1978

OPINIONS OF THE CASINO CONTROL COMMISSION

NAME OF CASE	DOCKET NO.	DATE OF DECISION
In the Matter of the Application of Gary Grant for a casino key employee license	78-EA-3	12-05-78
In the Matter of the Application of Resorts International Hotel, Inc. for a temporary permit	TCP 78-1	5-15-78 7-12-78 and 11-08-78
State of New Jersey, Department of Law and Public Safety, Division of Gaming Enforcement v. Resorts International Hotel, Inc.	78-1 thru 78-20	9-12-78
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STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
Docket Number 78-EA3

IN THE MATTER OF THE :
APPLICATION OF GARY GRANT FOR :
A CASINO KEY EMPLOYEE LICENSE.: FINAL ORDER

The New Jersey Casino Control Commission having read and considered the Report and Recommendation of R. Benjamin Cohen, Hearing Examiner, which concludes that the applicant has met his affirmative responsibility of establishing by clear and convincing evidence his individual qualifications for licensure as a casino key employee in the position of casino credit manager and it appearing that no objections or exceptions thereto have been filed by the Division or by the applicant,

It is on this 5th day of December, 1978, ORDERED that the Report and Recommendation of the Hearing Examiner be and hereby is adopted by the Commission; and

It is further ORDERED that a copy of this Order be served on the parties within two (2) days of its entry.

NEW JERSEY CASINO CONTROL COMMISSION

BY: _____
Joseph P. Lordi, Chairman

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
DOCKET NUMBER 78-EA3

IN THE MATTER OF THE :
APPLICATION OF GARY GRANT :
FOR A CASINO KEY EMPLOYEE : REPORT AND RECOMMENDATION
LICENSE. :

Stephen C. Becker, Deputy Attorney General appearing for the Division of Gaming Enforcement.

Donald G. Targan, Esq., appearing for Gary Grant.

The applicant, Gary Grant, seeks to be licensed by the New Jersey Casino Control Commission as a casino key employee for the position of casino credit manager. In support of his application he filed with the Commission personal history disclosure form number 1 (A-1). The Division of Gaming Enforcement conducted a lengthy and intensive investigation into the applicant's background. This investigation culminated with the Division filing a two and one-half page letter report to the Commission dated September 8, 1978 (D-1). In this report the Division did not interpose an objection to Mr. Grant's license application. However, the Division indicated that it had "developed information which appropriately should be presented to the Commission for its consideration prior to any final determination of the licensure of the - applicant." After outlining that information, the Division's report concluded as follows:

> "This information is submitted for your review and consideration. To reiterate, upon direction of the Commission, if necessary, the Division is prepared to substantiate any of the facts outlined

> herein. The Division reserves the right pursuant to N.J.A.C. 19:42-3.2 to request a hearing in the event the Commission should make a determination in the instant matter warranting such action on the Division's part."

On October 13, 1978 a Pre-Hearing Conference was conducted in this matter to focus the issues, set a schedule for completion of discovery and fix a hearing date. The Pre-Hearing Conference Order entered on October 16, 1978, embodies the matters decided at that Conference. As that Order indicates:

> "The factual issues to be decided by the Commission in determining whether the applicant has met his affirmative responsibility of establishing by clear and convincing evidence his individual qualifications for a casino key employee license concern the... matters which were set forth in the Division's report of September 8, 1978."

The information in the Division's report (D-1) relates to the following circumstances:

1. Certain cash deposits totaling $95,000.00 which the applicant made in 1973;
2. Certain discrepancies between the total wages reported on the applicant's federal income tax returns and his year-ending payroll statements for the years 1969, 1973, 1974 and 1975 in amounts ranging from approximately $700.00 to $1,500.00;
3. Rental income totaling $1,650.00 per year which the applicant failed to report on his federal income tax returns for 1976 and 1977;
4. The applicant's failure to list on his personal history disclosure form United States Savings Bonds in the names of his children, his wife and

himself, which bonds have a total face value of $3,000.00.

5. The applicant's attendance of football games in Miami during the early 1970's with a Mr. Hymen Lazar, who was subsequently denied a junket license by the Nevada Gaming Commission because of Mr. Lazar's unsavory social and business associations;

6. The applicant's employment as a cashier in two casinos in the Bahamas from 1964 to 1977, where six named individuals who held management and supervisory positions were required by the Government of the Bahamas to leave that jurisdiction as unacceptable members of the casino industry.

At the Hearing conducted before me on November 3, 1978, Charles Richard Iannone, supervising investigator for the Division of Gaming Enforcement, testified that a casino credit manager is responsible for the credit files of a casino. He is responsible for evaluating patron credit applications and determining whether, and to what extent, credit should be extended by the casino to patrons seeking credit. The credit manager may also be responsible for the casino's collection of debts incurred by such patrons. Mr. Iannone stated that this is a very important position within the casino and one which requires a person possessing a high degree of financial responsibility and integrity.

