STATE OF NEW JERSEY
CASINO CONTROL COMMISSION

CONSOLIDATED PROCEEDINGS FOR RENEWAL:
OF TRUMP PLAZA ASSOCIATES AND:
TRUMP'S CASTLE ASSOCIATES:

Wednesday, May 8, 1991
Atlantic City Commission Office
Tennessee & Boardwalk
Atlantic City, NJ 08401

VOLUME II

BEFORE:

STEVEN P. PERSKIE, CHAIRMAN
VALERIE H. ARMSTRONG, VICE CHAIR
W. DAVID WATERS, COMMISSIONER
JAMES R. HURLEY, COMMISSIONER
FRANK J. DODD, COMMISSIONER

PRESENT FOR THE CASINO CONTROL COMMISSION:

BARBARA A. GALLO, PRINCIPAL RESEARCH ANALYST
KAREN G. BIACHE, ADMINISTRATIVE ANALYST
THOMAS FLYNN, PUBLIC INFORMATION OFFICER

ON BEHALF OF THE COMMISSION STAFF:

JOHN R. ZIMMERMAN, DEPUTY DIRECTOR, LEGAL DIVISION

ON BEHALF OF THE DIVISION STAFF:

THOMAS N. AURIEMMA, DEPUTY ATTORNEY GENERAL
DENIS DOOLEY, II, DEPUTY ATTORNEY GENERAL

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Item Nos. 29 & 30

A P P E A R A N C E S:
RIBIS, GRAHAM & CURTIN, ESQS.,
BY: JOSEPH A. FUSCO, ESQ.
FOR TRUMP PLAZA ASSOCIATES AND TRUMP'S CASTLE
ASSOCIATES

PATRICIA M. WILD, ESQ.,
INHOUSE COUNSEL FOR TRUMP PLAZA ASSOCIATES

ROBERT M. PICKUS, ESQ.,
INHOUSE COUNSEL FOR TRUMP'S CASTLE ASSOCIATES

I N D E X

VOTE

1. Chairman Perskie requested a motion from the Commission delegating to the Vice Chair or to myself acting separately or in concert to review and approve the sufficiency of the document when submitted 186

2. Conditions recommended in the report of the Division of Financial Evaluation 221

3. Chairman Perskie moves the Commission to renew the casino license of Trump Castle Associates effective May 16, 1991 subject to all the conditions set forth in the staff reports submitted into evidence and otherwise here or now imposed in the previous resolution on the Plaza, and further subject on the condition that, on a weekly basis, the bond indenture trustee shall submit a report to the Commission and to the Division with respect to the progress of the Castle's exchange offer. 224

4. Chairman Perskie moves that the Commission approve the Castle sale to the Taj Mahal of the two parking facilities 225
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VOTE

5. Chairman Perskie moves that the Taj Mahal license resolution of April 18 be amended so that the languages of the condition on the transfers be amended so as to reflect the same language we have today imposed on the Plaza & Castle

6. Chairman Perskie moves to affirm the initial decision and deny the application for a casino employee license

EXHIBITS

NUMBER DESCRIPTION PAGE

A-47C Revised TCFI offering circular dated April 23, 1991 to bondholders offering to exchange Series A-3 bonds for up to $22.68 million of Series A-1 bonds (this exhibit supersedes A-47B and was mailed to bondholders on May 2, 1991) 180

A-47D TCFI Letter of transmittal pursuant to its offering circular 181

A-47E Affidavit of mailing of the offering circular and letter of transmission on May 2, 1991 by Trustee First Bank National Association to the holders of TCFI Series A-1 bonds 181

A-52 Letter dated May 2, 1991 from Patricia M. Wild, TPA vice president, general counsel, to Chair Perskie concerning slot tokens and project manning reports (with affidavit) 182


C-9A Trump Plaza and industry timelines of PMR submissions first quarter 1991 184
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CHAIRMAN PERSKIE: Not yet, let's do the--let's proceed to agenda Item No. 30 then we will do the public. We also have to deal, we had one matter carried over from this morning.

All right, continuation in the matter of the applications of Trump's Castle Associates and Trump Plaza Associates for renewal of their casino and attendant licenses.

First, let me indicate for the record that a number of additional exhibits have been proffered. My understanding is that the Division has reviewed the exhibits and has no objection to them being received into evidence and they include the following: A-47B which is a revised offering circular which is designed to supersede--excuse me, A-47C which is a revised circular designed to supercede A-47B, is that correct?

MR. FUSCO: That is correct.

MR. AURIEMMA: That is correct.

CHAIRMAN PERSKIE: And everybody agrees that should be received into evidence?

MR. FUSCO: Yes, sir.

CHAIRMAN PERSKIE: That will be received in evidence.

(A-47C was marked into evidence)
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CHAIRMAN PERSKIE: A-47D is a letter of transmittal pursuant to the offering circular. That's also offered for Trump's Castle?

MR. FUSCO: Correct, yes, sir.

MR. AURIEMMA: No objection.

CHAIRMAN PERSKIE: That will be received in evidence.

(A-47D was marked into evidence)

CHAIRMAN PERSKIE: A-47E is an affidavit of mailing of the offering circular also submitted in evidence?

MR. FUSCO: Yes, sir.

MR. AURIEMMA: No objection.

CHAIRMAN PERSKIE: Received in evidence.

(A-47E was marked in evidence)

CHAIRMAN PERSKIE: A-52 is a letter with an affidavit attached sent by Ms. Wild to me in response to some of the dialogue at the last meeting and about which more discussion will be had in a little while. As I understand it that is offered without objection into evidence.

MR. FUSCO: Yes, sir.

MR. DOOLEY: That is correct, Mr. Chairman.
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CHAIRMAN PERSKIE: Received in evidence.

(A-52 and A-53 were marked into evidence)

CHAIRMAN PERSKIE: A-53 which I will receive formally in evidence today is a May 6 letter from Mr. Bollenbach pursuant to the weekly obligation which I will note for the record was received in the Commission yesterday and was made available publicly yesterday. Before I leave that matter, Mr. Fusco, because it doesn't directly relate to the Plaza or Castle applications here, but putting on our hat as consolidated Taj Mahal process, the letter is satisfactory in form insofar as it generally identifies subjects and people with whom discussions were ongoing. But I think that future letters should do two things. Number one, be somewhat more particular with respect to the subject of discussions that are identified as taking place, that is to say identifying the subject matter of the discussions and some sense of what the schedule of those discussions is and when those discussions may be reducible to paper. Secondly, with respect to those discussions that are reduced to some form of paper, either proposed term sheets or otherwise, and where reference
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to that fact is made in the letter, the paper should
be attached as exhibits. I will indicate that it is
my view that while in general subject to any specific
application of sealing, a cover letter and general
description of what's going on should, in fact, be
considered as evidence when submitted and should be
made public, that the enclosures in the forms of any
documents and the terms of any term sheets and the
like in the ordinary course will not be released until
they are formally admitted into evidence which I
contemplate in this context would be June 17.

MR. FUSCO: Yes, sir.

CHAIRMAN PERSKIE: But they should
be, wherever there is a reference that there is paper
the Commission should be supplied with the paper as an
attachment or an exhibit to the cover letter.

MR. FUSCO: We will do so.

MR. ZIMMERMAN: Mr. Chairman, while
we are completing the record, on the subject of A-52,
the PMRs, I would submit as an addendum to the staff
report, which has been premarked C-9A, additional
statistics prepared by the affirmative action staff on
PMR filings for Plaza and for the industry as a whole
during the first quarter of '91.

CHAIRMAN PERSKIE: This would be
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what, attached to C-9?

MR. ZIMMERMAN: Yes.

CHAIRMAN PERSKIE: Therefore C-9A?

MR. ZIMMERMAN: Yes.

CHAIRMAN PERSKIE: Mr. Fusco and Auriemma, any objection?

MR. FUSCO: Two pages?

CHAIRMAN PERSKIE: Two pages.

MR. FUSCO: No objection.

CHAIRMAN PERSKIE: Pretty little computer sheet here. That will be received in evidence.

(C-9A was marked into evidence)

CHAIRMAN PERSKIE: There is a reference hear, Mr. Zimmerman, I can't--I don't know if it's Xd or not, what is C-12? Have we received that? It doesn't show it's been received.

MR. FUSCO: C-12 is the report.

