

COPY OF TRANSCRIPT

PUBLIC HEARING OF THE
INDIANA GAMING COMMISSION

HELD ON

JULY 29, 2002

10:30 A.M.

AT THE INDIANA GAMING COMMISSION

115 WEST WASHINGTON STREET

SUITE 950

INDIANAPOLIS, INDIANA

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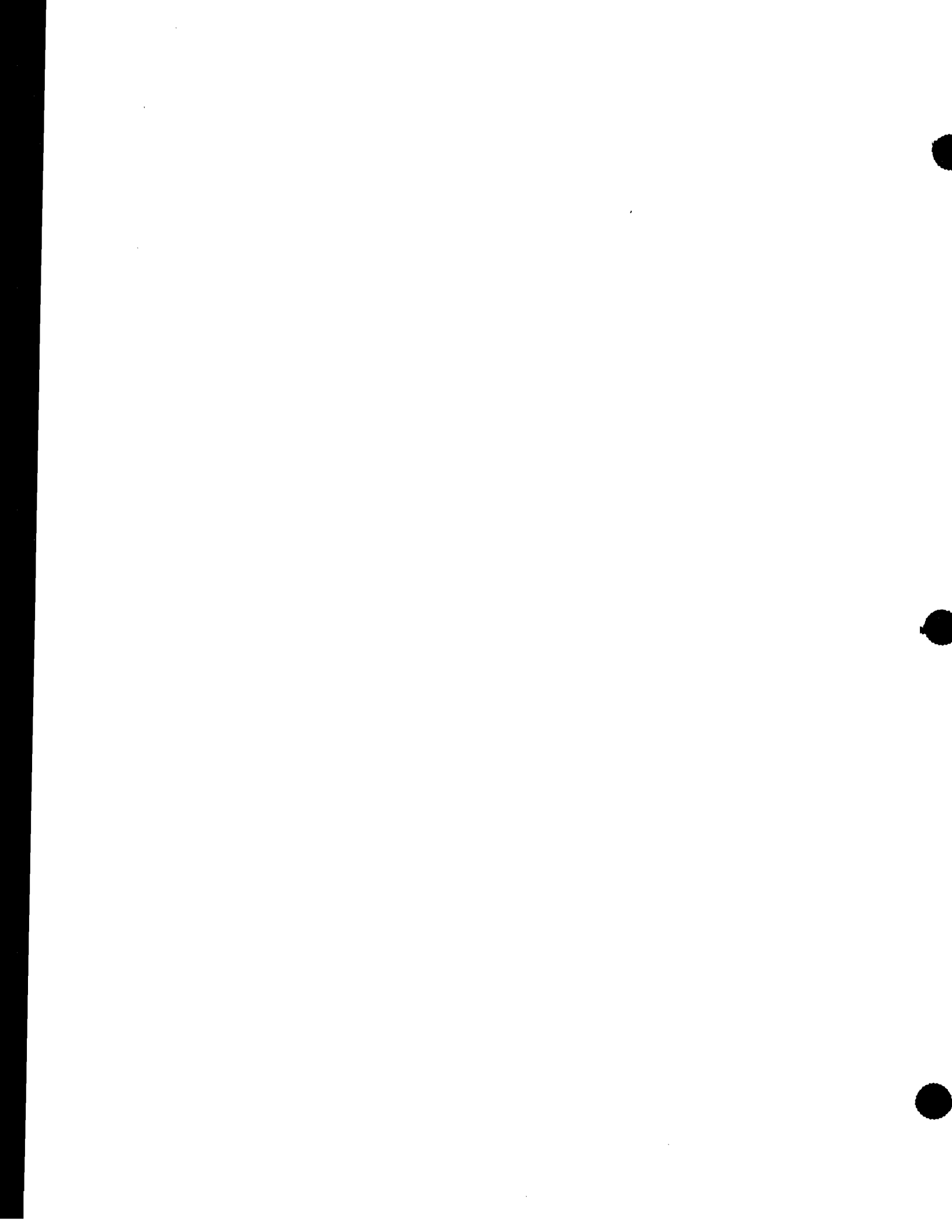
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APPEARANCES

COMMISSION MEMBERS:

- DONALD R. VOWELS, CHAIR
- ANN BOCHNOWSKI, VICE-CHAIR
- THOMAS MILCAREK
- DAVID ROSS, M.D.
- DAVID CARLSON
- DALE GETTELFINGER

COMMISSION STAFF:

- JACK THAR, EXECUTIVE DIRECTOR
- CYNTHIA DEAN
- BILLY L. HAMILTON
- JENNIFER ARNOLD
- SUSAN BRODNAN
- JENNIFER CHELF
- MICHELLE MARSDEN
- MAJOR MARK MASON
- RHONDA DALTON

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PUBLIC HEARING OF THE
INDIANA GAMING COMMISSION

Indianapolis, Indiana

July 29, 2002

MR. VOWELS: Let's go ahead and call the meeting to order. Six of the commissioners are present, with the exception of the newest commissioner, who is unavailable today. The time is almost 10:50, Indianapolis time. So, we've called the meeting to order.

The first matter on the agenda is the approval of the minutes from the April 13, 2002 meeting. We've all had an opportunity to review the minutes from that meeting. Is there a motion in reference, to those minutes?

MS. BOCHNOWSKI: So moved.

MR. VOWELS: Is there a second?

MR. GETTLEFINGER: Second.

MR. VOWELS: All those in favor of approving the minutes, say aye.

(Commission members respond)

MR. VOWELS: Show they're approved. Next matter on the agenda, then, is the

1 report of the Executive Director. Mr. Thar.

2 MR. THAR: Thank you, Mr. Chairman,
3 members of the Commission. With regards to
4 personnel matters, Commissioner Richard Darko
5 has resigned, as a result of the Governor
6 appointing him to be the Chairman of the
7 Indiana Horse Racing Commission. Dick was
8 Commissioner of the Horse Racing Commission,
9 prior to coming to the Indiana Gaming
10 Commission. He was a major asset to the
11 Indiana Gaming Commission and he will be
12 missed. However, it's only logical to say
13 that our lose is horse racing's gain and we
14 all wish him the best of luck in his new
15 post. Dick's resignation has resulted in the
16 Governor naming Maria Mernitz Rose, the new
17 Commissioner. Maria resides in Indianapolis,
18 Indiana with her husband, and is
19 vice-president, general counsel and treasurer
20 of Cummins Engine in Columbus, Indiana.

21 Maria served as an executive
22 assistant to Governors Bayh and O'Bannon,
23 prior to taking her present position at
24 Cummins. Unfortunately, Maria had a
25 pre-existing schedule conflict all this week

1 and could not make this meeting. We look
2 forward to her joining us at our next, and
3 all future meetings.

4 Since we last met, the legislature
5 passed House Bill 1001-SS at the close of
6 its special session. Jennifer Arnold will
7 give us an outline on the changes to the
8 Riverboat Gambling Act, as a result of the
9 passage. Jenny.

10 MS. ARNOLD: Given all the business
11 before you, I'll be very brief. House Bill
12 1001 that passed at the end of June had
13 several changes to the gaming statute.
14 Generally, it increased gaming taxes and
15 permitted flexible scheduling. Casinos that
16 elect to participate in flexible scheduling
17 will pay a graduated tax that starts at 15
18 percent, and tops out at 35 percent. And
19 their admission tax will remain \$3, but will
20 now be based on a turnstile count. Casinos
21 that do not participate in flexible
22 scheduling will pay a flat admissions tax of
23 22 and a half percent, and will continue to
24 pay \$3 per person per cruise for an
25 admissions tax. This will create a \$33

1 million in revenue sharing for counties that
2 do not have riverboat casinos. And it also
3 caps and guarantees distributions to local
4 governments that already have casino gaming.
5 They can never make more, or less than the
6 revenue they made in 2002 fiscal year. It
7 instituted an on-the-spot tax withholding on
8 slot winnings greater than \$1,200, and on
9 Keno winnings greater than \$1,500.

10 One provision that the Gaming
11 Commission has sought for several sessions,
12 and we're happy that they passed, is that
13 this Bill makes it a Class A misdemeanor for
14 a person under 21 to attempt to enter it, or
15 enter a riverboat casino. And it also
16 makes it a Class A misdemeanor for a person
17 to aid, induce or cause a person under 21 to
18 enter the casino.

19 Finally, this doesn't really pertain
20 to our agency, but this Bill establishes the
21 Indiana Department of Gaming Research. To
22 fund this new agency, each riverboat casino
23 and horse track will pay an annual fee of
24 \$25,000. The purpose of this agency, as
25 stated in legislation, is to enhance the

1 gaming industry in Indiana, through research
2 and analysis. This agency will be under the
3 authority of the Governor, who will appoint
4 an executive director and other staff, as
5 deemed necessary. If you have any questions,
6 I'll be glad to try to answer them.

7 MR. THAR: Thank you. As a result of
8 the legislation that Jenny has just outlined,
9 we implemented the new 22.5 percent tax on
10 wagering -- on wins on July 1, as well as
11 implemented the withholding of state income
12 tax on slot jackpots greater than 1,200 and
13 Keno jackpots greater than -- jackpots
14 greater than \$1,500. We had a telephone
15 conference call with the riverboats on July
16 28th to explain the implementations just
17 noted, as well as setting time lines and
18 objectives for the filing of applications for
19 flexible boarding, which will be explained in
20 more detail during the new business portion
21 of the agenda. Overall, the staff has
22 primarily been consumed by the special
23 session, the implementation of certain
24 aspects of the new law, as well as trying
25 to implement flexible scheduling for those

1 riverboats who choose to participate, as soon
2 as possible.

3 However, the water cooler gossip has
4 primarily been focused upon the voluntary
5 leave program, instituted as a result of the
6 state fiscal crisis. The program requested
7 each state employee to give up 12 days of
8 work without pay, in order to reach a
9 potential savings of \$4 million. The \$4
10 million was broken down by agency as to what
11 each agency's monetary contributions toward
12 the \$4 million, would be. Doing simple
13 math, we determined as an agency, if all
14 employees who make above \$25,000 we agreed
15 to take 1.5 days without pay, we can exceed
16 the monetary goal for our agency by 50
17 percent, and not put out financial pressure
18 on those making less money. As an office we
19 agreed to do so and have 100 percent
20 participation on the 1.5 day request and
21 easily exceeded our monetary requirement. We
22 do have people who decided to take 12 days
23 without pay for various reasons and believe
24 people below \$25,000 will also volunteer to
25 take time off without pay.

1 I bring this up to illustrate that
2 while the staff may not always be smiling or
3 have a lot to smile about, for that matter,
4 they've all worked very hard to implement
5 this new legislation, as they do everyday, to
6 insure the integrity of riverboat gaming in
7 Indiana. And we're quite proud of them.
8 With regard to the riverboats. On July
9 12th, members of the staff met with
10 representatives of the United States Coast
11 Guard, Lieutenant Garcia from the
12 Cincinnati-Louisville office and Lieutenant
13 Rocco from the Chicago office. This was a
14 productive meeting, which resulted in the
15 following issues potentially needing to be
16 addressed in the future.

17 First, the Coast Guard does not at
18 this time, know whether it will be
19 unaffected, somewhat affected or completely
20 absorbed by the merging of agencies in the
21 Department of Homeland Security. Thus, they
22 do not know what the future brings, in terms
23 of performing traditional regulatory duties
24 on Lake Michigan and the Ohio River.

25 Secondly, the U.S. Coast Guard is in

1 the process of developing a policy concerning
2 the Coast Guard's role in connection with
3 vessels that have no intention of ever
4 cruising. While our statute sets up a
5 voluntary choice for the riverboats to cruise
6 or not to cruise, once the choice is made,
7 the U.S. Coast Guard views the vessel as not
8 intending to leave the dock, which may then
9 impact the traditional certificate of
10 inspection which is required under our
11 present legislation. The policy being
12 explored may involve the use of U.S. Coast
13 Guard approved third-party surveyors.

14 Tentative resolution to these issues,
15 and others, may require legislative as
16 opposed to administrative action. Majestic
17 Star. Don Bardon has filed a d/b/a, Bardon
18 Gaming, to be used in lieu of Bardon
19 Development, in connection with his casino
20 properties. At Caesars, Caesars has delayed
21 the opening of its golf course to October 1.
22 That is due primarily, to the water issues
23 they have down there. Either they have too
24 much or they have too little, thus
25 interfering with the proper growth of grass

1 in those critical areas that we all know and
2 love on golf courses.

3 At Argosy, vice-president and general
4 manager, Arnold Block, who has been with the
5 Lawrenceburg property from the start has been
6 promoted to a regional vice-presidency in the
7 corporate office. He has been replaced by
8 Larry Kinser, who is a general manager of
9 another Argosy property. That would conclude
10 my report. Oh; no, it doesn't. I would
11 like to introduce our newest employee, George
12 Curen. George is a graduate of New Mexico
13 State University, with an accounting degree.
14 He is retired from the Air Force in a
15 transportation and logistics background. He
16 is a recent move to Indiana, having moved
17 here in the past two years, moving here from
18 Texas. He has previous experience in tax
19 preparation, both the federal and state
20 level. And George, we welcome you to the
21 Indiana Gaming Commission. I always ask if
22 anybody in your position right now, has
23 anything to say. Do you?

24 MR. CUREN: Well, I find it
25 interesting, I was out to see a few of the

1 boats and I really look forward to the
2 challenges that the position offers. I
3 really do.

4 MR. THAR: Thank you, and welcome
5 aboard.

6 That would conclude my Executive
7 Director's Report. Are there any questions?

8 MS. BOCHNOWSKI: On behalf of the
9 citizens of Indiana, thank you all. That
10 was quite a sacrifice.

11 MR. VOWELS: Any other questions or
12 any other responses? Thank you, Mr. Thar.
13 The next matter on the agenda is old
14 business-new business. I assume there's not
15 any old business. We've heard it.

16 MR. THAR: That's correct.

17 MR. VOWELS: And, then, on to the
18 next part of the agenda, then, Mr. Thar.
19 The first matter under that, is flexible
20 scheduling, Resolution 2002-16.

21 MR. THAR: Yes. As noted in the
22 opening report, the Statute requires that the
23 Commission set a date that reports are to be
24 -- that applications are to be filed for any
25 boat that desires to go to flexion

1 scheduling. The Commission -- the Statute
2 then directs the Commission shall approve all
3 appropriate applications for flexible
4 scheduling, and the Commission shall set a
5 date that flexible scheduling shall commence.
6 We had a discussion with the riverboat
7 owners, and the staff, on behalf of the
8 Commission, set July 12, 2002, as the
9 deadline date for applications for any
10 riverboat owner to switch to flexion
11 scheduling.

12 All 10 riverboats filed their plans.
13 I believe we had all 10 of them by noon on
14 the day -- on July 12th, so it was easily,
15 well before close of business. And the
16 majority of them were in before July 12th.
17 All 10 Indiana riverboats have submitted
18 plans. The plans have been forwarded to
19 each of the Commissioners. We met with the
20 riverboats last Friday? Two Fridays ago.
21 And discussed with them certain changes that
22 might want to be made to their plans. For
23 instance, the number of security guards at
24 a given time, at one boat, may have been
25 lower than at others, and we chose to go

1 with higher numbers.

2 So, what we then did was go through
3 the plans, take the best of each of them and
4 each of the riverboats agreed to amend their
5 plans in accordance with that discussion.
6 So, as a result, I forward a memo to you
7 that contain the changes in each of the
8 plans, that they be uniform, and that is
9 what is before you now. Each riverboat, in
10 addition, will be required to file internal
11 controls that incorporates within it those
12 changes that they agreed to make to their
13 plans that were outlined in my memo, if they
14 did not already have them.

15 What Resolution 2002 does is it sets,
16 as the Commission confirm, the July 12, 2002
17 date as the date for the submission of the
18 plans. It advises that all 10 riverboats
19 submitted their plan by the date set. The
20 Commission has reviewed the plans and finds
21 them appropriate, if they do. And that we
22 authorize flexible scheduling and implement
23 it on the appropriate date, which is
24 suggested in this resolution as being August
25 1, 2002 for all riverboats. During the

1 course of our discussion two Fridays ago, we
2 also had a discussion about to what extent
3 this should be advertised. Initially, I had
4 advised I did not want to see any
5 advertisement, because I did not want to see
6 situations where advertisements presumed the
7 Commission action, before Commission action
8 had been taken.

9 As an illustration, I had sent to the
10 riverboat general managers that were present,
11 that I did want to see any advertisement
12 that would say dockside gaming starts August
13 1, 2002, with an asterisk and then in very
14 fine, small print at the bottom say pending
15 IGC action. I will advise you that, three
16 and maybe four boats did not take that to
17 heart and, in fact, advertised in that
18 fashion.

19 MR. VOWELS: Were all of the general
20 managers who -- well, the three of the four
21 boats that didn't follow your directive --
22 were the general managers there, and aware of
23 your position?

24 MR. THAR: Yes. All 10 general
25 managers were present.

1 MR. VOWELS: And it's since come to
2 your attention, that that directive was
3 completely and violated?

4 MR. THAR: It's come to my attention,
5 that three boats advertised exactly in that
6 fashion. Dockside gaming commences August 1,
7 an asterisk and then in print too small to
8 be captured by a picture saying pending IGC
9 approval. It was brought to my attention
10 this morning, by Dale Gettelfinger, that he
11 saw an advertisement in the Louisville
12 Courier Journal over the weekend, from
13 Caesars that did substantially, the same
14 thing. We have pulled that up on the
15 internet, to the extent that we can see they
16 did the substantially, the same thing.

17 Mr. Gettelfinger, is that basically
18 accurate?

19 MR. GETTELFINGER: Yes, that's
20 correct.

21 MR. THAR: So the boats that were
22 involved that we know of, we have photos
23 with regard to Harrah's. We have
24 confirmations with regard to Trump and
25 Majestic Star. And we have Mr. Gettelfinger

1 and our internet pull up, with regard to
2 Caesars.

3 MR. VOWELS: Well, I was impressed
4 with how quickly you and your staff were
5 able to put all this together. And August
6 1st is what, Thursday; is that right?

7 MR. THAR: Yes, sir.

8 MR. VOWELS: And I don't think it's
9 fair, that four boats that violated your
10 directive of no advertising, get a jump start
11 of the other six.

12 MR. THAR: I want to make clear, it
13 wasn't no advertising. It was an
14 advertisement that they could say dockside
15 gaming coming soon. I said no billboards,
16 no advertisements that say in huge letters,
17 dockside gaming August 1, asterisk, little
18 tiny print at the bottom, pending Commission
19 approval.

20 The discussion centered on the fact,
21 that we believed as a staff, it's
22 inappropriate for boats to advertise
23 something that has not yet been acted upon
24 by the Commission; and, in fact, it presumes
25 a given Commission action. So it wasn't no,

1 it was not this way. And four of those
2 boats did exactly, what we said don't do.

3 MR. VOWELS: And the other six abided
4 by your directive?

5 MR. THAR: To the best of our
6 knowledge, yes.

7 MR. VOWELS: Anyone have a suggestion
8 on how to handle this?

9 MS. BOCHNOWSKI: Well, we certainly
10 -- we need to deal with this, because it
11 basically by advertising ahead of time, that
12 it's going to start August 1st, it's almost
13 as though our action is presumed and our
14 action is taken for granted. So, there has
15 to be some kind of disciplinary action, I
16 would think. And especially since they had
17 been directed by our director, to proceed in
18 one way and proceeded in a different way.
19 We certainly stand behind our executive
20 director and everything he says to the gaming
21 people.

22 MR. MILCAREK: I think this is one of
23 the most respected governing bodies in the
24 state. And we obviously, don't always get
25 the respect from the companies that we should

1 have, and it does disappoint me that they
2 would go against this. And I also agree
3 that we should do something to send a
4 message and to take away the advantage that
5 the other boats may have gained, by
6 advertising beforehand.

7 MR. VOWELS: Mr. Thar, if we split
8 this with the six companies that abided by
9 your directive, would be able to begin the
10 flexible boarding schedule on August 1 and
11 defer the others until next Monday, is that
12 something that you can do, as far as your
13 reporting and the things that -- regulatory
14 procedures? Is there any problem with that
15 split like that?

16 MR. THAR: From a technical point of
17 view, we would be able to do that split with
18 regard to the tax return filings, that's our
19 primary issue. Yes. The answer is, if the
20 Commission decided to start boats on
21 different dates, it could be done.

22 MR. VOWELS: Any thought on that?

23 DR. ROSS: Well, I think that's an
24 obvious, easy, simplified way to do -- to
25 punish the aggressors at the expense of --

1 the people who decided to advertise early,
2 took an extreme advantage on those who
3 didn't, so they need to be punished by that
4 and I think that's a reasonable punishment to
5 let them start later.

6 MR. CARLTON: I would agree.

7 MR. VOWELS: It would certainly
8 backfire on what they tried to do, to get an
9 upper hand on the others that abided by Mr.
10 Thar's directive.

11 MS. BOCHNOWSKI: Now, if we were to
12 vote on such a matter and it came to our
13 attention, that a boat that we were unaware
14 of had also advertised in this way, we would
15 probably want to get them included as well.

16 MR. THAR: I don't know how to handle
17 that, because I doubt if we could find out
18 before August 1. What we did do, when we
19 first got the first report is we checked --
20 we had all the boats checked not only by IGC
21 staff, State Police staff present at the
22 boats, but also by Major Mason and Lieutenant
23 Mitchell, who were down on the river, as
24 well as checking up on the net. As of last
25 Tuesday, only the three boats on the lake

1 were with regard to the signage. Nobody
2 else was. They were all advised, again, not
3 to. Then it was the advertisement seen by
4 Commissioner Gettelfinger that brings Caesars
5 in to play. All the other boats, to my
6 knowledge, have followed the directives as
7 they were part of the issue here is
8 riverboat casino marketing departments can be
9 very aggressive and very competitive, but
10 they have to be responsive to the directions
11 of the general manager. If the general
12 manager can't control the marketing
13 department, then we have a problem. If the
14 marketing department won't listen to the
15 general manager, we have a problem. We
16 can't, I don't think ever, if we are going
17 to maintain the integrity of gaming in
18 Indiana, have any riverboat company advertise
19 something that is going to happen before the
20 Commission has, in fact, taken action. So I
21 would agree with the observations of the
22 Commissioners in this.

23 MS. BOCHNOWSKI: Should we divide
24 this resolution in half, then? The one
25 would be that we'll accept the plans by July

1 12th, and then --

2 MR. THAR: I think that we can take
3 paragraph 4 and simply say the Commission
4 shall authorize flexible scheduling to the
5 riverboat licensed owners. And the following
6 riverboat licensed owners shall implement the
7 appropriate flexible scheduling plans, on the
8 gaming day commencing 6:00 a.m. August 1,
9 2002, and that the following four riverboat
10 licensed owners shall implement the
11 appropriate flexible scheduling plans on the
12 gaming day, commencing August 5, 2002.

13 MR. VOWELS: Have we mentioned who
14 the other three were?

15 MR. THAR: The four boats that would
16 start on August 5, would be Harrah's, Trump,
17 Majestic Star and Caesars. The six remaining
18 boats would be Horseshoe, Blue Chip, Aztar,
19 Belterra, Grand Victoria and Argosy.

20 MR. VOWELS: I think that's an
21 appropriate solution, to what was done here.
22 If people aren't going to take the executive
23 director's directions seriously, and perhaps
24 the general managers did, and people in
25 marketing went off on their own way, then

1 the people at the top of these particular
2 companies can deal with the people in
3 marketing as they deem appropriate by what
4 they've caused.

5 With that in mind and with that --

6 MR. THAR: Is there anybody here,
7 from any of those four companies, that wishes
8 to dispute what occurred? Anybody here from
9 Harrah's, who wishes to produce whether or
10 not they ran such advertisements? Anybody
11 from Majestic Star who wishes to dispute?