The first issue to be decided is whether the circumstances surrounding the $95,000.00 cash deposits which the applicant

made in 1973 reflect adversely on his financial responsibility a integrity so as to disqualify him from licensure.*

At the hearing the applicant, Gary Grant, testified that in 1964 he took a job as a cashier in the Monte Carlo Casino which is in the Lucayan Beach Hotel on Grand Bahama Island. At the time he went to the Bahamas he was 28 years old and single. He had no assets, and he owed his mother $500.00 which he had borrowed from her to get to the Bahamas. He went to work as a

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* The Division's report (D-1) stated that,

> "Mr. Grant participated in undocumented and untraceable cash deposits in a total amount of $95,000 in 1973. Specifically, two deposits totalling $50,000 were placed into a savings account at the Western Savings and Loan Association in Phoenix, Arizona. Another deposit totalling some $45,000 was placed toward the purchase of 30 acres of farm property in Maricopa County, Arizona. Mr. Grant explains that these cash deposits came from money he had saved from his salary in the Bahama Islands. Prior to 1973, he did not deposit his savings in any particular bank but accumulated the money at home and in a safe deposit box located in the Barnett Bank, Miami, Florida. Mr. Grant's explanation for this conduct was that his goal was to save $10,000 per year.
>
> A thorough computation of Mr. Grant's net cash accumulation from 1964 to 1977 was performed in order to ascertain whether he indeed had sufficient net cash flow to support the undocumented and untraceable accumulation of cash. Photocopies of account transcripts, cancelled checks, bank statements, deposit slips, signature cards and other supporting documents of Mr. Grant's bank accounts were reviewed. The Division also sought to estimate living costs for Mr. Grant during the time period in question, reviewing these estimates with Mr. Grant himself. After consideration of this material the Division is of the opinion that the 1973 $95,000 cash deposits could possibly have been accumulated by Mr. Grant without the aid of unknown funding sources."

cashier in the casino, starting at "the bottom of the heap" and worked 10 to 12 per day, seven days per week, at a salary of $50.00 per day. He stated that he worked for 9 months before he got his first day off, and thereafter would get one or two days off every two or three months. His objective was to save money, and he was able to save a large portion of his earnings, which earnings amounted to approximately $18,000.00 per year. This was so because, as a United States citizen working abroad, he did not have to pay any federal income tax* and his expenses were minimal.**

Toward the end of 1964 the applicant met Maureen Shelley, who was employed as a cocktail waitress at the Lucayan Beach Hotel. They shared living expenses beginning in January of 1965 and were married in October of 1965. He estimated that her salary at the time was $300 per week. She testified that she earned approximately $15,000 per year in 1965 and 1966, for a total of $30,000. As a citizen of England living out of the country she was not required to pay any income tax on this income.

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* The applicant testified that during the first three years of living abroad the first $20,000 of income is exempt and thereafter the first $25,000 is exempt from federal income tax. His federal income tax returns (A-3) support this testimony.

** The applicant testified that his apartment cost him $150 per month, including utilities. He got a free meal every night at the casino before he went to work in the evening. Clothing expenses were minimal and for entertainment he spent his free time on the beach.

The applicant testified that after he had been in the Bahamas for some time he set a personal goal for himself of savin $10,000.00 each year. He and his wife continued to live in his apartment. The applicant continued to work seven days per week. He spent virtually all of his spare time with his wife, and they did not socialize with others. Both the applicant and his wife testified that they lived a very private and quiet personal life. The applicant's work life was totally separated from his personal life. The Grants had no children until 1971 when their first daughter was born. In 1974, a second daughter was born. The testimony indicated that their lifestyle did not change appreciably after the birth of their children.

The applicant testified that from the time he began working in the Bahamas in 1964 until 1973 he saved money which he kept in the form of cash in a safe deposit box in the Barnett Bank i Beach. He explained that he did not place any of this money in any of the Bahamian banks because he did not have confidence in the stability of the Bahamian government and he feared that there might come a time when he would be prevented from taking his mone out of that country. When questioned as to why he did not place his savings in a savings account in the United States, the applicant stated that during the early years of his marriage this money was his own personal security to which no one, including hi wife, had access. While his wife was aware that he was accumulating money, she did not have knowledge as to the amount.

Mrs. Grant's testimony substantially corroborated these facts. Indeed, she testified that during this same period, unbeknownst to her husband, she maintained a secret savings account at the Key Biscayne Bank of Miami in the name of herself and her mother.(A-6). She stated:

> "The reason I kept the account was because I felt that if by any chance Gary got up one day and just left, then I would have something of my own. It was just my own money that I kept for my own self." (2T160-8 to 11).*

By 1973 the Grants had one child and Maureen Grant was pregnant with her second child. The applicant testified that by that time he was confident as to the stability and permanence of his marriage and quite a bit of money had accumulated in his safe deposit box. He had spoken to his father (who lived in Arizona) about his savings, and his father had advised him to invest in land. The Grants went to Arizona, where the applicant had been born and raised, and where his parents still lived. After consultation with his wife, the applicant put $45,000.00 down on 30 acres of land for which the purchase price was $90,000. This land was in the names of both the applicant and his wife. He also took out two certificates of deposit at the Western Savings and Loan Association in Phoenix, Arizona totalling $50,000 in the names of himself and his wife. These transactions occurred in October of 1973, approximately four months prior to the birth of the Grants' second child in February of 1974. As further evidence of his confidence in his marriage, in October of 1974 the applicant executed a will (A-4) leaving his entire estate to his wife as primary beneficiary and his two children as secondary beneficiaries.

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* "1T" and "2T" refer to the first and second volumes of the transcript of the Hearing conducted on November 3, 1978.

The applicant presented two expert witnesses to establish that his earnings and expenditures during the period of 1964 to 1973 were such as to enable him to save the $95,000 which he invested in 1973. Victor M. Fabietti,a certified public accountant licensed in the State of New Jersey and whose specialt is taxes, testified that his examination of the applicant's Feder income tax returns indicated that the applicant and his family ha a total net after tax earnings during this period of approximatel $254,000. See (A-8). This sum represents the amount of money ava able to the applicant during this period to spend or save. Based upon information which the applicant supplied concerning his mode of living and his expenses, Mr. Fabietti testified that in his opinion the applicant would have been able to save at least nine to ten thousand dollars per year during this ten year period.