CHAIRMAN PERSKIE: Of our financial evaluation director as to Trump's Castle. Has that been received in evidence?

MR. FUSCO: I believe so.

CHAIRMAN PERSKIE: I think it has. Maybe the X--oh, there it is or maybe it is. I can't tell if it's under the staple or not.
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MR. ZIMMERMAN: Yes, there is an X under my staple.

CHAIRMAN PERSKIE: If there is an X under your staple, Mr. Zimmerman, there must be one under mine.

All right, now where are we? I guess that takes us to closing arguments.

MR. ZIMMERMAN: Chairman, if I may, just one other housekeeping item, on the Tortoise and Unicorn ICA, the application must be completed by next Wednesday and it is complete at this point other than the trust agreement which is close to complete and it might be appropriate to delegate that responsibility to make the ruling on the completeness of the application.

CHAIRMAN PERSKIE: I would request a motion from the Commission delegating to the Vice Chair or to myself acting separately or in concert to review and approve the sufficiency of the document when submitted.

COMMISSIONER WATERS: So moved.

COMMISSIONER HURLEY: Second.

CHAIRMAN PERSKIE: Any comment or discussion?

All in favor will so indicate.
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The record will reflect the motion carries unanimously.

(All Commissioners present voted in favor of the motion)

CHAIRMAN PERSKIE: Does that clean the decks or clear the decks?

MR. AURIEMMA: It does I think.

MR. FUSCO: One minute, I had one question of Mr. Zimmerman.

Yes, Mr. Chairman, I have nothing further.

CHAIRMAN PERSKIE: Mr. Auriemma.

MR. AURIEMMA: On April 29, 1991 the Commission commenced renewal proceedings with respect to Trump Plaza Associates and Trump's Castle Associates with the primary focus being upon the financial stability of these two licensees. In many respects what is occurring with these two licensees is similar to that which is also happening regarding the Taj Mahal and Donald J. Trump, that is fiscal reorganization.

From the testimony that we have heard and the evidence introduced, certain matters are clear. Both the FMR Trump Plaza transaction and the Trump Castle offering circular must be successful if
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these two facilities are to meet their mid June 1991 bondholder sinking fund obligation. Operations plainly have failed to generate sufficient funds to meet the financial obligations. As a result both properties are borrowing money to meet principal payments thereby sustaining the cash flow deficit. Assume for the moment, and we will know soon enough, that these transactions are, in fact, timely consummated, the next critical evaluation is of the cash position of both licensees. This is so since both will be relying upon cash generated from operations and Castle will also be relying on asset sales to satisfy bondholder interest payments in mid June as well as certain other obligations. Neither facility at present has any credit lines available in the event of cash shortfall for working capital.

The projections and the testimony that have been received which assume the FMR transaction and the exchange offer are consummated suggest that cash flow will be sufficient to satisfy the June obligation. Reality, of course, may be different. As to Trump Castle that facility has undoubtedly benefited from two asset sales which will net it approximately seven million dollars. Trump Plaza, on the other hand, is seemingly relying solely
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on operational success.

Saturday, June 15 is rapidly
approaching. In actuality, therefore, Monday, June 17
is the day when these bondholder obligations must be
satisfied. We will certainly know by that date the
cash positions of each entity and whether the
bondholder obligations have, in fact, been satisfied.

We know from the Commission’s
decision regarding the Taj Mahal and Mr. Trump that
they will be before this Commission on Monday, June
17. In the Division’s view we believe that the
Commission should require Trump’s Castle Associates
and Trump Plaza Associates to be present that day as
well and establish that the payments have been made
and explain that adequate resources exist to ensure
that patrons, taxes and fees and employees are also
timely paid.

With respect to progressive jackpots
at each facility, the state must be provided with
clear and convincing evidence that cash resources or
credit lines exist to guarantee the payment of these
jackpots to the casino patrons.

In the past when cash has become a
problem for a casino licensee, various conditions have
been imposed to protect certain constituents. Most
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significantly these conditions have centered around
dedicated accounts for jackpot liabilities, fees and
taxes and payroll. As we sit here today, we do not
believe that there is a present need for these
accounts. However, cash may become critically low for
each of these licensees and these types of accounts
may be necessary if not essential to protect the
public interest. This is a matter that should be
further addressed on June 17 we believe.

Of course, we further believe that
these two licensees should make every effort to
procure credit lines in the event that cash balances
fall to perilously low levels. We urge the Commission
to require that these licensees attempt to obtain such
credit lines and report to the Commission and Division
on a weekly basis regarding their efforts. If credit
lines are established, that would presumably obviate
the need for even considering the imposition of
dedicated accounts. We do not believe that the
procurement of credit lines is onerous specifically
since one licensee, Trump's Castle, must obtain a
letter of credit for the December 1991 interest
payment to the new A-3 bondholders. Just as these
bondholders have sought assurances that they will be
timely paid, we see equal assurances for the gaming
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public and the state.

On a going forward basis both

regulatory agencies have to be diligent in monitoring
payments by these two licensees. Further, in June of
1992 events will have to unfold favorably for Trump’s
Castle and Trump Plaza to continue to meet bondholder
obligations. As we know from the projections Trump
Plaza is relying upon an additional 25 million dollar
principal amount of bonds being advanced in 1992.

Yet, the sole discretion in this matter rests with
FMR. Similarly, in June 1992 we will have to see a
successful exchange offering concerning Castle bonds
or some other restructuring.

What all of this portends in our view
is that careful watching by the Commission and the
Division will be required for some time and if matters
do not develop as hoped for by the licensees speedy
regulatory action may be necessary. In the meantime,
however, we should not hamper the positive efforts
that have been made by these two licensees to deal
with their respective fiscal dilemmas provided the
public interest is safeguarded.

CHAIRMAN PERSKIE: Thank you, Mr.
Auriemma.

Mr. Fusco, in your closing I would
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appreciate it if you would address yourself to the
implications of C-9A specifically with respect to the
apparent differential, if you will, between the
numbers that are represented therein and the numbers
that are included in the letter that was sent to me.

MR. FUSCO: If I could, Mr. Chairman,
I would like to address that at the outset.

The affidavit that was provided as
part of A-52 recites a series of numbers which relates
to project manning reports, filing and the timeliness
thereof. C-9A, one of the two pages which is entitled
Trump Plaza timeliness for first quarter 1991 recites
a series of numbers which reflect 16 additional
project manning reports. I learned about the
differential when I arrived here about an hour ago.
It is clear to me that those--of those 16, 11 were
submitted by single men. I am advised by Plaza staff
that those 11, there was confusion because the
subcontractor who was responsible, whose project
manning reports they were had received, we believe,
incorrect directions from its prime contractor who is
our vendor. We have spoken to the subcontractor. The
subcontractor historically has a very good record from
our experience with the Commission in timely filing
these reports.
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CHAIRMAN PERSKIE: Who is the subcontractor?

MR. FUSCO: Calvi Electric and from all our experience, Mr. Chairman, we have had very good success with dealing with them. We believe that the problem is solved. As I say, I learned of this and so did Ms. Wild about an hour ago and that's my explanation. So that I think our numbers are inaccurate to the extent that they cut off at a time earlier than those 16 reports. I don't think we are talking about anything other than that.

CHAIRMAN PERSKIE: That's exactly what it is. The concern though is that when you add in the 16 late reports or later reports they skew the percentages.

MR. FUSCO: That's true, and I make one other observation, it is my understanding that the Commission's focus on the timeliness of these reports really is a focus on the efforts of the casino licensee to insist upon timely reporting by its vendors and subcontractors. In this particular case in light of this particular vendor, the subcontractor in this case, we believe that there was a misunderstanding which is solved as to 11 of those reports and that is what skewed our percentages.
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That's the most precise explanation I can provide at this point in time.

CHAIRMAN PERSKIE: Do you have anything on the other five?

MR. FUSCO: I haven't been able to analyze the rest of them, Mr. Chairman. I will gladly provide more information. I just don't have it.

CHAIRMAN PERSKIE: You should to Mr. Thomas who is here and not necessarily right this minute obviously, but on an ongoing basis I would like to get some more data on that by the end of the week and I would also like to know by the end of next week, Mr. Thomas, what we have in our files with respect to Calvi and whether from our point of view this is a chronic problem with them or not.

MR. THOMAS: Yes, sir.

CHAIRMAN PERSKIE: All right.