12 MR. WOLFE: Not dispute. We had two
13 posters up.

14 MR. THAR: Anybody from --

15 MR. WOLFE: In conjunction with
16 Trump, Majestic and Harrah's, two posters up.

17 MR. THAR: That was David Wolfe, the
18 general manager of Majestic Star.

19 Anybody from Caesars?

20 MR. MILCAREK: What did you say, that
21 Trump had two and you didn't have any?

22 MR. WOLFE: We did it collectively.

23 MR. VOWELS: He stated, he agreed.

24 Then we have in front of us Resolution
25 2002-16, with the change in paragraph 4, as

1 outlined by Mr. Thar, that essentially the
2 six companies that abided, would begin
3 flexible boarding at 6:00 o'clock in the
4 morning on August 1, 2002. Then the other
5 four, who did not abide with begin 6:00
6 o'clock in the morning August 5, 2002. Is
7 there a motion in reference to this
8 resolution, and then that change, then, at
9 the end with some language inserted there
10 after the approval or disapproval portion?

11 MR. GETTELFINGER: I move the
12 resolution, as amended, be approved.

13 MR. VOWELS: Is there a second?

14 MS. BOCHNOWSKI: Second.

15 MR. VOWELS: Any further discussion?
16 All those in favor say aye.

17 (Commission members respond)

18 MR. VOWELS: The amended resolution
19 is approved. Then, the next matter on the
20 agenda are new game approvals, and Ms.
21 Brodnan, I believe that's you.

22 MS. BRODNAN: Yes. The first game is
23 Boston 5 Stud Poker. You have before you
24 for approval of Resolution 2002-17, regarding
25 approval of the game of Boston 5 Stud Poker.

1 New Vision Gaming submitted this game for
2 approval in 2001. On November 7, 2001,
3 pursuant to Resolution 2001-38, the
4 Commission grants the conditional approval of
5 this game, for a six-month period. Majestic
6 Star sponsored the game by introducing one
7 table to its casino in November, and has
8 since added a second table and indicated in
9 writing that it wishes to continue offering
10 the game. The Commission grants permanent
11 approval of the game Boston 5 Stud Poker for
12 play on Indiana riverboats.

13 MR. VOWELS: All right. Any
14 questions for Ms. Brodnan? In front of us
15 is Resolution 2002-17, that's dealing with
16 the approval of Boston 5 Stud Poker. Is
17 there a motion in reference to this
18 resolution?

19 MR. MILCAREK: Move to approve.

20 MR. VOWELS: Is there a second?

21 DR. ROSS: Second.

22 MR. VOWELS: Any further discussion?

23 All those in favor say aye.

24 (Commission members respond)

25 MR. VOWELS: Show it as approved.

1 Then, Ms. Brodnan, you have another?

2 MS. BRODNAN: Yes. The game of

3 Fortune Pai Gow Poker, a new game. BET

4 Technology, Inc. submitted the game for

5 approval for Indiana riverboats. It has been

6 approved in Nevada, Mississippi, Washington,

7 Iowa and Missouri. Gaming Laboratories

8 International reviewed the information

9 submitted, and found that the game is a

10 variation of the traditional game of Poker.

11 Majestic Star has advised the Commission in

12 writing that it supports the game and has

13 submitted a proposed rules, that it will use,

14 if the game is approved. Fortune Pai Gow

15 Poker uses the traditional procedures of Pai

16 Gow Poker with an optional side wager. It

17 is played with a standard 52-card deck plus

18 a joker, as is traditional Pai Gow. As in

19 traditional Pai Gow, the dealer distributes

20 the cards into seven stacks with seven cards

21 each, with a stack going to each player.

22 The player then arranges their cards into two

23 hands, a high hand of five cards and a low

24 hand of two cards. The object of the game,

25 is to have your two hands outrank the

1 dealer's two hands. Fortune Pai Gow requires
2 participation in the underlying Pai Gow game.
3 Players may also make a side bet, that's
4 called a fortune bet. The fortune bet can
5 be anywhere between \$1 and \$25. With the
6 fortune bet, the player is betting that of
7 the seven cards received, he or she will be
8 able to create a qualifying five-card poker
9 hand. The underlying Pai Gow game is
10 played in the traditional manner with each
11 player standing with two hands, a high hand
12 and a low hand. If the player has made the
13 fortune side bet, the player will then use
14 his or her seven cards to form their best
15 five-card poker hand. The player will be
16 then paid according to a pay-out table, if
17 they hold a qualifying hand, which is a
18 straight or better. If any player makes a
19 fortune bet in the amount of \$5 or more,
20 they also qualify for what's called, the envy
21 bonus. The person making a wager in this
22 amount will win, if any other person at the
23 table who made a side bet has a four of a
24 kind or better. The envy bonus will also be
25 paid according to a determined pay table.

1 The dealer never qualifies for the bonuses,
2 and players do not receive an envy bonus
3 based on the dealer's hand.

4 The object of Fortune Pai Gow is
5 still formulated winning two and five-card
6 hands, in a way to beat the dealer's hand.
7 The side bet does not impact the underlying
8 game. Instead, it allows players the
9 opportunity to create an additional five-card
10 hand, in an attempt to create an additional
11 pay out. The side bet is not required to
12 participate in the underlying game. The pay
13 off percentage of the side bet relates to
14 the number of players at the table, because
15 the envy bonus is paid more often if there
16 are more players. The pay out percentage
17 advantage to the house, on the side bet is
18 anywhere between 3.13 percent and 7.77
19 percent, based on the number of players.
20 The Commission staff recommends that you
21 grant conditional approval of this game for
22 play at Indiana riverboats.

23 MR. VOWELS: Thank you, Ms. Brodnan.
24 Any questions for Ms. Brodnan? In front of
25 us is Resolution 2002-18, conditional

1 approval of the game of Fortune Pai Gow
2 Poker.

3 Is there a motion in reference to
4 this resolution?

5 MR. MILCAREK: So moved.

6 MR. VOWELS: Is there a second?

7 DR. ROSS: Second.

8 MR. VOWELS: Any further discussion?
9 All those in favor of the resolution, say
10 aye.

11 (Commission members respond)

12 MR. VOWELS: Show it as approved.
13 Thank you, Ms. Bordnan.

14 Then the next matter on the agenda
15 is, supplier licenses matters with Ms.
16 Marsden.

17 MS. MARSDEN: Good morning. Before
18 you is Resolution 2002-19, concerning the
19 suppliers licenses. On May 29, 2001, by
20 Resolution 2001-21, the Commission renewed
21 the suppliers' licenses held by Casino Data
22 Systems, Sigma Game, Inc. and Shuffle Master,
23 Inc. On August 23rd of 2001, by Resolution
24 2001-28, the Commission renewed the
25 suppliers' licenses held by GEMACO Playing

1 Card Company, Mikohn Gaming Corporation,
2 Osborne Coinage Company, Paul-Son Gaming
3 Supplies, Inc., Atronic Americas, LLC and
4 Kilmartin Industries, Inc., d/b/a Roger
5 Williams Mint. On August 23rd of 2001, by
6 Resolution 2001-29, the Commission issued a
7 suppliers' license to The Bud Jones Company.
8 Conditions placed on the suppliers' licenses
9 is, that they must be renewed annually, and
10 request for renewal of suppliers' licenses
11 must be at least 30 days before the
12 expiration of the license in compliance with
13 68 IAC 2-2-8. The above-names supplier
14 licensees have requested a renewal of
15 licensure and the renewal fees
16 have been paid, in accordance with 68 IAC
17 2-2-3 (c) and 68 IAC 2-2. The supplier
18 licenses may have outstanding background
19 investigation fees and will be responsible
20 for payment of the background fees. If
21 payment for the background fees is not
22 received, as directed, by the Commission
23 staff, the license will be subject to
24 non-renewal or revocation. The Commission
25 has determined that the above-named licensees

1 remain in compliance for licensures. So,
2 before you is Resolution 2002-19, the renewal
3 of the above-named supplier licensees.

4 MR. VOWELS: Thank you, Ms. Marsden.
5 Any questions for Ms. Marsden?

6 As she said, in front of us is
7 Resolution 2002-19, concerning the renewal of
8 the suppliers' licenses listed in Section 3
9 of the second paying. Is there a motion in
10 reference to this resolution?

11 DR. ROSS: I move for approval.

12 MR. VOWELS: Is there a second?

13 MR. CARLTON: Second.

14 MR. VOWELS: Any further discussion?
15 All those in favor, say aye.

16 (Commission members respond)

17 MR. VOWELS: The resolution is
18 approved. Then, Ms. Marsden, we have
19 another, with you?

20 MS. MARSDEN: Resolution 2002-20 is a
21 resolution concerning the request of V.S.R.
22 Lock, Inc. to withdraw its supplier's
23 license. The Commission issued a temporary
24 supplier's license to V.S.R. Lock, Inc. on
25 April 15, 1997, by Resolution 1997-15, and on

1 August 20 of '99 issued a permanent suppliers
2 license by Resolution 1999-20. The
3 Commission renewed V.S.R.'s supplier's
4 license on August 21, 2000, by Resolution
5 2000-28, and on August 23, 2001, by
6 Resolution 2001-28. The Commission approved
7 the request of V.S.R., to re-evaluate whether
8 or not V.S.R. should be required to continue
9 to maintain a supplier's license, in selling
10 its gaming division. The Commission staff
11 has reviewed the information provided by
12 V.S.R. and determined that they do not need
13 to be a licensed supplier, at this time.
14 However, V.S.R. will continue to supply
15 non-gaming products to the riverboats.
16 Before you is Resolution 2002-20, and the
17 Commission will need to grant or deny the
18 request of V.S.R. to withdraw its supplier's
19 license.

20 MR. VOWELS: Any questions for her?
21 Then Resolution 2002-20, is there a motion to
22 either grant or deny V.S.R.'s request to
23 withdraw its supplier's license?

24 MS. BOCHNOWSKI: Motion that we
25 grant.

1 MR. VOWELS: Is there a second?

2 MR. MILCAREK: Second.

3 MR. VOWELS: Any further discussion?

4 All those in favor say aye.

5 (Commission members respond)

6 MR. VOWELS: Show that the withdrawal
7 is granted. Then, Ms. Marsden, one more.
8 I'm sorry, Susan Brodnan.

9 MS. BRODNAN: Ms. Cox is here. Would
10 you like to come up and --

11 MS. COX: Good morning.

12 Commissioners, Mr. Thar, Ms. Brodnan, thank
13 you for your assistance in this regard. I'm
14 here on behalf of the Bud Jones Company, its
15 parent company, Bourgoigne et Grasset, and
16 Paul-Son Gaming Corporation. These companies
17 have entered into an agreement, to form a
18 business combination with closing schedule
19 September 12th of this year. At which time,
20 the shareholders of Bourgoigne et Grasset,
21 B&G, will assume a majority interest in
22 Paul-Son Gaming Corporation. And as a result
23 of this combination, Paul-Son Gaming
24 Supplies, Inc., which is a licensee; the Bud
25 Jones Company, which is a licensee; and B&G,

1 itself, will become wholly-owned subsidiaries
2 of Paul-Son Gaming Corporation. The
3 combination will not result in any new key
4 persons involved in the two supplier
5 licensees. And we have requested that the
6 Commission waive its traditional transfer of
7 interest review in these circumstances, where
8 everyone involved, is very much familiar to
9 the staff and has recently been approved by
10 Bud Jones Company and Paul-Son Gaming
11 Supplies, who were just renewed two
12 resolutions ago, for their license. So I
13 appreciate your consideration of our request
14 for approval of the transfer of ownership,
15 and I'm available for any questions you may
16 have.

17 MR. VOWELS: Any questions? Ms.
18 Brodnan, anything you can add?

19 All right. Then in front of us is
20 Resolution 2002-21, which is a request for
21 the waiver of the normal transfer of
22 ownership procedures and request for approval
23 of the transfer of ownership interest. Is
24 there a -- it's a two-part motion as you can
25 see there. The first part is to grant or

1 deny the request for the waiver of the
2 normal transfer of ownership procedures. Is
3 there a motion in reference to that?

4 MR. CARLTON: Move to grant.

5 MR. VOWELS: Is there a second?

6 DR. ROSS: Second.

7 MR. VOWELS: Any further discussion?

8 MS. BOCHNOWSKI: Yes. I mean, it
9 probably -- I probably missed it in the
10 discussion. B&G, is that -- that's not a
11 licensee of ours?

12 MS. COX: No. It's the parent
13 company of The Bud Jones Company right now.
14 It's going to be a stock trade, so that B&G
15 will become a subsidiary of the public
16 company, Paul-Son Gaming Corporation, but the
17 B&G shareholders are going to get the
18 majority interest in that.

19 MS. BOCHNOWSKI: Okay. But Bud Jones
20 has always been a part of B&G for -- okay.
21 That clears it up. That's all I needed to
22 know. Okay. Thank you.

23 MR. VOWELS: We've had a motion to
24 second. Any further discussion?

25 All those of favor of that portion of

1 the resolution, say aye.

2 (Commission members respond)

3 MR. VOWELS: All right. Then we move
4 to the next portion, which is to grant or
5 deny the request for approval of the transfer
6 of ownership. Is there a motion to grant or
7 deny?

8 MS. BOCHNOWSKI: Move to grant.

9 MR. VOWELS: Is there a second?

10 MR. MILCAREK: Second.

11 MR. VOWELS: Any further discussion?

12 All those in favor, say aye.

13 (Commission members respond)

14 MR. VOWELS: Show that the resolution
15 passes.

16 MS. COX: Thank you very much.

17 MR. VOWELS: All right. Then, at
18 this point in the action, with Ms. Chelf.

19 MS. CHELF: Good morning,
20 Commissioners. You have before you, an order
21 regarding WMS Gaming, Inc. WMS Gaming, Inc.
22 has had a permanent suppliers' license in the
23 State of Indiana since March 17, 1998. The
24 company supplies electronic gaming devices.
25 During the spring of 2001, WMS issued several

1 notices to the Commission staff of
2 inefficiencies in its machines. The notices
3 were not sufficiently specific, in order to
4 provide the Commission staff with enough
5 information to make a determination as to how
6 to address the problem. In addition, WMS
7 was not proactive in addressing, or
8 correcting problems with its machines. By
9 failing to provide timely notice and adequate
10 notice of problems and failing to address the
11 Commission staff's concerns in a timely
12 manner, the Commission's ability to
13 effectively regulate and determine WMS Gaming
14 was compromised. Because WMS acknowledged
15 the shortcomings in its notification
16 procedure and initiated remedial steps to
17 correct the problem, the Commission staff
18 determined that a settlement agreement, in
19 lieu of disciplinary action is warranted.
20 The Commission staff and WMS have agreed that
21 WMS will pay a \$5,000 fine. In addition,
22 WMS assures the Commission, that it will
23 provide significantly detailed notification
24 to the Commission of any, and all problems
25 or potential problems with goods or services

1 supplied by WMS. The Commission needs to
2 vote either to accept or reject the terms of
3 the settlement agreement.

4 MR. VOWELS: Any questions for Ms.
5 Chelf?

6 MS. CHELF: Derek Harmer of WMS is
7 also here.

8 MR. VOWELS: Any questions?

9 MR. HARMER: If I may, Mr. Chairman,
10 address the Commission briefly.

11 My name is Derek Harmer and I
12 represent the company WMS Gaming. Members of
13 the Commission and Director Thar, I want to
14 thank you and your staff for helping us
15 bring this matter to a amicable resolution.
16 As you know, we've had to re-invent some
17 areas of our company in the last year, and
18 it was Director Thar's proddings, if you
19 will, pushing us in the right direction and
20 kind of helped us re-look at some areas of
21 our company and institute some policies and
22 procedures, going forward, that I think make
23 us overall better communicators internally,
24 as well as other areas with which we work.
25 So, I just wanted to thank everyone for

1 their attention to this matter and the time
2 and effort it took to bring it to resolution
3 and look forward to regaining the Commission
4 and Director staff's confidence in our
5 company, as being good corporate citizens as
6 well as a good overall gaming company in
7 areas of communication and technology.
8 That's it.

9 MR. VOWELS: Any questions? All
10 right. Then in front of us, concerning the
11 settlement agreement in lieu of disciplinary
12 action, is there a motion to approve or
13 disapprove?

14 MR. MILCAREK: Move to approve.

15 MR. VOWELS: Is there a second?

16 MR. CARLTON: Second.

17 MR. VOWELS: Any further discussion?
18 All those in favor, say aye.

19 (Commission members respond)

20 MR. VOWELS: Show it is approved.
21 Then the next matter that we have are the
22 occupational license matters. Again, with
23 Ms. Brodnan.

24 MS. BRODNAN: The first is pursuant
25 to the felony waiver request of Mr. Justin

1 Reese. On or about February 5th of this
2 year, Mr. Reese submitted an application for
3 a level 3 license to work at the Trump
4 Casino, as a deckhand. Mr. Reese's
5 application was denied, because he revealed a
6 1981 felony conviction for theft. Mr. Reese
7 requested a waiver of his felony
8 disqualification. I served as the review
9 officer for the hearing, which was held on
10 the property of Trump on April 17, 2002.
11 Mr. Reese disclosed the felony conviction on
12 his application and addressed the
13 circumstances surrounding the conviction, at
14 the hearing. At the time of the offense, he
15 was 19 years old. He stated that a
16 neighborhood asked to borrow a jack, and that
17 Mr. Reese accompanied him outside to an
18 alley, where a broken down car was parked.
19 Mr. Reese stated that he watched the neighbor
20 remove a wheel from the car when the police
21 arrived and arrested them both, because the
22 car was reported as stolen. He pled guilty
23 and was sentenced to one year probation,
24 which he completed February of 1982. With
25 his request for felony waiver, Mr. Reese

1 submitted a transcript from a preliminary
2 hearing that was held in 1981 in Cook
3 County, Illinois regarding the theft charge.
4 The testimony Mr. Reese provided in that
5 proceeding, conflicted with the testimony
6 that he provided at the felony waiver
7 hearing. At the hearing held in 1981, Mr.
8 Reese indicated that he was in the
9 passenger's seat of the car and his neighbor
10 was in the driver's seat. When the police
11 arrived, they exited the car and ran. The
12 arresting officer also testified at the
13 preliminary hearing and indicated that one
14 side of the steering column was pealed back,
15 which would enable it to be started without
16 a key. Mr. Reese did not disclose any
17 arrest charges, or convictions on his
18 application. As part of the application
19 process, a background investigation was
20 conducted into Mr. Reese's criminal history,
21 which uncovered two arrests in 1985 which Mr.
22 Reese failed to disclose on his application,
23 on his felony waiver request, or at the
24 review hearing. The charges were simple
25 battery and criminal damage to property and

1 were both subsequently stricken.

2 Mr. Reese is now 42 years old and has
3 not been in any criminal trouble since 1985.
4 He is currently employed as a deckhand at
5 the Spirit of Chicago, at Navy Peer. Due to
6 the discrepancy in Mr. Reese's testimony, at
7 the preliminary hearing held in 1981 and the
8 felony waiver review hearing, and due to Mr.
9 Reese's failure to disclose the two arrests
10 in 1985, it is the recommendation of this
11 review officer that Mr. Reese's request for
12 felony waiver be denied.

13 MR. VOWELS: Any questions for Ms.
14 Brodnan?

15 In front of us we have the felony
16 request waiver of Mr. Reese. Is there a
17 motion to adopt or reject the recommendation
18 of Ms. Brodnan, to deny that request?

19 MS. BOCHNOWSKI: So, by adopting, we
20 go along with her recommendation?

21 MR. VOWELS: Yes.

22 MS. BOCHNOWSKI: Then, I would move
23 that we adopt.

24 MR. VOWELS: Is there a second?

25 DR. ROSS: Second.

1 MR. VOWELS: Any further discussion?

2 All those in favor, say aye.

3 (Commission members respond)

4 MR. VOWELS: Show that the
5 recommendation is adopted. Ms. Brodnan, you
6 have one more?

7 MS. BRODNAN: Yes. The next pertains
8 to Amelia Godley. Ms. Godley applied for an
9 occupational license level 2 for employment
10 as a cage cashier at Horseshoe Casino. On
11 or about December 12, 2001, the Commission
12 did issue Ms. Godley a temporary occupational
13 license. On or about May 2, 2002, Horseshoe
14 security and special agents confronted her
15 about a variance that occurred on April 13,
16 2002, in the amount of \$2,500. Ms. Godley
17 admitted that while she was engaged in her
18 duties as a cage cashier, she took the money
19 from another employee's cash drawer. The
20 casino terminated her employment, because of
21 this incident. The Commission staff revoked
22 her temporary occupational license and denied
23 her application for permanent license, due to
24 this matter.

25 You will need to vote to uphold or

1 overrule the denial of the application.

2 The Commission staff recommended that
3 you deny Ms. Godley's application for a
4 permanent occupational license. If you deny
5 her application, she will have the
6 opportunity to appeal to an Administrative
7 Law Judge.

8 MR. VOWELS: Any questions for Ms.
9 Brodnan?

10 In front of us is there a motion to
11 deny or approve the application?

12 MR. MILCAREK: Once again, if we deny
13 -- the recommendation here is for denial,
14 right?

15 MR. VOWELS: Right.

16 MR. MILCAREK: I move to deny.

17 MR. VOWELS: Is there a second?

18 DR. ROSS: Second.

19 MR. VOWELS: Any further discussion?

20 All those in favor, say aye.

21 (Commission members respond)

22 MR. VOWELS: Show the application is
23 denied. Thank you, Ms. Brodnan. Ms. Chelf,
24 back to you.

25 MS. CHELF: On or about February 5,

1 2002, Mr. John Webber submitted a personal
2 disclosure form 1, for specific work at
3 Majestic Star Casino as the director of
4 surveillance. Mr. Webber was issued a
5 temporary level 1 license on or about
6 February 15, 2002. Investigators discovered
7 during the routine background investigation,
8 that Mr. Webber had failed to disclose and/or
9 falsely stated certain information, on his
10 personal disclosure form and two
11 investigators during his investigative
12 interviews. Pursuant to Indiana Code
13 4-33-8-7, the Commission may refuse to
14 issue an occupational license to an
15 individual who does not disclose, or states
16 falsely any information required by the
17 application. On this basis, the Commission
18 staff revoked Mr. Webber's temporary
19 occupational license and denied his
20 application for a permanent license. The
21 Commission staff formally advised Mr. Webber
22 of this action on July 24, 2002. The
23 Commission will need to vote to either
24 uphold, or overrule the revocation of his
25 temporary license and denial of his

1 application for a permanent license.
2 Commission staff recommends that the
3 Commission uphold the revocation and denial.
4 That the Commission upholds the staff's
5 action in denying Mr. Webber's application
6 for a permanent occupational license. He
7 will have the opportunity to appeal the
8 matter to an Administrative Law Judge.

9 MR. VOWELS: Any questions for Ms.
10 Chelf?

11 MR. VOWELS: Essentially what he did,
12 was fail to be truthful in how he left a
13 previous employment; is that right?

14 MS. CHELF: Yes.

15 MR. VOWELS: All right. Then in
16 front of us we have to deny, or approve the
17 application for the occupational license. Is
18 there a motion to deny or approve the
19 application?