Dr. Elizabeth Elmore, an economist and associate professor of economics and coordinator of the economics program a Stockton State College in Pomona, New Jersey, testified that she examined the applicant's available personal income for the ten year period in question. By subtracting therefrom a figure representing the national average personal consumption expenditu for a family of four living at a moderate level,* she found that, conservatively, the applicant had $122,830 available for savings during this period. She concluded:

> "Clearly then, Mr. Grant could easily have accomplished his savings goal of $10,000 per year and accumulated $95,000 in cash from 1964-73." (A-7).

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* See (A-7), Dr. Elmore's report, wherein she indicates that this figure is derived from "U.S.Bureau of the Census. Statistical Abstract of the United States: 1969. (90th edition) Washington,D.C.1969,Table No.509. Annual Costs of a Moderate Urban Living Standard for a 4-person Family: 1967, page 348."

John Rogalski, senior investigator for the Division of Gaming Enforcement, testified that in approximately late March or early April, 1978 he had been assigned the principal responsibility for conducting the investigation of the applicant's background. He worked "pretty much full time" on this investigation from the beginning of April through August 11, 1978. (2T228-11 to 229-10). As a part of his investigation Mr. Rogalski sought to determine the sources of the $95,000 cash which the applicant invested in 1973. He conducted a thorough investigation concerning the applicant's income, expenditures and lifestyle during the period of 1964 to 1973, actually verifying large portions of such income and expenditures and he concluded that the applicant "could have accumulated such cash from his earnings." (2T 235-2 to 3). See (A-10)(A-11)(A-12). Mr. Rogalski's investigation confirmed that the applicant lived a "low key lifestyle," that he never went out a great deal, and that the applicant spent a great amount of time with his wife and children.

In light of the record before me I find that the $95,000 cash which the applicant invested in 1973 was accumulated from his earnings during the period of 1964 to 1973. I conclude that there is no evidence to suggest that the circumstances surrounding the $95,000 cash reflect adversely on the applicant's financial stability, responsibility or integrity so as to disqualify him from licensure.

The next issue to be decided is whether the facts contained in the Division's report (D-1) and set forth in numbered paragraphs 2, 3 and 4 on page 2 of this Report and Recommendation

reflect adversely upon the applicant's financial stability, responsibility and integrity so as to disqualify him from licensure.

The Division investigation disclosed that in each of the years 1969, 1973, 1974 and 1975 the applicant reported betwee $700 and $1,500 less income on his federal income tax return than he actually earned according to his year-ending payroll statement from his employer. The applicant testified that during this peri his tax returns were prepared each year by a Mr. Leo Savola. The applicant would give Mr. Savola the stub from his last paycheck t use as the income figure. The applicant indicated that the discrepancies resulted from annual bonuses he received separately from his employer at year end which "inadvertently were not included in the total compensation provided by my employer and myse to my accountant." (A-2). The applicant further indicated that, by virtue of the annual $25,000 exemption from federal income tax to which he was entitled, the tax consequences of these omissions were negligible.

On this record I find the applicant's explanation for these omissions to be credible. The amounts in question are not significant. Moreover, in light of the fact that the tax consequences range from non-existant to negligible, the applicant would have had no real motive for intentionally failing to report these small amounts of income.

The Division investigation disclosed that the applica did not report on his federal income tax returns for 1976 and 19 rental income on his Arizona property in the amount of approximat $1,650 per year. The applicant testified that he mistakenly had

believed that his father, who lived in Arizona and who had arranged to rent the property and who generally handled all the expenses relating to the property, had declared this income on his federal income tax returns. The applicant had reported this rental income on his 1974 and 1975 income tax returns. He stated that in 1976 and 1977 to the best of his recollection, his father (who had retired in 1975) had actually received and retained the rental income and the applicant thought that his father was going to declare it. Testimony was also adduced to show that the tax consequences of the failure to report this income were non-existent to negligible.

Based on the foregoing I find that the omission of this rental income from the applicant's 1976 and 1977 federal income tax returns was inadvertent. Again, the amounts in question are not significant and the applicant would have had little or no motive to intentionally fail to report this income.

The Division investigation uncovered $3,000 face value of United States Savings Bonds which the applicant did not list as an asset on his personal history disclosure form. The applicant offered evidence to establish that these bonds, in the names of his children, his wife and himself, represent gifts given to his children by their grandparents which he kept in a safe deposit box and which were inadvertently omitted from his personal history disclosure form.

Based upon the record I find the applicant's explanation for this omission to be credible.

Accordingly, I conclude that none of the facts contained in the Division's report (D-1) and as are set forth in numbered paragraphs 2, 3 and 4 on page 2 of this Report and Recommendation reflect adversely on the applicant's financial stability, responsibility and integrity so as to disqualify him from licensure.

The final issue to be resolved is whether the applicant's associations with certain individuals as set forth in the Division's report (D-1) and in numbered paragraphs 5 and 6 on page 3 of this Report and Recommendation reflect adversely upon the applicant's reputation for good character, honesty and integrity so as to disqualify him from licensure.

The Division indicated in its report (D-1) that in approximately 1972 or 1973 the applicant had attended football games in Miami with one Hyman Lazar. In 1975 Mr. Lazar was denied licensure as a junket representative by the Nevada Gaming Commission. This denial was based on the grounds that Mr. Lazar was "an associate, both socially and in business affairs, of Meyer Lansky, a person of notorious and unsavory reputation," (D-11) and that Mr. Lazar had failed to satisfy the Nevada State Gaming Control Board as to his good character, honesty and integrity and had failed to provide a credible explanation of why he had been placed on the "Stop List" of the Bahamas government as a result of his employment within the gaming industry in the Bahamas. (D-11)

In an affidavit supplied to the Commission (A-2) the applicant stated:

> "Hyman Lazar worked in Freeport from 1964 through 1967 or 1968 and at one point served as casino manager at the Monte Carlo Casino in Freeport. Thereafter, Mr. Lazar moved to Miami Beach, Florida. To the best of my

> recollection, and belief, from 1972 through 1976, I attended approximately five football games in the company of Mr. Lazar. My contact with Mr. Lazar was purely social and was strictly limited to attending said football games. This information was provided to the Division of Gaming Enforcement voluntarily by me."

