

ORIGINAL

INDIANA GAMING COMMISSION
REGULAR BUSINESS MEETING
AND RESUMPTION OF CONSIDERATION
OF THE FIFTH OHIO RIVER LICENSE
DECEMBER 15, 1997

A business meeting was conducted in the above-captioned matter and taken down in stenographic notes by me Peggy Morgan, a Notary Public in and for the County of Hendricks, State of Indiana. The meeting was held at the Government Center, 402 W. Washington Street, Indianapolis, Marion County, Indiana, on the 15th day of December, 1997.

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STAFF AND BOARD MEMBERS IN ATTENDANCE:

MICHELLE MARSDEN
KAY FLEMING
FLOYD HANNON
JACK THAR
DONALD VOWELS
ANN BOCHNOWSKI
THOMAS MICAREK
DAVID ROSS
RICHARD DARKO
ROBERT SWAN
ROBERT SUNDWICK

MR. CHAIRMAN: The first order of business will be the approval of the minutes from the last go around, or the last meeting. I assume you have had an opportunity to review those minutes. Anybody have a motion to approve.

MS. BOCHNOWSKI: So moved.

MR. DARKO: Second.

MR. CHAIRMAN: All in favor say aye. The minutes are approved. The next item on the agenda, Ann?

MS. BOCHNOWSKI: Thank you, Mr. Chairman. My report is going to be real brief today. With regard to Lake Michigan boats we were advised last week that the overall changes in the corporate structure that were considered at the last meeting would not be accomplished by the end of 1997.

With regard to Trump Majestic, Aztar and Empress the ebb studies should hopefully be released by Christmas, and certainly by the end of this year.

And with regard to the Ohio river boats. Argos started operation in their permanent facility on December 20. The

restaurant and bar service will come on line between now and January.

Since our last meeting Ceasars has begun the at risk work on site and also is in the process of starting to receive gaming equipment. That concludes my report.

MR. CHAIRMAN: Is there any questions?

MR. MICAREK: What depth is their at risk construction?

MR. THAR: What they can do, they can do construction in the areas which are out of the corps' jurisdiction. That presently means they can't do anything below the normal high water mark, or low water mark. There's a water mark in there which they cannot do construction. They cannot do construction in the areas that are presently being studied, archaeological and other types preservation issues. And so basically it's kind of like road work and putting in some pylons.

But the at risk means two things. One, that does not enter into the corps decision to issue a permit. And secondly, should they at anytime get into the area with construction that would not be a corps

permitting zone, they would issue a cease and desist order and do an investigation. Which means the time for the permitting issues to get resolved would get longer.

MR. MICAREK: Okay.

MR. CHAIRMAN: Anything further? Next item on the agenda under new business is rules. Miss Fleming, we will turn to you for that.

MS. FLEMING: On the 1997-42 proposed rules it is anticipated that these will be accomplished February 1st. Does anybody have any questions? I will be glad to answer them.

MR. CHAIRMAN: Any questions at this time? Is that resolution 1997-42?

MS. FLEMING: Yes.

MR. CHAIRMAN: It doesn't appear there are any questions on that. Do we need to take any action now?

MS. FLEMING: You need to adopt the resolution.

MR. CHAIRMAN: Is there any discussion on the resolution? Does anyone have a motion?

MR. SWAN: Move to adopt.

MS. BOCHNOWSKI: Second.

MR. CHAIRMAN: All those in favor say aye. 1997-42 is hereby adopted.

MS. FLEMING: Resolution 1997-43 is to adopt the final rules as those rule published September 1st, October 1st and November 1st, accepted by written documentation. And also a public hearing was held of each of those sets of rules, which have been previously published. And this document would adopt all those enumerated in the text, and the resolution would be forwarded to the attorney general then on to the governor for final ruling.

MR. CHAIRMAN: Any questions for Miss Fleming? Any motion with reference to 1997-43?

MR. MICAREK: Motion to adopt.

MR. DARKO: Second.

MR. CHAIRMAN: All in favor say aye. Resolution 1997-43 is adopted.

MS. FLEMING: As far as occupational licenses and issues the first matter is embodied in resolution 1997-44. This

resolution would grant the executive director the authority to issue permanent operators license, level two and three, so that we can expedite and process all licenses issued by the executive director, pursuant to the resolution.

Bob presented this to the commission at the business meeting for affirmation of issuance of those licenses, due to the fact that we have approximately 1,000 to 1200 occupational licenses, level two and three, for each boat.

MR. CHAIRMAN: Any questions for Miss Fleming? Any motion to approve?

MR. DARKO: So move.

MR. CHAIRMAN: Any second?

MR. SWAN: Second.

MR. CHAIRMAN: Any further discussion? All those in favor of approval of resolution 1997-44 say aye. Resolution 1997-44 is approved.

MS. FLEMING: We will move on to the individual operator's licenses issues. The first one is in the matter of the application submitted by Arnold Fleishman.

Mr. Fleishman applied for an occupational license, level one, to work at Trump Casino. During the course of background investigation the commission staff became concerned that Mr. Fleishman was not suitable to be licensed in the State of Indiana, as a result of various conversations with Mr. Fleishman's attorney who is Greg Hahn, who I believe is here.

Today the commission staff advises Mr. Fleishman that the commission staff would recommend to the commission that he be allowed to withdraw his application for an occupational license, but the file would reflect the withdraw was allowed prior to the licensing hearing, during which the commission staff has recommended denial due to Mr. Fleishman being found unsuitable.

That also was sent to Mr. Fleishman on or about June 13th, 1997. We have received no word from Mr. Fleishman at this point as to whether or not he wanted to accept that settlement offer. As a result, the commission staff placed the matter on the agenda for today.

MR. CHAIRMAN: We will hear from Mr. Hahn at this point.

MR. HAHN: Thank you, Mr. Chairman. I think that accurately reflects where we are on this Kay. When we started, Mr. Fleishman was employed by Trump Indiana Casino, which we represent and continue to represent. During the negotiations we felt that if we could work this out with the commission on behalf of Mr. Fleishman we would do that.

However, Mr. Fleishman has left the country and is working for another company, I believe in Canada, and we have not been able to work out a resolution of this. And upon conversations with Mr. Thar and with our client we have determined we will have a conflict if in fact Mr. Fleishman wanted to contest and go to a full hearing.

So we advised Mr. Fleishman that we do have a conflict and we are not going to be able to represent him. And we will request the commission give Mr. Fleishman 30 days, at least, before another hearing date to obtain new counsel and go forward.

MR. CHAIRMAN: Any questions for

Mr. Hahn at this point? Miss Fleming, anything else on this matter?

MS. FLEMING: I would just like to advise you that if Mr. Fleishman's application is denied he will have an opportunity to appeal the matter to the administrative law judge.

MR. CHAIRMAN: Has anyone on the staff heard anything from him?

MS. FLEMING: Not to my knowledge.

MR. CHAIRMAN: When was anyone's last contact with Mr. Fleishman?

MR. HAHN: I talked to him Wednesday or Thursday, I think. I had several -- at least a couple of conversations with him. I was able to get a hold of him finally and tell him about the hearing. And I told him we were going to have a conflict, that we were not going to be able to represent him.

MR. THAR: Did Mr. Fleishman indicate what his intentions are in this issue?

MR. HAHN: I think he wants to fight it. It was at that point I told him we weren't going to be able to represent him.

MR. CHAIRMAN: How long ago did he

leave your organization?

MR. HAHN: He's been gone at least six months. He started, I believe middle of last year.

MR. THAR: Middle of last year? Do you know if he received compensation from the Trump organization from that point in time?