20 DR. ROSS: Move to deny.

21 MR. VOWELS: Is there a second?

22 MS. BOCHNOWSKI: Second.

23 MR. VOWELS: Any further discussion?
24 All those in favor of the denial of the
25 application, say aye.

1 (Commission members respond)

2 MR. VOWELS: Show that it is denied.

3 Okay. Thank you, Ms. Chelf.

4 And then back to Ms. Brodnan.

5 MS. BRODNAN: Pursuant to a
6 Memorandum of Understanding, between the
7 Indiana Department of Administration and the
8 Indiana Gaming Commission, IDOA has developed
9 a certification process for minority and
10 woman business enterprises, including appeals
11 and opportunities for hearings. Accutool,
12 Inc. submitted an application to IDOA
13 requesting certification as a woman business
14 enterprise. Their request was denied on or
15 about May 15, 2002. Accutool appealed the
16 decision and submitted their request for a
17 hearing on, or about June 5, 2002. The
18 Commission appointed Bernard L. Pylitt the
19 Administrative Law Judge in this matter.
20 Pursuant to 68 IAC 3-5-2, a request for
21 hearing must be submitted within 15 days
22 after service of the notice of denial of
23 certification. Accutool received the notice
24 of denial via certified mail on May 20,
25 2002. Therefore, to comply with he

1 requirements of 68 IAC 3-5-2, Accutool's
2 request for hearing should have been
3 submitted to IDOA by June 4, 2002. It was
4 submitted on June 5th. Judge Pylitt issued
5 a Notice of Proposed Recommended Order
6 Dismissing Appeal on June 17, 2002, advising
7 Accutool that it could file a response
8 indicating why a dismissal should not be
9 imposed. Accutool received this Notice, via
10 certified mail on June 19th. As of June 28,
11 2002, Accutool had not submitted a response.
12 On or about June 28th, Judge Pylitt submitted
13 a Recommended Order of Dismissal of
14 Accutool's appeal. Judge Pylitt recommended
15 that Accutool's appeal of the denial of
16 request for certification as a woman business
17 enterprise be dismissed, due to the untimely
18 filing of its request for hearing. You will
19 need to vote to either accept or reflect
20 Judge Pylitt's recommendation, that the
21 appeal of its denial of its request for
22 certification be denied.

23 DR. ROSS: Is that the only reason it
24 was denied, because of the untimely filing?

25 MS. BRODNAN: No. It was denied,

1 because it didn't satisfy their criteria for
2 certification as a woman business. They
3 appealed that decision. Their appeal is
4 being recommended dismissed, because they
5 didn't timely file their request for a
6 hearing.

7 MR. GETTELFINGER: Mr. Chairman, I
8 believe when this matter came before the
9 Commission, previously, I recused myself
10 because a member of my family, Mr. F. Daniel
11 Gettelfinger, represented the State of
12 Indiana, and I believe it's best that I
13 continue to recuse myself from this matter.

14 MR. VOWELS: The record will so
15 reflect then. Anything further? Any other
16 questions? Okay. This comes in two parts,
17 so work with me here. We accept or reject
18 the recommended order of dismissal, filed by
19 Judge Pylitt. Let's take that part first.
20 Is there a motion to accept or reject the
21 recommended order?

22 MR. MILCAREK: I move to accept.

23 MR. VOWELS: Is there a second?

24 DR. ROSS: Second.

25 MR. VOWELS: Any further discussion?

1 ll those in favor, say aye.

2 (Commission members respond)

3 MR. VOWELS: The recommended order of
4 dismissal is accepted.

5 The next part is to dismiss or grant
6 the appeal of their denial of the request
7 for the certification. So essentially
8 dismisses the appeal or grants, the right to
9 go forward on the appeal. So is there a
10 motion in reference to dismissing or granting
11 the appeal of the denial?

12 MS. BOCHNOWSKI: Okay. Then I would
13 move to dismiss the appeal.

14 MR. VOWELS: I believe that would be
15 consistent. Is there a second?

16 MR. MILCAREK: Second.

17 MR. VOWELS: Any further discussion?
18 All those in favor, say aye.

19 (Commission members respond)

20 MR. VOWELS: Show the dismissal as
21 granted. All right. Then, we are under the
22 MBE/WBE, which was part of that Accutool.
23 The record will also reflect that Mr.
24 Commissioner Gettelfinger abstained from the
25 vote. Regarding the MBE/WBE, first on the

1 agenda is Trump. Is someone here from
2 Trump?

3 MR. THAR: Yes. I think in view of
4 the way Trump does MBE/WBE compliance -- come
5 on up Dale, this is Mr. Dale Redd with the
6 Trump boat in Gary -- that we have required
7 them to be present, and required them to
8 submit a written report. But, since things
9 are going well, we have not required them to
10 prepare an oral representation, but they are
11 to be here to answer any questions.
12 Presently the way things going Ms. Brodnan,
13 the Trump report seemed to indicate a
14 positive movement.

15 MS. BRODNAN: I do have one question.
16 Since Dale is here, I can sk him.
17 They submitted in with your packets, a
18 brochure be developed, regarding their
19 minority business programs, and the beginning
20 of it reads: "Trump Casino requires all
21 minority and women-owned businesses from
22 which we purchase goods and services, to be
23 certified in the State of Indiana." A few
24 paragraphs down it says, "The purchasing
25 department will require certification, or

1 proof that an application has been submitted
2 before MBE/WBE approval is granted to do
3 business with Trump Casino." I just want to
4 read that as saying, if you aren't certified,
5 we will not do business with you, because
6 we've had some issue with people complaining
7 that boats get, or businesses get that
8 impression from the boats and I was just
9 wondering if you could clarify if that's --

10 MR. REDD: I had actually questioned
11 that myself. But the brochure folds, and
12 the paragraph on the section of the first
13 visible does say that we will assist with
14 the applications.

15 MR. THAR: That's not exactly the way
16 we -- Susan is right, that we have
17 questioned this. Here is our rationale, and
18 we would like to get some Commission
19 direction on this. There are certain
20 minority individuals and female individuals
21 who own a business that, for one reason or
22 another, don't want to get certified. But
23 they don't want to compete for the 10
24 percent, or the 5 percent that is set forth
25 as goals for MBE and WBE groups. They want

1 to compete for the other 85 percent. Our
2 feeling is that, the boats can advertise if
3 you are not certified, you will not be given
4 -- you cannot participate in our MBE/WBE
5 programs, because that's what the state
6 requires. But you do not have to be
7 certified, in order to compete for business
8 as a whole. So our disagreement with the
9 language contained in Trump's brochure is
10 that it says all minority businesses that do
11 business with us have to be certified, which
12 means if you're not certified, it doesn't
13 matter whether you're minority-owned or
14 woman-owned or anything else, we're not going
15 to let you complete, or bid on any of our
16 other business, only on our minority or woman
17 business. And we think, from a staff point
18 of view, that that's a wrong message to
19 send. If somebody doesn't want to be
20 certified, they can't be counted in the
21 certification process. But a minority
22 business could be the best plumber in Lake
23 County and just wants to do the business,
24 competing with every other plumbing company.
25 And under that brochure, they're being told

1 no. So we would like direction from the
2 Commission as to, whether or not, you back
3 up what the staff's position has been that
4 kind of advertising can't be done.

5 MR. VOWELS: On this brochure it
6 says, designed and printed by Indiana
7 certified MBE/WBE vendors. It seemed if they
8 had a hand in that language, maybe they had
9 some goal, that they were trying to reach.

10 DR. ROSS: There's two sides to the
11 problem. One is, if you're Trump and you
12 don't get credit for a non-MBE participant,
13 then -- and since the Commission requires
14 that Trump do that, then it makes sense for
15 them to put pressure on a guy to be
16 certified. Certification process, as I've
17 learned working with the Belterra committee,
18 is unduly prolonged and it takes a long
19 time. And for somebody who is doing good
20 business, I could understand why he wouldn't
21 want to do that. But also, I can see
22 Trump's side also.

23 MS. BOCHNOWSKI: But maybe there's
24 just a way to clarify it and say you're not
25 excluded from doing business with Trump.

1 Because, I mean, a white male can do
2 business with Trump, right; but we have this
3 certain set-aside that you absolutely have to
4 fulfill. So maybe there's a way to just
5 make the language a little more clear, that
6 if you want to participate in this --

7 MR. THAR: Our position is, that they
8 state that they have minority and women
9 business enterprise programs, of which you
10 have to be certified to participate in that
11 program. If you're not certified, but yet
12 minority or women owned, you can still bid
13 to do business with Trump, but you can't bid
14 to be part of that program. That's the only
15 message.

16 MS. BOCHNOWSKI: You just want a
17 clarification.

18 MR. THAR: Yes. They have to have a
19 program that helps people get certified and
20 all the rest, and I log that. If I, for one
21 reason or another, don't want to be
22 certified, then I'm not qualified for that
23 program, doesn't mean I'm not qualified to do
24 business with the boat. Just means I can't
25 do it in that program.

1 MS. BOCHNOWSKI: I just think it's a
2 matter of wording. Probably didn't even
3 realize that they would come out, maybe being
4 confused.

5 MR. REDD: No. I was just concerned
6 that we are here to assist, which is on this
7 side of the --

8 MS. BOCHNOWSKI: Can you just clarify
9 that?

10 MR. REDD: We can change the wording
11 on it.

12 MR. THAR: That's all we're looking
13 for.

14 MS. BOCHNOWSKI: I know how that
15 happens. Everybody proofread it and
16 proofread it and nobody realized, then an
17 outsider looks and says oh, yes.

18 MR. THAR: What happens is, a
19 non-certified minority group reads this and
20 they say they won't do business with me,
21 unless I'm certified and I'm not going to
22 get certified, for whatever reason, or no
23 reason at all. I just say I don't want to
24 participate in that program. All we want
25 the boats to do is make it clear, they do

1 have programs and if you qualify for the
2 program, you'll have a better shot to do
3 business with us. If you don't qualify for
4 the program you're like everybody else and
5 there is no advantage or disadvantage. You
6 just have to bid like everyone else.

7 MR. VOWELS: How big a deal is it?
8 Because, when you read that first paragraph,
9 what I'm looking at here, that Trump Casino
10 requires all minority owned businesses and
11 then in parentheses MBE/WBE. Depending on
12 how you read that, when we look at those
13 letters, MBE/WBE, we think of them as terms
14 of art and the Statute relates to it, and
15 then when you read the words before that,
16 particularly in small letters, all minority
17 and women owned businesses be certified and
18 that does arise to confusion. If I was a
19 minority or woman who owned a business, I
20 would look at that and think there's no
21 point in me trying to do business with
22 Trump, if I'm not certified.

23 MS. BOCHNOWSKI: It almost sounds
24 discriminatory in that they can't compete
25 with everybody else.

1 DR. ROSS: Well if you're not a
2 certified minority-owned business, you're not
3 a certified minority, you're just out.

4 MS. BOCHNOWSKI: But what we're
5 saying is, you still can do business with
6 them.

7 DR. ROSS: I don't think that has
8 anything to do with it, if you put an
9 application in and don't say you're a
10 minority, your application is your
11 application.

12 MR. VOWELS: You got a good point.

13 MR. THAR: That's true, except the
14 minority businesses have done that and said
15 they have told us they won't do business
16 with us, unless we're certified.

17 DR. ROSS: That's a different story.

18 MR. THAR: And that's not saying
19 that, that happens at Trump. We've had the
20 complaints from various places throughout the
21 state, that if you're not certified, we won't
22 do business with you. That's what we're
23 trying to fight. If you don't qualify for
24 the plan, but they can't prevent you from
25 bidding.

1 MR. VOWELS: If you can adjust that
2 language and run it by the staff, probably
3 before you print another million of these
4 things, all right? Anything further, then,
5 with the Trump portion of that?

6 MS. BOCHNOWSKI: In fact, maybe all
7 the casinos that are here, should realize
8 that anybody can apply for work regardless
9 of, you know, if they are minority owned
10 they should be in the same pool as everybody
11 else.

12 MR. VOWELS: Thank you. The other
13 two matters, Majestic Star and Belterra.
14 Majestic Star.

15 MR. THAR: David Wolfe.

16 MR. WOLFE: Good morning.

17 MR. THAR: Again, both Majestic Star
18 and Trump were exempted from preparing oral
19 presentations are here to answer any
20 questions concerning their plan. Their plan
21 also, Susan, does it not, seem to be
22 progressing forward at a very adequate rate?

23 MS. BRODNAN: Yes. I don't have any
24 questions or concerns with regard to Majestic
25 Star.

1 MR. VOWELS: Looks fairly
2 straightforward to me. Not much in the way
3 of concern, there. As far as the
4 year-to-date on the MBE, you're ahead of the
5 percentages for the WBE. You're already
6 ahead on the WBE of what you were in 2001,
7 so on the other. Are there any questions
8 for Mr. Wolfe? Concerns? Any direction?
9 Thank you.

10 The next matter is Belterra's report.
11 In this report, there was a footnote talking
12 about 2001 revised numbers, and then on the
13 second page, the second footnote, I don't
14 understand what any of that means. It talks
15 about discussion with the Indiana Gaming
16 Commission about these revisions. Mr. Thar,
17 has anyone discussed that with you or Ms.
18 Brodnan?

19 MS. BRODNAN: They indicated that
20 they want to come to meet with us to talk.
21 We're trying to set up a time to do that.
22 If you'd like a brief overview. When we
23 looked at their year-end reports for 2001,
24 when you added to total qualifying purchases
25 for the four quarters, they didn't come out

1 to meet the year-end report. In their
2 Infinium accounting -- I apologize if I get
3 some of the terms wrong -- their Infinium
4 accounting did not remove the void from their
5 total qualified purchases, so their total
6 purchases were off. It factored down to
7 about a .2 cents of a percent difference in
8 their MBE/WBE. And part of the other
9 problem that was discovered, is if you void
10 something in the first quarter -- or excuse
11 me. If you have an expenditure in the first
12 quarter, it's voided in the second, then that
13 was kicking it back into the first quarter
14 and skewing the numbers. They are now
15 working on seeing if they can do it by entry
16 date, or general ledger date, versus an entry
17 date trying to come up with a way to solve
18 that problem, because they always have voids
19 that happen at the close of the quarter and
20 that was kicking them back into the prior
21 quarter.

22 MR. THAR: Is that still true, or
23 just for 2001 and back?

24 MS. BRODNAN: They have not changed
25 the way they're doing it, pending a meeting

1 with the Gaming Commission to determine if it
2 should be a line item entry. The problem
3 is, it kicks back and they are going to have
4 to continually come in, if there's a void in
5 a subsequent quarter. But they have --

6 MR. THAR: I might say to the
7 Commission, that if they have a computer
8 problem and they know they have it, that
9 maybe we want to require them to make
10 journal entries, in addition to utilizing a
11 computer when they know that they've got a
12 computer program that voids things, so maybe
13 they ought to use handwritten accounting.

14 MS. BOCHNOWSKI: How do the other --

15 MS. BRODNAN: My understanding is,
16 the void situation has been taken care of,
17 it's just the tipping of the voids. You
18 want to enter that in the second quarter
19 when the void was done, or go back to the
20 first quarter. And what they -- my
21 understanding is -- Todd was not able to be
22 here today -- but my understanding is they
23 took that into account, when they prepared
24 their first and second quarter of 2001.

25 MR. WOLFE: 2002 is correct, because

1 we did it.

2 MR. THAR: From a Commission staff
3 point of view, I would like to see you guys
4 start a journal. Paper. When you enter
5 into a contract with a particular group,
6 write it down on a piece of paper. When you
7 make the payments, show it. Then, we just
8 have to look at the book. Then, we don't
9 care what your computer does.

10 MR. VOWELS: It's just with your
11 particular company on these big expenditures.
12 When things get confusing, we get alarmed.

13 MR. THAR: The problem with Belterra
14 has been from the start, that they've never
15 been able to pull accurate figures together,
16 because of the way the records were
17 maintained. And if that's still an issue,
18 after we've been through all of it, then do
19 whatever you want with your internal
20 accounting systems, we want an actual journal
21 that covers all MBE/WBE expenditures and have
22 it hand inputted, I'm sorry to say, until we
23 can be later convinced that your computer
24 system is capable of accurately setting forth
25 what your MBE/WBE expenditures are. If you

1 set up a journal on a given year and here is
2 all your stuff right there.

3 MS. BRODNAN: One of the things
4 they've implemented to take care of the
5 problem is, they instead of last year when
6 they waited until the year-end to see if it
7 was going to come up even, they're doing
8 that each quarter, and so far their year-end
9 reports for the second quarter of 2002 match
10 their first quarter and their second quarter
11 reports combined. So they're doing a running
12 tally of the year to date, which they did
13 not institute in 2001.

14 MR. VOWELS: You mentioned someone
15 named Todd, that wasn't able to be here
16 today?

17 MS. BRODNAN: Director of finance.

18 MR. VOWELS: Is he the person that
19 handled this sort of thing?

20 MS. BRODNAN: He and Julie Lee, one
21 of their accounts payable supervisors.

22 MR. VOWELS: And they are not here
23 today, because what? Any good reason?

24 MS. BRODNAN: Scheduling conflicts
25 and they weren't sure if they were needed

1 and they knew it was going to be a private
2 meeting.

3 MR. GETTELFINGER: You mentioned
4 you're adding up quarterly numbers. Are you
5 adding up correct quarterly numbers, or are
6 you just adding up incorrect numbers?

7 MS. BRODNAN: They tell me --

8 MR. GETTELFINGER: Your adding up
9 numbers. Are the numbers correct?

10 MS. BRODNAN: The numbers are
11 correct. Ice Miller did perform an audit of
12 the first quarter, and the person who did
13 that audit went back and sent out letters to
14 the MBE/WBE to make sure that they matched.
15 Then they took into account invoicing data.
16 He felt very comfortable that that audit was
17 outperformed in the second quarter.

18 MS. BOCHNOWSKI: I don't understand
19 when you say something is voided, is that
20 because they are not really an MBE?

21 MS. BRODNAN: Could be for a number
22 of reasons. For instance, one of the
23 examples I was provided was when they
24 purchase alcoholic beverages they generate a
25 check that day or do a wire transfer that

1 day. Then they do the checks and balances
2 and they receive a call from, say, National
3 Wine and Beverage or National -- one of the
4 distributors, that their invoice actually was
5 \$90 versus \$100. So, then, it becomes an
6 issue of that goes to a credit for the next
7 billing. So there's a timing difference.
8 Or if their wire transfer, if two checks
9 were issued, another example that they gave
10 me is if they issue a check to X, LLC and it
11 should be X, Inc., then they void that and
12 issue it to the right entity.

13 MS. BOCHNOWSKI: So the voids are
14 just kind of because it's just changing
15 because --

16 MS. BRODNAN: Or, the numbers are
17 transposed.

18 MR. VOWELS: Ms. Brodnan, do you have
19 any of this confusion with any of the other
20 boats?

21 MS. BRODNAN: I there's think always
22 some confusion. I think they've been doing
23 a good job, trying to work out their
24 confusion. They just had more than the
25 others.

1 I do have a question, though, about
2 their plan. I'll pick on everybody's
3 brochure today. Your plan says copy is
4 attached and we never got a copy of the
5 brochure and we'd like to take a look at
6 that.

7 MR. THAR: We had a discussion with
8 Trump about their brochure, to the extent
9 that it seemed to imply that if you were a
10 minority or a woman in business that, if you
11 weren't certified they wouldn't do business
12 with you. Do you have any policies like
13 that?

14 MS. BRODNAN: Actually, what we do
15 with the Belterra is we ask, in our
16 brochure, we say we prefer that you be
17 certified. But if the amount doesn't match
18 up to what we would be able to use for our
19 figures to get the percentages that we need
20 meet, we don't recommend that they be
21 certified. But we do recommend that they do
22 business with them, but in the future go
23 ahead and get the certification.

24 MR. VOWELS: Is there any questions
25 in reference to that brochure?

1 MR. THAR: The way that language
2 where it says -- right there -- Belterra
3 prefers the services of MBE/WBE's be
4 certified by NBD as follows. I don't have
5 any problem with that language there. It
6 seems fairly clear and it seems truthful.
7 Says they would prefer.

8 DR. ROSS: I think the thing is you
9 have -- I think there's one very large
10 construction operation that is really a
11 minority. And, you really would like to put
12 a little pressure on him to get certified,
13 because if you give him a contract, then it
14 will be helpful to him. So he ought to get
15 a little extra nudging to be certified. And
16 maybe he ought to get a little negative
17 urging, if he doesn't do it.

18 MS. BRODNAN: The last two or three
19 construction projects, the general contractor
20 was a minority.

21 DR. ROSS: Certified.

22 MR. VOWELS: I'm looking -- you say
23 uncertified?

24 DR. ROSS: Certified.

25 MR. VOWELS: Harmon was one of them?

1 DR. ROSS: Yes.

2 MS. BRODNAN: Harmon was the one,
3 they've been using. And I do want to
4 clarify; there's a correction, a typing error
5 on that implementation plan. It says Harmon
6 Construction did the island area. Then right
7 underneath it, it says Harmon Construction is
8 currently doing the island area. Harmon
9 Construction is currently doing cage
10 renovation.

11 MR. VOWELS: Renovation in the cage.

12 MS. BRODNAN: And, I apologize for
13 that typing error.

14 MR. VOWELS: I just went through some
15 of these things. And this implementation of
16 Belterra's action plan. Page 1, operations
17 action plan Section 2, see Roman Numeral II.
18 It talks about the minority business
19 development, but in the four pages contact
20 representatives and has been unable to meet
21 the person. Has that been accomplished?

22 MS. BRODNAN: Yes.

23 MR. VOWELS: So you have had meetings
24 in person, then?

25 MS. BRODNAN: With NBD, is that what

1 you're talking about?

2 MR. VOWELS: Yes.

3 MS. BRODNAN: Actually, not with NBD,
4 no. I have contacted her and e-mailed back
5 and forth and talked over the phone. But
6 no, I have not made personal contact with
7 her. Not about minority business. They've
8 not been able to work it into their
9 schedule.

10 MR. VOWELS: Then under see Roman
11 Numeral IV, it says assisted agency says that
12 contacted the IHCC, the Indianapolis Hispanic
13 Chamber of Commerce to exchange information.
14 Then the same thing with the Indianapolis
15 Chamber of Commerce minority component to
16 exchange. Did the information get exchanged?

17 MS. BRODNAN: Yes, it did.

18 MR. VOWELS: In both instances?

19 MS. BRODNAN: Yes.

20 DR. ROSS: On the first page, the
21 first quarter of 2002 and second quarter,
22 seems like that you have done very well.
23 And then, when I turn to the next page where
24 they have the actual numbers, that you still
25 have a deficit of 14,722,000. So, how long

1 do you think it will take you to catch up
2 the deficit?

3 MR. UBOLDI: Hopefully, if we decide
4 to -- if we build our new hotel, an
5 extension of the hotel, which will be about
6 300 rooms, at that time, I see most of the
7 work will be done by MBE and WBE. So
8 hopefully, we can catch up on the issue of
9 the deficit.

10 MS. BRODNAN: At least with the MBE,
11 and I believe, Alain, have you not met with
12 three --

13 MR. UBOLDI: We have met with the VP
14 -- vice-president of public construction, and
15 our director of facility met with, already
16 three MBE companies, construction company
17 already. Harmon being one, and Moody and
18 Powers. All from Indiana. So, we hope that
19 that will help us catch, if not completely,
20 come close to catching up.

21 MS. BRODNAN: And just to give you
22 another update on the funds that you have.
23 Belterra has received one additional
24 application for monies from the fund. TJ
25 has submitted a request to amend their

1 utilization of the fund. Currently, they are
2 servicing Argosy and Belterra with one truck
3 and trailer. Before they realized that they
4 needed to come back to the fund, asking for
5 monies to pay the insurance premiums, they
6 provided all the documentation to the
7 advisory committee and they would like to use
8 the remaining balance to pay the lease
9 payments on the trailer. They used the
10 108,000 and some odd to purchase the truck
11 that they are utilizing to service both
12 accounts, but they believe it makes better
13 business sense to continue to utilize the
14 one trailer and use the money in that
15 manner. And we are currently -- I have
16 contacted members of the fund advisory
17 committee to try to schedule a meeting, and
18 I believe, Gwen, you've gotten two or three
19 additional application requests for monies
20 from the fund?