At the Hearing the applicant testified that from 1964 to approximately 1967 while he was working as a cashier in the Monte Carlo Casino in Freeport, Hyman Lazar was also working there as a host. He stated that he and Lazar knew one another but had very little contact. In 1967 the applicant left the Monte Carlo Casino and went to the El Casino as a cashier. Thereafter Lazar became the casino manager of the Monte Carlo Casino. The applicant had very little contact with Lazar during this period.

Lazar subsequently left the employ of Bahamas Amusements Limited* and moved to Miami Beach, Florida, where he ran a junket office for the Riviera Hotel of Las Vegas. Bahamas Amusements Limited also opened up a junket office in Miami. Bob Epstein, a former cashier who the applicant knew from Freeport, worked in this Miami office. On one occasion when the applicant was in Miami, he telephoned Epstein and told Epstein that he would like to go to a Monday night professional football game. Epstein contacted Hyman Lazar, who he thought might have tickets. After that, Lazar told the applicant that if he ever wanted to come to Miami and see a football game, he should call him because he (Lazar) had access to some tickets. The applicant testified that he attended about five football games with Lazar and others during the next few years.

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* The applicant testified that Bahamas Amusements Limited operated both the Monte Carlo Casino and El Casino in the Bahamas.

He said that Lazar and the others would pick him up by car on the way to each game and drop him off at his hotel right after each game. This was the extent of his contact with Lazar.

The applicant said that the first derogatory informat concerning Hyman Lazar of which he learned was when he heard, som time in 1975 or 1976, about the alleged association between Lazar and Meyer Lansky. The applicant was in Freeport at that time and saw television reports from Miami showing Lazar together with Lansky. He could not recall whether he saw these televised repor before or after the last football game which he attended with Lazar. But it was not until 1978 that the applicant learned (through the Division's investigation of his own background) that Mr. Lazar had been found unsuitable for licensure as a junket representative by the Nevada authorities.

John Rogalski testified for the Division that after a complete investigation he had found no evidence that the applica relationship with Mr. Lazar went beyond the attendance of these football games.

On the record before me I find that the applicant ha some business contact with Hyman Lazar during the period from 19 to 1967 when the applicant was employed as a cashier and Lazar wa employed as a host at the Monte Carlo Casino in Freeport. I find that the applicant had some social contact with Lazar during the period from 1972 to about 1975 or 1976 when he attended approxima ly five football games in Miami in the company of Lazar. I find that in 1975 Lazar was found by the Nevada Gaming Commission to b unsuitable for licensure as a junket representative because of Lazar's unsavory social and business associations and because of

his failure to satisfy the Nevada authorities of his good character, honesty and integrity. However, no evidence has been presented which establishes or even suggests that any of these contacts between the applicant and Hyman Lazar were in any way improper. Assuming, without deciding, that Lazar, by virtue of his apparent unsavory associations, is a "career offender" or a member of a "career offender cartel,"* the record before me discloses no evidence that the applicant has associated with Mr. Lazar "in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of [the Casino Control Act] and to gaming operations." N.J.S.A. 5:12-86(f). I conclude, therefore, that none of the facts relating to the applicant's contacts with Hyman Lazar reflect adversely on the applicant's reputation for good character, honesty and integrity so as to disqualify him from licensure.

The Division also indicated in its report (D-1) that:

> "Mr. Grant was employed as a cashier and credit manager from the years 1964 to 1977 at the Monte Carlo and El Casino, both casinos in Freeport, Bahamas. Persons who held management and supervisory positions in these casinos included Frank Ritter, the late Charles Brudner, Max Courtney, Dino Cellini, Eddie Cellini and George Sadlo.

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* Section 86(f) of the Casino Control Act defines "career offender" as "any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State."

A "career offender cartel" is defined in the same section of the statute as "any group of persons who operate together as career offenders."

> Messrs. Cellini and Sadlo are persons of less than desirable character, all of whom were required by the Government of the Bahamas to leave the Islands as unacceptable members of the casino industry in that jurisdiction. Messrs. Ritter, Brudner and Courtney possess criminal records for bookmaking and tax evasion."

The applicant submitted an affidavit (A-2) and testimony to the effect that prior to his coming to the Bahamas in 1964 he had never met or heard of any of these six individuals. He also testified that all of these men had left the Bahamas bef the end of 1966. Since that time the applicant has not seen any of them, except for two chance meetings with Frank Ritter in Miam at which times the two merely exchanged greetings.

The applicant testified that when he began working a a cashier in the Monte Carlo casino, these six individuals were employed there in various supervisory capacities. George Sadlo was the equivalent of the casino manager. Dino Cellini was righ under Sadlo. Eddie Cellini was in charge of the blackjack pits. Max Courtney was in charge of credit. Frank Ritter was a host o greeter. The applicant did not know what function Charles Brudn served, other than to say that he played little or no active rol in the casino. During the period that the applicant worked in t same casino as these men he thought of them as law abiding citiz He stated (2T16-19 to 21):

> "I did a day's work. I got paid a day's pay. I had nothing else to do with them except that, and on that format, I had a high opinion of them."

