 COMMISSIONER WALSH: Second.

16 CHAIRMAN BARRETT: Moved and seconded. All in
17 favor?

18 (COMMISSION MEMBERS VOTED AYE)

19 CHAIRMAN BARRETT: Approved unanimously.

20 MR. REDER: Commissioners, before you is
21 Resolution 2007-92, Readopting without change
22 Articles 1, 2, 6, 7, 8 and 9 of Title 68 of the
23 Indiana Administrative Code. Administrative rules
24 adopted under Indiana Code 422-2 expire on January
25 1st of the seventh year after the year in which the

1 rules take effect, unless the rules contain an
2 earlier expiration date. The rules are due to
3 expire upon the new year unless readopted. The
4 Commission staff prepared a notice of intent to
5 readopt the referenced rules and submitted it to
6 the Indiana Register for publication. The notice
7 was published on June 27, 2007 and the 30-day
8 statutory period for filing an objection did pass.
9 The staff did not receive any objections or
10 requests to separate any part of the reference
11 rules from the abbreviated readoption process. If
12 approved, the unchanged readopted rules will become
13 effective 30 days after the final readoption action
14 is filed with the Legislative Services Agency. The
15 Commission staff respectfully asks that you approve
16 the resolution. Thank you.

17 CHAIRMAN BARRETT: Thank you.

18 Do the Commission Members have any questions?
19 If not, I will call for a motion regarding
20 Resolution 2007-92.

21 COMMISSIONER MURPHY: I move we approve
22 Resolution 2007-92.

23 COMMISSIONER SWIHART: Second.

24 CHAIRMAN BARRETT: Moved and seconded.

25 All in favor?

1 (COMMISSION MEMBERS VOTED AYE)

2 MS. ELLINGWOOD: Commissioners, you have before
3 you Resolution 2007-93 concerning the adoption of
4 an emergency rule relating to charity gaming. In
5 March, the Commission adopted an administrative
6 rule regarding the conduct of charity gaming. That
7 rule went into effect on June 29th. In the
8 interim, the legislature passed House Rule 1510
9 which went into effect on July 1st. 1510 has
10 several significant changes to the Charity Gaming
11 Act, including the creation of new charity gaming
12 licenses. Because of the changes to 1510, portions
13 of the current rule conflict with the Charity
14 Gaming Act. Although the Commission staff plans to
15 pass a new rule addressing those conflicts, the
16 regular rule procedure will take a few months.
17 Without the adoption of this emergency rule which
18 will take effect immediately, conflicts in the law
19 will continue to exist during that time. The
20 Commission staff asks that you recognize that an
21 emergency exists and ask you to adopt Resolution
22 2007-93 to address those problems.

23 CHAIRMAN BARRETT: Any questions? If not, I
24 will call for a motion regarding Resolution
25 2007-93.

1 COMMISSIONER SWIHART: I move to adopt.

2 COMMISSIONER MURPHY: Second.

3 CHAIRMAN BARRETT: Moved and seconded. All in
4 favor?

5 (COMMISSION MEMBERS VOTED AYE)

6 CHAIRMAN BARRETT: Mr. Packer?

7 ADAM PACKER: Thank you, Mr. Chairman.

8 The Administrative Law Judge functions and
9 services provided to the agency are currently
10 scattered amongst several different sources. As a
11 result of the expansion of the Gaming Commission's
12 authority, with the consolidation of Charity Gaming
13 and launch of the casinos at the racetrack,
14 permanent holders and the new license control and
15 gaming control divisions, the need for and desire
16 for one administrative law judge to cover all
17 Gaming Commission matters to develop the base of
18 knowledge and expertise on the Gaming Commission's
19 rules, regulations, procedures and philosophy has
20 become apparent to Commission staff. Therefore,
21 and pursuant to Indiana Code 4-33-3-23 which states
22 that the Commission shall appoint an administrative
23 law judge to carry out hearings and duties and
24 hearings of Administrative Law Judge functions, I
25 bring before you an order for an appointment for

1 the former Hendricks County Judge Mary Lee Comer as
2 the Gaming Commission's Administrative Law Judge.
3 The appointment and the use of Judge Comer has been
4 approved by the Attorney General's office and by
5 the Governor's Office, and now requires a vote.
6 And it's my respectful recommendation that you
7 adopt the order.