21 MS. SMITH: Right.

22 MR. VOWELS: This development fund,
23 TJ is the only one that received any money
24 out of it; is that right?

25 MS. SMITH: Yes.

1 MR. VOWELS: And this SAJ has
2 submitted an application?

3 MS. SMITH: Um-hum.

4 MR. VOWELS: What's the status of
5 that?

6 MS. SMITH: We have not gone to the
7 advisory committee, yet, for her to be
8 approved of the monies. So we're in the
9 process of doing that.

10 MS. BRODNAN: We contacted them to
11 schedule the meeting and just haven't heard
12 back, when a good date would be.

13 MR. VOWELS: There was a June 23rd
14 meeting, where they reviewed the application
15 by TJs. Was that in reference to this
16 insurance payments on the trailer?

17 MS. BRODNAN: No, I'm sorry. That
18 should have been January 23rd, where the
19 application was approved. They submitted the
20 request for amendment, I believe, about a
21 week ago.

22 MS. SMITH: July 18th.

23 MR. VOWELS: Okay. How often does
24 the advisory committee meet?

25 MS. BRODNAN: The advisory committee

1 meets when their application is submitted.

2 The task force meets monthly, Alain?

3 MR. UBOLDI: Monthly.

4 MR. VOWELS: Under the innovative
5 programs, Section 3 B, says that Belterra
6 will contact major beverage -- their major
7 beverage provider will explore a second tier
8 program. Has that been done?

9 MR. UBOLDI: That's not been done
10 yet, but we're looking into doing that.

11 MR. VOWELS: Then under 3 C, Roman
12 Numeral I, it says currently coordinating
13 certification workshop setup with SAJM. Has
14 that workshop been set up?

15 MS. SMITH: The workshop has been --
16 everything is in the process, other than with
17 regards to the advisory fund committee on the
18 approval of the monies to provide this
19 service for our vendors.

20 MR. VOWELS: Okay. Then under 3 C,
21 Roman Numeral I, it says currently
22 interviewing MBE/WBE with reference to
23 laundry and dry cleaning facility. What's
24 the status on that?

25 MS. SMITH: The status on that, we're

1 currently interviewing non-certified WBE --
2 well she's getting her certification and
3 we're currently doing business with her. She
4 is out of Rising Sun. We have set up
5 several meetings with her and taken minutes,
6 and right now the status is, we're trying to
7 make sure she has a business plan, where
8 she's getting all the information together on
9 our end to do the process to make sure
10 that's the right candidate for this. And
11 we're also going to be meeting with someone
12 out of Kentucky, that's already established
13 in this industry to also meet with us.

14 MS. BRODNAN: Paradise Cleaners is
15 the name of the company. She's submitted a
16 WBE certification application which is
17 pending. To my knowledge, they are not
18 counting those dollars being expended.
19 They're using her for dry cleaning services.
20 She picks up, takes it back to Rising Sun
21 and does the dry cleaning and she is in
22 discussions to expand to include their
23 laundry. I believe your current contract
24 expires August, 2003. And they would like
25 to find a certified minority, or woman to

1 take over the laundry services. And they
2 are talking with Paradise, in addition to
3 meeting with the entity in Kentucky.

4 MR. UBOLDI: We wanted one, from
5 which we buy all our desserts and she is in
6 the process of being certified, too, and does
7 spend -- we buy about 14 to \$16,000 a month.

8 MS. BOCHNOWSKI: How does that work?
9 If you've been purchasing from somebody and
10 then they're subsequently certified. Do you
11 go back and adjust your numbers.

12 MS. BRODNAN: You can do it, one of
13 two ways. One is that if they have a
14 certification application pending, you go
15 back and revise your two numbers is my
16 understanding, and thus far, they have chosen
17 to wait until they actually get the
18 certification to take those numbers into
19 account.

20 MS. BOCHNOWSKI: I think that would
21 be smart, since obviously --

22 MR. THAR: I might point out one
23 thing that was brought up by someone.
24 Whether you do business with an Indiana
25 company or Kentucky company, there was some

1 language put in a Statute that -- on how
2 money should be directed, with regard to MBEs
3 and WBEs, meaning that locally owned minority
4 business enterprises being given preference
5 over regionally owned and WBEs, which would
6 be given preference over state owned, which
7 would then be given preference over national
8 and out-of-state companies. That language
9 did not pass in House Bill 1001-SS, but I
10 received a letter from a legislator who is
11 requesting that we do a rule to do that,
12 which we have the authority to do. Because
13 the common complaint has been, it doesn't do
14 Indiana businesses any good, if this is who
15 the Statute was written for, if the business
16 is going to nationally owned firms that might
17 exist in Chicago, or some other place. And
18 it's not that they can't do business with
19 them, it's that we want to see if at all
20 possible, the money spent in Indiana, either
21 locally, regionally or statewide, before you
22 go out of state.

23 So, I might pass on that that type of
24 a rule is being considered.

25 MS. BOCHNOWSKI: So where would the

1 teeth be in a rule, like that? Would it be,
2 that if there are two competing companies,
3 that we would assume they go with, is it
4 just a rule or is there some kind of --

5 MR. THAR: It's a rule to which --
6 you're right. If I'm a local plumber, or I
7 supply a given product, I do it locally and
8 I do it for a dollar, but there's a national
9 company that can supply the same product for
10 99 cents and they go with the 99 cent
11 contract, because they're the lowest and
12 same product, is there a rationale to say
13 no, spend the extra money and keep it home.
14 You know, if it's 99 cents versus 1.30, then
15 that complaint disappears.

16 MS. BOCHNOWSKI: And this we'll get
17 into when the rules come out, but also does
18 that mean if you have a locally owned
19 non-minority, non-women owned business
20 non-certified and you have a certified
21 business in another state, are they equal?

22 MR. THAR: That depends upon the
23 company and where they are in relationship to
24 doing business and filling their goals. It's
25 a complicated issue.

1 MR. VOWELS: Any other questions? All
2 right. Thank you.

3 Next matter on the agenda, then, with
4 Ms. Dean, is consideration of license
5 renewals. The first being Blue Chip.

6 MS. DEAN: Yes. Good morning,
7 Commissioners. You have before you
8 Resolution 2002-22, the renewal of the
9 riverboat owner's license held by Blue Chip
10 Casino, LLC. Blue Chip Casino, Inc.
11 received its owner's license on August 19,
12 1997, to operate in Michigan City, Indiana.
13 The license was transferred to Blue Chip
14 Casino, LLC on November 8, 1999, pursuant to
15 Resolution 1999-36, and Blue Chip was
16 purchased by the Boyd Company. Pursuant to
17 Indiana Code 4-33-6-10, subpart c, an owner's
18 license expires five years after the
19 effective date. The Commission staff needs
20 additional time to complete the renewal
21 process, and the Commission would like to
22 have the renewal hearing in Michigan City, to
23 provide the opportunity to make a
24 presentation. Blue Chip has submitted the
25 request for renewal and a fee of \$5,000.

1 The Commission is being asked to
2 preliminarily review the riverboat owner's
3 license, held by Blue Chip Casino, LLC, until
4 the Commission can reconvene to hold a public
5 hearing in Michigan City, Indiana.

6 MR. VOWELS: Any questions, then, for
7 Ms. Dean?

8 In front of us, then, is Resolution
9 2002-22, which is to renew or terminate the
10 owner's license of Blue Chip, and if we
11 renew it, it remains valid until we can
12 convene a public hearing.

13 Is there a motion?

14 MR. MILCAREK: I would make a motion
15 to renew it.

16 MR. VOWELS: Is there a second?

17 DR. ROSS: Second.

18 MR. VOWELS: Any further discussion?
19 All those in favor, say aye.

20 (Commission members respond)

21 MR. VOWELS: Show it is renewed.
22 Then Ms. Dean, you also have Grand Victoria?

23 MS. DEAN: Yes, I do. Mark Hammerle
24 is also here, I believe, representing Grand
25 Victoria. And Larry Buck.

1 Commissioners, you have before you
2 the order of the Indiana Gaming Commission,
3 renewing the riverboat owner's license held
4 by Grand Victoria Casino and Resort, LP.
5 The Commission issued the riverboat owner's
6 license to Grand Victoria Casino, LP on
7 December 16, 1996. On December 6, 2001, the
8 Commission granted the renewal of the license
9 for a period of one year, pursuant to
10 Indiana Code 4-33-6-12.

11 By letter dated July 22, 2002, Grand
12 Victoria provided a request for the renewal
13 of the license and submitted the payment of
14 the annual renewal fee in the amount of
15 \$5,000.

16 The Commission is being asked to
17 grant the renewal of Grand Victoria's
18 riverboat owner's license, for a period of
19 one year, subject to the continued compliance
20 of Indiana Code 4-33 and 68 IAC, and the
21 conditions directed by the Commission on
22 December 6, 2001. The renewal of the
23 riverboat owner's license shall be valid for
24 a period of one year from September 16,
25 2002, to September 16, 2003.

1 MR. VOWELS: Any questions for Ms.
2 Dean? Anything you want to add? I assume
3 you want it granted?

4 MR. HEMMERLE: Please.

5 MR. VOWELS: We have in front of us,
6 the order dealing with the renewal of Grand
7 Victoria's license. Is there a motion in
8 reference to renewing the license?

9 MS. BOCHNOWSKI: Move to renew the
10 license.

11 MR. VOWELS: Is there a second?

12 MR. MILCAREK: Second.

13 MR. VOWELS: Anything further? All
14 of those in favor, say aye.

15 (Commission members respond)

16 MR. VOWELS: Show it as renewed.

17 MR. THAR: Mr. Chairman, the next
18 item on the agenda is financing with regard
19 to Belterra. I recommend we move that down
20 to deal with all the Belterra issues at
21 once. Let's do that. So, then, the next
22 matter on the agenda will be with Ms.
23 Brodnan again, the bond reduction with
24 Blue Chip.

25 MS. BRODNAN: The Commission adopted

1 Resolution 1997-16 on June 13, 1997,
2 requiring Blue Chip to post a bond in the
3 amount of \$7.5 million to ensure the
4 performance of various obligations. Blue
5 Chip posted a bond in that amount in June of
6 1997. Since that time, the Commission has
7 approved several requests for reduction of
8 the bond. At the current time Blue Chip's
9 bond is posted in the amount of \$2,740,000.
10 The amount of 1.6 million was originally
11 posted to secure the performance by Blue Chip
12 with obligations to the Michigan City
13 Endowment Corporation. On September 18,
14 2000, the Commission approved a three-fifths
15 reduction of the obligation in the amount of
16 \$960,000. Blue chip has satisfied the
17 remaining two-fifths of this obligation in
18 the amount of \$640,000, and therefore
19 requests a reduction of the surety bond by
20 \$640,000. Based on the performance by Blue
21 Chip, the Commission staff recommends that
22 you approve their request to reduce the bond
23 from \$2,740,000 to \$2.1 million.

24 MR. VOWELS: Any questions for Ms.
25 Brodnan?

1 Any questions for anyone? Then we
2 need to take action to reduce the surety
3 bond. On the request to reduce the surety
4 bond, is there a motion in reference to the
5 request to reduce the surety bond?

6 MR. MILCAREK: I move to reduce the
7 bond.

8 MR. VOWELS: Is there a second?

9 DR. ROSS: Second.

10 MR. VOWELS: Any further discussion?
11 All those in favor, say aye.

12 (Commission members respond)

13 MR. VOWELS: And then, Ms. Brodnan,
14 back to you again, on the disciplinary
15 actions, dealing with Trump.

16 MS. BRODNAN: On or about May 27,
17 2002, an IGC agent reviewed Trump's excursion
18 log, at approximately 9:30 a.m. The log
19 indicated that the riverboat was not
20 cruising, and the reason given, was fuel.
21 The agent was advised by Trump's captain on
22 duty, that the boat was low on fuel and they
23 were conserving fuel, in anticipation of a
24 pending storm and the possibility that
25 generator power would be necessary, requiring

1 the use of more fuel. The daily excursion
2 reports for May 26 and May 27 were reviewed,
3 showing 16 excursions that were cancelled,
4 due to fuel. Indiana Code 4-33-9-2 outlines
5 the reasons to be utilized for cancelling an
6 excursion, including weather and safety
7 reasons. Fuel is not a valid reason,
8 outlined by the Statute. The Commission
9 staff and Trump agreed that a sanction be
10 imposed, for this action. Commission staff
11 recommends that Trump will agree to pay a
12 fine in the amount of \$12,000. Commission
13 staff originally extended an offer to resolve
14 this matter, with a payment of a fine of
15 \$16,000, which is 1,000 for each cancelled
16 cruise. Trump submitted procedural changes
17 to the Commission, that would be implemented
18 to prevent future occurrences. As a result,
19 the Commission staff reduced the fine to
20 \$12,000.

21 A settlement agreement has been
22 executed by Trump and Commission staff.
23 Staff recommends that you approve the
24 settlement agreement, in resolution of this
25 matter.

1 MR. VOWELS: Any questions for Ms.
2 Brodnan?

3 The Commission action regarding the
4 settlement agreement dealing with Trump
5 Indiana, is there a motion to approve or
6 disapprove the proposed settlement?

7 DR. ROSS: Move to approve.

8 MR. VOWELS: Is there a second?

9 MR. GETTELFINGER: Second.

10 MR. VOWELS: All those in favor --
11 any further discussion? All those in favor,
12 say aye.

13 (Commission members respond)

14 MR. VOWELS: So it is approved.

15 All right. We are going to take a
16 break until 12:30, and then we'll come back
17 and deal with the Belterra issue.

18 (A brief recess was taken at this
19 time.)

20 MR. VOWELS: Call the meeting back to
21 order. We're down to the disciplinary
22 actions. We completed with Trump. Move to
23 the Belterra issue. It also deals with Mr.
24 Hubbard.

25 MR. THAR: Does the Commissioners

1 have a preference on how we progress? Do
2 you want to start with Mr. Hubbard, or start
3 with Belterra?

4 MR. VOWELS: I think, Mr. Hubbard.

5 MR. THAR: Mr. Hubbard is represented
6 by MR. Wagner and Mr. Nicholas, from the law
7 firm of Lewis & Wagner. At the conclusion
8 of the hearing in East Chicago, the
9 Commission had -- I mean, the Commission
10 staff had put before the Commission a
11 settlement agreement, in which it was the
12 Commission's decision to wish to see more
13 documentation about what the settlement
14 agreement would evolve into. Since then, we
15 have met with Mr. Hubbard's lawyers probably,
16 what's best described as, on a regular basis.
17 We've gone over numerous documents that they
18 have provided to us, and they provided to us
19 a draft and then a finalized copy of a
20 voting trust agreement. They have provided
21 to us, that Wells Fargo would be the
22 trustee. They have provided to us stock
23 option plans, and we have had clarification
24 with regard to the stock option plans, but
25 all of the stock option plans have expired,

1 and Mr. Hubbard will not attempt to exercise
2 any of those stock options. An extension
3 granted by the company, with regard to the
4 stock option plans, will not be utilized by
5 Mr. Hubbard; is this accurate?

6 We have provided the trust agreement
7 and there is a confidential document that
8 will go with the trust agreement, that has
9 not been filled out which will set the
10 number of -- the period of time Mr. Hubbard
11 has to set up the Trust, in the event that
12 the settlement agreement is approved, and
13 then the period of time in which Mr. Hubbard
14 has to dispose of all of his stock in the
15 Trust; is that correct?

16 MR. WAGNER: That's correct.

17 MR. THAR: The stock going into the
18 Trust for the voting purposes would be Mr.
19 Hubbard's stock, stock Mr. Hubbard and his
20 wife put into their Foundation and the stock
21 held by the Trusts of two of his children;
22 is that correct?

23 MR. NICHOLAS: That's correct.

24 MR. THAR: And the stock that needs
25 to be disposed of within, whatever period of

1 time, that's agreed on between the Commission
2 and Mr. Hubbard, is that which is held by
3 Mr. Hubbard, only, or by the Trusts and the
4 foundation also?

5 MR. NICHOLAS: Just by Mr. Hubbard.
6 The stock in the Trust would be, that either
7 held by Mr. Hubbard, or acquired in the
8 future, because there's a future -- there's a
9 director's deferred compensation plan, by
10 which he may receive additional shares being
11 held in that plan.

12 MR. THAR: But as to the stock
13 options themselves that we have reviewed, he
14 will not exercise any of those?

15 MR. NICHOLAS: That's correct, and we
16 have not.

17 MR. THAR: So, the issue before the
18 Commission is this. We have before you a
19 proposed settlement agreement, which sets
20 forth certain undisputed facts that were
21 reviewed at the last meeting, potential
22 regulatory violations and then a stipulation
23 of settlement. In summary form, the first
24 paragraph says that Mr. Hubbard has resigned
25 his position of Chairman of the Board of

1 Directors of Pinnacle Entertainment on April
2 10th, and retired from the board on April
3 26th. Mr. Hubbard has agreed to voluntarily
4 relinquish his Indiana licenses as a key
5 person of substantial owner, upon the time
6 that this settlement agreement is approved.
7 He acknowledges that his resignation and
8 retirement occur during the course of an
9 investigation in the above-described events,
10 meaning those which are the undisputed facts
11 by the Indiana Gaming Commission. He
12 acknowledges at the time of his resignation
13 and retirement, he relinquishes his Indiana
14 licenses. He is aware of the possibility of
15 an unsuitability of -- finding of
16 unsuitability by the IGC. And the second
17 paragraph, he acknowledges that timely -- or
18 states that at the time the investigation
19 began, he was the single largest owner of
20 Pinnacle stock, holding plus or minus 10
21 percent. He voluntarily agrees to place all
22 of his Pinnacle stock in a voting or
23 non-voting Trust, acceptable to the
24 Commission, and that's a voting Trust, and
25 sell all the stock within a time period,

1 agreed to between Hubbard and the Commission.
2 The time period is to remain confidential, so
3 as not to unduly affect the price of the
4 stock pursuant to IC 514-3-4 (5). Hubbard
5 shall make full disclosure of all facts and
6 circumstances, necessary to carry out the
7 requirements of this trust agreement, and to
8 effectuate the spirit of the settlement
9 agreement, which I believe you have, as shown
10 by the e-mails which I have forwarded to
11 you, that explain further questions that
12 resolve the meetings with Mr. Hubbard's
13 representatives. Paragraph 3, Mr. Hubbard
14 voluntarily agrees to pay the following;
15 \$10,000 investigative costs, being the costs
16 to date, which was the last meeting, and a
17 \$740,000 fine. Mr. Hubbard hoped that the
18 amount of the fine paid would mitigate fines
19 against Pinnacle, or Belterra. Paragraph 5
20 states, that although no finding of
21 unsuitability has been made, Hubbard
22 voluntarily agrees not to apply for any
23 license issued by the IGC, at any time in
24 the future. Mr. Hubbard in paragraph 5
25 agrees to cooperate with the IGC and provide

1 such further testimony as may be requested,
2 and that, paragraph 6, that the settlement
3 agreement is subject to the final review and
4 approval of all documents of the Indiana
5 Gaming Commission. I am to sign this
6 agreement, if I recommend this agreement.
7 And I did negotiate this agreement, so I
8 therefore do recommend this agreement to the
9 Commission. It has been signed. The
10 original has been signed by Mr. Hubbard and
11 Mr. Wagner on behalf of Mr. Wagner and Mr.
12 Nicholas of Lewis & Wagner. Mr. Wagner and
13 Mr. Nicholas, do you have anything to add?

14 MR. WAGNER: No. Only that we've
15 done the very best to satisfy the Commission.

16 MS. BOCHNOWSKI: If he is allowed to
17 purchase stock under this other -- what was
18 it, a management --

19 MR. NICHOLAS: Director's deferred
20 compensation.

21 MS. BOCHNOWSKI: Director's deferred
22 compensation. Then would that be sold fairly
23 quickly, or how would he -

24 MR. NICHOLAS: One of two things.
25 Either those shares would immediately go into

1 the Trust, or those shares would be sold, as
2 they're coming out of compensation.

3 MS. BOCHNOWSKI: And is there a date
4 on thatm or when that kicks in?

5 MR. NICHOLAS: Top of my headm I'm
6 not sure. There's a compensation plan that
7 gives him -- allows him to exercise -- and
8 it's not really an exercise or full
9 investment, it's just a matter of when he
10 can pull them out and I don't know off the
11 top of my head.

12 MS. BOCHNOWSKI: But he would not
13 hold on to those?

14 MR. NICHOLAS: No. And according to
15 the terms of our agreement --

16 MS. BOCHNOWSKI: He would not be able
17 to?

18 MR. NICHOLAS: Either they're soldm
19 or they go right into the Trust.

20 MR. THAR: The Trust functions in the
21 following way. The trustee will vote the
22 shares in the Trust in the exact proportions
23 that all other outstanding shares are voted,
24 on a given issue. So if 20 percent of the
25 outstanding shares of Mr. Hubbard's votes in

1 favor of an item, 80 percent vote no, then
2 his shares are voted in the same proportion.
3 As a result, his shares do not have a
4 influence on the outcome of any vote, with
5 regard to the corporation; is that correct?

6 MR. WAGNER: Yes.

7 MR. VOWELS: Let me just recap, so I
8 have a clear understanding. The shares that
9 Mr. Hubbard owns directly and controls are
10 placed in the Trust, and at some point in
11 time he'll sell those shares; right? And
12 then, there are other shares that are in
13 this Foundation that he and his wife have
14 set up, and will those shares still be in
15 existence after he is -- after he has sold
16 the shares that he controlled?

17 MR. THAR: That's correct, because
18 they are controlled exclusively, by the
19 Foundation.

20 MR. VOWELS: Is he a member of that
21 Foundation? Does he have any control over it?

22 MR. NICHOLAS: My understanding is
23 that the Foundation has the control.

24 MR. VOWELS: And the Foundation --
25 and that's a Trust? The shares exist in a

1 Trust?

2 MR. NICHOLAS: Correct.

3 MR. VOWELS: The Foundation the
4 trustee of the Trust? Do you know?

5 MR. NICHOLAS: No, I don't know. My
6 understanding is --

7 MR. VOWELS: It's not Mr. Hubbard.
8 He's not the trustee of the Trust?

9 MR. NICHOLAS: No. My understanding
10 it's a valid charitable organization.

11 MR. GETTELFINGER: Let me pursue
12 that. The annual report indicates there are
13 four directors. Mr. and Mrs. Hubbard are
14 two of the four directors. Will that
15 continue?

16 MR. THAR: My understanding is, that
17 it would, because those shares are voted
18 according to the voting Trust. How the
19 Foundation is directed, was not part of what
20 we looked at. Only the control of Pinnacle
21 and the shares of that Foundation go into
22 the voting Trust. So, while he stays on the
23 Foundation if he chooses to, he can not vote
24 the Foundation shares.

25 MR. GETTELFINGER: So the shares

1 owned by Mr. Hubbard individually, the shares
2 owned by the R.D. and Joan Dale Hubbard
3 Foundation all go into the voting Trust?

4 MR. THAR: Yes. That's on a document
5 provided in the packet with a letter of May
6 21. The R.D. Hubbard shares, Dale Hubbard
7 Trust and R.D. and Joan Dale Hubbard
8 Foundation all go into the trust.

9 MS. BOCHNOWSKI: Is this a Trust that
10 has other things in it, besides Belterra
11 stock?

12 MR. THAR: No. This trust is set up
13 to do one thing. It's to hold the voting
14 rights to these shares and to be voted
15 pursuant to a formula, set out in the Trust,
16 which is in the proportion that all other
17 shares are done. It eliminates his ability
18 to utilize his block of shares in a way to
19 influence corporate policy.