MR. FUSCO: Members of the Commission, Mr. Chairman, the issues presented by these consolidated proceedings concern the financial stability, integrity and responsibility through May 1993 of Trump Plaza which has operated in Atlantic City for seven years, of the Castle which has operated here for more than six years and, of course, of Donald Trump who was first found qualified by this Commission
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almost 10 years ago.

As to Mr. Trump, the Commission three
weeks ago on April 18 in reviewing—in renewing the
Taj Mahal casino licenses recognized his continuing
good faith efforts to consummate agreements with his
lender banks and the apparent likelihood that these
obligations will be satisfactorily restructured.

In addition to the evidence in the
record at that time exhibits A-51 and A-53, the April
29 and May 6 reports of Mr. Bollenbach as to the
status of discussions with the lender banks clearly
demonstrate term sheets are now being drafted with
five of the banks and that verbal agreements are close
with the others. These weekly reports will, of
course, continue. Also now in evidence is exhibit
A-48 which is the revised cash flow forecast for Mr.
Trump as of April 25, 1991. Recognizing the
Commission has determined to resume the proceedings as
to Mr. Trump on June 17, the licensees submit that the
evidence in these proceedings as of today clearly
establishes financial stability, integrity and
responsibility required for Mr. Trump as a natural
person qualifier to the Trump Plaza and Castle casino
license.

As to the Plaza, it historically has
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been one of the most successful of the New Jersey
casinos, primarily because of its central boardwalk
location, its superior upscale facility, and its
appeal to the more premium player. 1990, however,
simply stated, was a very difficult year for Trump
Plaza. Not only did it feel the general impact of the
recession in the economy as it deepened, but also
contemporaneously with the opening of the Taj Mahal it
experienced the sudden resignation of its president
and chief operating officer. Now new executive
management is securely in place. Nicholas Ribis is
the chief executive officer of each of the three Trump
casinos, has taken a firm hold of the strategic and
financial planning of each property. Kevin DeSanctis
now brings as many years of management experience as
the principal casino executive at five major Nevada
casino hotels and his accounting and regulatory
backgrounds to Trump Plaza as its president and chief
operating officer. Mr. DeSanctis, with the approval
of Mr. Ribis, has solidified his on-site senior
management team, the majority of which was already in
place. With his direction Trump Plaza has now refined
its operating programs. In the words of Mr.
DeSanctis, Trump Plaza is and will continue as an
upscale operation which caters to more of a premium.
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player. As he testified we think we have a great product and we are going to concentrate on the details. His intent is to implement a very simple, straightforward program and to concentrate on details.

The primary casino revenue components, of course, are generated by table games and slot operations. As to table games, Trump Plaza as of five weeks ago has replaced its costly and inefficient charter programs and junkets with a more focused splinter program. Its straightforward and newly implemented marketing policy is simply a patron must play to receive complimentaries. Its operating focus has now been redirected from a goal of maximizing total revenue to the more appropriate objective of maximizing its operating income.

As to slot operations Trump Plaza has greatly strengthened its bus program with the addition of Lily Simone as its new vice president in charge of that function, has reduced the cost and increased the inefficiency of its direct mail coin program by selectively refining and reducing its target customer base.

CHAIRMAN PERSKIE: You say increase the inefficiency?
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MR. FUSCO: Increased the efficiency is what I certainly meant to say and I'm sure Mr. DeSanctis agrees. And has greatly increased its service and attention to the highly profitable and virtually cost-free walk in patrons which are so easily available to its central boardwalk location.

Changes in the floor configuration will add 200 slot machines including the highly popular poker machines and contemplate conversion of an underused gaming pit and a cocktail lounge to slot operations, areas. These changes will provide Trump Plaza slot patrons with a substantially enhanced physical product.

The Trump Plaza forecasts we submit are reasonable and attainable throughout the licensing period. Its current cash position with anticipated cash flow from operations will provide adequate financial resources for the payment of its obligations and the operation of its casino.

Mr. Ribis testified as to the sinking fund payments due to Trump Plaza Funding bondholders during June of 1991 and 1992, and as to exhibit A-41A, which is the April 2, 1991 agreement between Trump Plaza and Fidelity which the Commission this afternoon found qualified as a financial source. The agreement
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1. contemplates that Fidelity by May 15 will transfer to
2. Trump Plaza 25 million dollars in face amount of Trump
3. Plaza Funding bonds which it already now owns in
4. exchange for the 25 million dollar note of the
5. partnership at an interest rate for its first two
6. years lower than that payable on the bonds and with
7. the maturity date slightly earlier than that of the
8. bonds. The note will be secured by mortgage lien on
9. the Trump Plaza parking parcel superior to that of the
10. bonds. The transaction will occur during May and will
11. fully satisfy the 1991 sinking fund obligation.

   In his testimony Mr. Ribis also
12. indicated that a bond transaction with Fidelity to
13. fully satisfy the 1992 sinking fund obligation which
14. is described in the exhibit, in the agreement as an
15. option will, in fact, be available to Trump Plaza from
16. Fidelity unless there is a total disaster in the
17. world, but that it would be very expensive. Mr. Ribis
18. further stated that he has focused on anticipating
19. this financial responsibility of Trump Plaza, is
20. looking at other opportunities and is investigating
21. all the alternatives.

   Accordingly, Trump Plaza submits that
22. its evidence clearly and convincingly establishes that
23. it will continue to be financially stable and have

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adequate financial resources to operate its casino through 1993, May 16, 1993.

The Castle during 1990 in the testimony of Roger Wagner suffered the most from the opening of the Taj Mahal and similarly experienced disruption in its executive management contemporaneously with the opening of that facility 13 months ago. New executive management is also now in place at the Castle with Mr. Ribis as the chief executive officer, and Mr. Wagner now serving as its president and chief operating officer. Mr. Wagner too has solidified his on-site senior management team mostly with executives who were already in place there.

Unlike Trump Plaza, however, the Castle has adopted a substantial change in its strategy by targeting a new market position and developing a unique market identity and casual, informal theme. Its efforts have now been redirected from its former emphasis on competing for premium players to programs designed to attract those who are currently drive-in patrons of boardwalk casinos. Its spacious and meticulously maintained facility on the 15 acre site which overlooks the fully reconstructed 600 slips at the Farley Marina will now be fully
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Mr. Wagner, of course, brings us more than 20 years of experience as a casino industry executive in four distinct industry markets to the Castle. As you know, his last eight years have been spent in New Jersey at the Claridge. During his first 16 weeks he has reduced the Castle daily operating break even point by 29 percent. He brought the Castle accounts payable to below industry average, and has dramatically reduced the proportion and amount of its promotional allowances while significantly increasing its cash position and exceeding its first quarter forecast as to operating income. The Castle has now eliminated its junket program, established more conservative credit benchmarks and eliminated its transportation facility, print shop and contract laundry services.

More specifically, under the direction of Mr. Wagner the Castle has substantially increased the capacity of its buffet; implemented a new showroom policy and undertaken construction of a new lobby lounge.

More significantly, its casino is now being reconfigured as depicted in exhibit A-50 to contain 400 new slot machines, 700 new slot stools,
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wider aisles and improved sight lines and greater
visibility and higher frequency jackpots. Its casino
will now offer New Jersey's first Las Vegas style
video poker bar. These changes are being carefully
implemented so not to impede the company's objective
of maximizing its table game revenue. In the words of
Mr. Wagner, by Memorial Day the products will be in
place and priced and then we start promoting them and
putting the gas pedal on and making our impact in the
marketplace.

In April the Castle sold its Delilah
Road fleet maintenance and office warehouse for 1.7
million dollars and by May 14 will close on the sale
of its Route 30 parking facility for 4.9 million
dollars. Its forecast, Mr. Wagner testified, are
reasonable and attainable throughout the licensing
period. In his words, management is now programmed to
flex with the revenues. It's anticipated cash flow
from operations will provide adequate financial
resources for the payment of its obligations in the
operation of its casino.

Mr. Ribis, again, gave testimony
concerning the sinking fund payments due to Castle
funding bondholders during June of 1991 and 1992, and
the offering circular which on May 2 was mailed by the
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trustee to each series A-1 bondholder. By the circular, which is exhibit A-47C, Castle has offered to exchange 22.7 million dollars in newly issued series A-3 bonds for an identical amount of series A-1 bonds which represents 6.9 percent of all outstanding Castle bonds in the precise amount of the sinking fund obligation. The A-3 bonds will have a slightly higher interest rate and a slightly earlier maturity date than those of the A-1 bonds. The exchange will fully satisfy the 1991 sinking fund obligation.