MR. HAHN: Not to my knowledge.

MR. THAR: Is he receiving compensation now, today?

MR. HAND: No.

MR. CHAIRMAN: Do you know when the last time was he received compensation from the Trump organization?

MR. HAHN: To my knowledge, at the time he was terminated. I don't know of any after that, but I wouldn't be in a position to know, to be honest with you.

MR. THAR: I had a conversation with Mr. Hahn at the end of last week. He advised me he wanted to get a continuance in this matter. I advised Mr. Hahn that he or a lawyer of his firm would have to appear before the commission to make arrangements with the commission as to whether or not to

grant a continuance.

I also indicated that my recommendation would be not to stand in the way of one more hearing so he could get a lawyer, but that's it. But we are going to need to know his last known address and how you got in contact with him so we can get information to him.

MS. BOCHNOWSKI: I don't have a problem, personally, waiting on this, because he's not employed in the State of Indiana. I think we need to have something on the record just for future employment, I guess, from other commissions. Is that your thinking that we need to act on it?

MR. THAR: We need to act on it because it's unfinished business. And, yes, one way or the other the commission has to come to an understanding of what the status of his license is. That needs to be resolved.

MS. BOCHNOWSKI: But one more meeting won't make a big difference. I don't have any strong feelings, I guess.

MR. SWAN: Hasn't he had plenty of

time to respond to this thing?

MR. THAR: Since prior to June 13th we had put this on the agenda to have the disciplinary hearing around June 13th. A continuance had been asked for by the Tabbert Hahn firm.

Settlement discussions were started on June 12th or 13th, that's the date we initiated the initial settlement offer. To date, we have not gotten a response back from Mr. Fleishman as to what his position was, until the representation by Mr. Hahn this morning, that he believes Mr. Fleishman wants to fight it.

MR. HAHN: He told me that on Thursday, or whenever I talked to him finally.

MR. CHAIRMAN: When you discussed with him that you had to withdraw representation?

MR. HAHN: Yes. Up to that point in time we were under the impression he was going to sign the agreement that had been given to us.

MR. CHAIRMAN: He's only known since Thursday or Friday that he was without an

attorney?

MR. HAHN: Right.

MR. CHAIRMAN: I don't see a problem with putting this off for 30 days, in order to keep the record clean, if he wants to get counsel and see what he can do with that later. If we revoke his license and deny his occupational license it sounds like he would appeal that. It would seem to make sense to give him the opportunity to be represented, because realistically he's only known since Thursday or Friday that there wasn't somebody here on his behalf.

MS. BOCHNOWSKI: Did he not know there was a drop-dead date for his response? The offer didn't say it was only good to such and such a date?

MR. THAR: Mr. Swan is digging that information up. We are in the process of getting that.

MR. SWAN: In our letters to Mr. Hahn we did not include the phrase that this offer was good to X date.

DR. ROSS: Let me ask a question. You said we can approve this resolution and not

advise him of his ability to ask for another hearing; is that correct?

MR. THAR: Yeah.

DR. ROSS: How different is that from postponing this to the next hearing?

MR. THAR: The difference is, if today the commission will deny his ability to get a number one gaming license, then potentially that would be done without him having the commission giving him a chance and opportunity to address the commission on the issue. If we continue it, he has the potential ability to address the commission on the issue.

If it's denied then he can readress it. So he can get potentially more than one hearing. If the commission decides not to go along with the idea of granting a continuance then he will have ten days from today --

MS. FLEMING: If we deny the application he will have ten days from the date it is mailed to him.

MR. THAR: Once the denial is put in the mail, he would have ten days to appeal the decision to the administrative law judge.

MR. SUNDWICK: Why don't we just deny this and then he has ten days, he knows it's a drop-dead date. He can go talk to the judge.

MR. THAR: That's part of the issue before you.

MR. SUNDWICK: Is there something wrong with that?

MS. BOCHNOWSKI: I kind of think that just out of fairness he needs to have a lawyer. It will be a difference for him after we hear his argument as we decide to -- I don't know, maybe we will be able to negotiate some kind of settlement or be able to withdraw it. It would be better for his future employment.

MR. DARKO: Am I right that a denial by the commission would have a more adverse effect for him than just a continuance of it?

MR. THAR: Generally speaking, if the Gaming Commission denys someone a license that would be taken into account in every other Gaming Commission as to whether or not he should receive a license for there.

MR. DARKO: But if it's just

continued, it's just continued?

MR. THAR: That is correct.

MR. DARKO: He's only known for three or four days he didn't have a lawyer?

MR. THAR: I don't know how many days he's known he didn't have a lawyer.

Mr. Hahn's firm was representing Mr. Fleishman from the start of this, because they represented the Trump organization. At that time I believe it was your firm's position you didn't have a conflict?

MR. HAHN: As long as we could work it out.

MR. MICAREK: What other cases have there been where occupational licenses have been denied by the commission based upon Kay's recommendation?

MS. FLEMING: There have been cases where the license was denied due to felony charges being filed, such as for theft on a boat. And they have had the opportunity to appeal the decision to the administrative law judge. This is the first one that we have recommended denial due to the fact the commission staff knows or feels the person is

unsuitable, based on the results of the background information.

MS. BOCHNOWSKI: And the issue right now is, can we work out some negotiation or some kind of agreement where he can withdraw his application? Is that what he is looking for right now?

MS. FLEMING: He has not addressed that to anyone of the commission staff.

MS. BOCHNOWSKI: You are saying he wants to fight the denial entirely?

MR. HAHN: Based on the terms of the offer we have given him, he indicated he does want to fight it. I believe he very strongly would like to address the commission. This would obviously have a very definite effect on his ongoing career in any gaming matters. I think he definitely wants to address the commission.

MS. FLEMING: But he hasn't made an attempt to contact the commission staff after you spoke to him, to my knowledge.

MR. HAHN: Which was Thursday.

MR. MICAREK: As part of a resolution could we ask the staff to send him a letter

saying he has 30 days to reapply or his license will be denied?

MR. CHAIRMAN: Just for a cleaner record, up until last week when he found out he didn't have an attorney, about last Thursday, and that he had to appear here in person, he at least thought he had counsel.

If we would proceed today and deny -- and if he's in Canada, I can see realistically that if he thought he had an attorney he didn't intend to be here in person. Given that was only three or four days ago, if he appeals what we do today then that's an additional issue for the appeal. If he didn't have real notice to be here in person and address the commission, nor adequate time to hire counsel, I would just as soon give him additional days.

DR. ROSS: I agree completely and would like to make a motion, and this is not based on necessarily fear of appeals but just a fairness issue, I guess, maybe I'm being way too fair. I make the motion that we continue this action on Arnold Fleishman for 30 days.

MR. DARKO: Second the motion.

MR. THAR: You mean to the next commission hearing?

DR. ROSS: Yes, the next commission hearing would do that.

MR. CHAIRMAN: There has been a motion to table this until the next hearing, giving Mr. Fleishman adequate notice to appear before the commission at that time. Is there a second to that?

MR. DARKO: Yes.

MR. CHAIRMAN: Any further questions?

MR. SWAN: We are going to see the whites of this guy's eyes at the next commission meeting, or maybe some other part of his body?

MR. THAR: One other thing, since Mr. Fleishman has left Trump Casino he's been in Chicago and at least Canada. To my knowledge we have no way of notifying him, so we are going to have the attorney that represents that interest before this commission to provide us with the address, his last address or telephone number for him. And we will send that notice and that will be

it.

MR. HAHN: That's no problem.

MR. CHAIRMAN: Any further discussion? We have a motion to continue, all in favor say aye. Motion carried. Miss Fleming, what else do you have for us?