20 MR. VOWELS: And my understanding the
21 shares in that Foundation make up
22 approximately 1 percent; is that right?

23 MR. NICHOLAS: In the Foundation.

24 MS. BOCHNOWSKI: That's what I meant.
25 I'm sorry I misstated that. In the

1 Foundation, is what I was actually meaning to
2 ask about.

3 MR. VOWELS: He has three children.
4 Two of the three children have Trusts and
5 these are adult children, I take it?

6 MR. NICHOLAS: Correct. 2 have
7 Trusts with these shares in the trust; is
8 that right?

9 MR. NICHOLAS: With respect to the
10 shares held by the Trust, these children, my
11 understanding is, that they sometime ago,
12 received these shares as gifts, or otherwise.
13 They set up their own Trusts and this is
14 long before any of these proceedings. They
15 transferred those shares into their Trusts
16 and those children are adults.

17 MR. VOWELS: And do those two Trusts
18 have any involvement in our agreement? Are
19 they involved in this voting arrangement, or
20 just out there on their own; do you know?

21 MR. THAR: The Trusts for the two
22 adult children?

23 MR. VOWELS: Right.

24 MR. THAR: They are included in the
25 voting Trust.

1 MS. BOCHNOWSKI: So their shares will
2 be voted in that percentage manner?

3 MR. VOWELS: And like the Foundation,
4 those Trusts continue to exist even after Mr.
5 Hubbard has done away with his personal
6 shares; is that right?

7 MR. NICHOLAS: There's a definition
8 of affiliated persons and I think that's what
9 we are talking about.

10 MS. BOCHNOWSKI: Has Mr. Hubbard
11 agreed -- I mean, after all this -- let's
12 assume this all goes through and it's all
13 signed and, so on. Is there any chance he
14 would want to purchase shares of this stock
15 after this agreement, or is he -- what I'm
16 saying, he would try to gain an interest in
17 this company later on?

18 MR. NICHOLAS: No.

19 MR. GETTELFINGER: Let me ask this a
20 little different. Do any of these agreements
21 preclude him from doing that?

22 MR. NICHOLAS: No, and I think this
23 is something we may have touched upon at the
24 May 13 meeting, and I think --

25 MR. GETTELFINGER: So Mr. Hubbard has

1 not agreed not to repurchase stock under
2 these agreements?

3 MR. NICHOLAS: No, but if he were to
4 purchase those shares of stock under the
5 terms of the Trust agreement, he would have
6 to put them into the Trust. If he were to
7 do that, I have no reason to believe and he
8 has not indicated to us, that he intends to
9 buy any stock, other than dispose of the
10 shares.

11 MR. GETTELFINGER: Very complicated
12 documents, and I understand that. There will
13 be, if this plan is followed, there will be
14 a period of time, during which Mr. Hubbard
15 will sell his stock?

16 MR. NICHOLAS: Correct.

17 MR. GETTELFINGER: Does this Trust
18 end at that period of time and all of these
19 agreements end at that period of time?

20 MR. NICHOLAS: At that point in time,
21 if he no longer owns any shares, or he no
22 longer -- the possibility exists that he
23 might be receiving shares -- for example, the
24 director's deferred compensation plan -- then
25 my understanding is that the Trust will end.

1 MR. GETTELFINGER: Then this
2 agreement would end, everything would be done
3 and Mr. Hubbard, like any other investor,
4 could purchase stock in Pinnacle Gaming and
5 become re-involved in gaming, in Indiana?

6 MR. WAGNER: No. Well, other than
7 his assurance he would not. But ...

8 MR. GETTELFINGER: The agreement
9 does not say that. There's nothing in this
10 agreement where Mr. Hubbard says, once this
11 matter is settled, he has not agreed in any
12 document not to repurchase shares in Pinnacle
13 Gaming and become re-involved, and that means
14 in gaming in Indiana.

15 MR. NICHOLAS: Certainly, I don't
16 think there's any prohibition in that
17 document, that prevents him once he has sold
18 his shares and complied with the terms of
19 this agreement for him, as any other
20 investor, to come in and buy shares. But,
21 as we all know, there are certain levels
22 that if you buy shares --

23 MR. GETTELFINGER: What are those
24 levels, please?

25 MR. NICHOLAS: One is a five percent,

1 substantial owner. He would have to come in
2 here and have to report.

3 MR. GETTELFINGER: Are there any
4 other limits of reporting?

5 MR. THAR: For the purposes of
6 financial contributions to state and local
7 candidates, no one who owns over one percent,
8 can make such contributions. That is not
9 necessarily an enforceable law, under the
10 present SEC requirements, because the person
11 is not required to disclose, until they reach
12 five percent. So I could hold 1.5 percent
13 in street name and the company may not know.
14 But that's true with regard to all public
15 companies, be it Pinnacle, or any others.

16 MR. GETTELFINGER: Is it appropriate
17 to ask questions of the Pinnacle
18 representatives at this time?

19 MR. THAR: They are here.

20 MR. GETTELFINGER: Is it possible for
21 Pinnacle to inform the Commission, at any one
22 time, the shareholders of the company?

23 MR. LEE: There is no way of knowing
24 if somebody is under five percent. When you
25 have your account at Merrill Lynch and you

1 allow them to keep in a street name, just so
2 you don't have to keep the certificates in
3 safety deposit box, it shows up as CETD
4 company, CETD.

5 MR. GETTELFINGER: So Pinnacle would
6 only be able to identify a shareholder who
7 owned more than five percent, and that
8 individual shareholder would have an
9 obligation with our regulatory scheme to
10 report, if that shareholder owned more than
11 one percent?

12 MR. THAR: More than one percent for
13 campaign contribution purposes. Five
14 percent, or more for background investigative
15 purposes for substantial owner.

16 MR. GETTELFINGER: So if Mr. Hubbard
17 would not choose not to make a political
18 contribution in Indiana, he can buy up to
19 five percent of the stock in the company and
20 no one would no about it?

21 MR. THAR: That's possible, yes.

22 MR. GETTELFINGER: Just add one other
23 thing. I haven't checked the stock market,
24 but I understand Pinnacle stock is up. Does
25 anybody in Pinnacle want to speak to that?

1 MR. LEE: It's been a turbulent
2 market, to say the least, but it went up in
3 April and May. Went down a lot in the lot
4 last two weeks, but the stock market up this
5 morning.

6 MR. GETTELFINGER: So Mr. Hubbard, we
7 maybe doing him a favor?

8 MR. LEE: I think his average cost is
9 about \$12, and their as of this morning, is
10 at seven and a half percent.

11 MR. GETTELFINGER: Well, we're not
12 doing him a favor then. For the Commission,
13 I am concerned about Mr. Hubbard's ability,
14 even though he's indicated no interest to do
15 so, that's fine, things change, opportunities
16 change, but I see that as a significant
17 defect in the scheme, that Mr. Hubbard could
18 return as an owner, or return as a
19 shareholder of Pinnacle and be involved
20 substantially in gaming, up to five percent
21 and we have no way of knowing whether he
22 owns no shares, or up to five percent. I
23 just see that as a significant defect in
24 this plan that's been put before us.

25 MR. THAR: The purpose for the plan

1 being put in that way, is when we discussed
2 it, assuming that he sells all his Pinnacle
3 stock within the time period that would be
4 prescribed if this is approved, what prevents
5 him from, and what can we do with this
6 agreement, to prevent him from investing in
7 any of the other public companies in this
8 state. And in truth, there are none. So if
9 a given gaming company stock was down and he
10 had the wherewithal to buy one, two, three
11 percent of that company, there is nothing we
12 can do in this agreement now, to prevent
13 that. So if we couldn't do it with regard
14 to gaming overall in Indiana, it was
15 determined that we wouldn't do it here,
16 because Mr. Hubbard has already expressed I
17 burnt myself on this issue, I'm walking away.

18 MS. BOCHNOWSKI: You're saying he
19 could invest in Trump or whatever?

20 MR. LEE: Yeah.

21 MR. GETTELFINGER: What would be the
22 consequence on this issue, of finding Mr.
23 Hubbard unsuitable for holding a gaming
24 license in Indiana? What impact would that
25 have on his ability to purchase, or own

1 stock in any gaming?

2 MR. THAR: Only if he hit five
3 percent. As long as he chose to keep
4 anything under five percent from being
5 disclosed, he could own a three percent
6 interest in every gaming company in Indiana,
7 that's publicly traded. It has been
8 represented that he won't do it. It's been
9 represented in a very honorable way, if you
10 want to use that term, that it won't be
11 done. Can we guarantee the future on that?
12 Of course not. Other than he seems to have
13 been a man of his words, at least through
14 his representatives, to date.

15 MS. BOCHNOWSKI: Really, even if we
16 don't accept this settlement agreement he can
17 buy stock in other companies, so there's
18 really no way to prevent that anyway.

19 MR. THAR: In a publicly held
20 company, the answer is no.

21 MR. VOWELS: The entire idea with Mr.
22 Hubbard, is to do away with his influence in
23 gaming, in the State of Indiana.

24 MR. THAR: Well, Pinnacle first.
25 Indiana and Pinnacle at the same time,

1 because we know of no interest, that he has
2 in any other gaming company.

3 MR. VOWELS: And if he owns one
4 percent of stock and buys it on the open
5 market, what influence would you have at one
6 percent or two percent? And that five
7 percent rule that we have, we've investigated
8 people somewhere between four and five
9 percent and --

10 MR. THAR: We have. We have anytime
11 it appeared, that the person's purchase of
12 stock was designed to avoid the five percent
13 investigative threshold.

14 MR. VOWELS: And let's say five years
15 from now, he owns two percent of Pinnacle
16 stock and we're interested in who owns all
17 this Pinnacle stock and we've got it up to
18 98-97 percent and it looks like somebody out
19 there is holding two percent of the stock,
20 would we not be able to find that out?

21 MR. THAR: We won't, by being able to
22 look at the stock ownership records. We
23 would, if somebody owned two percent of the
24 stock and attempted to influence the
25 company's vote based on it, because then he

1 has to come forward. Anytime somebody
2 attempts to do that, we can make Pinnacle,
3 or any other licensee here, to advise whether
4 or not Mr. Hubbard is attempting to influence
5 corporate decision making because of his
6 stock ownership. But, we can do that by
7 the licensees. Once Mr. Hubbard relinquishes
8 his licenses here, either pursuant to the
9 settlement agreement or they're taken away,
10 we lose jurisdiction over it.

11 MR. VOWELS: Well, is there anything
12 further? Any other questions, in reference
13 to this dealing with Mr. Hubbard? Anything
14 you would like to add?

15 MR. WAGNER: After the last meeting,
16 we've worked very, very hard to provide the
17 Commission with the documents we felt were
18 necessary to complete the inquiries of the
19 Commission. Mr. Thar had, I think, 18 or 20
20 questions that we answered. We provided the
21 new trust agreement and went over everything
22 in it. I know, and I'm like you people, I'm
23 a Commissioner in the state, too, and I
24 think this is one of the most sacred things
25 that we deal with is appointing

1 Commissioners. We have the trust of the
2 people and the trust of the Governor. I
3 would not come into this Commission and
4 misrepresent anything. I will tell you that
5 Mr. Hubbard has no interest in purchasing
6 stock in the future, and I know that because
7 he told me that. I'm sorry that, that
8 wasn't in there. I wish it were, but we
9 went over so many little things, that you
10 think you have everything, and as Ann said
11 earlier, you look at something one way and
12 you think everything is right, and then you
13 look at it another way and you missed
14 something.

15 We've tried our very best to do a
16 job, that we thought would be agreeable to
17 Chairman Thar and the Commissioners.

18 MR. THAR: Whatever we asked for
19 we've gotten. If we haven't asked for the
20 right thing that's our fault for not thinking
21 about it, not their reluctance to come
22 forward with the information.

23 MS. BOCHNOWSKI: Well, I think that
24 this agreement is a detailed agreement that
25 we had talked about in the original meeting

1 that had -- that takes care of Mr. Hubbard's
2 portion of the problem. So I would move
3 that we accept the agreement.

4 DR. ROSS: Second.

5 MR. VOWELS: Any further discussion?

6 MR. GETTELFINGER: Could staff
7 quickly review for me, the consequences of a
8 finding of unsuitability?

9 MR. THAR: The finding of
10 unsuitability would prevent Mr. Hubbard from
11 ever getting a license here in this state.
12 The finding of unsuitability here, may or may
13 not have an affect in other states, depending
14 on what their statute says. Our statute
15 says, that they are taking consideration for
16 not get a license, if someone is found
17 unsuitable for -- who has been found
18 unsuitable by another gaming jurisdiction
19 with regard to ability to hold a license.
20 But that's subject to each separate
21 jurisdiction's review, to determine whether
22 the grounds upon which the person was found
23 unsuitable, would be the same for being found
24 unsuitable in their state. For instance, if
25 somebody is found unsuitable here, because it

1 was illegal to have a quarter in your pocket
2 and it was not illegal to have a quarter in
3 your pocket in another jurisdiction, they may
4 say notwithstanding the fact, they were found
5 unsuitable, that's not a problem here. That
6 is the bottom line that makes him unsuitable
7 forever, to get a license here, which he
8 already agreed to do, and may or may not
9 affect his ability to hold a gaming license
10 in any other jurisdiction, depending upon
11 their independent review of it.

12 MR. GETTELFINGER: Make sure that I
13 clearly understand. A finding of
14 unsuitability would gain the citizens of
15 Indiana no more protection, than what Mr.
16 Hubbard has already agreed to provide Indiana
17 citizens?

18 MR. THAR: That's correct.

19 MR. GETTELFINGER: And a finding of
20 unsuitability would do nothing to address my
21 concern that Mr. Hubbard could become
22 involved in gaming again in Indiana, through
23 purchase of stock?

24 MR. THAR: He could purchase -- I
25 would probably change that statement around a

1 little bit. He could purchase stock in a
2 gaming company. But, if his involvement in
3 a gaming company became known, that is he
4 was attempting to exert influence, then the
5 Indiana Gaming Commission could step forward
6 with the settlement agreement and say you
7 agreed to never come here and get a license
8 and the activities you're attempting to do
9 are those which would be required of a
10 licensed person. But, if he was a passive
11 investor in a public company, the answer is
12 he could do that with the unsuitability
13 finding and he could also do it under this,
14 with the difference being, he's agreed not
15 to.

16 MS. BOCHNOWSKI: And as I recall in
17 our original meeting, Commission Darko had
18 the concern that we were just passing an
19 Indiana problem on to another state. But
20 that's not fact, because this is all public
21 record and if somebody in another
22 jurisdiction were to contact you, you would
23 be perfectly able to make all of these facts
24 available?

25 MR. THAR: The settlement agreement

1 with Mr. Hubbard is a public document. The
2 voting trust agreement and side agreements
3 are confidential.

4 MS. BOCHNOWSKI: Right. But the gist
5 of what occurred here in Indiana, would be
6 known to other jurisdictions? Could be known?

7 MR. THAR: Yes.

8 MR. VOWELS: There's a section in
9 this agreement of the undisputed fact, and
10 then the potential regulatory violations.
11 And I guess any other Commission could review
12 those and see what they are on their face,
13 and deal with them accordingly. All right.
14 Commissioner Carlton, you had mentioned
15 earlier, that you had a conflict in reference
16 to Belterra/Pinnacle. Do you feel that you
17 have a conflict with respect to Mr. Hubbard,
18 with regard to voting on this matter?

19 MR. CARLTON: No.

20 MR. VOWELS: Then we have had a
21 motion and a second to approve this
22 settlement agreement dealing with Mr.
23 Hubbard. Is there any further discussion?

24 MR. THAR: Is Mr. Hubbard's
25 settlement agreement in Mr. Hubbard's mind in

1 any way, influenced by what the Commission
2 may or may not agree to, with regard to
3 Belterra?

4 MR. WAGNER: No.

5 MR. THAR: Thank you.

6 MR. VOWELS: All those in favor, say
7 aye.

8 (Commission members respond)

9 MR. VOWELS: Show that it is
10 approved. Thank you. The next matter on
11 the agenda, deals with Belterra itself. We
12 also had -- you want to wait and do that?
13 Then we'll deal with the settlement agreement
14 dealing with Pinnacle Entertainment, then
15 Belterra reports.

16 MR. THAR: At the conclusion of the
17 meeting in East Chicago, the staff asked the
18 Commissioners be polled to determine what
19 direction the staff should take with regard
20 to Belterra, meaning should we enter into
21 discussions with Belterra to propose an exit
22 strategy, or enter into a discussion with an
23 attempt to enter into a settlement as opposed
24 to revocation of their license. Six of the
25 Commissioners wish that the staff proposed

1 settling this matter. The seventh
2 Commissioner, Mr. Gettelfinger, stated that
3 he felt no, that the company should be
4 required to leave the state. Two
5 Commissioners then indicated that their vote
6 could also -- that would be Commissioners
7 Milcarek and Bochnowski, indicated they could
8 also be very well be swayed, to maybe leave
9 the state. With those understandings in
10 mind, the staff engaged again in regular
11 discussions with representatives of Belterra,
12 including Mr. Lee, California counsel,
13 Indianapolis counsel, management from
14 Belterra in Switzerland County, Mr. Uboldi,
15 and have come up with the settlement
16 agreement that is before you. It's different
17 from what was originally proposed. The
18 settlement agreement calls in paragraph one
19 for suspension of operations, and the gaming
20 license and operations of Belterra be
21 suspended -- the operations be suspended from
22 6:00 p.m. Sunday -- and we have come up with
23 a date of October 6th -- through 12:01 p.m.
24 Wednesday, October 9th. The resolution would
25 indicate that the licenses suspended during

1 the period of time, that the operations are
2 suspended in the settlement agreement.

3 Paragraph B in one talks about the
4 notice that we have, they have to give.

5 Paragraph C talks about, that
6 Belterra pay the estimated wagering tax,
7 admissions tax and economic development costs
8 that would have paid during the days, they
9 are suspended, notwithstanding the fact, they
10 have not been open. That they will pay the
11 employees that would have been scheduled to
12 work the same, as if they had been open.
13 They'll be able to resign employees to
14 non-gaming functions.

15 They'll be able to do training and
16 be able to operate all their non-gaming
17 amenities such as the golf course,
18 restaurants, spa and hotel. They agree to
19 pay a fine in the amount of \$2.26 million.
20 That together with Mr. Hubbard's fine would
21 be a total of 3 million. Paragraph 3 sets
22 forth that they commit to a further
23 investment in the State of Indiana, with a
24 300 room guest hotel. That they agree to do
25 it in two years and they'll put up \$5

1 million, in escrow, to guarantee that. If
2 there are delays, they can apply to the
3 Commission for an extension with regard to
4 the two-year period, but it's up to the
5 Commission to approve them. If they do not
6 complete it with within the two years, the
7 \$5 million becomes a fine to the state.

8 They will use their best efforts to
9 assure that no corporate directors, officers
10 or proper general managers have any ongoing
11 business relationships with Mr. Hubbard, or
12 Mr. Alonies, or any other individual who has
13 resigned or left the company as a result of
14 these activities. After the first
15 anniversary of this agreement, if it's
16 accepted, at the direction of Commission
17 staff, if it's chosen, Pinnacle will then
18 amend Article 13 of its by-laws, which allows
19 him to redeem stock of any person deemed to
20 be -- put the license at jeopardy, is
21 probably the way it's put.

22 Pinnacle is allowed to indemnify Mr.
23 Hubbard and Alonies for the cost of their
24 legal fees. They will cooperate with ongoing
25 investigation, make themselves available to

1 testify, pay any additional costs of
2 investigation, should they come up, hold
3 harmless the Commission and then adopt
4 certain codes corporate aspects of conduct.
5 This negotiation -- I believe that this
6 document has been negotiated in good faith.
7 My position, with regard to the document, is
8 as follows. We had talked about a
9 probationary license. I don't believe that's
10 appropriate. I think a suspension is
11 appropriate. I think the agreement hammered
12 out in the settlement agreement is a good
13 agreement. If the Commission feels it cannot
14 accept this agreement, then I believe the
15 Commission needs to decide whether, or not
16 they want this company to do business in
17 this state. This has gone on a long time.
18 The settlement agreement calls for a lot on
19 their part, and if this doesn't do it, I
20 don't know where to go from here and I would
21 then say there's only one place to go and
22 that is to revoke the license.

23 I recommend the acceptance of this
24 settlement agreement, with that caveat.

25 MS. BOCHNOWSKI: Jack, because you

1 and your staff are the people who have to
2 work with this company, we come to the
3 meetings and deal with events as they occur,
4 but on a day-to-day basis you have to work
5 with them. Do you feel that this is a
6 realistic expectation, that they are going to
7 be able to accomplish what we're hoping that
8 they be able to accomplish and that you can
9 work with them?

10 MR. THAR: This company faces a lot
11 of challenges. They have new management at
12 the top. It takes time for their
13 methodologies and personalities to move out
14 into the field. They brought Mr. Uboldi on,
15 prior to these particular events becoming
16 public, and I would say that Alain has done
17 a better job than could have been
18 anticipated, in terms of the day-to-day
19 operations of that company. I think that
20 also has something to do with present
21 management. Present management -- new
22 management has more experience in the gaming
23 industry from a operations point of view
24 than prior management, and I think that
25 present management is more -- corporate

1 management is more accepting of the fact that
2 the day-to-day decisions on how to run that
3 property must be made at the property level,
4 rather than at the corporate level, which was
5 not necessarily true all the time in the
6 past. It's very hard to run an Indiana
7 company from the State of California, was
8 my observation. I still think they face
9 challenges. The gaming industry, as an
10 industry it does not have a huge talent of
11 available -- there's not a huge talent pool,
12 particularly in the upper areas, because of
13 consolidations and stuff. And Belterra, like
14 everybody else, is somewhat thin in those
15 areas, but they do have other properties
16 which some companies don't have. So their
17 depth of knowledge in the gaming industry is
18 better than others. I think they face
19 challenges. They seem to have had a good
20 faith effort here to do it. If there's an
21 issue, the issue is sometimes whether people
22 visualize Indiana as kind of podunk
23 regulatory world, or whether we're taken
24 seriously. I don't know. It's too early
25 for me to tell, where this management group

1 is. I would simply point out, that of the
2 10 properties in Indiana, at least eight, if
3 they aren't the top performing property in
4 their company's portfolios, they're in the
5 top three. So as a result, we have a state
6 that has had a solid regulatory basis,
7 consistent regulatory basis, provided a good
8 environment for companies to do pretty well.
9 And, if not taken seriously as a regulatory
10 group, then our rules are not deemed that
11 they are necessary to be followed, then
12 Belterra and every other company will have
13 problems here. So the answer to your
14 question is yes, they face challenges. Are
15 they unable to meet those challenges, I don't
16 think so, but it's a little too early to
17 tell.

18 MS. BOCHNOWSKI: So if we were to
19 accept this settlement agreement, at what
20 point -- what would be the breaking points
21 when we would say wait, they are not living
22 up to this and then come back. Because, I
23 would say if something is not -- if some
24 stipulation is not met, that that would be
25 the end of the agreement in my opinion.