The offering circular was prepared in the context of discussions with many of the Castle bondholders and includes terms which some of those bondholders have requested. Mr. Ribis emphasized in his testimony that over 60 million dollars worth of face amount bondholders have indicated their intention and their willingness to participate in the exchange and to tender their bonds. As to the 1992 Castle sinking fund payment Mr. Ribis reiterated that he has focused upon that obligation and is investigating all alternatives which include a similar exchange offer during 1992. He fully expects to satisfy that obligation during the 13 month period which precedes its due date.

Accordingly, the Castle submits that
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its evidence clearly and convincingly establishes that it will continue to be financially stable and have adequate financial resources to operate its casino through May 16, 1993.

CHAIRMAN PERSKIE: Thank you, Mr. Fusco.

Commissioners, does any of you have any questions that you wish to present to counsel at this point?

Trump Plaza and Trump Castle have applied for the renewal of their casino licenses for a two year period. As was the case in the recently concluded Taj Mahal license renewal hearing, the sole contested issue at the hearing is the financial stability of the licensees.

On August 21, 1990, the Commission approved certain agreements relating to a comprehensive debt restructuring of The Trump Organization which, in part, pledged the Trump casino assets to support noncasino debt. The Commission concluded at that time that the restructuring would have a salutary effect on the financial condition of The Trump Organization. However, the Commission recognized that the restructuring was not a panacea for the financial problems that plagued The Trump

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Organization in general or the casinos in particular. Accordingly, the license hearings for Trump's three casino properties were reopened.

The Commission's reservations have proven to be well-founded as The Trump Organization continued to experience financial difficulties throughout the past year, culminating in the decision to terminate the agreements executed last summer in favor of a new restructuring proposal. The casino properties have been beset by problems of their own as they grapple with their exorbitant debt burdens.

On April 18, 1991, the Commission renewed the license for the Taj Mahal subject to further review of the licensee's financial stability. In granting the renewal application, Commission determined that financial restructurings of the Taj Mahal and The Trump Organization were underway which, when and if consummated, could result in a financially stable casino property and a financially stable Trump organization. By the same token, however, the Commission concluded that, absent implementation of the plans, neither the Taj Mahal nor The Trump Organization would be able to establish long-term financial stability. Due to the uncertain status of both plans, the Commission was unable to reach a final
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conclusion on the financial stability issue.

Of course, The Trump Organization’s financial stability is also a requisite for relicensure at the Plaza and the Castle. Obviously, the Commission’s previous ruling regarding The Trump Organization is pertinent and applicable in this proceeding. It therefore bears repeating that the precarious financial situation confronting The Trump Organization has not been resolved. Accordingly, any final decision on the overriding issue of financial stability of these licensees must necessarily await the outcome of future events.

With that background, I will now address the record presented during last week’s hearing and supplemented today.

The Plaza has incurred long-term debt totaling approximately 275 million dollars, 28 million dollars of which is due during 1991. The major portion of this debt involves repayments on its 250 million dollar principal amount, 12 and seven-eighths percent first mortgage bonds. Interest on these bonds is payable on June 15 and December 15 of each year, and sinking fund payments of 25 million dollars are required annually, commencing June 15, 1991. Thus, Plaza’s immediate financial concern is its ability to
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make the upcoming 41.1 million dollar principal and
interest payment of June 15.

Nicholas Ribis, CEO for the Trump
casino properties, testified that an agreement has
been reached with Fidelity Management and Research
Company, a substantial bondholder, which will enable
Plaza to satisfy the 25 million dollar bond principal
repayment. Pursuant to this agreement, which is
expected to be consummated by May 15, 1991, Fidelity
will exchange 25 million dollars of the bonds for a 25
million dollar note due September 30, 1996. Fidelity
will also receive a 1.3 million dollar cash payment on
June 15, 1991, representing the accrued interest on
the bonds to the date of the exchanges. The bonds
would then be tendered in lieu of the sinking fund
payment. The new note would be secured primarily by a
mortgage on Plaza's parking facility. Interest on
this new note will be payable monthly commencing June
15, 1991, at 11 percent during the first year, 12
percent during the second year and 12 and
seven-eighths percent thereafter. If the June 1992
payment is not otherwise satisfied, Fidelity will have
the option to make a similar exchange in 1992. If
executed, this second agreement would enable Plaza to
satisfy its sinking fund requirement for 1992. This
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second note would be secured by a lien on the casino hotel junior to the lien on the bond indenture. If Fidelity engages in this second transaction, it would also receive a 4.95 percent equity interest in the Plaza.

Although there is currently no commitment from Fidelity for the 1992 proposal, Ribis expressed confidence based on his ongoing negotiations that, absent some unusual occurrence, Fidelity would agree to the transaction. He further stated that if a second deal cannot be achieved, Plaza could utilize other alternatives to generate the needed funds, such as a refinancing, an exchange offering, or the reinstitution of credit facility.

Plaza concedes that without that, without this exchange agreement, it would not have sufficient funds to satisfy its debt service. Plaza's independent accountant, Arthur Andersen & Company, issued a recent report concluding that, without a debt restructuring, it was unlikely that Plaza could produce sufficient cash to meet its debt obligations.

Clearly, if the contemplated agreement with Fidelity is not implemented, Plaza will default on the bonds on June 15. There is no grace period for making this payment. The record demonstrates, however, that a
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firm agreement has been reached for 1991 and that it is reasonably likely that a subsequent agreement covering 1992 will be similarly achieved.

Apart from the sinking fund obligation, Plaza still faces a 16 million dollar interest payment on June 15. Kevin DeSanctis, recently appointed president and chief operating officer of the Plaza, testified that Plaza currently has an available cash balance of approximately 14 million dollars, including four million dollars in in-house funds. He anticipates that that, based on recent operating results, Plaza will generate sufficient cash flow to satisfy this interest payment. Management's financial projections indicate that Plaza will be able to make this and other interest payments as they come due during the license period. The report of the Commission staff, admitted into evidence, opines that the assumptions underlying these forecasts are reasonable and that the predicated operational performances may be attained. The report concludes that, if the exchange agreement is executed and the forecasts are realized, Plaza would satisfy the Act's requirement of financial stability. Significantly, recent operating results have exceeded forecasts.
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From an operational standpoint, DeSanctis stated that he did not expect many changes in key management positions, which should bring needed stability to the facility. He added the changes were being made to enhance casino performance, such as elimination of unprofitable aspects of operations and making a more concerted effort to attract preferred customers.

Thus, it appears that Plaza is on a course to satisfy its monetary obligations. A workable plan has been devised which, if implemented, should bring Plaza financial stability. However, since Plaza presently does not have any available external financing, its ability to make the required interest payments depends entirely upon operating performance. The viability of Plaza's plan for stability through the license period is still, therefore, in question, particularly since there is little room for any material variance between actual and forecasted results. If Plaza's stability is reconsidered at the June 17 hearing, the Commission will at that time not only know if the June 15 principal and interest payments have been made, but will also be able to examine additional operating results to determine the viability of the licensee's
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projections.

Turning to the Castle, that licensee is also faced with a substantial debt burden and an extreme liquidity problem. Based on recent performance levels, its prospects are somewhat less promising than those of the Plaza. Management is considering various alternatives to solve its liquidity problem, including a restructuring of the indebtedness and a sale of certain ancillary properties and facilities. Until such a restructuring is completed, Castle can rely only on cash generated from operations to service its debt and provide for its anticipated capital requirements. Castle acknowledges that, if current levels of operations continue, and no restructuring is effected, funds generated from operations will not be sufficient to cover its debt service requirements.

Castle has a long-term debt balance of approximately 366 million dollars, including roughly 204 million dollars principal amount of 13.75 percent first mortgage bonds. Its most immediate financial concern is the ability to pay a 22.7 million dollar sinking fund payment on the mortgage bonds due June 15, 1991, together with an interest payment of 18.4 million dollars.
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Ribis testified that, with respect to the sinking fund payment, Castle is offering to exchange 22.7 million dollars of its first mortgage bonds for new bonds of a similar amount. Consummation of this exchange offer which expires on June 15, 1991 would enable Castle to make this payment. The new bonds would bear interest at 13.875 percent and mature in 1996. Castle anticipates a similar transaction in 1992 to satisfy that year's requirement. Ribis stated that he has assurances from the holders of 20 percent of the outstanding bonds that they will participate in this offering. Counsel for the Putnam Companies, a member of the Steering Committee representing the holders of approximately 33 percent of the bonds, maintained that no commitment had been given or made from that large block. It is indisputable that implementation of this exchange offer or a restructuring of similar nature is essential for establishing financial stability. It is equally clear, however, that, without firm commitment from the bondholders, it is premature to assess the likelihood of the success for any such offering.