MS. FLEMING: The next one is matter AWFHL. Mr. Tipton applied for a waiver of his felony disqualification to be employed on a boat. I conducted a review hearing on August 4th, 1997 and have submitted to you a recommendation for finding of fact. And I have recommended that Mr. Tipton's request for felony waiver be denied.

MR. CHAIRMAN: Any questions for Miss Fleming's recommendation for Mr. Tipton? Do I hear a motion?

MR. ROSS: Move for denial.

MR. MICAREK: I will second.

MR. CHAIRMAN: There is a motion to adopt the recommendation to deny the request of a felony waiver and the motion has been seconded. All those in favor of that motion say aye. Motion is adopted and denied.

MS. FLEMING: The next one is

Tyrone Maxey, SBFEL-5. Mr. Maxey applied for a waiver of his felony disqualification. The commission staff advised Mr. Maxey, in writing, he was ineligible for a waiver because his conviction occurred in July of 1997. And the commission would impose a ten year period for the issuance of waiver from the time he is discharged from probation. He was just placed on probation in July of 1997.

Mr. Maxey appealed that finding of ineligibility to the administrative law judge, Bernard Pilot. At that point the administrative law judge, on the part of the commission staff, filed a motion for summary judgment and an alternative motion to dismiss.

Mr. Maxey was served with the motion. He failed to respond to that. As a result, Judge Pilot has issued a finding of fact and conclusion of law and recommended that the denial of Mr. Maxey's request for a felony waiver be upheld. It is the staff's recommendation that the commission adopt the administrative law judge's recommendation.

MR. CHAIRMAN: Any questions for Miss

Fleming? Do we have a motion to accept, reject, deny?

MR. DARKO: Move to accept.

MR. CHAIRMAN: And to deny his request?

MR. DARKO: Yes.

MR. CHAIRMAN: Any second?

MR. SWAN: Second.

MR. CHAIRMAN: Any further discussion? All in favor say aye. Miss Fleming, next action.

MS. FLEMING: The next action is the matter of Edwin Cordilla for denial of application. Mr. Cordilla was employed at Showboat as pit man, and while he was employed in that capacity he began conducting a crap school in the garage of his home, which is in violation of the Act and our rules.

When we found out about that Mr. Cordilla was interviewed, and he did admit that he did conduct such a training school and did charge a fee for the service. The Commission staff notified Mr. Cordilla that his temporary license was revoked and

his application for a permanent license had been denied.

Mr. Cordilla has submitted a letter which is provided to the commission. The commission staff recommends that the commission deny his application for a permanent license and uphold the revocation of his temporary occupational license. If the commission does uphold the action of the commission staff, Mr. Cordilla will have an opportunity to appeal the matter to the administrative law judge.

MR. CHAIRMAN: Any questions for Miss Fleming?

MR. ROSS: Seems like we had a very involved letter from this gentleman.

MS. FLEMING: Yes.

MR. ROSS: About what happened. It didn't seem so cut and dry after I read the letter. Maybe this is somebody that we ought to give another chance to?

MR. SUNDWICK: Would there be any reason that you would deny his permanent license, other than this technical violation of this law?

MS. FLEMING: Mr. Hannon, would you like to answer this?

MR. HANNON: The situation is this. We have a supervisor on a boat that is offering training to employees in the boat during the time when the boat is laying off employees.

MS. BOCHNOWSKI: I don't know, I felt sorry for him.

MR. HANNON: He was charging like \$600 apiece for the school. He admitted \$400.

MS. BOCHNOWSKI: I felt sorry for this guy, but he really should have known that.

MR. ROSS: Are you saying he was giving a school when the boat no longer had a school because they were not hiring anybody?

MR. HANNON: No, he was giving the school when people were being laid off, telling them they needed to take the school to keep from being layed off. We did not verify this fact.

MR. VOWELS: Had he worked on any other boat?

MS. FLEMING: He has been licensed in Louisiana and possibly Nevada.

MR. DARKO: Does the staff have a copy of his letter, by chance?

MS. FLEMING: Yes, we do.

MR. SUNDWICK: Technically he doesn't think he was in violation of his employment due to the fact that he didn't know that he wasn't supposed to conduct training. But he might have a problem with the IRS because he didn't give receipts. Is that the real technical issue here or the fact that we think he was saying take the course, therefore --

MR. THAR: There are three things going on. The first one is that one of the employees indicated that was the impression. Granted we cannot verify that, but word is if you didn't want to be laid off take this school and pay this guy the money.

And, second, he was running a gambling school illicitly in his garage. The third one is nobody is entitled to have a craps table in their house or run a gambling operation without potentially facing some type of revocation.

When you get right down to it this

person had a license to conduct and supervise a gambling game, he was sanctioned in that area. He above all people should know he can't do that at his house for profit. That's the bottom line.

MR. DARKO: Was he making a profit on the tuition and taking a house cut? Is that a possibility?

MR. THAR: What we have been able to show was it was dues. Whether or not there were also illegal games, we have not been able to verify that.

MR. SUNDWICK: I'm trying to get today what we are saying is that we don't know if he had games. The idea I got, at least from his letter that we received, was that he was training these people because they wanted to learn how to do that. If there where any real games going on we don't know about that.

MR. THAR: There were games. We don't know if they were running illegal games for people to win, or just for school purpose. Of the three issues, two of them we know.

One, you can't operate a craps table in your garage for profit. And the second

one is you cannot, particularly a licensed employee, operate a school without going through steps. We have the letter here.

MR. DARKO: Can I take a real quick look at that please.

MS. BOCHNOWSKI: I think we have to set a precedent here. You cannot allow that to go on. He's not some employee, he's not an inexperienced young man. I think clearly he was in violation of the rule. He cannot work in the industry any more here.

MR. CHAIRMAN: He worked six years in the gaming industry, and that doesn't sound like somebody who would be uninformed about what the parameters are. Is there any further discussion? We have in front of us then --

MR. SWAN: Is there a remedy where you can put a person on probation? I mean, is it allowable?

MS. FLEMING: There is that possibility, yes. The problem we have is, every time we would try to revoke someone's license they can say oh, I didn't know. We have to put an affirmative responsibility on

them to know what is acceptable.

This is not something that I think -- we don't want anyone saying I will start a crap school in my garage. There are sanctioned schools. Ivy Tech provides one for the workers for Showboat.

We should not accept the defense of I didn't know it was a rule. We have to set a precedent. I don't think it's a minor thing in Indiana. It's a pretty major deal, I think. Really, this isn't something little.

MR. CHAIRMAN: He had also been an instructor at the program at the Ivy Tech training school. Can you put a restriction on his license or suspend it for a period of time?

MS. FLEMING: At this point in time the commission is recommending revocating his temporary license and the denial of his application for a permanent license.

MR. CHAIRMAN: Any further discussion? Any motions?

MS. BOCHNOWSKI: I move to accept recommendation from the staff to deny his license.

MR. CHAIRMAN: Any second?

MR. MICAREK: I will second.

MR. CHAIRMAN: Any further discussion? All in favor say aye. All opposed. We will do a show of hands. All in favor raise your hand. Three people in favor. All those opposed? There are four opposed.

Do you want to make another motion?

MR. DARKO: I would like to move that his license be put on probation for however long the staff sees fit.

MR. CHAIRMAN: Miss Fleming, do you have any suggestion?

MS. FLEMING: At least a period of one year.

MR. DARKO: I move for probation for one year for his license.

MR. MICAREK: Second.

MR. CHAIRMAN: Any further discussion for Miss Fleming? Anything further? Mr. Darko, with regard to probation, you don't mean suspension?