1 MR. THAR: From the settlement
2 agreement point of view, I view it as a
3 relative need to settlement agreement
4 complied with. Most of the things that need
5 to be done, need to be done now. A lot of
6 the things have already been done. The
7 disassociation of any directors, officers or
8 general managers of a business relationship
9 with Mr. Hubbard or Mr. Alonies is already
10 being worked through, by the company. The
11 hotel will either be built or won't be
12 built, and about everything else will be
13 done. My take on the settlement agreement,
14 is this. If it's approved, we have agreed
15 that this is the punishment Belterra and
16 Pinnacle serve for the mistakes made during
17 the Hubbard Golf Classic. And, this is then
18 filed away to make sure they comply with it.
19 They are allowed to do business with a
20 fairly clean slate. If they foul up in the
21 future, then since the Commission does take
22 into account the reputation of the licensed
23 owner, the fact that this happened, and they
24 had to enter into a settlement agreement
25 before, is back on the table when you

1 consider remedies. So my feeling is, if the
2 Commission accepts the settlement agreement,
3 that this ends it. They have the obligation
4 to carry it forward. They now are a company
5 that is allowed to do business the same,
6 without any other stigmas, as any other
7 company. But, should they run afoul of the
8 rules, of the statutes in the future, that
9 this comes back out when you discuss the
10 remedies. Before I chat on, Representative
11 Bishoff has been here quite some time and
12 wishes to speak to this issue, as does Mike
13 Jones. I don't know if this would be a good
14 time or -- Representative Bishoff, would you
15 like to step forward and address the
16 Commission with regard to Belterra.

17 REPRESENTATIVE BISHOFF: Thank you,
18 Mr. Chairman and committee members. I want
19 to compliment you on running a very clean
20 and professional Commission, here in the
21 State of Indiana. Being a legislator, we've
22 made policy through the legislative branch of
23 government. This is the first time that
24 I've had the opportunity to come in front of
25 this Commission, while all the licenses were

1 granted in southeastern Indiana, and that was
2 Argosy and Grand Victoria and Belterra.
3 Hopefully, there has been some negotiations
4 that's gone on here that's going to be in
5 the best interest for Belterra, for the
6 people that live in Switzerland County and
7 southeastern Indiana to keep the quality of
8 life where it's been in the last few years
9 down there. The economics has been very
10 rewarding from the riverboats there. When we
11 look at the jobs, we look at the
12 Foundations, we look at the local units of
13 government, it's been fantastic and I can
14 compliment you on using good judgment here,
15 today and hopefully, get this resolved and
16 that industry can move forward. And what
17 I've heard this afternoon, hopefully we are
18 moving in that direction. Thank you.

19 MR. VOWELS: Mr. Jones.

20 MR. JONES: Mr. Chairman and
21 Commission members and staff, this isn't the
22 first time I've been before the Commission.
23 I've been before you many times. Didn't
24 always agree necessarily, but respected your
25 decisions and work that you do. I appeared

1 before you in May, with some concerns about
2 possible sanctions and I know that there have
3 been negotiations. It is our hope, that
4 this can be dealt with today and we can move
5 forward in a positive manner. And we will,
6 of course, support the decision that the
7 Commission makes. I also just want to say
8 that, kind of echo what Mr. Thar said as far
9 as the present counsel and our governmental
10 bodies, we have had a very good relationship
11 with the current people at Belterra and
12 Pinnacle Corporate have been very good
13 citizens in our county. And, again, we just
14 would like to see it over today and
15 hopefully move forward in a positive manner.
16 Thank you.

17 MR. GETTELFINGER: Mr. Chairman, is
18 it appropriate for us to ask questions?

19 MR. Jones, what's your personal
20 opinion of what went on at this golf outing?

21 MR. JONES: Well, of course, I only
22 know what -- I did not hear anything about
23 it in Switzerland County. Based on what I
24 heard, I think it's absolutely wrong and
25 you're correct in dealing with it.

1 MR. VOWELS: Do you have much contact
2 with the management there at Belterra, on a
3 regular basis?

4 MR. JONES: In the past, and I guess
5 we can only go back to '98, there were
6 times, that I would say we didn't have a
7 good line of communication. But myself,
8 members of -- Craig Bond is here, also
9 member of the County Commissioners and he can
10 speak to that. We have been meeting on a
11 monthly basis with Mr. Uboldi, and at times
12 some of his other directors, and those
13 conversations that we have had have been
14 productive. He shared things with us. We
15 shared concerns and questions that we have
16 and it's been very positive.

17 MR. VOWELS: I'm not just talking
18 about Mr. Uboldi, but some of the other
19 upper management, how do they fit into the
20 environment of Switzerland County?

21 MR. JONES: Well, I think almost all
22 of the directors, either live in the county,
23 or live in nearby communities. It's not
24 always easy to find homes. One of our
25 shortcomings has been housing. But just an

1 example, at the 4-H Fair recently
2 Pinnacle/Belterra was very well represented
3 with Mr. Uboldi, they participated in that
4 and helped make it a success. Stepping in
5 with our school system. I could just name
6 numerous things. Mr. Uboldi, I think, has
7 went out of his way to make himself a
8 member. And not only that, but one of the
9 first times that I met with him, he had even
10 said that I would be -- he would welcome me
11 to contact other places that he worked and
12 Mayors, counsel, persons that he's worked
13 with, but I really didn't -- I didn't take
14 that -- didn't have to do that because my
15 experience with him has been he lives up --
16 he's a man that lives up to his word. We've
17 been very positive about it, and I think
18 Craig, Craig Bond again is County Commission
19 and he would echo that, I think.

20 MR. VOWELS: Well, I mean, I'm the
21 reason I'm asking, and I think if you went
22 around the state to some of the other local
23 elected officials and ask them the same
24 question, they probably would come up with
25 the same general answer that you gave me.

1 You know, that they've given money here and
2 they're doing that, meeting this and that.
3 But from a regulatory board point of view,
4 they've been very difficult. They've been
5 more difficult to deal with than any other
6 company, that we have in the state. I'm not
7 sure that -- you know, you remember, we've
8 been together since the beginning. I've seen
9 you for nine years.

10 MR. JONES: I think our history goes
11 back to '93, with the Commission.

12 MR. VOWELS: Right. And how
13 difficult it was with this Commission, how we
14 struggled about whether to even give that
15 license out, or not. You guys were kind of
16 on the short end of the stick, when we gave
17 it out to Grand Victoria and Argosy. And
18 then we had concerns about whether it could
19 float, or not. And from a regulatory point
20 of view, part of the thing that we thought
21 of, at least I thought of during licensing,
22 was how does this particular group fit in to
23 where we are putting it. I know in
24 Evansville, with Aztar there, and I know
25 people who work for Aztar or run across

1 them, they seem to fit fairly well in the
2 community. And they do a lot of stuff. I
3 mean, they've adapted to the southwestern
4 German, beer drinking, kind of place where
5 they do their stuff, and I've never heard
6 any feedback from people that I know, that
7 have dealt with them in Evansville of any
8 arrogance, or that they're rude in
9 Evansville. And from a regulatory point of
10 view, Aztar is fairly easy to deal with and
11 they have been for a long time and some of
12 the others around the state are like that,
13 too. That's not the impression, that I've
14 had with this group.

15 MR. JONES: You mean this group, Mr.
16 Uboldi?

17 MR. VOWELS: This group of people
18 here. And I didn't feel comfortable, when
19 we gave out the license in the first place.
20 And part of the thing, I liked your
21 community as we went there and we don't want
22 to put a round peg in a square hole. These
23 guys have to fit in there and, if they have
24 a certain coming to the corn field and we're
25 going to show these people how to do it,

1 that's just the general impression I have.
2 You're the guy that deals with them. Just
3 respond to me and tell me if that's the way
4 you -- you don't see it that way and give me
5 some examples.

6 MR. JONES: Absolutely. My
7 experience has been contrary to that. I
8 guess as an elected official, a lot of times
9 being on the county level, I think there's
10 that sometimes impression that I think, as
11 Mr. Thar was talking about, maybe an
12 impression people have about Indiana and
13 maybe they can come in here and do as they
14 please. Sometimes you don't get telephone
15 calls returned, et cetera. I would say from
16 my relationship with the Belterra people is,
17 that they keep their word. As far as the
18 county council, there has never been any
19 issues that we brought before them, that they
20 haven't tried to address in a timely manner.
21 I know several of at least a director now
22 who grew up in the county, and is from
23 there. I also, which has been in the news
24 also, one of my part-time jobs is a
25 part-time Baptist minister. And, of course,

1 that has gotten me some notoriety, also
2 coming to gaming meetings, et cetera. But
3 I've had people come to the church, employees
4 there who are upper level people there,
5 they've been involved in many different
6 aspects of our community. I would say the
7 school, I know the superintendent would echo
8 what I'm saying. Our dealings with them has
9 been positive, and I'm hoping that if yours
10 has not, that that will, after today, will
11 improve.

12 MR. VOWELS: Let's switch to the hat
13 with the Baptist minister. The hookers that
14 came to town. Now when you dealt with the
15 people

16 MR. JONES: I didn't hear your first
17 part?

18 MR. VOWELS: As a Baptist minister,
19 okay -- and I imagine you're fairly
20 representative demographically of your area
21 -- what was the feedback there? Certainly
22 you heard about that, from the people there?

23 MR. JONES: Yes. Truthfully, there
24 wasn't a lot. I didn't hear a lot maybe
25 specifically in the church, but I don't think

1 there's anyone in Switzerland County that
2 would say that that was something that should
3 have happened or --

4 MR. VOWELS: I didn't expect you to
5 tell me that there were people that thought
6 it was a good idea.

7 MR. JONES: Truthfully, locally, and
8 maybe Craig -- I have not heard a lot of
9 discussion about that incident that occurred.
10 Of course, let me say that I wasn't there
11 and was not invited and would not have gone,
12 but I haven't heard a lot of discussion
13 about that, Mr. Vowels. But as far as a
14 community, I think Switzerland County, we're
15 maybe not quite the same as Evansville.
16 You're a little farther southwest. But I
17 believe they're basically, hard-working,
18 law-abiding people who want to be treated
19 right, treated with respect. And I would
20 stand here today, feeling that I represent
21 the county, that they have shown us that
22 respect and have wanted to be a part of the
23 community.

24 MS. BOCHNOWSKI: Did your local
25 newspaper cover this very well or -

1 MR. JONES: They covered it, I think,
2 as you all began to -- of course, at the
3 time, I don't think anybody even knew that
4 it went on, as far as it was never covered
5 in the paper that way. But probably from
6 that May meeting in East Chicago, yes, there
7 has been quite extensive coverage in our
8 local paper about it. I was surprised that
9 there weren't more letters to the editor.
10 I'm not asking for any, but it was covered
11 pretty extensively in our local papers.

12 MR. VOWELS: Thank you. Well, here
13 we are again. The thing to keep in mind
14 here, Commissioner Carlton informed me he'll
15 abstain from any vote here, so we have five
16 of us. Whatever we do here today, keep in
17 mind that it takes four of us to do
18 anything. So as we talk here, if we end up
19 with a three to two split on something -- I
20 mean, am I correct in my parliamentary
21 assessment?

22 MR. THAR: Yes. Somebody makes a
23 motion, it takes four votes to pass it.

24 MR. MILCAREK: Jack, I have a
25 question for you and the staff. This

1 happened some time ago, now. Let's get a
2 little more current. In the last 30 to 60
3 days, has the element of trust and
4 cooperation risen or fallen, with the
5 dealings with this company?

6 MR. THAR: Well, it couldn't have
7 fallen. So it's going up and it's being
8 worked on.

9 MR. MILCAREK: The level is rising?

10 MR. THAR: Somewhat, yes.

11 Understand, there came a point when there was
12 none, before Mr. Lee came on and probably,
13 unfortunately, right about the time Mr.
14 Uboldi came on when trust levels and comfort
15 levels were falling. Mr. Uboldi has done a
16 good job in facing that type of regulatory
17 lack of faith, to try to establish that, and
18 I certainly think it bottomed to where there
19 was no trust, or confidence in the ability
20 of the company to do something. I think
21 since Mr. Lee has come on that's coming up.
22 Is it as high as people, that have been here
23 for some years, who we've had a long-term
24 working relationship with, no. Whether or
25 not they can get there, they say that they

1 can.

2 MR. LEE: We'll try. Sitting here
3 wondering what it was that you think, this
4 group was arrogant or not sensitive to,
5 because we certainly tried. Felt that we
6 spent three times as much time at Belterra,
7 as any of our other properties.

8 MR. THAR: I can answer that
9 question, if you want it answered publically.

10 After the East Chicago meeting we had
11 calls from Wall Street analysts that
12 indicated to us, that Pinnacle had put out
13 that the Indiana Gaming Commission was not
14 taking this action seriously, they didn't
15 even propose a statutory penalty and what was
16 our feeling, as a result of that. Those
17 calls were obtained by Ms. Arnold. We said
18 no, that's absolutely not true. We haven't
19 decided anything. But that's what was told
20 to us, telling us what was said. If that's
21 true, that's an immense amount of arrogance
22 from our point of view.

23 MR. VOWELS: And part of that was, I
24 think -- and it might have been me, or might
25 have been another one of the Commissioners at

1 the East Chicago meeting where I referred to
2 the term "probation." And in this Wall
3 Street person's telephone call to the
4 Commission, that Pinnacle said there is no
5 such statutory authority. And I heard that
6 in one of our regular contacts with the
7 Commission and I related to Mr. Thar, that
8 as a criminal defense attorney standing in
9 front of a Judge, and telling the Judge Your
10 Honor, you don't have the option to give my
11 client probation, the Judge would say which
12 Department of Correction would you like your
13 client to go to, Mr. Vowels. And if that is
14 true, it's just that the gravity of the
15 situation needs to be there, and I would put
16 this Commission's staff up against any
17 Commission staff throughout the United
18 States. And I think, the other companies
19 that deal with Indiana are well aware of the
20 aptitude and competence and the ability of
21 this Commission staff and how things fit
22 together, are important to me.

23 MR. LEE: First, I was a Wall Street
24 analyst for 10 years at one time, so I don't
25 control what they say by any means, but I

1 know how they think.

2 MR. GETTELFINGER: Could you speak
3 up? There's a hole out here that's --

4 MR. LEE: I'm sorry. I was an
5 analyst for about 10 years in the earlier
6 part of my career, so I don't control what
7 they say, but I do know a little bit how
8 they think. And there's a tendency to try
9 to get to a position quickly, which way is
10 it going to go. I don't know which analyst
11 called you. Obviously, I wasn't a party to
12 the conversation. When people called us, and
13 it would have been either Wade or I, our
14 response was we are optimistic, we can get
15 there. I remember one analyst asking me
16 about the probationary thing and I said well,
17 there isn't a probationary thing in the
18 statute, but as you said here five minutes
19 ago, we are on probation, because you do
20 take into consideration the background and
21 the past deeds of anybody. So any company
22 with a history, that this company has had,
23 is on probation. So that's obvious, and I
24 remember telling that to the man that there
25 is nothing in the statute that says

1 probation, but it doesn't matter. In effect
2 we are on probation. We were on probation
3 before we got here. And I think we were
4 probably on probation back in December, when
5 the MBE/WBE thing was a big issue. So
6 certainly, we have tried to be responsive,
7 every way we can. We spent a lot of time at
8 Belterra. We try to be part of the
9 community. Get to know people. Get to know
10 the employees and so on. And we are doing
11 our best and we are trying to be very
12 responsive to the Commission. Back in May,
13 our entire board of directors save one, who
14 just had a baby, was there. Today we have a
15 pretty good size crew again. We didn't do
16 the introductions, but Wade Hunley, who our
17 chief operating officer. Loren Ostrow, who
18 is our general counsel. Don, I believe is
19 our associate general counsel. Jack Godfrey,
20 who is our Nevada counsel is here. And Ms.
21 Gwen who you know is our coordinator of
22 MBE/WBE. We take you very seriously. We do
23 have nine casinos. We have two card clubs
24 in California and two small casinos in
25 Argentina. Belterra ranks probably, fourth

1 in terms of profits, but we think it's first
2 or second in terms of opportunity. Which is
3 why we are here, trying so hard to remain a
4 licensee to, in fact, invest more money and
5 double the size of the place and make it
6 something we're all very proud of. So ...

7 MR. VOWELS: Well, when we were in
8 East Chicago, we did a straw poll of the
9 Commissioners at that time. Commission Darko
10 is not here today. Mr. Carlton is
11 abstaining, so that leaves the other five of
12 us. I think Commissioner Gettelfinger's
13 position --

14 MR. GETTELFINGER: I'd like to ask
15 some more questions, if I may.

16 MR. VOWELS: Go ahead.

17 MR. GETTELFINGER: As I understand, a
18 big part of your plan for the future is,
19 this expansion to your facilities. Have you
20 had the opportunity to conduct any market
21 studies to evaluate what the market might
22 have to say, by such a large capital
23 investment in this property? By the market,
24 I mean two types of market. The
25 client-customer market, what might be their

1 reception, and what might be the investing
2 community's reception to this large
3 investment?

4 MR. LEE: We have looked at both. In
5 terms of the client acceptance, probably the
6 best data point is, that we're running in
7 the high 90s as it is. The property was
8 really designed for two different marketing
9 segments. An overnight segment, people want
10 a hotel, they like to play golf, and
11 day-trip segment. The day-trip segment was,
12 and to the extent the provisions have been
13 weak, is just because we are just not
14 getting the day-trip people. We are too
15 much further than Argosy and Grand Vic around
16 Cincinnati, but for people from further away,
17 we're better placed. They're willing to
18 drive a little bit further, and that's why
19 we're running in the high 90s. In effect,
20 that's the economic opportunity. We have
21 enough restaurants, we have enough casino
22 capacity, we have enough parking, got a big
23 golf course. All we have to do, is have
24 rooms. And usually, when you go to expand
25 the hotel, you think you need to have

1 another restaurant. Here, just add rooms and
2 the return ends up being very large. I will
3 explain that to Wall Street, but we do have
4 cash to build the room towers. But, I think
5 when Wall Street understands that, that
6 that's a \$30 million investment that we think
7 generates about 8 to 10 million a year of
8 incremental income to us, it's not very
9 complicated and generally it's explained that
10 we --

11 MR. GETTELFINGER: Have these plans
12 been made public to any group, other than
13 the Gaming Commission?

14 MR. LEE: We certainly discussed them
15 at the public meeting. We discussed openly,
16 that we were looking at adding rooms. You
17 know, for a company our size it's important,
18 but it's not huge. It's not the sort of
19 plan that we increase our stock price. Just
20 from an analyst's prospective we think they
21 say oh good, they're reinvesting their cash
22 flow in an intelligent way.

23 MR. HUNLEY: And historically, other
24 regional markets when people have added rooms
25 the financial returns are generally very

1 good. Certificatess is a good example here
2 locally in Indiana, but I think Wall Street
3 investors I think, are very accepting of the
4 fact you add more rooms. And I think the
5 other thing, you know, mentioned in terms of
6 the demand, or additional hotel rooms, I
7 think what it will do, is allow us to market
8 the property to a wider circle than we did
9 today. Nashville. Pittsburgh. Persons who
10 spend zero marketing dollars today, because
11 they don't have the rooms that people who
12 are going to make the three and a half to
13 four hour drive to get to our place, by
14 adding the additional rooms we will be able
15 to accommodate some of those folks. So
16 we'll be able to market in places where we
17 couldn't before.

18 MR. THAR: Would you identify who
19 just spoke?

20 MR. HUNLEY: Wade Hunley.

21 MR. GETTELFINGER: Some other
22 questions, I believe when I asked Mr. Jones
23 what he thought about this episode, that he
24 said he didn't think it was very good and I
25 don't either, but I don't see that the

1 problem, that one episode. And I want the
2 representatives of management here to
3 understand, what I see as the problem. What
4 I've always seen as the problem. And that
5 is, a negligent board of directors. From
6 what I know about this, what the Commission
7 staff has presented to me as history and
8 what I found out in my own personal study, I
9 think there is a question about how attentive
10 was the board of directors, the group of
11 people ultimately responsible for any
12 company, how attentive were they to the
13 supervision of Mr. Hubbard, in specific. And
14 I believe reasonable people could conclude,
15 that the board of directors was negligent in
16 the supervision of Mr. Hubbard. Some may
17 disagree, but I believe it is possible for
18 reasonable people to conclude that the board
19 was negligent in his supervision. In East
20 Chicago, we heard that the board didn't have
21 a regular meeting schedule. Maybe the board
22 wasn't as attentive, as it should have been.
23 I believe the board of directors has been
24 negligent in their supervision of the
25 management of the Indiana property, as eluded

1 to in our discussions in December about the
2 MBE/WBE items. So, again, in my mind, the
3 board of directors has been negligent in
4 general in the supervision of the Indiana
5 property, as it concerns compliance with
6 our statute. Fine. Boards of directors are
7 negligent everyday, but I believe we are in
8 a new culture of corporate accountability
9 here. I believe corporations are being held
10 to a higher standard, all across the country.
11 And for me, if we can't find Pinnacle's
12 board of directors negligence in their
13 supervision in these situations, we will
14 never find them negligent in any manner. So
15 that's where I come from. Forget about the
16 party. Forget about people doing things that
17 I think everyone in this room would agree
18 to. What I want to focus on individually,
19 as a Commissioner, is the integrity and the
20 ability, the willingness of the Pinnacle
21 Gaming Board to supervise and carry out their
22 responsibilities not only to the citizens of
23 Indiana, but their shareholders.

24 So, again, I think it is possible for
25 reasonable people to conclude that they were

1 negligent in their responsibility to
2 supervise Mr. Hubbard. And I think
3 reasonable people can conclude that they were
4 negligent in general in their supervision of
5 the Indiana property as concerns compliance
6 with what we are doing here. So, in East
7 Chicago, you announced that there would be
8 some changes in the board of directors.
9 Have two questions there. Have the changes
10 that were announced in East Chicago been
11 accomplished and implemented? And since that
12 East Chicago meeting, what other changes have
13 been made in the board of director membership
14 and governance of the board of directors?

15 MR. LEE: I'm the only member of the
16 board here, so I will say they are very
17 concerned. I think this was a wake-up call
18 to them. You know, imagine being on the
19 board of a casino company and you understand
20 that sure, there may be some financial
21 challenges at the board meetings, but it's
22 really out of the box to think that the
23 Chairman would have a party planning hookers
24 and putting the license in jeopardy. You
25 think should you start every board meeting

1 now, with a question of has anyone --

2 MR. GETTELFINGER: I understood there
3 was an inconsistent record of board meetings.
4 Now I stand to be correct on that. Am I
5 correct or what?

6 MR. LEE: No, you're correct.

7 MR. GETTELFINGER: So if you don't
8 have meetings, you can't ask the questions.

9 MR. LEE: There were generally at
10 least board meetings a year and there was
11 not a consistent calendar of when --

12 MR. GETTELFINGER: Some of these
13 meetings were telephone meetings, correct?

14 MR. LEE: All the meetings were in
15 person. And we've agreed now to have at
16 least six meetings a year. We've been
17 meeting, at least monthly since April, but on
18 a regular schedule now.

19 When the board did find out, they
20 acted very quickly. Replaced anybody that --
21 and I will tell you, man to a man, we were
22 embarrassed and said so. We have established
23 a compliance committee, which has two members
24 on it who are board members. We are setting
25 up a procedure, pursuant to a settlement

1 agreement, where every month they talk on the
2 phone with the compliance director of each
3 property. So there is a direct link to the
4 board from the property and goes around. So
5 if there's any of us doing some things
6 wrong, the board will find out about it
7 without any of us stopping that
8 communication, which I don't think any other
9 gaming licensee has that, which is a big
10 step. I have also been trying to recruit
11 two new directors, to replace the ones we
12 have. I'm trying to get people with high
13 stature, who can bring a lot to the board.
14 Without saying his name, one person I talked
15 to is a former U.S. Senator. And after
16 thinking about it, his comment was talk to
17 me after you resolved this, because he
18 doesn't want to put himself in a position of
19 going on the board of a company that
20 immediately loses their license.

21 MR. VOWELS: Not John Ashcroft, is
22 it?

23 (Laughter)

24 MR. GETTELFINGER: But if the board
25 members as composed at our East Chicago

1 meeting, that is still the same board?