Moreover, despite the potential benefits of the exchange offer, Castle is still required to fund interest payments of approximately
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36.8 million dollars and 36.9 million dollars for 1991 and 1992, respectively. Castle anticipates that these obligations will be satisfied using cash generated from operations coupled with approximately seven million dollars in proceeds from the sale of two parking facilities to the Taj Mahal. The sale of one of the parking facilities occurred on April 19, 1991, and the sale of the second facility is expected to occur later this month. Currently, Castle has available cash reserves of 15 million dollars, without considering the 4.9 million dollars received from the recently concluded parking lot transaction.

Castle’s financial forecasts indicate that it will have approximately 22 million dollars in available cash reserves on June 15, which would clearly be enough to fund the 18.4 million dollar interest payment of that date. Castle also expects its cash reserve to be at the seven million dollar level by the end of June, which would allow it to make its required slot fee payment. However, in evaluating the reasonableness of these projections, we must take into account Castle’s recent performance record and the fact that it had to resort to external financial resources in order to fund last year’s debt interest obligations.
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Castle was unable to make the required sinking fund payment or interest payments on the mortgage bonds by the due date of June 15, 1990. However, Castle was able to make the required payments before expiration of the 10 day grace period by borrowing the necessary funds from Trump coupled with its own open market bond purchases. Castle also experienced difficulty funding its December 1990 bond interest payments, and again had to resort to financing from the Trump family. In addition, Castle has failed to make certain required interest payments to MidLantic National Bank on a construction loan and credit line. MidLantic has agreed to defer payment of accrued and unpaid 1990 construction loan and credit line interest.

Roger Wagner, president and CEO of the Castle, who has considerable casino management experience and a proven track record for controlling costs and expenses, joined the Castle in January and immediately began to implement significant changes to increase profitability. Since his arrival, the Castle has exceeded its forecasts in operating income. Wagner testified that his program for enhancing operating results includes a streamlined management team, a reduction in operating expenses, a major shift
in marketing strategy, and a reconfigured casino floor
designed to optimize revenue. He testified that this
comprehensive operational and marketing program should
significantly increase revenue and reduce expenses,
allowing Castle to meet its forecasts and ensuring a
financially viable facility.

The record indicates that Wagner has
succeeded in eliminating over 200 middle management
positions without impairing the property’s ability to
function effectively. In addition, certain costly
expenditures which have not been revenue enhancing,
such as the transportation facility, junkets, print
shop and laundry contracting, have been eliminated. A
significant aspect of Wagner’s program is a dramatic
revision in promoting and marketing the facility in an
effort to carve out its own niche in the casino
marketplace. Finally, the casino floor will be
altered by Memorial Day, with 400 new slot machines,
700 slot stools, a slot poker area and wider aisles,
all of which should help increase slot revenue.

The Castle’s situation is similar to
the Plaza insofar as it will have to rely upon funds
generated from operations in the absence of any
available external financing. Castle has yet to
demonstrate its ability to achieve the forecasted
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increases in earnings necessary to meet its 1991 and 1992 debt service requirements. As in the case of the Plaza, the viability of Castle’s plan to satisfy its debt service requirements cannot be finally assessed at this point.

Both the Plaza and the Castle suffered through disappointing years in 1990 as the economic recession affecting the northeast corridor of the United States and last spring’s opening of the Taj Mahal resulted in declining revenues and decreased profits. Their plight was compounded by the well documented tribulations of The Trump Organization. Saddled with substantial debt burdens and no longer able to rely on the resources of The Trump Organization, these entities certainly face a difficult task as they seek to recapture their predominant positions in this competitive marketplace. There can be no doubt that, unless their respective debt service requirements are restructured and operating performances are significantly enhanced, their continuing financial viability is in serious peril.

Despite these concerns, I am satisfied that, similar to the situation that existed with respect to the Taj Mahal, there has been an
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adequate showing here of short-term stability for each
of the licensees. Indeed, the record persuasively
demonstrates that both properties are generating
sufficient operating income and can reasonably be
expected to continue to satisfy all current
obligations, including taxes, payroll, vendor accounts
and patron expenses. Their fundamental problems
derive primarily from their substantial debt burdens.
Both entities have devised plans that deal effectively
with these debt service requirements, which if
implemented, may provide the necessary financial
stability through the license period. I also derive a
considerable degree of comfort from the conduct of the
creditors in withholding action in enforcing their
legal claims against these debtors. In addition,
there has been no suggestion that any unlicensed or
un licensable interests have attempted to take
advantage of their uncertain financial status or to
take any action which would threaten the public
interest in the integrity of the entities, their
operations or their structures. Considering all of
these factors, the public interest would be protected
if licensure were now to be continued for a short
period and under strict scrutiny and supervision.

As I have indicated, it will be
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necessary to reconvene on June 17 to continue the
examination of the financial status of The Trump
Organization and the Taj Mahal. I believe that the
financial stability issue with respect to these
licensees should be consolidated with that
proceeding. At that time, we will have a much clearer
picture of the viability of the proposed
restructurings and the ability of each of the
licensees to make the requisite debt payments. During
the interim period, of course, the Commission and the
Division will closely monitor the progress of each of
the licensees.

There being no disputed issues before
the Commission other than that of financial stability,
and concluding that each of the licensees has
established by clear and convincing evidence all other
elements of the proofs necessary for relicensure, I
move that the Commission renew the casino license of
Trump Plaza effective May 16, 1991, subject to all of
the conditions set forth in the staff reports in
evidence and further subject to consolidating the
hearing on the subject of financial stability with the
hearing scheduled for June 17, 1991, regarding the Taj
Mahal and The Trump Organization. Of key significance
are the following conditions recommended in the report
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of Division of Financial Evaluation:

1. On a weekly basis, a report
detailing Plaza's cash balance and progress toward
making its $16.1 million dollar interest payment due
June 15, 1991 is to be provided to the Commission and
to the Division.

2. Within 15 calendar days of the end
of each month, the Plaza shall submit monthly balance
sheets, statements of income, and statements of cash
flows to the Commission and to the Division.

3. Within 15 calendar days at the end
of each month, the Plaza shall advise the Commission
and the Division of any significant deviation from the
financial forecasts submitted in connection with this
license hearing as well as to disclose the specific
variances and management's analysis of the factors
contributing to any such variances. Significant
deviations shall be determined on a monthly and year
to date basis based on the following criteria:

   a. A five percent or greater variance
   between actual and forecasted net revenues.

   b. A five percent or greater variance
   between actual and forecasted operating costs and
   expenses.

   c. A 2.5 percent or greater variance
between actual and forecasted net income.

d. Any variance between actual and
forecasted sources and uses of cash.

Relicensure shall also be subject to
the condition suggested by the Division of Gaming
Enforcement, that the Plaza is to make every
reasonable effort to procure a credit line and an
available ongoing credit line and is to report to the
Commission and to the Division on a weekly basis
between now and June 17 on its efforts and discussions
in that regard. That report I suggest can be in the
same form and submitted on the same schedule as the
other report that Mr. Bollenbach is required to submit
with respect to the Taj Mahal.

In addition, relicensure shall be
subject to all of the conditions imposed August 21,
1990, in connection with the Commission’s approval of
the Credit and Override Agreements, with the exception
of paragraph 1 (b) in Resolution No. 90-233 which is
to be superceded by the following condition:

Any payment from the licensee to any related
entity, or any partner or shareholder of the
licensee shall be subject to prior Commission
approval with the exception of the following:

(1) payments pursuant to a tax allocation
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agreement; (2) payments to satisfy or maintain a debt service obligation, the structure of which has been expressly approved by the Commission; (3) payments representing the licensee’s proportionate share of group insurance premiums; (4) payments for fair and adequate consideration for services rendered or property purchased or leased by or to casino service industries or junket enterprises or applicants for such licenses; and (5) any individual payment in the ordinary course of business less than $100,000 and any such cumulative payments not exceeding $500,000 in any calendar year.