MR. DARKO: I mean his license be put on a probational status.

MR. CHAIRMAN: What kind of

conditions, if any, do you recommend he have?

MR. DARKO: Any condition the staff would think would be appropriate would be okay with me. I just don't think, on the basis of what we have seen and what we have heard this morning, that his license should be revoked or he should be taken out of business.

MR. MICAREK: Would your motion allow him to work with the license as probationary?

MR. DARKO: My thought is he would be allowed to work while he's on probation, but that it is a mark against him, or an official action by the commission, telling him that he needs to be very, very careful for the next year.

MR. THAR: Well, I think there should be a specific recommendation that he not in any way, shape or form try to engage in any type of teaching, whether it's a school or not.

MS. BOCHNOWSKI: Well, I don't think he should be allowed to make -- he shouldn't be allowed to teach, and he should not be allowed to make any money, outside his

employment, if it's in any way related to gaming.

DR. ROSS: Are we allowed to fine him, Kay?

MS. FLEMING: Yes.

DR. ROSS: It think he should be fined.

MS. FLEMING: I believe it's up to \$10,000.

MR. CHAIRMAN: So, one year probation period with the condition that he not, obviously, conduct any teaching courses or be a legitimate instructor, it appears?

DR. ROSS: And that he be fined.

MR. CHAIRMAN: And that he be fined. Any thought on how much he should be fined?

MS. BOCHNOWSKI: How much did he make?

DR. ROSS: \$400 per person.

MS. BOCHNOWSKI: How many people?

MS. FLEMING: He admitted to training seven to eight students.

MR. MICAREK: How would we collect his fine?

MR. CHAIRMAN: Could we garnish his wages?

MR. THAR: If it's a specific condition of his probation that he pay the fine then he violates probation, and the commission could reconsider whether or not to suspend his license.

DR. ROSS: So, say seven or eight, let's assume that he shorted that by two and give it ten. Ten times \$400 is four grand.

MR. DARKO: Make that the total amount.

DR. ROSS: That's the total fine. He ought to be punished.

MS. BOCHNOWSKI: It's got to hurt.

MR. SUNDWICK: Taking money, it's going to hurt at Christmas time.

MR. CHAIRMAN: I don't remember about fines in the past, Miss Fleming.

MS. FLEMING: We have not fined occupational licensees to date. We can impose a deadline of some type.

MR. CHAIRMAN: Commissioner Darko, I believe you made the original motion, can you pull it all together?

MR. DARKO: The motion would be that his license be on a probationary status for

one year, with the condition that he not engage in any teaching of the games or otherwise he would violate the commission's recommendations. And, obviously, that within that year he pay the commission a fine of \$4,000.

MR. CHAIRMAN: Any second?

MR. MICAREK: Second.

MR. CHAIRMAN: Any further discussion?

MR. THAR: One point for clarification with regard to the pay. That the \$4,000 be made in a year, but no less than at a rate of \$1,000 a quarter.

MR. CHAIRMAN: Any further discussion? All in favor say aye. That's approved. Miss Fleming?

MS. FLEMING: Next is Dennis Harris. Mr. Harris was employed at the Showboat, in the housekeeping department, when it was determined that Mr. Harris had been stealing money from the employees' purses.

When Mr. Harris was caught he did admit that he had stolen money from his supervisor's purse on at least three other occasions. He admitted the thefts to the

state police, and the prosecutor did not want to pursue the matter criminally. Mr. Harris was terminated by Showboat and is not employed at this time.

The commission staff did revoke his temporary license and deny his application for a permanent license, so he would not attempt to go obtain employment on another riverboat. If the commission upholds the staff's recommendation, Mr. Harris will have the opportunity to appeal the matter before the administrative law judge.

MR. CHAIRMAN: Any questions? Any discussion? Any motion?

MR. SWAN: I move to deny.

MR. SUNDWICK: Second.

MR. CHAIRMAN: Any further discussion? All in favor of denying his license say aye. The ayes have it. Miss Fleming?

MS. FLEMING: The next matter concerns Nilda Rivera. Miss Rivera was employed at the Empress Casino. On May 24th, 1997, Miss Rivera was a patron on the Showboat Casino, along with her niece who was under the age of 21. The commission staff issued a

disciplinary action against Miss Rivera, and Miss Rivera failed to file an answer with respect to the complaint that was served to her by certified mail.

As a result of not taking action in this case the commission staff assigned the matter to the administrative law judge. He recommended that her application for a permanent license be denied.

MR. CHAIRMAN: Any questions of Miss. Fleming? Any motion?

MR. SWAN: Move to deny.

MR. DARKO: Second.

MR. CHAIRMAN: That's to accept the ALJ's recommendation to deny? Any further discussion? All those in favor? The ayes have it. Miss Fleming?

MS. FLEMING: Next, I will cover four at once, in the matters of Terrel McCuiston, Richard Sixtos, Matthew Stucky and Arturo Ceballos.

All of the individuals were employees of Empress Casino as slot technicians. It was determined that they were removing \$25 tokens from the hoppers when servicing the

machines. Terrel McCuiston and Matthew Stucky removed the tokens from one of the machines they serviced, and Richard Sixtos and Arturo Ceballos discovered the action and were given a share of the stolen tokens in exchange for their silence.

This matter has been referred to the Lake County prosecutor, and all four individuals have been charged with theft, class D felony, and their employment has been terminated by the Empress. The commission staff has revoked their temporary license and denied their application for permanent licenses.

This matter is before the commission to take action on. If the commission does uphold the commission staff's recommendation, then all four will be able to appeal the matter to the administrative law judge. The best approximation that we can determine is that approximately \$40,000 was taken in this matter.

MR. CHAIRMAN: Any questions of Miss Fleming? I guess we could take all four together in a motion?

MR. THAR: There is no problem with that as long as all are individually named. We have four separate orders here, but on the motion it could be -- if all four are to be treated the same, all four names will be included and all denied.

MS. BOCHNOWSKI: I move that we deny the license applications of Arturo Ceballos, Terrel McCuiston, Richard Sixtos and Matthew Stucky.

MR. DARKO: Second.

MR. CHAIRMAN: Any further discussion? Those in favor say aye. The ayes have it. Miss Fleming?

MS. FLEMING: The next matter is Stephen G. Lombardski. Mr. Lombardski has applied for a waiver of his felony disqualification. He has been offered employment as a security officer at the Blue Chip Casino.

Mr. Lombardski was convicted in February of 1986. He was actually convicted of the offense of selling unregistered securities in the state of North Carolina. After conducting a review here and reviewing

Mr. Lombardski's criminal record, and the background investigation conducted by the state police, I would recommend that Mr. Lombardski receive the waiver of his felony conviction and be licensed.

MR. CHAIRMAN: His middle initial is G?

MS. FLEMING: Yes.

MR. CHAIRMAN: Any questions for Miss Fleming.

MR. MICAREK: I move we adopt her recommendation and approve his request of a felony waiver.

MR. CHAIRMAN: Any second?

DR. ROSS: Second.

MR. CHAIRMAN: Any further discussion? All in favor say aye. The ayes have it. Miss Fleming?

MS. FLEMING: The final matter is Dontai Patrick. Mr. Patrick was employed at the Blue Chip Casino and the Empress. At the Empress specifically Mr. Patrick took \$250 in tokens from the change cart. When questioned, he attempted to implicate another person as being responsible for the theft.

Eventually he did admit that he had stolen the \$250. Mr. Patrick either has been charged or will be charged in the near future for this offense.