2 MR. LEE: It is the same board,
3 that's correct.

4 MR. GETTELFINGER: The same board
5 that was charged with supervision of
6 shareholder interests and regulatory
7 interests, when these events occurred?

8 MR. LEE: Right.

9 MR. GETTELFINGER: And before?

10 MR. LEE: Right. And I wasn't here a
11 year ago, so I don't know. I will tell you
12 since April, they are pretty damn active. I
13 hear from at least one of them everyday,
14 which is fine. Sometimes it's as little as
15 I just had a lunch at-- But other times it's
16 more significant. Tim Parrot, who is a
17 member of the board who was on vacation in
18 Hawaii last week, said did I need him to
19 come here, is it necessary. We screwed up
20 his vacation in May and Tim calls two or
21 three times a week. So, I mean, it's --

22 MR. HUNLEY: And the board members
23 actually call me now, as far as operations.
24 I didn't have much communication with the
25 board members, previous to this event. They

1 call me and ask me how things are and I talk
2 to the board fairly often.

3 MR. LEE: And that's fine. It's
4 fine. So, you know, if they were negligent
5 before, they certainly are not now.

6 MS. BOCHNOWSKI: When you have your
7 board make up, do they actually have
8 committee assignments and they are actually a
9 working board now?

10 MR. LEE: Oh, yes. They are very
11 active. There's an audit committee,
12 compliance committee, compensation committee.

13 They live in all parts of the
14 country, you know. There's one from Las
15 Vegas. Couple from LA. One from
16 Mississippi. One from Tennessee. So you
17 get a pretty good cross section of the
18 company. Two of them are ex-CEOs. Parrot
19 and Marilyn Ferguson, which were companies we
20 acquired and were CEOs on the board. They
21 certainly understand the business. They'll
22 ask questions and so on.

23 We were getting ready to tear down
24 the sign in Boulder City (Unintelligible)
25 boomtown. And Marilyn Ferguson called up,

1 you aren't tearing down that sign. You can
2 move it to Biloxi. And I said I hadn't
3 thought of that. I called Wade and it saves
4 us almost \$1 million, exactly right. That's
5 the sort of board you want. We would have
6 torn it down. We didn't think you could
7 dismantle a 230 foot sign, put it on a barge
8 and take it down river and rebuild it at
9 Biloxi.

10 MR. OSTROW: I'd also like to say
11 that while it's the same members, there's
12 also a significant change in several -- three
13 of the board members. They weren't there at
14 the last meeting, but, you know, we've all
15 served on boards. You're serving on a
16 board. We know that the makeup of the board
17 itself and the personality involved can
18 really change how the dynamics of the board,
19 and particularly when the Chairman who has
20 sat on board meetings now, for four years at
21 Pinnacle have seen, that board members who
22 really gave great deference to Mr. Hubbard in
23 the fact, that he represented the company
24 quite a long time, are now asking questions,
25 because Dan is not a major shareholder in

1 the company and the dynamics of the board
2 meetings are quite different. And I think
3 much to the credit of Dan's leadership.
4 He's encouraging that kind of information.

5 MS. BOCHNOWSKI: But there is
6 something to be said for board members having
7 a stake in the company and being major
8 shareholders.

9 MR. OSTROW: Yes.

10 MR. LEE: I have stock options and I
11 own a lot. I owned \$600,000 worth of bonds,
12 I own 3,700 shares of stocks and I have
13 options on 852,000 shares of stocks. So I,
14 as an individual, are probably one of the
15 five biggest shareholders. I'm also on the
16 board of a parent company with a dozen rural
17 telephone companies. Principal telephone
18 company in the north province of Michigan.
19 It's controlled by Mario DeVoe, and Marion
20 DeVoe is a major investor. He owns a third
21 of the stock. Very smart, very powerful
22 guy. When you have the board meeting, he's
23 like, I have you board members I'm paying
24 you board members to give me advice, so he's
25 always looking for, you know, help me out

1 with this.

2 MS. BOCHNOWSKI: So you see how
3 conflicted we are?

4 MR. LEE: Yes. It's a great board
5 and you learn a lot and as active a board as
6 that has been, in the last six months it's
7 been much more active, because you look
8 around at all these other debacles on Wall
9 Street and, as a director, you start to
10 realize, that I've got a personal liability.
11 We can get sued. We have to pay attention.
12 And the board receives -- what is it, 30,000
13 a year for being on the board. And these
14 are wealthy individuals and they look at it
15 as personal liability versus 30,000 a year,
16 they want to make sure that they are not
17 putting themselves in a position of risk.
18 So they are active.

19 MS. BOCHNOWSKI: That was an easy
20 30,000 when you --

21 MR. LEE: That's pretty common for
22 boards, but it isn't --

23 MR. GETTELFINGER: You've opened an
24 area, I would like to make as my final line
25 of inquiry if questions. What planning have

1 you done to date, if this board would revoke
2 your license? What's your planning to exit
3 the State of Indiana, if we revoke your
4 license? Have you considered that?

5 MR. LEE: We have considered it and
6 examined it at some length, and obviously
7 ultimately we will sell the boat, is way we
8 would go.

9 MR. GETTELFINGER: Do you have plans
10 in place for the continued management of the
11 property, employment of employees, providing
12 services to the public?

13 MR. LEE: We would try, and we had to
14 present a plan to you originally, on how to
15 do this. I will tell you, it gets very
16 difficult. But, part of the reason we want
17 to get this behind us is, that we can go
18 forward. I imagine that the employees by
19 and large did nothing wrong. They go to
20 work everyday and (Unintelligible) yet some
21 other story about this party to which they
22 weren't invited, weren't involved and didn't
23 have nothing to do with, and all of us said
24 it's frustrating to sit here and apologize
25 for some of those acts. This is so unlike

1 any of our personalities, to throw a party
2 like this.

3 MR. GETTELFINGER: Again, I want to
4 be clear, it's not the party. I don't think
5 anyone -- I think there's a great consensus
6 about that was not the thing to do. I want
7 to keep the focus on the responsibility of
8 the board of directors, for the governance of
9 this entity. And I point back to you, there
10 has been no change in that board since our
11 East Chicago meeting.

12 MR. LEE: In the makeup of the
13 individuals.

14 MR. GETTELFINGER: The board is the
15 same. We have removed people from the
16 board, but the board remains the same. Now
17 if I'm wrong, please correct me. I want to
18 be correct on that.

19 MR. LEE: You are correct. And as I
20 said, I've tried to fill a vacuum and told
21 people longer term, we will try to replace
22 other members. You know, to your point, if
23 we lost our license we try to run it as best
24 you can, while you try to sell it. It's a
25 complicated process to put together. Half

1 the potential bidders would be excluded from
2 even looking at it, because they at any time
3 have had a license in Indiana. And in the
4 meantime, trying to run a property when you
5 know it's going to be sold, then suddenly
6 the food and beverage manager isn't going to
7 like his new boss and he's going to quit and
8 other people quit and it's not that easy to
9 find people with experience. I'm not talking
10 about the managerial positions. So the
11 management staff would start to disappear
12 pretty quickly. And then you start running
13 into questions well what do you do if it
14 turns unprofitable. Are you trying to sell
15 it unprofitable? Do you continue to put
16 money into it? It would really a road, they
17 would prefer not to go down.

18 MR. GETTELFINGER: How long would
19 that process take?

20 MR. LEE: That decision we would have
21 to make first, is to try to appeal to the
22 court of the decision first, which takes
23 longer, which is not good for us or good for
24 Switzerland County. But we have an
25 obligation, I think, to do that. And it

1 would take a few months to put together a
2 sales brochure, which is actually a big book.
3 You would hire an investment banker. There
4 are different investment bankers out there.
5 They would try to put together a list of
6 potential buyers and canvass those buyers and
7 present them with a letter of
8 confidentiality. Then you would have them
9 come and do those trips, then finally you
10 come down to an auction. And literally --
11 well, I'll give you an example. The Aladdin
12 Casino went into bankruptcy last November.
13 They are still trying to work out the
14 procedure for selling the property.

15 MR. GETTELFINGER: Mr. Thar, can you
16 comment on that rule that there can be only
17 one -- a licensee can have only one casino
18 license in the State of Indiana?

19 MR. THAR: Yes. The statutory
20 provisions was deemed to be sometime ago,
21 ambiguous by the then Commissioner and me as
22 executive director. It was determined that
23 that statutory provision can be read one of
24 two ways. One way, is 100 percent of one
25 license and 10 percent of another, which we

1 believe to be the most logical. The other
2 way, was to read it as you could own two
3 licenses and 10 percent of a third. Faced
4 with that choice, the Commission chose, at
5 that time, to implement a rule which said
6 you could own 100 percent of one license,
7 but not more than 10 percent of a second.

8 MR. GETTELFINGER: So that is a rule,
9 not a statutory barrier?

10 MR. THAR: That's correct.

11 MR. GETTELFINGER: Thank you.

12 MR. VOWELS: I was looking at this
13 proposed settlement agreement, and at section
14 suspension of operations, number 1 D on the
15 third page, it talks about that Belterra will
16 pay those employees, that would have been
17 scheduled to work during the term of
18 suspension those wages, they would have been
19 paid had operations not been suspended. If
20 a cocktail waitress gets an hourly rate, she
21 gets tips during that time -- and I
22 understand certain taxes have to be paid on
23 this imaginary figure what the tips are --
24 my question to you is, if we approve this
25 agreement and you pay your employees wages

1 that they would have been paid if you were
2 still in operation, are you going to take
3 into consideration, the taxes or the tips
4 that person would have gotten that would have
5 been reported as income for tax purposes?

6 MR. LEE: As it was negotiated it
7 would not, but as a practical matter, most
8 of the tips are on the weekends. Over the
9 course of Monday, Tuesday and Wednesday
10 shouldn't have a huge impact.

11 MR. UBOLDI: If we keep the
12 restaurant open, the golf open, the spa, all
13 those tips will exist with the customer
14 coming. Maybe a little less, but they will
15 exist. So we're talking about the dealers
16 and the cocktail waitresses. Those are the
17 two categories, which will be deprived from
18 the tips if the casino is closed.

19 MR. VOWELS: You guys won't make up
20 the difference? It may not make a whole lot
21 of difference to a lot of people.

22 MR. UBOLDI: Not that much.

23 MR. VOWELS: Well, it's not that
24 much --

25 MR. UBOLDI: For us, for the company,

1 but for an individual it might.

2 MR. VOWELS: For the individual, I
3 would imagine it would make a lot of
4 difference.

5 MR. LEE: We are hoping to use that
6 time for training classes and workplace
7 training and so on, which you do from time
8 to time, mandatory training courses that
9 people come to they do get paid, but they
10 don't get paid the tips.

11 MS. BOCHNOWSKI: So this would be a
12 normal thing, if they were pulled out from
13 the tips, or pulled out from their job they
14 would get their pay, not their tips. But
15 you were saying the tips were pooled and
16 split up?

17 MR. UBOLDI: They are pooled by shift
18 and split up.

19 MS. BOCHNOWSKI: Does that include
20 the restaurant?

21 MR. UBOLDI: No. The cocktail
22 waitresses keep the tips for themselves and
23 they declare whatever they decide to declare.
24 The restaurant also keeps the tips for
25 themselves. The dealers are pooled by shift.

1 MR. VOWELS: So do you think the
2 dealer tips, for example, for Monday,
3 Tuesday, Wednesday might be 20 percent of the
4 tips, during the week?

5 MR. LEE: Probably in the 30 to 35
6 percent range.

7 MR. UBOLDI: The do better
8 (Unintelligible) on Friday, Saturday and
9 Sunday.

10 MR. VOWELS: I don't want any of
11 those people to take less money, than if you
12 guys are --

13 MR. UBOLDI: I understand.

14 MR. VOWELS: Okay. And if that
15 includes your figuring out what their average
16 tips are and you include that in whatever
17 income they would have had, however that
18 would be done, I don't want any of these
19 employees who won't be working, to receive
20 any less money, than they would if they were
21 working.

22 MR. UBOLDI: It's easy for the
23 dealer.

24 MR. LEE: We can do that.

25 MR. UBOLDI: It's easy for the

1 dealer, because they pool.

2 MR. LEE: We are willing to do that.
3 It seems like every time we turn around,
4 there's been something else and something
5 else. So if you're saying that is an
6 exposure, and we're not going to find out
7 that the Indianapolis Sewage Commission wants
8 an extra something for them. I'm really
9 trying very hard and my staff has worked
10 very hard to try to come up with a deal.
11 Obviously, we can do that.

12 MR. VOWELS: And what problems that I
13 have with your company, is just that
14 attitude. Is that there's some flunky
15 dealer, that's not going to make his extra
16 \$12 that night and the income that you make
17 \$12 is nothing. And the fact, that you're
18 unable to identify with these people really
19 bothers me. And the fact that we're sitting
20 here and we're talking that it's no big
21 deal, they're not going to lose that much
22 money unless you're the guy working there,
23 making \$25,000 a year and they are going to
24 get cheated, because I can't use the word I
25 want to use, because their operations are

1 being suspended, because your former guy
2 brought a bunch of hookers in. If I had my
3 druthers, not only would they have the day
4 off, but you would have to give them free
5 golf, you know, just to make this work out.
6 But, you are going to put them in some
7 seminar. But my point is, and I'm not
8 nickel and diming you, I don't want those
9 people -- if I vote to approve this
10 agreement, I don't want them taking any step
11 back and that the lack of ability for rich
12 people to identify with regular people, you
13 know, bothers me.

14 MR. HUNLEY: Chairman Vowels. One of
15 the things we discussed here, we have
16 discussed doing an employee party on those
17 days for the benefit of the employees.
18 We're going to be closed. Yes, do want to
19 do some training or it's part of the
20 training as a result of this whole thing,
21 sensitivity training to make sure that this
22 doesn't happen again. If it does, or
23 anything like it those employees know what to
24 do. One of the other things we talked about
25 doing is doing something for the benefit of

1 the employees, and I think Mr. Lee and I
2 discussed that numerous times and I think
3 it's appropriate and we are very concerned
4 about our employees.

5 MR. VOWELS: When we were in East
6 Chicago, you remember when I said the thing
7 that kept me from 86-ing your company was my
8 concern for your employees. And the fact,
9 that all of these people who work there live
10 in that area and have always lived in that
11 area are just trying to get by in life.
12 They didn't do anything wrong. And if I
13 suspend your license away, or did whatever
14 was a part of that, you guys are going to be
15 -- your business, you have eight other
16 casinos. It would be a little ripple in
17 your life when you write your memoirs, it
18 would make for an interesting chapter. And
19 the people that work there -- and the
20 anti-gaming people are correct -- I look at
21 this stuff from the idea of jobs and the
22 income tax revenue and the question is, how
23 bad would a company have to be, before I
24 would pull the plug. And so my concern, as
25 I've indicated all along and if I vote to

1 approve this agreement, it's not because of
2 what I heard here today. I've heard this
3 stuff over the years and take it all with a
4 grain of salt. And if I were in your shoes
5 I'd make the same argument. It's my job to
6 make arguments for people who have themselves
7 in perilous positions. But my point is, it
8 goes back to not wounding the people who are
9 doing the day in and day out operations,
10 because it's going to effect their life a
11 whole lot more. So that's where we are, or
12 at least where I am, I mean.

13 MR. LEE: We do have -- we do care a
14 lot about the person making \$10 an hour.

15 MR. VOWELS: Do you really?

16 MR. GETTELFINGER: Could you speak
17 up. There's a noise right here, by my ear.

18 MR. LEE: I said my mom is still a
19 banquet waitress. I started out doing night
20 audits in college and Alain has. We try to
21 do some things that align the employees with
22 direction of the company. And so, for
23 example, was it May, I believe, was the
24 first month we ever had, where our net win
25 was over \$10 million. And we gave every

1 employee a bonus. We didn't have to. We
2 weren't obligated to, but we said we want
3 you to share in our success and we gave
4 everybody a bonus. You know, when I go to
5 Belterra, I go out of my way to try to be
6 friendly, talk to people, just be an average
7 Joe and find out what their concerns are,
8 what they are thinking about, and Wade does
9 the same. That's where we're trying to go.
10 It's always our preference not to close.
11 And we, in fact, suggested that in closing,
12 costs us money and it's confusing to the
13 customer, it's confusing to the employee and
14 we can make the employee whole, but they
15 still have this fact of I'm not going to
16 work today. I'm going to do something else.
17 We were told that it was a very important
18 signal that some of the Commissioners wanted
19 us to close for a period of time, so as part
20 of the negotiation we said okay, we'll close.
21 And so, you know, if you want us to make the
22 employees whole on tips, we can do that.

23 MR. VOWELS: And I do. That's where
24 I'm coming from. You know, we talked about
25 the makeup of different Commissions and my

1 fellow Commissioners' thoughts are very
2 important to me. And we are short today and
3 with Commissioner Carlton not being able to
4 participate, we are at a loss, not having
5 his input. Mr. Milcarek, anything that you
6 would like to throw your two cents in?

7 MR. MILCAREK: I was thinking about
8 the question I asked Jack about, his comfort
9 level. We have discomfort levels for weather
10 and we can tell it's getting better, getting
11 worse. And so far, I really haven't felt
12 that confidence since our last meeting that,
13 that level has gone up. And if we do vote
14 to accept this agreement, that would be one
15 of the most important things to me would be
16 communication with the staff that's reliable
17 and that we can depend on. If you say you
18 are going to do something, or the Commission
19 and not these little end runs around to
20 other entities, or whatever that discourage
21 that level. I really feel that we need to
22 do all we can to protect and preserve the
23 jobs in Indiana, but there's a point you
24 have to say, is it worth it? Would we be
25 better off, to start over. And I'm -- at

1 this time haven't reached that point. I'm
2 willing to give you guys another shot, but
3 that level of comfort has to be up there in
4 the future. It can't just be lip service
5 that yes, we're going to do it. Because,
6 frankly, if I sat on your side of the table,
7 I would say maybe not just anything, but I
8 think you got the gravity of the situation
9 and you are going to do everything you
10 possibly can today. I wonder, what you are
11 going to do tomorrow.

12 MR. VOWELS: Dr. Ross.

13 DR. ROSS: I think pretty much
14 everything has been said, that could be said
15 on the subject. I think the staff has put
16 together a settlement agreement that
17 indicates a lot of work on everybody's part
18 and I'm at a disadvantage to say that I have
19 more information, that I can make a better
20 statement than they have. So that's where I
21 am.

22 MR. THAR: Two observations, if I
23 may. The term wages in the settlement
24 agreement did not include tips as part of
25 the discussion. Primary reason, was not

1 about performing their normal jobs while
2 there, so they would be paid whatever
3 Belterra paid them, but not tips because they
4 would be doing something else. That's not
5 for all the staff, just the staff in the
6 casino operations. However, if the
7 Commission and Belterra agrees that's the way
8 it is to be changed, that's the way it is to
9 be changed. There's one statement that has
10 caused me some concern, and that's your
11 statement, well if this is the final change
12 and this disclosure that ends it, which
13 implies to me that there have been other
14 changes that you had not anticipated. What
15 would those be?

16 MR. LEE: I think in the normal
17 negotiation, that we've had between us we go
18 back and forth. That's what I was referring
19 to.

20 MR. THAR: Nothing beyond normal
21 negotiating?

22 MR. LEE: Nothing beyond normal.

23 MR. THAR: It's a long day and warm
24 in here.

25 MR. LEE: It's a long day and warm.

1 MR. VOWELS: I didn't even say
2 anything about the fact, I didn't think they
3 should have to work at all that day, but
4 leave it at that.

5 MR. UBOLDI: They just come for
6 meeting for a couple of hours, but might
7 want to come, because we want to make a
8 really big buffet for them.

9 MR. VOWELS: Well, do you have any
10 thoughts before we meld?

11 MS. BOCHNOWSKI: I think Commissioner
12 Milcarek put it very well.

13 MR. VOWELS: Without Commissioner
14 Darko here, the dynamics of all this seems
15 to change. I'm in the middle waffling back
16 and forth. Mr. Gettelfinger is at one end
17 and I think Mr. Darko might have been at the
18 other, from what I can remember. Well, is
19 there anything further? Anybody have any
20 other thoughts? Okay. Then in front of us
21 -- and remember we are talking four votes to
22 get anywhere here, with Commissioner Carlton
23 abstaining. We have in front of us an
24 Indiana Gaming Commission settlement
25 agreement between the IGC and Pinnacle. Is

1 there a motion to approve or disapprove the
2 proposed settlement agreement?

3 DR. ROSS: I move to Approve the
4 proposed settlement agreement.

5 MR. VOWELS: Is there a second?

6 MS. BOCHNOWSKI: I'll second that
7 that; that will include the tips as part of
8 wages, right?

9 MR. THAR: Right, but Don needs to
10 read the order so that -- as it would be if
11 approved. After having reviewed the
12 attached.

13 MR. VOWELS: After having reviewed
14 the attached settlement agreement, the
15 Indiana Gaming Commission hereby, and there
16 has been a motion to approve, the proposed
17 settlement agreement. In addition, the
18 Commission hereby orders that the Riverboat
19 Owner's License held by Belterra, LLC be
20 suspended in accordance with the Indiana Code
21 4-33-4-8 (1). For a period of time the
22 riverboat operations are suspended from
23 October 6, 2002, through October 9, 2002.
24 And that's the essence of that portion of
25 it. So we have a motion to approve and a

1 second. Is there any further discussion?
2 All right. Before I take a vote, let's do a
3 show of hands, so there's no confusion. All
4 those in favor, raise your hand, say aye.

5 (Commission members respond)

6 MR. VOWELS: And we'll show that the
7 settlement agreement is approved. And that
8 Commissioner Gettelfinger, I assume you'd
9 like the record to reflect also?

10 MR. GETTELFINGER: I'd also like the
11 record to show, despite the settlement, I do
12 want to comply the staff and Belterra for
13 working through this. My quarrel is not
14 with the settlement, but with Belterra
15 continuing to do business in Indiana.

16 MR. VOWELS: And, you know, things
17 are very close here. I mean, in my mind.
18 And if there are problems again and there
19 has been this type of problem over the
20 years, things that are misrepresented, da,
21 da, da, if there's a next problem, all of
22 this comes up. We are going to be looking
23 at all of this again, as far as weighing it
24 on the scale, and it's just been tactful.
25 Mind your Ps and Qs and remember that Mr.

1 Thar is very dear to the hearts of these
2 Commissioners. As long as you're nice to
3 him.

4 MR. THAR: You don't have to be nice
5 to me.

6 MR. VOWELS: You know what I mean.
7 My point is --

8 MR. THAR: On that point, you asked
9 are we at a level of comfort since the
10 company has been around and I said no. That
11 was a truthful answer. I also said they've
12 been working at it and it's going up,
13 because that was the only direction it had
14 to go. Mr. Lee has actually called me when
15 he had a question. We've had discussions
16 have always been business like. Always been
17 very respectful on both sides, I believe.
18 So, I would say the settlement agreement will
19 be executed upon. Pinnacle and Belterra will
20 continue to do business in this state, and I
21 believe they will make every effort, as well
22 as this Commission and this staff, to put
23 this behind us to the extent we can and go
24 forward with business. Since you have
25 approved a settlement agreement, we also

1 wanted to hear, which would answer one of
2 your questions, about financing and what the
3 financial community thinks about the statute,
4 so you wanted to have a first meeting on
5 that.