Written notice of any payment which is exempt from prior approval pursuant to one of the five exceptions set forth in this condition shall be provided to the Commission and to the Division within five days of any such payment.

So moved.

COMMISSIONER WATERS: Second.

CHAIRMAN PERSKIE: Comment or discussion?

On the motion all in favor will so indicate—or I think in this instance we will call
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again for a roll call.

Commissioner Dodd?

COMMISSIONER DODD: Aye.

CHAIRMAN PERSKIE: Vice Chair Armstrong?

VICE CHAIR ARMSTRONG: Yes.

CHAIRMAN PERSKIE: Commissioner Hurley?

COMMISSIONER HURLEY: Yes.

CHAIRMAN PERSKIE: Commissioner Waters?

COMMISSIONER WATERS: Yes.

CHAIRMAN PERSKIE: And I vote yes.
The record will reflect that the vote is unanimous.

(All Commissioners present voted in favor of the motion)

CHAIRMAN PERSKIE: I would further move the Commission renew the casino license of Trump Castle Associates effective May 16, 1991 subject to all the conditions set forth in the staff reports submitted into evidence and otherwise here or now imposed in the previous resolution on the Plaza, and further subject on the condition that, on a weekly basis, the bond indenture trustee shall submit a
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report to the Commission and to the Division with
respect to the progress of the Castle's exchange
offer. Likewise, Mr. Fusco, that report from the bond
indenture trustee should be filed by noon or by 10:00
whatever we had previously said on Tuesday of each
week.

So moved.

COMMISSIONER HURLEY: Second.

CHAIRMAN PERSKIE: Comment or
discussion?

VICE CHAIR ARMSTRONG: Mr. Chairman,
yes, I support the motion, but I have two brief
comments I want to make.

The first one is that I just feel a
need at this point to say in connection with the
Castle renewal that I am less than enamored with the
transaction which occurred between Fred Trump and
Castle in connection with the December 1990 bond
interest payment, but in the interest of not
prejudging at this point in time and recognizing that
we will be addressing that incident in more detail,
probably within the next several weeks at one of our
regular public meetings, I will withhold further
comment until it's squarely in front of us, but
suffice it to say and I feel I should indicate that
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incident considered in the context of the delicate and
precarious financial condition the Castle is in is a
matter of considerable concern to me and I will have
more to say at a later point in time about that.

The second comment I just want to
make is that I do fully appreciate the business
realities of the need for adequate time to unravel and
restructure any complex financial problems and in
particular those which are confronting all of the
various Trump entities. However, I also respect the
reality of the words of the Casino Control Act which
require our casino licensees to possess financial
stability. In connection with both the renewal of
Plaza and the Castle it seems to me that a balancing
of the business realities with the regulatory
realities give me some comfort in agreeing that
additional time to resolve the financial matters
confronting these entities is appropriate and will not
do an injustice either to the public or to the intent
of the Casino Control Act. However, the whole point
of these comments is something that I mentioned in the
Taj Mahal renewal hearing and I wish to reemphasize
here that for me June 17 is a real date and I am very
serious about that speaking as one Commissioner.

CHAIRMAN PERSKIE: Anybody else have
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any comments on the motion?

Commissioner Dodd?

COMMISSIONER DODD: Aye.

CHAIRMAN PERSKIE: Vice Chair Armstrong?

VICE CHAIR ARMSTRONG: Yes.

CHAIRMAN PERSKIE: Commissioner Hurley?

COMMISSIONER HURLEY: Aye.

CHAIRMAN PERSKIE: Commissioner Waters?

COMMISSIONER WATERS: Yes.

CHAIRMAN PERSKIE: And I vote yes.

The record will reflect that the vote is unanimous.

(All Commissioners present voted in favor of the motion)

CHAIRMAN PERSKIE: There are two supplemental matters to be addressed. First, approval of the Castle's sale of the two parking facilities to the Taj Mahal. These transactions must be approved by the Commission pursuant to the condition imposed at the time of relicensure of the Taj Mahal and similarly imposed on them now with respect to the Castle, Castle and the Plaza.
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Mr. Auriemma, does the Division have any objection to approving these agreements?

MR. AURIEMMA: No, we don't.

CHAIRMAN PERSKIE: I would move that the Commission approve the Castle sale to the Taj Mahal of the two parking facilities.

COMMISSIONER DODD: Second.

CHAIRMAN PERSKIE: Any comment or discussion?

On the motion all in favor will so indicate.

The record will reflect the motion carries unanimously.

(All Commissioners present voted in favor of the motion)

CHAIRMAN PERSKIE: It is my understanding that the Taj wishes to move to have its license condition amended to reflect the same terms that we imposed today on the upstreaming:

MR. FUSCO: Yes, Mr. Chairman.

CHAIRMAN PERSKIE: No objection to that, Mr. Auriemma?

MR. AURIEMMA: No.

CHAIRMAN PERSKIE: Anybody on the Commission have any comment?
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I would move that the Taj Mahal license resolution of April 18 be amended so that the languages of the condition on the transfers be amended so as to reflect the same language we have today imposed on the Plaza and Castle.

COMMISSIONER DODD: Second.

CHAIRMAN PERSKIE: Any question?

COMMISSIONER DODD: That’s a good problem when and if it comes.

CHAIRMAN PERSKIE: All in favor will so indicate.

The record will reflect that that motion likewise carries unanimously.

(All Commissioners present voted in favor of the motion)

CHAIRMAN PERSKIE: Is there anything else before us this afternoon?

COMMISSIONER DODD: Public comment.

CHAIRMAN PERSKIE: On this matter.

MR. FUSCO: The alcoholic beverage license, Mr. Chairman, I don’t know if that was included.

MR. ZIMMERMAN: It’s included within the staff report so we don’t normally include it within the motion.
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CHAIRMAN PERSKIE: It was the intention and understanding and is the understanding of the Commission that the resolutions just approved encompass all of the CHAB and other associated permissions and license so that alcohol can be served through the 17th.

MR. ZIMMERMAN: That will all be reflected in the final resolution.

CHAIRMAN PERSKIE: And even perhaps this afternoon.

Anything further on this matter?

All right, thank you very much.

CHAIRMAN PERSKIE: We have 15.

MS. BIACHE: Application of Joseph Buck.

CHAIRMAN PERSKIE: All right, this is agenda Item No. 15.

Mr. Bennington, is Mr. Buck present?

MR. BENNINGTON: Yes, he is.

CHAIRMAN PERSKIE: Mr. Fusco, this is your matter?

MR. FUSCO: It's my matter but as I prevailed it would seem to me it's now Mr. Bennington's matter.

CHAIRMAN PERSKIE: I understand that,
but you are entering an appearance.

MR. FUSCO: Yes. This is one of the five consecutive matters that I was going to present to you.

MR. BENNINGTON: Mr. Fusco is getting tough in his old age.

CHAIRMAN PERSKIE: Mr. Bennington, we have the material before us including the exceptions that the Commission is prepared to consider on a constructive basis were filed in accordance with the provisions of the Administrative Procedures Act.

MR. BENNINGTON: Mr. Chairman, members of the Commission, obviously after such a serious matter that you just heard I would like to try and get you back down to a level to Mr. Buck, although it certainly doesn’t rise to the level of the magnitude of relicensing two properties, it certainly is to him one of the biggest decisions in his life.

CHAIRMAN PERSKIE: I appreciate the disclaimer, Mr. Bennington, but in view of the fact you made it I must indicate as far as the Commission is concerned there is no level of distinction in focusing our attention between a corporate licensure and an individual suspension or anything in between.

MR. BENNINGTON: Very well, and I
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have certainly represented that to Mr. Buck.

Mr. Chairman, the situation at bar, the initial decision unfortunately, and I have said this numerous times, doesn't allow a lot of times for the Commission to get a flavor of a person's individual character and a person's individual testimony and unfortunately that's the way the system is presently set up, although I know recently the Chairman, as well as the Commission is trying to take a more active role in terms of these individual licensing hearings which we certainly as one who represents predominantly individual licensees or applicants, we certainly welcome that because I think unfortunately my opinion by way of editorializing is that the administrative law process at least in recent years, and I have been doing this since the advent of the Act, has become nothing more than a rubber stamp for the wishes of the Division of Gaming Enforcement and I say that respectfully. With respect to--meaning with no disrespect to the administrative laws judges that are hearing these cases.