The commission staff has revoked his temporary license and denied his application for a permanent license, due to the activities he conducted while carrying out his employment at the Empress. If the commission upholds the staff's action Mr. Patrick will have the opportunity to appeal the matter to the administrative law judge.

MR. CHAIRMAN: Any questions for Miss Fleming? Any motion?

MR. SWAN: Move to deny.

DR. ROSS: Second.

MR. CHAIRMAN: Any further discussion? All in favor of denying his occupational license say aye. The ayes have it. Miss Fleming, anything else?

MS. FLEMING: That concludes the occupational license matters.

MR. CHAIRMAN: Do you have a report on suppliers' licenses?

MR. HANNON: We have two companies that we are investigating for receipt of temporary suppliers licenses.

Four Aces, Inc., is a dealer school operating in Munster, Indiana. They have some graduates now working in some of the northern casinos. The school instructs casino dealers. The facilities have been observed to be clean and neat. The school contains crap tables, blackjack tables and roulette tables. Investigation conducted to date has shown no reason why the company should not be granted a temporary license.

U-bet tours is a tour company that operates out of Clinton, Tennessee. The company is owned by Ed and Mary Reymer. Mr. Reymer is currently licensed in the states of Mississippi and New Jersey. Mrs. Reymer is currently licensed in Mississippi, New Jersey and Nevada. Investigation conducted to date has shown no reason why the company should not be granted a temporary license. These both are on resolution 1997-45.

MR. CHAIRMAN: Any questions for

Mr. Hannon? Any motion to adopt the resolution?

MS. BOCHNOWSKI: Move to adopt.

MR. CHAIRMAN: Any second?

MR. SUNDWICK: Second.

MR. CHAIRMAN: Any further discussion?

I have a motion to adopt resolution 1997-45, all in favor say aye. It's approved.

MR. HANNON: Resolution 1997-46 is to grant a permanent license to International Electronic Protection Limited, known as IEP. This is a family owned business operating out of Scottsdale, Arizona. This company designs and installs audio visual and surveillance systems. Investigation to date has revealed no information to prevent them from being granted a permanent license.

MR. CHAIRMAN: Any questions for Mr. Hannon? Any motion on resolution 1997-46?

MR. MICAREK: I move to adopt.

MR. DARKO: Second.

MR. CHAIRMAN: All in favor say aye. Motion to adopt is approved. Anything further, Mr. Hannon?

MR. HANNON: No.

MR. THAR: Now, the question comes up do you want to take a break or we can probably get through the bond reductions in about 15 to 20 minutes. Let's keep rolling.

MR. CHAIRMAN: I just want to note for the record that at the last meeting I was informed that I was too young to be the chairman because I didn't take breaks often enough. So this decision to not take a break is not mine.

MR. SUNDWICK: He said only 15 minutes, didn't he?

MR. CHAIRMAN: So the next item on the agenda is the Blue Chip Casino bond reduction.

At this time there was a discussion on the Blue Chip Casino bond reduction. A motion was made by Mr. Swan and seconded by Mr. Darko to reduce their surety bond. The motion was approved.

MR. CHAIRMAN: Next is the bond reduction on Empress Casino.

At this time there was a discussion on the Empress Casino bond reduction. A motion

was made by Dr. Ross and seconded by Mr. Darko to reduce their surety bond. The motion was approved.

MS. FLEMING: The final one is a request to reduce the letter of credit for the Casino Aztar.

At this time there was a discussion on the request to reduce the letter of credit for Casino Aztar. A motion was made by Mr. Swan and seconded by Dr. Ross to reduce their letter of credit. The motion was approved.

MR. CHAIRMAN: Miss Fleming, next on the agenda is the Aztar debt acquisition. Is that you?

MS. FLEMING: That's Mr. Thar.

At this time a discussion was held regarding Aztar Casino debt acquisition. This was the first meeting regarding this request so no decision needed to be made. The final form should be presented at the next meeting for the purpose of being approved.

MR. CHAIRMAN: Now we will take a 15 minute break. It's 20 to the hour, we will

come back about five till.

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

MR. CHAIRMAN: The next item on the agenda is other business. And I understand there is no other business. In reference to the next meeting, that will be set after the first of the year, and of course that will be posted accordingly.

The last item of business is to resume consideration of the fifth Ohio River license. Mr. Thar, in reference to that is there any housekeeping issues that we need to address?

MR. THAR: Yes, I would point out three. First one is the issue of suitability. Generally, it comes to a vote as to who should get a license and we should ask is there anyone here that isn't suitable.

In this particular instance with regard to both applicants, that is Hilton Boontown and Harrod, it also been agreed and brought before this commission that we would not be able to finish the background

investigation with regard to Hilton Boontown, Hollywood until such time it is determined who should get the license. The same is true with regards to Harrod. So, if the license is to be issued today, regardless of which applicant would get it neither of them, as we look at it today, would be deemed to be suitable or unsuitable. We could, however, go ahead and issue the certificates, if that is the decision of the commission today.

The second one is about every group that has addressed this commission in the past has again asked for time to address the commission today. From the staff point of view we have voted that there would be no time allotted for additional presentation by any group, although if the commission had questions they should have representatives available to address. From what I have seen there are representatives of all interested parties to this issue present.

And, finally, during the recess, Senator Richard Young, who is part of a represented area, I believe it's Crawford County, and Representative Cleo Duncan, as

part of the representation of Switzerland County, have both indicated during the break that they would like to address the commission briefly. The commission would allow that.

Those are the three matters of general housekeeping. Are there any questions on any of that?

MR. CHAIRMAN: All right.
Representative Cleo Duncan?

MS. DUNCAN: Thank you members of the commission, Mr. Thar. I'm here today to ask you to grant the final license for the river boat gaming today. These people have been here many times before and at many meetings asking for a decision. I believe that the legislative intent was that five licenses be granted on the Ohio River, where there are qualified candidates. And I urge your decision on this matter today. Thank you.

MR. CHAIRMAN: Representative Richard Young.

REPRESENTATIVE YOUNG: Thank you Mr. Thar, Mr. Chairman, members of the committee. I come to you today not as a

purponent of legalized gambling, I very much appreciate the job that you have done of trying to administer the legislation which the general assembly gave you in your charge. I have intentionally not come to you at earlier dates, although there have been areas where I might have spoken to you, but I felt really that it's very important that you, as I know you would always do, act independently, but that any perception that you might not act independently should be eliminated if possible.

But the reason I come to you today is based on reports that I have read in the newspaper and heard on television and throughout the media, with regard to a fifth license. And as I said, although I was never a supporter of this legislation I was one who was definitely very heavily lobbied on this issue. So I have very clear recollections of, I think, the great majority of the conversations on this particular subject. And it was always very clear to me, and I believe as the democratic leader of the Senate now, that the intent of the

legislature was that where there would be --
where there was five qualified candidates
there would in fact be licenses granted.

Now the legislation does speak with
the term of there may be. And I think the
"may" was not intended to limit the number of
particular locations, but in fact to
guarantee that you would not as members have
undue pressure put upon you to select someone
because there had to be five boats, and there
might not be someone who you felt was
qualified.

So, I think to give you some room, as
we generally do in legislation, there was a
made provision. And I believe that was the
intent of that made provision. I think it's
important that we move forward with this. I
know, as Representative Duncan has said, that
our communities have worked very hard on
this, they have spent a lot of time. We need
to get this resolved.

I think the only way it can be
resolved is the awarding of a fifth location.
And then we can go on to work and use our
productiveness to do other things. So thank

you very much for this opportunity to address you.