The applicant testified that prior to their leaving the Bahamas he had no knowledge that any of them committed any crimes or did anything illegal. However, the applicant said that he had heard

rumors that Brudner, Ritter and Courtney had been bookmakers in the past.

The applicant testified that, to the best of his knowledge, Sadlo and Dino Cellini were required to leave the Island by the Bahamian Government because of their associations. The applicant did not know with whom they were alleged to have associated. Eddie Cellini was not required to leave, according to the applicant, but went to work in Nassau. He believed that Brudner, Ritter and Courtney were required to leave because of the federal criminal indictments brought against them (for tax evasion and conspiracy to commit bookmaking).

Other than the fact that from 1964 to 1966 he worked in the same casino where these six individuals worked, the applicant stated that he had nothing to do with any of them either socially or in business. He said that he never ate dinner with any of them, never discussed business with any of them, never entered into any businesses with any of them and had no contact with them other than working in the same establishment.

John Rogalski testified for the Division that his thorough investigation had disclosed no evidence to establish any other contact between the applicant and these individuals.

On this record I find that the applicant had some business contact with these six named individuals in that, from 1964 to sometime in 1966, the applicant was employed as a cashier in the Monte Carlo casino, Freeport during which time these six individuals worked in various supervisory capacities in that casino. I find that these six individuals were all required

by the Bahamian Government to leave that jurisdiction as u
able members of the casino industry. However, no evidence
been presented which establishes or suggests that the conta
between the applicant and these six individuals was in any
improper. There is no evidence here that the applicant has
associated with anyone "in such a manner which creates a re
able belief that the association is of such a nature as to
inimical to the policy of [the Casino Control Act] and to g
operations." N.J.S.A. 5:12-86(f). I conclude, therefore, t
none of the facts relating to the applicant's contacts with
six named individuals reflect adversely on the applicant's
reputation for good character, honesty and integrity so as
qualify him from licensure.

The applicant presented three character witness
testified as to his reputation in the community for good ch
honesty and integrity. He also offered in evidence sworn a
of three other individuals attesting to his reputation for g
character, honesty and integrity both among the business co
and among those who know him socially.

John Rogalski testified for the Division that a
of his investigation of the applicant's background he trave
Freeport in the Bahamas and interviewed approximately twent
individuals who knew the applicant.* The overall information
received from these individuals concerning the applicant wa
extremely favorable as to the applicant's character and rep
for truthfulness and veracity. Rogalski stated that the

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* Rogalski testified that another Division agent went to Ari
where the applicant was born and raised, as part of the
investigation.

applicant's recommendations were "excellent." (2T230-1 to 5). Rogalski was also able to corroborate the applicant's habits and family relationship as "excellent." (2T230- 6 to 21). From interviews with representatives of the Bahamian Government, Rogalski determined that, since 1966 or 1967 (when the governmental authorities were formed to regulate gaming operations there) to the present, no derogatory information whatsoever concerning the applicant had been noted. From interviews with persons who supervised Mr. Grant's work he received top recommendations. Moreover, Rogalski stated that the applicant had been cooperative in supplying the Division with whatever information he had, to assist the Division's investigation.

After all the evidence had been presented at the Hearing, the Division, in response to a question from the Hearing Examiner, indicated that it did not interpose an objection to Mr. Grant's licensure (2T244-4 to 2T245-20).

On the basis of the record before me I conclude that Gary Grant has met his affirmative responsibility of establishing by clear and convincing evidence his individual qualifications for licensure as a casino key employee in the position of casino credit manager.

DATE November 27, 1978

Respectfully submitted,

R. Benjamin Cohen
Hearing Examiner

APPENDIX

List of Exhibits Admitted in Evidence

APPLICANT'S EXHIBITS

A-1 Personal History Disclosure Form #1 of Gary Grant.

A-2 Affidavit of Gary Grant dated September 13, 1978 submitted in support of his application.

A-3 Federal Income Tax Returns of Gary Grant - 1965, 1967,1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976.

A-4 Last Will and Testament of Gary Grant dated October 25, 197

A-5 U.S. Savings Bonds and Jackets - Xerox copies (20 bonds).

A-6 Print-out xerox copy of pass book account of Maureen Grant Lilly Shelley, Mother, from Biscayne Savings & Loan, Acct. #46-4114-6.

A-7 Letter report of Elizabeth Elmore, Associate Professor and Coordinator of Economics, Stockton State College to Donald Targan dated October 23, 1978.

A-8 3 schedules of Victor Fabrietti, Accountant relating to Gar and Maureen Grant's financial condition.

A-9 3 affidavits from:

a) Frank J. Smith, dated October 28, 1978;

b) Gerald W. Jones, dated October 31, 1978;

c) Samuel Gertner, dated October 30, 1978.

A-10 7 pages of Schedules prepared by John Rogalski, Senior Investigator, Division of Gaming Enforcement.

A-11 2 page exhibit prepared by John Rogalski, Senior Investigat Division of Gaming Enforcement.

A-12 2 page report prepared by John Rogalski, Senior Investigato Division of Gaming Enforcement.

DIVISION'S EXHIBITS

D-1 Letter report of Division relating to investigation of Gary Grant dated September 8, 1978.

D-2 Xerox copies of documents from Western Savings & Loan pass book for Maureen Grant, ATF Gary Grant (4 pages) Acct. # 901-629267-3.

D-3 Material relating to Western Savings & Loan pass book in the name of Gary Grant, ATF, Maureen Grant, Acct #901-629-61-6.

D-4 Xerox copy of Cashier's Check dated September 28, 1973 drawn on Western Savings & Loan Association payable to Arizona Title and Trust - $42,097.