8 CHAIRMAN BARRETT: Do the Commission Members
9 have any questions?

10 COMMISSIONER SWIHART: What do the ALJs do?

11 ADAM PACKER: Any kind of regulatory violation
12 or regulation that requires an order or approval in
13 the statute or in the regulations requires
14 either -- in our case, sometimes it requires a
15 hearing officer or an administrative law judge.
16 For example, in the case of the riverboat
17 disciplinary actions that Ms. Gray brought before
18 you, if one of those did not proceed to a
19 settlement, if there was a dispute about it, or one
20 of the licensees says, "I don't want to settle
21 this. I don't want to pay the fine. I want to
22 fight it;" that dispute would go in front of a
23 judge, not a civil judge or criminal judge, but
24 because the dispute is over an administrative rule
25 of the Gaming Commission it would go in front of an

1 administrative law judge. The procedure is uniform
2 for most state agencies and that's the way it goes
3 forward, at least until the Commission rules on it.
4 So it's that interim process between when the
5 Commission staff makes a decision there is a
6 dispute over the decision and when the Commission
7 rules on the decision either a hearing officer or
8 in most cases an administrative law judge must
9 arbiter that decision.

10 GENERAL COUNSEL SICUSO: The new license
11 controlled division that was created in the last
12 legislative session calls for this process to be
13 commenced to revoke certain licenses like an
14 alcohol or tobacco license, charity gaming license
15 for any retail sales. Something like that. We
16 will need to take those actions and revoke those
17 permits before this Administrative Law Judge and
18 that would be her primary role.

19 EXECUTIVE DIRECTOR YELTON: Also, Members of
20 the Commission, a little bit more about Judge
21 Comer's background. As Mr. Packer said, she has
22 served I believe tenure of judge of the Superior
23 Court in Hendricks County which is in Danville.
24 Also during her tenure she became the first female
25 president of the Indiana Judges Association.

1 Several years ago, she elected to take senior judge
2 status primarily because she had just become a
3 grandmother, and since I just became a grandfather
4 8 weeks, 6 days and five hours ago, I certainly can
5 sympathize with her desire to be with her
6 grandchildren. However, Governor Daniels was
7 successful in urging her to come back to public
8 service and she served as Commissioner of the
9 Ethics Commission, whereupon she said "I really do
10 want to go part-time." She is now serving as
11 special counsel for special projects for the
12 Commission.

13 In order to take this position she has to
14 resign that position because she is technically an
15 employee, which she will do tomorrow. And I think
16 she has entered into a contract with them and
17 entering a contract with us so there is no ethic
18 violations. She is extremely well respected
19 throughout the legal community.

20 CHAIRMAN BARRETT: Anything further?

21 She is indeed well respected and honorable. I
22 would move we approve Order 2007-94.

23 COMMISSIONER MURPHY: I move we approve the
24 order.

25 COMMISSIONER: Second.

1 CHAIRMAN BARRETT: Moved and seconded.

2 All in favor?

3 (COMMISSION MEMBERS VOTED AYE)

4 CHAIRMAN BARRETT: Our next meeting is
5 currently scheduled for the 8th of November. Watch
6 our Web site. Anything further?

7 EXECUTIVE DIRECTOR YELTON: For the loyal
8 people who are still here that don't have a life, I
9 will give you a little preview. We are
10 investigating holding the November meeting at
11 Ameristar. Don't book your room yet, but we are
12 hoping to go up north for the next meeting.

13 Thank you.

14 CHAIRMAN BARRETT: Thank you. We are
15 adjourned.

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