MR. CHAIRMAN: We will begin the consideration of this fifth license. I believe what we will do is take a two-tiered approach. The first order of business will be to address whether or not to issue that license. And if we vote to issue the license then we will move to next stage of which place, which company, which applicant would be awarded that license.

Today is the fisher cut bait date. The decision will be made one way or the other. I will just ask that everyone listen along politely. It's either going to be a situation where most everyone in this room will be unhappy, or half of this room will be unhappy. A judge in a divorce court once -- a judge I worked for once told me that in a divorce if you can make both sides equally unhappy, you have done your job well. Unfortunately, as I said, everyone will be unhappy, or half the room will be unhappy. I see a glass not half full or half empty, I see a dirty glass. Mr. Sundwick?

MR. SUNDWICK: I make a motion that we issue the license today.

MR. CHAIRMAN: Is there a second to that motion?

DR. ROSS: Second.

MR. CHAIRMAN: We will move to additional discussion. Would anyone like to begin with the discussion?

MR. SWAN: Yes. I think we are too early to issue a license, personally, because there is no need to be rushing into this thing. And I know this doesn't seem like rushing to a lot of people, but in the sense that we have several on the river right now and we don't know what their boats are going to do, we don't have any idea of what's going to happen in Harrison County.

We have seen across the country where oversaturated markets have caused the fall of the entire market. I feel like it's way too early to do this. We don't need to be rushing off to issue this license. I prefer to wait until full results are in. I mean, I would prefer too wait until mid 1999.

MS. BOCHNOWSKI: Well, there is a

point that if we've gotten real conflicting marketing reports and studies. If the market is as good as everybody says then the last license will be very valuable down the road, and there won't be any problems. If it's not, then we have learned something there too.

But the problem I have -- you know, I kind of discount the information, or the statements made by the companies where there are licenses that they knew full well the fifth license was not going to be issued. What I'm concerned about is, in the community where I live if one of the boats fails it is not a death knell for the community. There is other employment, and Chicago is right there. But I really think if the boats fail in one of the smaller communities it's much more devastating.

MR. SUNDWICK: Well, I would tell you that if you look at what we just heard from a senator and legislature about the intent, they intended for these boats to be in the water. There's only two counties on the river that voted to have these boats, and the

two counties are represented out here.

And I think let's make a value judgment based on what's good for those counties. This might be the only commission that could stand around and make those kinds of judgments. In the business world we deal with competitive environments. And we have companies that are willing to spend up to \$100,000,000 in Indiana. And I don't know any other businesses that are being protected. My business certainly is not being protected by the government.

I think, in fact, if this was a commission for the automobile industry and a number of years ago we had Ford, General Motors and Chrysler sitting here, they would have made a great case that we should not let Japanese and foreign businesses into this country. They would tell us how much dollars would have been lost, about the employment impact on our economy. We are better off today than we were then. Our businesses are better off with the combination.

We are going to make a decision. Here are people saying we want to do this. We

voted to do this. The legislature says let's do this. That's the intent. And I have no reason to protect anybody. The least thing we should be doing is protecting anybody. We should be for the people of Indiana. And that's an investment in our state. That's what this is supposed to do, whether you like gaming or don't like gaming.

We got great letters from people in Crawford County not to have boats. And from Switzerland County not to have boats. But again, those two counties voted for this. As much as I emphasize with those people in those two counties that don't want boats, that's what happened. That's the system.

Today, when people want to spend 140 million dollars, put them off another year and we have lost money for this state again. Now we are going to sit back and say we think we know best about the competition.

I will guarantee you that if the people in either location decide to put this boat in the water, and it doesn't look like it's going to be financially sound over the next 24 months when they get it built, they

will not spend the money. They will in fact withdraw. The will probably hand us the license back and say this makes no sense to us economically.

I have no reason to protect anybody. This is a free market. Five boats, free market. Now we've got a choice. We can walk away and say no, we know best. I don't think we know best. I think let the market take care of what we know best.

As I drove up here and -- I drove into the gas station yesterday on my way up here and I looked at 99 cent gas. Well, I will guarantee you if that was the only gas station on the corner it wouldn't be 99 cents gas.

So -- you know, for us to sit back and use the protection of this commission to protect profitability of competitiveness is inappropriate. I made the motion that we should in fact let this license today. And I think it's appropriate that we do that. And I don't -- I can't think of any competitive reasons not to do that.

MR. CHAIRMAN: Well, I don't view it

in the sense of protection of any of these companies. The companies knew going in that there was a strong possibility of the fifth license. I don't know that they had anticipated the boats and the proposals being of the magnitude of what we have now. The Caesar boat is going to be so large, 5,000 people, which is larger than Aztar and Argosy and Rising Sun combined.

I don't concern myself with protecting those companies, as far as the argument that -- my concern is the stability of gaming in Indiana. If this fifth license would be issued and it would work, that would be wonderful. If it doesn't work it's going to be like a nuclear reactor if it goes down.

As far as these companies not being inclined to invest in a weak market, like Representative Harris, at our last meeting, I asked about the New Orleans fiasco, \$800,000,000 down the hole. I asked what was the reason that his predecessor left the company. And he said it had nothing to do with the New Orleans project. What I would have liked to have heard was that they cut

the guy's head off and threw him out the window because he made a bad decision. I didn't hear any of that.

I don't know that I can really feel comfortable with the headlong rush of everyone to get into gaming. I think you can take five people out of my neighborhood and give them a riverboat and they are going to make some money on it.

The level of expertise would have to be addressed. It worries me. It's like going into a pitch black room barefooted, not knowing what's laying around, what you are going to cut yourself on, and sooner or later the light is going to be flipped on. And I just can't get past the point of being convinced that this just goes down that legacy, along with the damage it does to the state.

And we can regulate until we are blue in the face, but we can't do anything about a company that makes bad business decisions and goes bankrupt or lays people off. It just worries me. And I just can't grasp -- I can't get to the point of saying let's do it,

because maybe I'm too conservative. I'm just wanting to wait until at least Caesars' boat is in the water, and figure out how big the pot is. I don't know how much food is in the kitchen to feed everybody that wants to sit down at the table, because it's not that everybody is going to be equally starved.

MR. DARKO: Can I ask a question? Mr. Thar, can you give us a report as of today of what we know or don't know about the Army corps of engineers' review of the Caesars' site?

MR. THAR: I can tell you that we met with the Army corp of engineers in July, June or July, and they have set a time table where they thought that they would have certain decisions made. They referred to it as a Christmas gift. And that amounts anywhere from December 1st to the end of January, in targeting Christmas.

I have been advised that the memorandum of agreement that must be approved by the corp of engineers was sent to Washington D.C. for approval by the review board back there, which concerned the

archaeological aspect to that property, went out last week.

From prior experience it's my understanding that it's 30 days, at least, in Washington D.D., and another 30 days back to Louisville to get it finalized. So you are talking a minimum of 60 days from last week before they -- once that's done, and then the whole issue as to whether or not they are going to issue the permit anyway still has to come up.

So the Ceasars issue does not appear that it's going to resolve itself by the first of this year as to whether or not it's going to go.

MR. DARKO: But I take it there are no assurances that even after six or twelve months it's going to be granted for sure?

MR. THAR: I can say that, as we sit here right now, the corps will never commit as to whether or not they are going to issue a permit. They have not. It's been a very controversial one.

As we as sit here today, we do not know if that permit will be issued. We

further believe that the indication given by the commission, the last time Caesars was here to get an extension, was that things might not be so easy for them. If they come back in for another extension because they do not have a corps permit, that will be pushing two years. So the question is when Caesars -- if Caesars will get up and running, and if so when?