The case at bar, you have a situation, for example, where I am not asking this gentleman to take over as CEO of a large casino. I am asking him to be a slot mechanic at a casino where I
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produced five character witnesses, each one of whom I might add was a casino key licensee, one of whom was a former captain of the New Jersey State Police who testified candidly, this would be captain Ertle, now he is an individual, I should use his correct title. He is working head of security at the facility where Mr. Buck was promised employment who came forward and said basically I have never offered testimony, good character testimony on behalf of anybody and I have known this fellow and I think there is absolutely no threat to the industry, no less to the operation that I am going to be overseeing. For whatever reason the Administrative Law Judge summarily disposed of my character witnesses by representing that they were all good, without getting into highlighting what exactly these individual people said.

I would point out that as Mr. Buck is before you as he was at the time of this administrative law hearing, he has not been convicted of any offense, as a matter of fact, the offenses for which he was charged one of which he ultimately received disposition by way of a satisfactory completion of admission into the pretrial intervention program, as well as another arrest that was disposed of by way of a not guilty or dismissal of the charges,
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Mr. Buck is not convicted, does not stand before you as a convicted person, as a matter of fact, has received an expungement from even those records of arrest.

So you have someone who is not forced with or faced with the liability attendant to a criminal conviction. Notwithstanding that I recognize that the Act provides, as the Division has maintained, that there still can be unprosecuted conduct and as a result they are arguing that he lacks the requisite good character, honesty and integrity. Also noteworthy is the fact that this is not a nondisclosure case. Mr. Buck clearly and candidly indicated all these arrests on his application and came forward to offer testimony.

Apparently the Administrative Law Judge in this case felt that Mr. Buck was less than truthful, although he didn't use those words, but if you read the decision that was basically what he said, because it seemed like, to paraphrase, that he was pulling teeth or I was pulling teeth in my direct examination of Mr. Buck as was Mr. Fusco on cross-examination. I can't fathom how he reaches that conclusion when the fellow not only put it down on his application, but he also comes in and admits it under
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oath that he did all the things that he said.
Unfortunately, some applicants, some petitioners, are
better or more articulate, I should say, than others.
Mr. Buck, as might be expected due to his age or
inexperiences, was having a difficult time I think in
admitting his crime or admitting his wrongs and coming
forward, and during the course of the testimony,
although the truth inevitably came out, as the judge
indicated, he felt we finally reached a point in the
proceedings so it wasn’t as if Mr. Buck got up there
and denied these things happened, but as might be
expected in a situation such as this, Mr. Buck was
nervous, he was embarrassed, he had all his character
witnesses sitting there and to get up there and effect
a mea culpa in all of your friends and people standing
up on your behalf, no less your new wife, was a
difficult proposition I would submit for anybody to go
through, no less Joe Buck.

To make a long story short, it seems
to me that the case at bar I am asking you to look
beyond what it is that he was charged with and
recognize that these acts occurred a few years ago,
that there has been absolutely no contact with the
law. Mr. Buck at the very least has rehabilitated
himself I would think in the past two or three years,
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and I think Mr. Fusco would agree that perhaps if Mr. Buck had waited a year or two more and more time had passed that perhaps the Division would not have entered an objection or recommended an objection to licensure.

Be that as it may, independent of any counsel that he may have received, he sought to make an application and your affirmation of the decision below here would certainly preclude him from filing from five years hence albeit he also has the opportunity to make an application for early or a petition for early reapplication which he chooses not to do.

I recognize that the posture of the Commission has been lately that it seems to be an all or nothing situation, and I will be back in a few weeks with a few more cases that I lost I might add in front of the administrative law courts and I will candidly tell you I am going to make the same argument then.

As one who deals with these people on a routine basis all the time, it seems to me that perhaps somewhere along the way you could formulate some happy ground in between, some compromise in terms of punishment for these people. I'm not here to ask
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forgiveness for the fact that Joe Buck while a
corrections officer took money from an inmate, that he
possessed drugs while in that capacity. I can point
out as bad as that may sound on its face the county
prosecutor decided not to prosecute him in that regard
and was satisfied with a resignation, an involuntary
or I should say a nonfavorable resignation of his
position. But I would say that we all make mistakes
when we are young, we all do things that are wrong, we
all need time as you heard from other applicants this
morning, some of whom were unrepresented, for a period
of forgiveness. I think if the Commission somehow or
another could fashion penalties to meet the wrong
perhaps a probationary period or perhaps a time of
fine--

CHAIRMAN PERSKIE: Mr. Bennington,
let me just suggest to you in a rhetorical fashion,
because we have heard this from others and I know we
will hear it again from you, I suggest the argument
ought properly be made to the legislature. We have
not been assigned by the legislature the authority or
the responsibility to punish. We don’t sanction
people in the context that is for punishment of other
than provisions of the Casino Control Act. It’s not
our job. Whether what he went through with the
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criminal process is or is not adequate punishment is not for us to decide. Our focus is to decide licensure questions in which in this context turn on issues of integrity and honesty and good character. The thrust that you are suggesting, and as I said you are not the only one that does, is I think more properly addressed to a different legislative thrust than the one they have given.

MR. BENNINGTON: Clearly I think the Act would empower you as the Commission to set up or establish--you could, for example, if, in fact, he was a licensee and not just a petitioner to be a licensee, you could, for example, in my estimation, maybe I am wrong, you could suspend the license, you could impose some monetary penalty or some other sanctions, but I haven't seen that. Maybe I am wrong. I haven't seen that. If at all it has been on a very rare occasion.

CHAIRMAN PERSKIE: Because the answer is if you don't have good character, you don't have $100 worth, you don't lack $100 worth or you don't lack $500 worth.

MR. BENNINGTON: You and I have gone round and round in other forums with respect to whether or not you can have sort of good character or a little bit of good character or a lot of good
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character. I disagree. I think that people exhibit bad character in some instances, lawyers alike, and they exhibit excellent character in other instances, and I think things can't be that cut and dry in life. Maybe I am wrong but I just don't see things that black and white. I see certain instances where people clearly should not be allowed in the industry because of the fact that their conduct would be inimical to the policies of the Act. I do see other mistakes where people have admitted wrong and I think you might if you looked at it in a vacuum exemplify or deal with or represent complete bad character, but I don't think that a person should be punished for the length of time that the Act provides that they are punished for.

Be that as it may, it's really not something, I think it's a remedy at hand here because we are asking for a first license. So it's not a question that he is already licensed and you can do something with him. You have to focus on what it is the judge said and he said he felt the guy lacked good character, honesty and integrity merely from the perspective that he didn't like the way he testified. He felt the eventually we got to the truth and we got to the very bottom of it but it was like pulling
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1 teeth. Well, you can’t punish the applicant for  
2 either the lawyer’s inability to draw out the  
3 testimony as proficiently as he maybe should have.  
4 Punish me. But you certainly can’t punish the  
5 applicant in the sense that he was honest. It wasn’t  
6 as if he denied any of the acts. Again, when you  
7 focus on the position that he is looking for, he is  
8 trying to be a slot mechanic. He is trying to make a  
9 living. His wife is a casino pitboss in another  
10 place. He has brought in not only his wife to testify  
11 as to his good character, he brought in other casino  
12 key employees and, most importantly, he brought in the  
13 guy that’s the head of security for the facility where  
14 he wants to work who is a former state policeman, the  
15 captain standing up there saying I don’t have any  
16 problem with this guy working, A, in the industry or,  
17 B, in a particular facility that I am in charge of  
18 monitoring from a security standpoint.

19 That having been said, legally you  
20 certainly are empowered to disregard the position of  
21 the Administrative Law Judge, and I recognize that  
22 it’s a difficult burden, but I would also ask and I  
23 would say this again respectively, the Commission of  
24 recent in my estimation on behalf of Mr. Buck has  
25 taken such a strict and tough perspective as to some
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of these individual applicants, today I watched one
after the other and I say this, I recognize some
decisions were there when the Administrative Law Judge
recommended licensure, some where they didn’t
recommend licensure and the Commission has taken a
relatively intolerable point of view that if people do
something wrong whatsoever that they are not going to
be licensed and I would ask that in this particular
case, if not in general, that the Commission start
taking a more reasonable and human approach, perhaps a
better word would be more compassionate approach.
This is a difficult industry to get a job let alone
anywhere today. If these people can find employment
and the particular casino is willing to hire them and
you can produce witnesses from that casino that are
saying that they don’t represent a threat, I find it a
difficult concept to follow that the regulatory body
in charge of giving them a license is going to come
along and say that you are not worthy of licensure
because you represent a threat to the industry.