D-5 Agreement dated September 26, 1973 between Raymond H. Klosen and Annabelle Klosen and Ralph and Beverly J. Moore, all sellers and Gary and Maureen Grant - buyer.

D-6 Escrow Closing Settlement dated September 27, 1973 prepared by the Arizona Title and Insurance Company.

D-7 Escrow Closing Settlement dated October 3, 1973 prepared by the Arizona Title and Insurance Company.

D-8 Lease commencing January 1, 1974 and ending December 31, 1977 between Gary and Maureen Grant and Bruce Koger and Florence Koger.

D-9 Inventory schedule for safe deposit box number 138 dated 5/5/78 and prepared by Merrill Jones in the name of Gary Grant.

D-10 [There is no D-10]

D-11 Report of Nevada Gaming Commission on Hymen Lazar dated March 5, 1978.

D-12 Letter dated 1/15/75 from Nevada State Gaming Control Board to Nevada Gaming Commission relative to Mr. Hymen Lazar concerning suitability.

D-13 Judgement dated 1/3/69 entered by the U.S. District Court o the Southern District of New York regarding 66 Crim. 804; U. v. Morris Schmertzler, aka, Max Courtney.

D-14 Judgement dated 1/3/69 in U.S. District Court for the South District of New York regarding 66 Crim. 804; U.S. v. Frank Ritter, aka, Frank Reed.

D-15 Judgement dated 1/3/69 entered by the U.S. District Court o the Southern District of New York regarding 65 Crim. 236; U v. Morris Schmertzler, aka, Max Courtney.

D-16 Judgement dated 1/3/69 entered by the U.S. District Court o the Southern District of New York regarding 65 Crim. 236; U v. Frank Ritter, aka, Frank Reed.

D-17 Indictment 65 Cr. 236; U.S. v. Morris Schmertzler, aka Max Courtney; Charles Brudner, aka Charlie Brud, Charlie Brod a Charlie Broad dated 3/18/65 and Frank Ritter, aka Frank Ree

D-18 Indictment 66-Cr. 804 dated 10/11/65, U.S. v. Morris Schmertzler, aka Max Courtney, Charles Brudner, aka Charlie Brud, Charlie Brod and Charlie Broad; and Frank Ritter, aka Frank Reed.

D-19 Transcript of pre-sentencing proceedings conducted on November 6, 1968 in the matter of U.S. v. Morris Schmertzle and Frank Ritter, 66 Cr. 219, 66 Cr. 804, 65 Cr. 236.

D-20 Transcript of Sentencing Proceedings on 1/3/69 regarding 65 Cr. 236, 66 Cr. 804 captioned, U.S. v. Morris Schmertzler an Frank Ritter.

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
Opinion No. (TCP78-1)
May 15, 1978

RESORTS INTERNATIONAL HOTEL, INC.
North Carolina Avenue & Boardwalk
Atlantic City, New Jersey

Decision By the
Casino Control Commission
IN THE MATTER OF AN APPLICATION OF
RESORTS INTERNATIONAL HOTEL, INC.
FOR A TEMPORARY CASINO PERMIT

I. INTRODUCTION

Resorts International Hotel, Inc. (hereinafter the "applicant") has requested that the New Jersey Casino Control Commission grant it a temporary casino permit pursuant to the provisions of P.L. 1978, c.7 (effective March 17, 1978). Section 21 of P.L. 1978, c.7., provides that:

> ...the commission may grant a temporary casino permit upon the filing by a casino license applicant of a formal request for same...

Thus, there are two preliminary requirements for the granting of a temporary casino permit:

(1) there must be a formal request for such permit, and

(2) the request must be made by an applicant for a casino license.

The applicant submitted a letter dated April 3, 1978, signed by Joel H. Sterns, Esquire as attorney for the applicant, formally requesting that the Commission issue a temporary casino permit to the applicant. With respect to the second preliminary requirement, the Commission's records show that on December 22, 1977, the Commission received numerous papers in support of an

application for a casino license for the present applicant. The papers included completed business entity disclosure forms for t applicant and for Resorts International, Inc. (hereinafter the "holding company") a publicly traded corporation which owns 100 percent of the applicant. At that time, the Commission also received from the applicant a check in the amount of $100,000 as non-refundable deposit toward the application fee. Receipt of these documents by the Commission was acknowledged in a Januar 9, 1978, letter from Chairman Lordi to Mr. Sterns. Since that t the applicant's application for a casino license has remained pending before the Commission.

II. HEARING ON TEMPORARY CASINO PERMIT

On May 4, 1978, a pre-hearing conference was held at the offices of the New Jersey Casino Control Commission and a pr hearing conference order was entered on May 5, 1978. (Attached hereto as Appendix A). A hearing on the applicant's request for temporary casino permit was held on May 10, 11, and 12 in Trento and on May 15, 1978, in Atlantic City. The five member Commissi consisting of Joseph P. Lordi, Chairman; Kenneth N. MacDonald, V Chairman; Commissioner Alice Corsey; Commissioner Prospero DeBon and Commissioner Albert Merck were present during the hearing. T applicant was represented by Messrs. Joel H. Sterns, Esquire and Richard K. Weinroth, Esquire of the New Jersey law firm of Stern Herbert & Weinroth and by Charles E. Murphy, Jr., Esquire, the general counsel for the holding company. Commission staff was represented by Special Counsel Joseph A. Fusco, Senior Assistant Counsel Robert J. Genatt, and Assistant Counsel Thomas N. Auriem The Division of Gaming Enforcement was represented by Director

Robert P. Martinez and Deputy Attorney General Guy S. Michael. R. Benjamin Cohen, Esquire served as general counsel to the Commission.