MR. SUNDWICK: You know, when we started this we knew there would be five boats that we could put in that river. One license was held back. And I think to myself that every one of these great wise businessmen that stood in front of us -- certainly I was somewhat intimidated by this group, because of their educational background and certainly their understanding of the gaming industry, their understanding of the markets that they deal in. Like any major corporation, they stood right in front of us knowing there were five boats, knowing the size of the market, and said give me a license so I can be one of five.

I have little intent, again, given the

opportunity -- all five, given the opportunity in this market -- and I think Don's right, walking into a dark room and turn on the lights is pretty scarey. But two things, we don't have to walk into the room, the people sitting out here want to walk into the room. So when they flip the lights on they want to know what the future is.

And they are willing to take that gamble, or that risk. I don't even think it's a risk, to be honest with you. And ultimately we wouldn't have five people up here trying to get this license.

I think what we need to do is get on with it. It's not going to be revoted. It's certainly not going to be revoted in my county. We heard two legislatures here say get this thing off the dime. And I can't hardly understand why we won't do this. Or why we would consider not doing it. It just doesn't make any sense.

I think there is the market there. Everything is a gamble. All five knew that when they walked in here. And I don't have any reason not to do this. I can't think of

a good business reason not to do it, except maybe some could be's.

We've got people standing here with this money that are going to walk out of here without that investment, and I think that's a tragedy. Because that was what we were assigned to do. Whether we like gaming or not, it was absolutely let's have investment in these counties because they are trouble. And we are saying well, maybe they are not in that bad of trouble. So that's silly. Bring on another issue I will be glad to discuss that one too.

MR. CHAIRMAN: Anyone else have anything to add?

MR. DARKO: The reason I asked Mr. Thar the question is, I'm new to the commission and I don't have the background and experience of the rest of you.

Looking at the Ohio River market, I think the area closest to Cincinnati was the primary, just in terms of geography, etcetera, that's not sealed. I mean Argosy is doing what it said it was going to do in its operation. The second largest area is

Louisville. With all respect to Evansville, the Louisville market far dominates along the river over the Evansville area. And until we know that the present location in Harrison County is going to be certified, is going to be licensed, is going to be operable, I think that I agree with the thought that it's too early to vote on another license. I think it would make a world of difference if we knew for example today that there will not be a boat at the Caesar's location.

It's unfortunate for the sake of everyone that development has taken as long as it has, but I think that it's premature.

MR. SUNDWICK: You know, that county did vote for having a gaming casino. There were two logical sites at the time, one at the present location and one at St. Paul mock port. I will almost guarantee that no matter what happens, that there will be a boat in that county.

So waiting for the fact maybe what we should do -- based on that, what we should do is give the other boats their opportunity and let the last one come in and say gee can we

go to mock port, can we make money, just so we can go through this again.

That doesn't make sense to me because I think that it will make money at mock port, it will make money at the present location. So the history to that one is that it will not go away. It will either be at the present location or it will be someplace else in the county. Because they are going to service that market, with a boat. And whether it's at its current location or mock port I'm assuming it will be one or the other.

MR. DARKO: But if it was mock port, wouldn't that have significant impact on whether it would make sense to have another boat in Crawford County? I would think.

MR. SWAN: Bob, you mentioned the ESPEDA report, that it supports the marketing aspect of another boat along the Ohio river. I think what it actually shows is that it would have an eight to ten percent increase in admissions with another boat, regardless as to whether it was in Switzerland or Crawford County.

But it still was talking about admissions and wasn't talking about revenue. And I think what the ESPEDA report says was -- I believe they ran the same model against Joliet and found that the model was fairly accurate. What they said was that the attendance in Joliet would drop, but it did not drop. Joliet's attendance stayed the same.

What happened is they went out and remarketed more marginal markets, I believe. They found that revenue did drop there, according to that same report. So I don't believe that we have enough evidence to support that market. And I'm very concerned that if we allow another boat in now, that we are going to see two or three of these boats that will become reasonable revenue producers, as they are, they will become marginal, and we are going to have three losers in the Cincinnati area.

MR. SUNDWICK: The synergy of any business -- you know, it's funny when you see a service station on a corner, there has to be four. Synergy brings business. If these

three boats were -- if the legislature wouldn't have changed the games, saying we have to have one in every county, we wouldn't probably would have had three boats relatively close to Cincinnati right now. But for the fact that -- God bless them, the people in Rising Sun would have said holy smokes what happened to us. That's what we probably would have done.

That market is large enough to do that. This wouldn't even be an issue if those boats would have been there, because the market is big enough to support this. Every one of these people -- see, that's what amazes me. We had 25 people trying to get a license. They all understood there was five. They all understood the demographics of that. And we are two years later second guessing what they themselves said they wanted to do. They all showed up.

MR. THAR: That's true, Bob. That's true with regard to synergy, but it's not with regard to the situation we are looking at now. We have 25 people vying for the boat in Dearborn County. We only have one

applicant in each of these other counties.

The problem I see with regard to synergy -- you're absolutely right, if you could put these three casinos right next to each other, with adjoining walls, then you would be able to do something. But you have casinos that are approximately 38 miles apart. There is no super structure right now to handle that traffic.

The question of free market, this really isn't a free market casino state. This is a limited license casino state. Unlike Mississippi, New Jersey or Nevada, the legislature has put a cap on it. With regard to your theory on investment I see your point on that completely, with this one issue. And that is in Kansas City the stations made almost three hundred million dollars in investments which they are writing off. They didn't chose smart. The Hilton has closed their boat in Louisiana. These are all groups that believed their market studies. And there's nobody that misrepresented anything, but nobody knows. They just have market studies and say we are going to guess.

So, when you look at other jurisdictions, I think -- what at least I learn from it, is that you can potentially be sucked in by the enthusiasm of the business to want to make the investment, when in fact what is really there doesn't justify that being done.

MR. SUNDWICK: Jack, I certainly look at that and as I look around this commission, at ourselves and our qualifications, I really have to look at their qualifications of understanding their investments, and what they want to do for this state. I'm trying to make my mind up, and the commission needs to make their mind up, about what's best for the state. You need to vote that.

If you think our having the boats, which the legislature's intent was, I -- I like a little bit the fact that there are three counties down there. That 38 miles apart might improve that whole area, and not just the one county.

So, in fact -- you know, here's some people that's interested in paying some money. The counties want to do it, they

voted for it. Two counties, one in Louisville and one in the southeastern part of the state. And the only thing I'm saying is, we need to give them this opportunity.

You can wait -- we heard last year, we said we will wait another year. We are here a year. And we will be here next year. And my good friend Bob said 1999, maybe 2000. I remember the numbers that rang in my ear, because just today what we have lost in Louisville, in revenues, half the people say well there's enough people, the other half say there's not. The gaming companies thought there was, or they wouldn't be after one of the five places.

So -- I mean, I can -- you know, we can debate this point I guess forever. I don't know if I'm going to change anybody's mind, I can only tell you how I look at it. You all have that decision to make.

MS. BOCHNOWSKI: Bob, you're very persuasive, you make a lot of excellent points. I guess when I wanted to wait a year ago, or whenever, it was because I felt we didn't have enough information.

Unfortunately, due to circumstances, we don't have a whole lot more than we had then.

MR. SUNDWICK: Well, I think they said last year they would have been further down the road. And a year from now I don't know if we won't be sitting here. That's not the charge we have.

I try to think of all the letters I see from all the people who don't want the boat. I read those letters. You send them to me, I read them. They say we really don't want that boat. But I have to take that out of my mind, because that's not what they voted.

MS. BOCHNOWSKI: And you get equal numbers on both sides of those letters.