6 MR. LEE: We have a bank agreement
7 now that is \$110 million. It's not drawn.
8 Matures in December of '03. It was put in
9 place in 1998. It has covenants that
10 currently don't allow us to borrow against
11 it, but fortunately the line isn't needed,
12 because we have over \$100 million of cash.
13 We've been talking with our banks, and
14 Christy Jackson, who is principal of Bank
15 America, Carlos Sanchez, who is
16 vice-president of their insurance are here
17 and we've talked with them and they have
18 each -- their firms have each committed \$45
19 million to a new credit line, as has a
20 slightly smaller amounts Society Generalis,
21 which is a very large French bank and CNDC
22 willing to replace that bank loan with a \$300
23 million bank facility, which makes the
24 company quite a bit stronger. We may use
25 part of that to retire some of our debt now.

1 Because we can borrow on the new
2 facility about 5 percent and change and we
3 have debt now at 9 and a half percent. So
4 that's just strengthening the balance sheet
5 and setting us up to be stronger. We've
6 also filed a shelf registration statement
7 with the SEC, that the SEC reviews in
8 position to issue equity or public debt if
9 the market were appropriate for that. And
10 part of the reason for all of this is, we do
11 have the license to build a casino in Lake
12 Charles, Louisiana. And we could issue
13 equity under the shelf registration and use
14 the new bank facility and do it in a way to
15 make the company stronger than it is today.
16 If we do it intelligently, we can build that
17 facility and do the other company at the
18 same time. Now we've been doing all that work
19 and watching the equity market go up and
20 down 400 points a day, so we do need to
21 restructure the bank agreement and we'll be
22 getting the documentation of that this week
23 and we can go into the details at the second
24 reading, if that's appropriate.

25 MR. VOWELS: One of the things the

1 company asked, with regard to the financing.
2 It's a bank, rather than you don't need to
3 move as quickly?

4 MR. LEE: No. We would like to move
5 quickly, but in Lake Charles we were supposed
6 to submit plans to the Louisiana Gaming
7 Commission by August 7th. Then we have to
8 have the money in place, before we start
9 construction, which would be approximately
10 the first quarter of next year. I was
11 hoping maybe before I submitted the plans to
12 be able to say here is the plans and we have
13 the money. The way the equity markets have
14 been that just hasn't happened. But that's
15 okay. We're still in compliance with
16 everything. Even if we did not -- if we
17 couldn't get the money together we just
18 wouldn't build Lake Charles, and we have
19 plenty of money to build the 300 rooms here.

20 MR. THAR: The total amount of money
21 you're looking for?

22 MR. LEE: \$300 bank facility.
23 Perhaps \$80 million in the equity market.
24 Then we would retire about 75 million of our
25 existing debt.

1 MR. THAR: Today, I think we're
2 focusing primarily on the bank facility?

3 MR. LEE: That's correct.

4 MR. THAR: The equity is a little
5 iffy right now?

6 MR. LEE: Right, a little iffy.

7 MR. THAR: One of the things I was
8 under the impression in the event, that the
9 interest rates became even more favorable
10 than they are now, would the Commission allow
11 the staff to approve the acquisition of the
12 bank line of credit, prior to a meeting with
13 the Commission, if it came up that way? Is
14 that still part of your request or is it
15 not?

16 MR. LEE: See, other states have a
17 mechanism where the parent company can go
18 through a credit line, but not put lines on
19 the property until approved by the
20 Commission. That's what my thought to you
21 was. Apparently that has not been the
22 practice in Indiana. We do business in four
23 states and this is the only state we have to
24 get approval of the credit line before doing
25 it ven at the parent level.

1 MR. THAR: That's true. It's also
2 true, because you are going to be committing
3 assets on this ne.

4 MR. LEE: I'm accustomed to Nevada and
5 Mississippi law, where my former employer had
6 operations and it was just different. I
7 wanted to clarify if we needed your approval
8 before signing a bank agreement. Our
9 existing bank agreement was signed before we
10 were an Indiana licensee, so it never had
11 your approval because it was signed before.

12 MS. BOCHNOWSKI: We've always made
13 every effort to not hinder any of these kind
14 of loans and so on. So you're basically
15 saying -- let me get this straight because
16 sometimes I start to -- you're just
17 increasing your line of credit, but you may
18 want to replace that?

19 MR. LEE: Yes.

20 MS. BOCHNOWSKI: So, you would do
21 that under favorable terms?

22 MR. LEE: Yes.

23 MS. BOCHNOWSKI: If it weren't
24 favorable, weren't better terms, you wouldn't
25 do it, obviously?

1 MR. OSTROW: To answer your question,
2 Jack, the goal is to hopefully close the
3 line and given the volatility of the markets
4 it would be preferable to be able to move
5 forward with that and know we have the
6 approval and not have to wait a period of
7 time to get that would be preferable.

8 MR. THAR: I'll go back to my simple
9 question. Is it part of your request, if
10 the Commission, would they allow the staff to
11 handle the potential approval before we have
12 a second meeting if the terms look favorable,
13 that it would be something that would
14 automatically go before the Commission to
15 approve? Is that part of your request? I
16 point that out to the Commission as to
17 whether or not, they wish to have the staff
18 function in that way or whether we'll get
19 together on another meeting either live or
20 over the telephone to deal with this.

21 MS. BOCHNOWSKI: But right now if we
22 are agreeing to -- we are not agreeing to --
23 because I was just thinking if we are
24 agreeing to one form of debt, which is a
25 line of credit and that was being

1 replaced --

2 MR. THAR: This is a first meeting
3 presentation. We have no specifics. We
4 have no paperwork. They are explaining to
5 us where they wish to go, with regarding to
6 obtaining financing. X number of dollars in
7 debt, X number of dollars in potential
8 equity. They have bank commitments for some
9 of the money. The interest rate is --

10 MR. LEE: 5.03 percent.

11 MR. THAR: And they have a commitment
12 to that line, is my understanding in a
13 letter of understanding, but they don't have
14 the final documents. If they can close on
15 that, before there's another Commission
16 meeting, the question is would the Commission
17 want the staff to go ahead and approve that,
18 or do --

19 MR. VOWELS: We could go ahead and
20 have the staff approve it.

21 MR. THAR: What about on the public
22 offering aspect, which you would wish to
23 raise 80 million you say?

24 MR. LEE: 80 million. But the way
25 public offerings go it could be as much as

1 96 million.

2 MR. THAR: I just need some
3 direction.

4 DR. ROSS: I would think you do both,
5 staff will do both.

6 MR. CARLTON: I agree, staff do both.

7 MR. THAR: Meaning that the
8 Commission would approve the staff act on the
9 financing, if it becomes necessary?

10 DR. ROSS: Yes.

11 MS. BOCHNOWSKI: We usually rely on
12 you, anyway.

13 MR. VOWELS: Are we finished?

14 MR. THAR: I think we're finished
15 with the Belterra issues.

16 MR. VOWELS: I don't think there's
17 anything left. There is no other business,
18 is there?

19 MR. LEE: I sat in the back earlier
20 and I think we're just talking about a
21 timing issue on whether the transactions --
22 if you have a transaction that happened last
23 quarter and you discover it this quarter, you
24 make the correction this quarter and make the
25 correction last quarter and well determine

1 which we're doing, but it's one percent of
2 the transactions. If you do either
3 methodology, I think it's important to point
4 out, we've made tremendous progress, this
5 company was in a deficit from the original
6 construction and Alain has made tremendous
7 progress in improving our MBE/WBE.

8 (Untelligible) the underlying fact is we made
9 a lot of progress. We are reducing the
10 deficit and hope to eventually take it to
11 zero and have a surplus.

12 MR. VOWELS: Well I've talked to some
13 of the other riverboats and they don't seem
14 to have this problem.

15 MR. THAR: The issue, as I say, is
16 one -- one of Belterra's problems, is they've
17 never been able to come up with accurate
18 records. So we just may revert to pen and
19 paper. Keep these records, if you can't do
20 it on computer. Might be a three-by-five
21 card filed, if it comes down to it.
22 Whatever it takes. We admit you're making
23 progress, but when you can't be sure of your
24 numbers everybody gets a little shaky.

25 MR. LEE: I turned to Wade and I said

1 make sure it's just the timing of the issue
2 because I think we know the numbers. Not
3 sure whether to subtract it or

4 MR. VOWELS: They're Not doing a very
5 good job of telling you what they are.
6 That's the problem.

7 MR. THAR: Too much uncertainty, when
8 we get the numbers.

9 MR. VOWELS: All right. There is no
10 other business.

11 MR. THAR: There is other business.
12 We had said, or I said earlier just under
13 other business that if a company believed
14 that we may have been misspoken and discussed
15 about their advertising step forward and
16 let's hear it, or forever hold your peace,
17 because that's the way it's going to be. I
18 think Mr. Gifford, on behalf of Caesars, is
19 frantically preparing something to say.

20 MR. GIFFORD: Thank you, Mr. Thar.
21 I'm going to -- thanks for Executive Director
22 Thar working with us and we appreciate it.

23 If Mr. Joyce can get past the
24 cameras, he's going to join me. Thank you,
25 Mr. Chairman. We're cognizant of the time.

1 We'll move quickly. When you asked earlier
2 in the meeting, if anyone had any comment --
3 when the issue of the advertising came up
4 Mr. Joyce and I turned to each other and
5 really were caught unaware, because we didn't
6 know what the issue was, or the contents of
7 the ad was and the like. So we have been
8 trying to figure that out. In fact, we've
9 tracked down Gary Morris, who is the general
10 manager of Caesars, and Gary is on the first
11 day of what now, is likely to be a very
12 lousy vacation. And I bring that up,
13 because Gary is the person responsible, if
14 you will, for what went into the newspaper,
15 and it's his understanding, or as it turns
16 out misunderstanding, what was permissible or
17 not permissible, that really is the
18 explanation that we'd like to offer here
19 today to you. I know there were some
20 comments earlier about marketing departments
21 being competitive and aggressive and the
22 like, and a question about whether marketing
23 was under the control of the GM or not. And
24 I just want to let you know that at Caesars,
25 Mr. Morris runs a tight ship and this is not

1 marketing going array, but rather his
2 understanding coming out of the GMs meeting
3 with Mr. Thar about what was acceptable, or
4 not acceptable to say been dockside and in
5 what context. I wasn't at the meeting.
6 Others here, were. I can only relate to you
7 how Gary took away from the meeting what the
8 understandings were. And clearly he
9 understood that you weren't supposed to do
10 the large billboard that said dockside August
11 1 with an asterisk and a disclaimer pending
12 IGC approval, that was clearly illegible. He
13 also understood that direct mail pieces and
14 internal pieces could be done and there could
15 be statements in those kind of pieces that
16 dockside would begin August 1, pending gaming
17 approval. In that context where the
18 disclaimer, if you will, was available and
19 legible and not being by a highway or large
20 posture, and that was the context in which
21 advertisement was put together. The staff
22 was kind enough to make copies. I
23 apologize. This is a faxed copy of a full
24 page newspaper ad. And so it's small type
25 and it's not as legible. And I have to tell

1 you that I hate to say this Leslie, but
2 nobody apparently carries the little
3 newspaper Courier Journal, at least not that
4 we could find in downtown Indianapolis
5 because we were trying to get a copy of
6 yesterday's paper in fact, to see what the
7 full page was and the like.

8 MR. VOWELS: Would it be, it's so
9 popular it sold out?

10 MR. GIFFORD: One might suspect that.

11 MR. Morris wants me to convey his
12 deepest regrets and sincerest apologies for
13 this situation. Absolutely no way, shape or
14 form was it his intent to ignore the
15 directives that Mr. Thar had given the GMs.
16 It was in no way, his intent to disregard
17 the Commission's directions, to thumb the
18 noses at those directions and the like.
19 Those of you who know Mr. Morris, and I
20 think clearly the staff know the relationship
21 with him, know that neither Gary, or anyone
22 else affiliated with Caesars does business
23 that way. Nobody at Caesars would ignore a
24 directive from the Commission in that manner,
25 and I hope that I and Mr. Joyce and the

1 others at Caesars have demonstrated that to
2 you over the time, that we've had the
3 opportunity to work together.

4 So by way of explanation, but
5 apparently not of excuse, this is what we've
6 done. And you can see in this ad it's a
7 letter from Gary to folks about our plans
8 and talks a lot about the exciting things
9 going to happen. See at the bottom under
10 his signature his disclaimer starts August 1
11 pending IGC approval of this meeting. And
12 obviously the fact of August 1 being the
13 date that dockside was anticipated is a date
14 that was widely discussed in the press and
15 this meeting was obviously well publicized
16 and the like. That given the opportunity,
17 had we known all of this four hours ago we
18 would have shared the information with you at
19 that time that issue was under consideration.
20 So we very much appreciate the opportunity to
21 do that and be very happy provide any other
22 information we might have to provide any
23 other information to you. Obviously, it was
24 a serious mistake that had we known, had we
25 thought that it was in any way going to be

1 perceived or received as it was the company
2 never would have done this.

3 MR. THAR: One of the things I was
4 concerned about listening to the discussions
5 this morning was, you know, the reputation of
6 Caesars and the trust that I feel we have
7 tried to establish with this Commission, at
8 least since I've been here. I started in
9 July of 2000, and admittedly there was some
10 question of that trust between the Commission
11 and Caesars. Not the least of which was
12 born out of our MBE performance and some
13 other issues. And one of the things that
14 Mr. Morris and I discussed when I came on
15 board anyway, was to work as hard as it
16 would take to re-establish that trust with
17 the Commission and some of the things that I
18 heard during the discussion this morning, you
19 know, really gave rise to that trust being
20 eroded and I was really concerned about that.
21 In fact, I was more concerned. So that's
22 why I ask Mr. Thar if there was any
23 possibility that I could address the
24 Commission to let them know that there was
25 absolutely no intent to mislead or to

1 undermine the directive that came out of that
2 GM meeting.

3 Other than that, I apologize for my
4 casual dress. I didn't plan on addressing
5 the Commission. I should be on the golf
6 course right now.

7 DR. ROSS: I think that Caesars
8 hasn't lost the trust of the Commission, but
9 I think the Commission has to go on record
10 whenever you say, it's going to be and the
11 Commission hasn't voted on it, they want you
12 to think about that part of it.

13 MR. THAR: I need to step -- this
14 advertisement as it appears here is
15 consistent with what I had told them they
16 could do. What I told them they could not
17 do, was put in bold letters up here where it
18 says we're ready when you are, the other
19 said dockside August 1 asterisk in letters
20 that size and go down to a disclaim pending
21 Commission approval.

22 MS. BOCHNOWSKI: So this is the ad --

23 MR. THAR: This is the ad. Then this
24 is consistent with my discussions with the
25 general managers. This is not what the

1 other ones did. If the Commission believes
2 they shouldn't have even gone that far, then
3 stick to what you presently voted. I'll
4 apologize for not providing them with as much
5 guidance, as I should have in this area.

6 The other ad said in big bold letters
7 it was a done deal, dockside beginning August
8 1. then a disclaimer about like this in
9 comparison, where it said pending IGC
10 approval. As you walk by the barn you can't
11 see it. This is a read item where the
12 disclaimer, for all practical purposes, are
13 the same type as the discussion. And our
14 concern was the gross size difference,
15 between saying dockside August 1 and in very
16 little tiny pending Commission approval. So
17 on this advertisement if you don't like it
18 this is my fault.

19 MS. BOCHNOWSKI: Well, except it
20 looks to me like this is all pretty much
21 similar. Maybe slightly larger type. I
22 don't know. If you said this was okay. We
23 were just trying to, you know, back up what
24 you said so.

25 MR. MILCAREK: I thought, Jack, that

1 you said they could do it in the form of a
2 direct mailer. Although this isn't a
3 billboard, if you took those 10,000
4 newspapers or whatever and put them all
5 together, you got a pretty big media that
6 you reach that you're doing this.

7 MR. THAR: What I specifically told
8 them was, I do not want see anything in big
9 letters that says dockside starts August 1,
10 then very small letters at the bottom.

11 MR. GETTELFINGER: Isn't that what
12 the first paragraph says?

13 MR. THAR: I'm talking about the top,
14 Dale. We're ready when you are. This is
15 what the others did. This is all they had.
16 Dockside starts August 1, '02 in big bold
17 letters, then a disclaimer about this size.
18 That's it. No text.

19 MR. GETTELFINGER: How could anyone
20 make the comment Sunday, we are going
21 dockside Thursday August 1?

22 MR. GETTELFINGER: I think speaking,
23 relating to you Mr. Morris' understanding of
24 the discussions, which I think Mr. Thar is
25 supporting here, is that if we were in a

1 direct mailer a document, where it was clear
2 that Gaming Commission approval was still
3 required that that was okay. So you're
4 suggesting that a full page ad in the
5 Louisville Courier Journal with a paid
6 circulation over a quarter of a million is a
7 flyer is an internal communication.

8 MR. GIFFORD: Well I was just asking
9 Mr. Joyce when WE do a direct mailer on
10 advertising and the like, we do -- we can do
11 25 to 50,000 pieces pretty effectively. And
12 we were -- and you have me at a little
13 disadvantage of arguing the policy point
14 because we were reacting to something coming
15 out of the general managers' meeting over
16 what was acceptable, or not acceptable. I
17 think -- I mean, to argue the point a little
18 bit, I think that the media reports about
19 the likelihood of the Commission's action
20 this morning in approving flexible scheduling
21 plans with dockside becoming a reality August
22 1, I think the public generally believes or
23 believed that August 1 dockside was going to
24 begin, because of what had been reported in
25 the press up to this point. Like I said,

1 that gets into the policy point an area that
2 I'm uncomfortable to press much farther, but
3 I think we were trying to --

4 MR. GETTELFINGER: You see my
5 difficulty accepting a full page add in how
6 we look. I think the Sunday Courier Journal
7 is a formidable name and the press people
8 here they may know the answer, and that's a
9 mailer. I just don't see that.

10 MR. THAR: My position in doing this
11 was two-fold. It had to be clearly stated
12 in the same size as anything, that referred
13 to the potential for the starting of dockside
14 on August 1. The Indiana Gaming Commission
15 had not get yet started that, and any type
16 of an advertisement that you walked by, heard
17 or didn't have a chance to study in
18 disproportionately large letters saying
19 starts on August 1, disproportionately
20 smaller letters putting forth a disclaimer,
21 so that in essence it's not there is not to
22 be done. A mailer was approved, that they
23 could talk about August 1 if they had a
24 disclaimer, because it's something that I can
25 sit here and read as opposed to walk by or

1 drive by. And that the disclaimer, then,
2 can be easily seen. This meets what I told
3 them. If the Commission meets with
4 disapproval on that, that's fine. That's a
5 Commission prerogative. That's not a Caesars
6 issue. That's my issue.

7 I understand Commissioner
8 Gettelfinger, why you say that the first line
9 how can they say that. And I think in the
10 future it would be absolutely true from my
11 position, that if the Commission has yet to
12 vote on it there will be no advertisement of
13 any kind, at any time at all. When pushed
14 on it I backed off and allowed some, and
15 what I've done is created more problems than
16 cured. So I suppose the question is in view
17 of this, would the Commission allow Caesars,
18 I guess is where you're coming from, start
19 dockside gaming on August 1 as opposed to
20 August 5.

21 MS. BOCHNOWSKI: I think if this is
22 what they were told, then in order to be
23 fair we have to say --

24 MR. THAR: I'm representing to you,
25 this is what they were told they could do.

1 MS. BOCHNOWSKI: Then I think they
2 should be able to going forward with the
3 change then. And it's okay.

4 MR. THAR: If I screw up, I think
5 people need to know that.

6 MS. BOCHNOWSKI: I think if this is
7 what you told them, I think just in fairness
8 they should be able to start.

9 MR. THAR: And I know now, that there
10 will never be any advertisements of any type
11 on any potential Commission action, no matter
12 what it is. Just make it very easy if you
13 do the advertising, then you do the
14 consequences. For right or wrong, this is
15 what I told them they could do.

16 MR. VOWELS: You know that chicken
17 game down at Aztar, waling down in the lobby
18 there, you know, the chicken game talking
19 about, there was a poster of the chicken
20 game that was already going on and it said
21 down at the bottom pending IGC approval. I
22 assume it's been approved, or it wouldn't be
23 happening. That's the same kind of thing.
24 Do we go through some -- is this one of
25 those new games that we --

1 MR. THAR: It's been approved. They
2 spent a lot of money on the initial
3 marketing. Don't spend a lot of money on
4 the back up.

5 MR. VOWELS: And I don't really have
6 any problem with that and I don't
7 necessarily, you know, I certainly defer to
8 you on a lot of issues, but then this is an
9 once in a lifetime issue because we've been
10 looking at flexible boarding since this stuff
11 all began and I don't know if that will have
12 anything of this magnitude to come up again.
13 Anyhow, there was an earlier resolution that
14 we dealt with that made an exception for
15 Caesars that they wouldn't start their
16 cruising until Monday versus August 1st. Is
17 there some motion in reference to amending
18 that resolution, is that how we should do
19 it?

20 MR. THAR: Yes. Be to amend
21 Resolution 2002-16.

22 MR. MILCAREK: Mr. Thar, since this
23 was an appeal, what is to prevent other
24 casinos coming up here with a similar type
25 of explanation that could be construed as

1 legitimate? Are we -- I mean, it's kind of
2 bordering on a technicality, both of these,
3 and what happens to the other two or three
4 companies come up here and say now wait a
5 minute, we didn't do this.

6 MR. THAR: All the companies were
7 given the opportunity to step forward and
8 make a statement and told they could do so,
9 either then or, if they asked at the end of
10 the meeting.

11 MR. MILCAREK: So this finalizes it?

12 MR. THAR: Trump and Majestic Star
13 admitted they did it and we have photos with
14 regard to the Harrah's.

15 MR. MILCAREK: Okay. So this puts it
16 to rest.

17 MR. THAR: If the Commission decides
18 to amend 2002-16, yes. It puts it to rest
19 one way or the other.

20 MR. MILCAREK: Okay. That answers my
21 question.

22 MR. VOWELS: Anything else? Anybody
23 have a motion.

24 MR. MILCAREK: I will motion that we
25 change the resolution to move Caesars to the

1 plus side and let them open on the 1st,
2 rather than the 5th.

3 MR. VOWELS: Is there a second?

4 MR. CARLTON: Second.

5 MR. VOWELS: Is there any further
6 discussion? All those in favor, say aye.

7 (Commission members respond)

8 MR. VOWELS: Show that it is --
9 amended Resolution 2002-16 is approved.

10 MR. GIFFORD: I will let Mr. Morris
11 know, he can now enjoy his vacation.

12 MR. VOWELS: Any other business?

13 MR. THAR: No. Just my apology. I
14 will never allow advertising on any pending
15 Commission action, nor will my successor when
16 that day comes. We will amend that, so that
17 it shows that seven gaming companies commence
18 on the 1st, three being namely Harrah's,
19 Majestic Star and Trump will start on August
20 5th. I have nothing further.

21 MR. VOWELS: Okay. We'll worry about
22 our next meeting at some other point in
23 time. Is there a motion to adjourn.

24 MS. BOCHNOWSKI: So move.

25 MR. VOWELS: Is there a second?

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MR. MILCAREK: Second.

MR. VOWELS: All in favor, say aye.

(Commission members respond)

MR. VOWELS: We are adjourned. Thank
you.

1 STATE OF INDIANA

2 SS:

3 COUNTY OF MARION

4 I, Ron Oakes, a Notary Public in and
5 for said county and state, do hereby certify
6 that the deponent was duly sworn to tell the
7 truth in the aforementioned matter; that said
8 deposition was taken down in stenograph notes
9 and reduced to typewriting under my direction
10 and is a true record of the proceedings had;

11 I do further certify that I am a
12 disinterested person in this cause of action;
13 that I am not a relative of the attorneys
14 for any of the parties.

15 IN WITNESS WHEREOF, I have hereunto
16 set my hand and affixed my notarial seal
17 this 1st day of August, 2002.

18

19

20

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22

RON OAKES, Notary Public

23

My commission expires:

24

February 5, 2007.

25



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