In rendering a decision on the application for a temporary casino permit the Commission heard the testimony of the individuals listed below and considered the evidentiary items attached hereto as Appendix B.

WITNESSES

1. James M. Crosby - Chairman of Board and Chief Executive Officer of applicant and holding company.
2. Joseph Lazarow, Mayor of Atlantic City
3. I. G. Davis, Jr. - President of holding company and vice president of applicant
4. Charles E. Murphy, Jr., General Counsel of holding company
5. Michael F. Kauker - Vice President and Director of Planning for Pandullo Quirk Associates.
6. Peter P. Karabashian - Planning and Development Coordinator for Atlantic City
7. Joseph Pasquale - Inspector of Police, Atlantic City Police Department, Traffic Division.
8. Raymond M. Gore - Senior Vice President of applicant and holding company.
9. Herbert Stephen Norton - Vice president of applicant and holding company
10. Melvin Grossman - Licensed New Jersey Architect
11. Lauren Jenkinson - Vice President of Special Projects for holding company.
12. Robert Peloquin - President of Intertel.
13. Robert Engle - Director of Division of Comprehensive Planning of New Jersey Department of Transportation.
14. Stuart L. Bressler - Supervising Planner in Division of State and Regional Planning, New Jersey Department of Community Affairs.
15. William M. Connolly - Acting Director of Division of Housing and Urban Development, New Jersey Department of Community Affairs.

16. Robert Williams - Chief Building Inspector, Building Divisio of Bureau of Investigation and Inspection, Atlantic City Department of Public Affairs

17. Lawrence J. Skey - Fire Chief of Atlantic City

18. Anthony Ingenito - Deputy Fire Chief of Atlantic City

19. Herbert Wettstein - Deputy Director of Design, Division of Building and Construction, New Jersey Department of Treasury.

20. Donald Graham - Director of Division of Marine Services, New Jersey Department of Environmental Protection.

21. Wilbur Edwards - Member of public

22. Rabbi Aaron Krauss - Member of public

23. James T. Brennan - Member of Public

24. David V. Hobin - Member of public

25. Charles Petitti - Member of public

26. Edward Fitzpatrick - Member of Public

Additionally, the Commission heard opening and closi statements of the parties and inspected the building of the applicant on the morning of May 15, 1978.

Section 21 of P.L. 1978, c.7 authorizes the Commissi to issue a temporary casino permit "when, by the affirmative vot of four members, it finds by clear and convincing evidence" that

1. the applicant is a corporate entity;
2. a statement of compliance has been issued to the applicant with respect to Section 82 of the Casi Control Act (N.J.S.A. 5:12-82) which deals with the eligibility of an applicant for a casino license;
3. a statement of compliance has been issued to th applicant with respect to Section 84(e) of the

Casino Control Act (N.J.S.A. 5:12-84(e)) which deals with the suitability of the casino and related facilities, its proposed location and the effect on casino operations on overall environmental conditions;

4. a statement of compliance has been issued to the applicant with respect to Sections 85(a) and 85(b) of the Casino Control Act (N.J.S.A. 5:12-85(a) and 85(b)) which deal with additional requirements for corporations applying for a casino license;
5. the proposed casino hotel facility is an approved hotel in accordance with Section 83 of the Casino Control Act (N.J.S.A. 5:12-83) which deals with approved hotels;
6. a voting trust agreement has been executed according to law and a statement of compliance has been issued to the applicant with regard thereto;
7. the temporary casino permit will best serve the interests of the public.

Below are the statutory requirements that an applicant for a temporary casino permit must satisfy and the Commission's determination as to compliance.

A. Eligibility Requirements

Statutory Requirement

Subsection 21(a) of P.L. 1978, c.7, requires that an applicant for a temporary casino permit be a corporate entity.

Commission Determination

The applicant has demonstrated that it is a corporate entity through its business entity disclosure form (A-17)

and its restated certificate of incorporation (A-10) as well as through the testimony of James M. Crosby and Raymond M. Gore.

Pursuant to Subsection 21(b) of P.L. 1978, c.7, befo it may grant a temporary casino permit the Commission must find a statement of compliance has been issued to the applicant with respect to Section 82 of the Casino Control Act (which pertains applicant eligibility).

Statutory Requirement

N.J.S.A. 5:12-82(a) declares that "no casino sha operate unless all necessary licenses and approvals therefor hav been obtained...."

Commission Determination

It was noted in exhibit C-20 that this subsectio was obviously concerned with the operational phase of the casino That phase is more properly the subject of the certificate of operation and not the temporary permit. It, therefore, appears that Subsection 82(a) of the Act is at most a reminder that the issuance of a temporary casino permit or casino license does not authorize gaming until such time as the issuance of a certificat of operation. It would be impossible for an applicant to obtain the approvals necessary for operation until it is granted a temporary casino permit or a casino license. Thus, N.J.S.A. 5:12-82(a) cannot be applied literally and appears to impose no specific requirements upon the applicant at this time. It was stipulated at the pre-hearing conference on May 4, 1978, that Section 82(a) does not pertain to the temporary casino permit. (See Appendix A).

Statutory Requirement

N.J.S.A. 5:12-82(b) provides in relevant part that a person shall be eligible to apply for a casino license if he agrees to comply in all respects with the Act and the regulations of the Commission and if he owns 100% of an approved hotel.

Commission Determination

The requirement that the applicant agree to comply in all respects with the Act and the regulations is merely a reminder to the applicant of its obligations under the law. The applicant is deemed to have complied by filing its application for a casino license and its request for a temporary casino permit.

The testimony of Charles E. Murphy, Jr., as well as exhibits C-20 and A-19, demonstrates that the applicant owns 100% of the former Haddon Hall Hotel which it proposes as an approved hotel.