MR. SUNDWICK: Well, when those counties voted for it, that had to go off the plate. When the legislature said five boats, that had to go off the plate. I don't see what we -- well, you know my opinion.

DR. ROSS: I don't have a real strong opinion about it either way, because it seems like my job is really to carry out the legislative process here, what they have

suggested. But I've also come down here on a regular basis, and I see a lot more people who make this trip to this meeting than the letters that said they don't want it. So if I add to that the fact that they did vote for it, then obviously these communities would like to get this thing going.

ESPEDA has said that it would increase the market by about ten percent. And, obviously, somebody is not going to make as much money two years from now as they made this year. But there are people who are willing to put \$140,000,000 into a project, who think that they can make it. I think that's the American way. If they want to put in the money and the people in the community want it, I don't know how I can say anything different.

MR. CHAIRMAN: The question in my mind, Dr. Ross, is part of me wants to say I fully agree with you, that these companies wouldn't be doing it if they didn't think there was a viable and financial benefit to this.

And I come back to New Orleans and

those problems too. But -- you know, I want to agree with you that the commission did a good thing, and I don't want to give the picture of anybody of protecting any vote, my concern is the people of Indiana. But my problem is that you just don't know until things go bad and it goes down very bad. I just can't get past that point.

MR. SUNDWICK: ESPEDA said ten percent, I personally think it might be more than ten percent. Dr. Ross said maybe some people would not make as much money as they made last year, or maybe they will make more. We don't know. But what I think we need to do is make a decision.

Just think about our friends from Ford, General Motors and Chrysler. If they were here and we were sitting down voting on that today I would guarantee that they would have made pretty persuasive cases they didn't need any competition, they didn't need any more influence on this hemisphere or any foreign investment. I don't think we would agree with that today.

And -- you know, I don't know what

happened in Louisiana. This isn't Louisiana, this is Indiana, and it's not run the same way. And I don't know if it's mismanagement, but I'm not willing to make that judgment, so --

MR. CHAIRMAN: I guess my point to that is, I just can't completely rely on each applicant's experience and expertise to that degree.

MR. SUNDWICK: I think if you look at all five people who showed up here the first time and knew there were five licenses, they would have all made a good case that day. If we would have had five licenses or four, everyone of them would have made good cases that this group could support five. Think about that. And I think we just need to vote.

MR. CHAIRMAN: Is there any further discussion? There is a motion to issue the license, and then I believe Dr. Ross has seconded that also. Is there any further discussion?

Then what we will do is raise hands, and if the motion is approved then we will

move to the next area and decide which county will get it. If it's not approved then we will probably have a second motion to decide what the procedure would be as to when to reconsider it, or how to consider it.

All right. There is a motion and a second. No further discussion? All those in favor of the motion raise your hand for the eyes. Two hands. All those opposed? Five opposed. The motion is opposed.

The next step then, Mr. Thar, would be -- what would the time table be as far as when to reconsider that, or how?

MR. THAR: There are a lot of suggestions that can be put on the table. Mr. Swan has indicated that he would like to wait to see until all permanent license holders are up and running and in their permanent facilities. So my recommendation would be based upon that comment, which I agree with, is that the issue will be reopened and we will reconsider the last license six months after the last permanent facility is up and running on the Ohio river.

MS. BOCHNOWSKI: And at that point I

would like to see us totally reopen the process, because then we know what the market is, and we may have more applicants.

MR. THAR: We can reconsider at six months -- we can put this back on the agenda six months after it's up and running.

MR. DARKO: When does Caesars' current temporary license run out again? When do they have to come back again?

MR. THAR: I want to say it's the end of April. I want to say it's around April 22nd.

MR. DARKO: So if April 22nd came and they didn't have a permit from the corps of engineers, you said the heat is getting hotter all the time, if the commission should decide then no, we are not going to extend this further, wouldn't that basically reopen the bidding for that entire area?

MR. THAR: I think it would be up to the commission on how they want to handle that.

MR. DARKO: Well, that's my thought. If the commission decided in April not to continue the temporary licensing, that might

be the time to talk about whether we are going to issue the license to somebody who perhaps has a better chance of getting their location approved, like Switzerland County or Crawford County.

I guess what I'm saying is, I'm not in agreement with putting an arbitrary date on when we next consider whether to issue this license -- whether this license should be issued or not. I think there's too many balls up in the air, you can't quantify that.

MR. SUNDWICK: I don't believe you want to put a date on some time in the future. It's kind of like saying we just said we think we can see into the future. I think we ought to do something about that.

I think we hold everybody hostage to say 1999, which my good friend Bob said. If this thing doesn't work over there, some of the people may agree to use the mock port site and other people may want to demonstrate other issued sites in that particular county. I think we probably shouldn't do that.

MS. BOCHNOWSKI: I will agree with that. I really think that if this doesn't --

isn't going to work out we must move forward and get something in that market.

MR. CHAIRMAN: So, in April we will know what their progress has been. That's another fisher cut bait day.

MR. SUNDWICK: One last thing. If that doesn't move forward, if that doesn't move forward, we don't think so, then I really believe we owe these two counties an opportunity again to say we are going to reopen something in that area. I think these two counties still have an opportunity.

There are five places and we can go back and do one thing in those areas. There's still two licenses, another license to go. So I think we have to go back and look again at that time.

MS. BOCHNOWSKI: Because then the picture is different. I agree with that.

MR. THAR: Well, I think the second thing you are saying, right now it has been tabled. This commission may be willing to rethink about it after the decision has been made with regard to Caesars. Is that what I'm understanding?

MR. SUNDWICK: Well, I recommend that, because you don't know what's going to happen. And, God forbid, we all -- let's just make it kind of an assumption that something did fall through the board over there, and that the other people that are in the mock port side, whether it be the Carnival cruise people, would all be interested in coming back. But that doesn't change that there's another license. And I don't think we can continue to say well, wait until they get theirs done before these people get theirs done. I don't think we can, but maybe we can.

MR. CHAIRMAN: The earliest I could see would be the end of April. If the commission voted that Caesars' certificates would not be extended, we would have to reopen that from one side. I can see at that time considering two licenses in Harrison County. If the commission deems it suitable to extended the time in April for Caesars, my inclination is then that we wait until the permanent facilities are in before we consider the fifth license.

MR. MICAREK: If Caesars' license falls through, we would have the opportunity to vote on Crawford and Switzerland County?

MR. THAR: So to carry away from this, it's the commission's decision, if I understand correctly, we will review, anyway, the issue if Caesars is not renewed in April?

MR. CHAIRMAN: Yes.

MR. THAR: And if it's renewed, then we will talk about it at some future date.

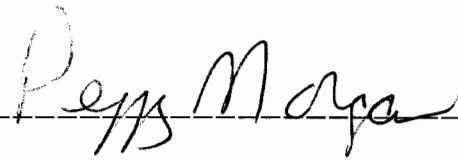
MR. SUNDWICK: I think -- you know, that now that we discharged this, I think that we need the two companies that have been involved in this, and the counties, certainly especially the companies, the companies have spent a lot of money working towards this, we certainly ought to thank them for their persistence on this, and I hope you come back again another day.

MR. MICAREK: I would like to thank the representatives from both counties for their continued persistence, and they still have a chance.

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

I, Peggy Morgan, a Notary Public in and for the County of Hendricks, State of Indiana at large, do hereby certify that the foregoing business meeting was taken down in stenograph notes and afterwards reduced to typewriting under my direction, and that the typewritten transcript is a true record of the hearing.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 14th day of January, 1998.



Peggy Morgan
Notary Public

My Commission Expires:
December 26, 1998
County of Residence:
Hendricks