That having been said, there are no
real legal arguments that I can proffer at this time
because the legal arguments are what they are. He
did, in fact, do the acts that were alleged. He
admitted them. He is not convicted of any crime. He
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stands here an unconvicted man. He stands here a young man having admitted a mistake. All the acts occurred more than a few years ago. He has attempted to introduce character testimony that would be favorable to him. For whatever reason this particular law judge didn't accept it. Perhaps another Administrative Law Judge would be more compassionate or more liberal as would relate to individual casino applicants would have accepted it. It didn't happen that way.

So in that regard I would ask that the Commission show some compassion, recognize the position that we are applying for, look to the people that testified on this fellow's--as to this fellow's good character and quite simply cut him a break and allow him the opportunity to work in the industry as he was trying to do and he wants to do. I would think that that would be in the interest of justice and he certainly doesn't represent a threat to the industry as a slot mechanic by virtue of what he did some two or three years ago.

Thank you very much.

CHAIRMAN PERSKIE: Thank you, Mr. Bennington.

Mr. Fusco.
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MR. FUSCO: Mr. Chairman, this is a very difficult act to follow. It's very tough to get up here and say anything bad about Mr. Buck after listening to Mr. Bennington.

However, I just want to remind the Commission that the OAL doesn't always rubber stamp the cases that the Division presents to them and Mr. Bennington should know better than anyone the last time--

CHAIRMAN PERSKIE: Because he won a few of them.

MR. FUSCO: The last time I was up here with him was Christina Paul, I think was one of the very first cases you sat on, and we had the situation exactly reversed.

If there had been a jury present I would have been up yelling a little while ago. There is one thing I would like to address and that was the comments that Mr. Bennington made regarding expungement. In his exceptions he indicated that the petitioner is presently awaiting the expungement of the various criminal charges that have been originally lodged against him. First of all, I don't think that's relevant to any decision that you have to make here today, but then, secondly, he said in his
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comments to you that these charges were expunged. I don't know how Mr. Bennington was able to do that because if my understanding is correct in Title 52 if there is presently pending a civil action before any agency in the state you are not eligible to have an expungement of the charges. Nevertheless, Mr. Bennington has worked miracles before, perhaps that's one of them that he was able to accomplish with regard to the actual criminal charges that had been lodged in two separate instances.

Let me discuss the facts of this case very briefly because I am sure each one of you had an opportunity to read the initial decision.

I think Mr. Bennington hit the nail on the head when he says I said and the judge said it was like pulling teeth to get the truth out of Mr. Buck with regard to what happened back in 1987. Mr. Buck was employed as a prison guard. I suggest to you that he is held to a very high level of trust in such a position. His initial testimony at the hearing is that one of the prisoners wanted him to bring something into the prison. So what's the next logical question? What do you want me to bring in? We got detergent as an answer. Well, we can bring in detergent, we can bring in cigarettes, and I was
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dumbfounded, I mean we wouldn’t be here today if he
was going to be bringing detergent in. That’s not
what this place was all about because when you look at
the agreement or forego prosecution that’s how he
ended up losing his job, he had an agreement to forego
prosecution and what that agreement talked about was,
and this is marked into evidence, his official
misconduct related to the possession and possession
with intent to distribute a controlled dangerous
substance. I have never known Fab or Tide or any of
those others to be a controlled dangerous substance,
but this is what Mr. Buck testified to.

It wasn’t until 40 minutes or maybe
an hour later that we eventually got the truth out of
Mr. Buck. Well, yes, there may have been some
discussion about cocaine because I had cocaine in my
pocket or what I believed was cocaine from the night
before. This man being held to a very high standard
was very simply on the take. That’s what this case is
all about. For whatever reason the prison officials
didn’t want to prosecute him. They let him resign.
You would think that at this point Mr. Buck would have
learned his lesson, that he would have turned over a
new leaf, but that’s not what happened.

A little over a year later now he is
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involved in an automobile accident where he leaves the scene of the accident and he has cocaine and marijuana in his possession and he got PTI and as a result the charges were dismissed. However, in the exceptions filed by Mr. Bennington it says he was not guilty of the offense. Well, this is a semantic argument I suggest to you. Quite properly I suggest that he was guilty of the offense. It's just because of the system we have in New Jersey that the charges were eventually dismissed against him. These are not ancient offenses. We are only talking a couple of years ago that he was in very serious trouble.

Mr. Bennington has told you, and I think he mentioned it twice, that a captain, former captain of the state police got up at this hearing and said that this man, Mr. Buck, had the highest degree of integrity, honesty and good character and should be given a license in the casino industry. I attempted to ask him on cross-examination concerning the standards for hiring somebody in the state police whether or not this type of person would be allowed to be hired because clearly a person in the state police would have to have honesty, good character and integrity, but we were never allowed to have an answer to that question. It was objected to. I suggest most
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strenuously that clearly Mr. Buck wouldn't have had
the honesty, good character and integrity as a member
of the state police nor does he have the honesty, good
character and integrity to be a licensee in the gaming
industry. Not at least at this time.

This case I suggest is not based upon
the factual substance as much as it is the lack of
candor and the lack of credibility of this man at the
time of the hearing because I suggest to you that that
weighs very heavily against any claim that he might
have toward showing good character, honesty and
integrity within the meaning of the Act.

For these reasons, the reasons that I
have stated in my reply to exceptions and the reasons
offered by the Administrative Law Judge I would ask
that you affirm and adopt the initial decision.

CHAIRMAN PERSKIE: Thank you.

Anybody on the Commission have any
questions of either counsel?

Comment or discussion?

A motion?

COMMISSIONER WATERS: Mr. Chairman, I
think there is one point that has been made by the
Division that is probably controlling, and I have no
way of coming to any conclusion different from that
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presented and it appears on page nine of the ALJ's decision where he deals with the fact that he found the respondent was not candid and forthright and didn't seem to accept full responsibility for his actions, a reluctant witness, and in his mind that factor weighed against the conclusion of good character, honesty and integrity. I think this is one of the problems we run into and I don't know what the conclusion may have been had he been forthright, or at least met the standards that the ALJ found to be forthright, it may have been the result would have been different. But I didn't see the respondent at the time of the hearing and as usual we defer I would think to the ALJ's judgment since he was conducting the hearing.

Therefore, I would move to affirm the initial decision and deny the application for a casino employee license.

VICE CHAIR ARMSTRONG: Second.

CHAIRMAN PERSKIE: Any other comment or discussion?

Let me just indicate that there is on the surface an apparent inconsistency at page nine and I just want to reflect my own understanding, I can--besides the language, because I think I
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understand the context, but if you look at it closely
the judge says at page nine at this same paragraph to
which Commissioner Waters was referring he said
admirably the petitioner has made substantial progress
toward rehabilitation and establishing his good
character, honesty and integrity over the past two
years, and here's what I want to emphasize, he has
accepted responsibility for his behavior to a
substantial degree, et cetera, and continuing, and
then three sentences later he was not totally candid
and forthright and did not seem to accept full
responsibility for his actions. I understand that
apparent inconsistency to reflect a distinction in the
judge's mind between responsibility for his conduct
and his behavior since this incident which is what he
is referring to in the first instance, in the second
case acknowledging responsibility for what he did or
the conduct that was the subject of these incidents in
the second instance, and that's the way I understand
what would otherwise appear to be an inconsistency.

With that understanding and for that
reason I am inclined to support the motion.

Any other comment or discussion?

On the motion all in favor will so
indicate.
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The record will reflect that the motion carries unanimously.

(All Commissioners present voted in favor of the motion)

CHAIRMAN PERSKIE: Thank you.

There being no appearance this meeting is adjourned.

(At which time the meeting was adjourned at 4:30 p.m.)
CERTIFICATE

I, CAROLYN GERBER, a Certified Shorthand Reporter and a Notary Public of the State of New Jersey, do hereby certify the foregoing to be a true and accurate transcript of my original stenographic notes taken at the time and place hereinbefore set forth.

CAROLYN GERBER, CSR