Statutory Requirement

N.J.S.A. 5:12-82(c) provides that no casino license shall be issued to any person leasing a casino hotel pursuant to Section 104(a) of the Act unless a separate casino license has first been issued to the owner of the casino hotel facility which is the subject of the lease.

Commission Determination

As indicated in exhibit C-20, this Subsection is not applicable to the instant application since the applicant owns and does not lease the proposed casino hotel facility. At the pre-hearing conference on May 4, 1978, it was stipulated that Section 82(c) was not applicable to the instant application. (See Appendix A).

Statutory Requirement

N.J.S.A. 5:12-82(d)(1) provides in pertinen part that a corporate applicant shall be incorporated in the Sta of New Jersey.

Commission Determination

The testimony of James M. Crosby and Raymond Gor as well as exhibits A-10, A-17, and C-20 demonstrate that the applicant has satisfied this requirement.

Statutory Requirement

N.J.S.A. 5:12-82(d)(2) requires that the applica maintain a corporate office in the premises to be licensed.

Commission Determination

The testimony of I.G. Davis and Raymond Gore, an exhibits A-10, A-17 and C-20 demonstrate that the applicant main tains an office of the corporation in the premises to be license

Statutory Requirement

N.J.S.A. 5:12-82(d)(3) requires that the applica must comply with all of the laws of this State pertaining to corporations.

Commission Determination

Exhibits A-10,A-17, and C-20 establish that the applicant is in compliance with this provision.

Statutory Requirement

N.J.S.A. 5:12-84(d)(4) requires that the applica maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownershi of every class of security issued by the corporation and shall b available for inspection by the Commission or Division at all reasonable times without notice.

Commission Determination

The testimony of Raymond M. Gore and exhibits A-10, A-17, and C-20 demonstrate compliance with the provision.

Statutory Requirement

N.J.S.A. 5:12-82(d)(5) requires that the applicant must maintain all operating accounts required by the Commission in a bank in New Jersey.

Commission Determination

The testimony of Raymond Gore as well as exhibits C-5, C-20, and A-17 establish compliance with the above statutory requirement.

Statutory Requirement

N.J.S.A. 5:12-82(d)(6) requires that the applicant must include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by the Casino Control Act.

Commission Determination

The testimony of Raymond Gore and exhibits A-10, A-17 and C-20 demonstrate compliance with this provision.

Statutory Requirement

Pursuant to N.J.S.A. 5:12-82(d)(7), since the applicant is not a publicly traded corporation, the applicant must file with the Commission such adopted corporate charter or by-law provisions as may be necessary to establish the right of the Commission to approve future transfers of corporate securities, shares and other interests in the applicant corporation and in any non-publicly traded holding company, intermediary company or subsidiary thereof.

Since the applicant's holding company (Resorts International, Inc.) is a publicly traded corporation, such holding company must provide in its corporate charter or by-laws that any securities of such corporations are held subject to the condition that if a holder thereof is found to be disqualified by the Commission, pursuant to the provisions of the Act, such hold shall dispose of his interest in the corporation.

Commission Determination

Section 82(d)(7) is comprised of two components. The first component or clause of the section requires a non-publ traded corporate applicant to provide such adopted corporate by-as will establish the Commission's right to approve future trans fers of securities, shares or other interest in the applicant corporation and in any holding company, intermediary company, or subsidiary company of the applicant corporation. The second component or clause requires a publicly traded corporation to provide in its by-laws that its securities are held subject to the condition that any disqualified holder thereof will dispose his interest in the corporation.

A reading of the first clause to require that an holding company of a non-publicly traded applicant must provide the Commission with the right to approve future transfers of the securities of the holding company, even where the holding compan is itself a publicly traded corporation, would lead to the untenable result that a publicly traded holding company must provide for prior approval of future transfers while, under the second clause, a publicly traded applicant corporation would not have to so provide, but would only have to provide that a subsequently disqualified security holder could be forced to dispos

of his interest. Moreover, the above interpretation would require that a publicly traded holding company submit for Commission approval all future transfers of its securities, a obviously impossible task where the securities are daily traded over the counter.

The only reasonable interpretation of the statutory language is that all non-publicly traded applicant corporations and all non-publicly traded holding companies, intermediary companies and subsidiary companies thereof must provide for prior approval by the Commission of future transfers of their securities. Conversely, all publicly traded corporate applicants, holding companies, intermediaries and subsidiaries must provide in their respective charters, or by-laws, that any security ownership is conditional upon the qualification of the holder.

A related question concerns the statutory use of the term "securities" with respect to publicly traded corporations in the second clause of Section 82(d)(7). As defined in Section 44 of the Act, a "security" is any instrument evidencing a direct or indirect beneficial ownership or creditor interest in a corporation, including but not limited to, stock, bonds, mortgages, debentures, security agreements, notes, warrants, options and rights. However, under Section 2 of the Act, all definitions in the Act are subject to the provisions that the defined meaning will not apply where "a different meaning clearly appears in the context."

Despite use of the term "securities" in the second clause of Section 82(d)(7), it is apparent that the term as used in context cannot reasonably have the broad meaning ascribed to it in Section 44. Rather, the thrust of Section 82(d)(7) is to monitor

the ownership of those securities which may permit the holder to exercise a degree of control over the corporation. Indeed, this definition of a "holding company" in Section 26 of the Act includ any corporation which "owns, has the power or right to control or has the power to vote all or any part of the outstanding voting securities of a corporation which holds or applies for a casino license." /Emphasis added/.

Since a corporation would not be a "holding company" unless it could control or direct the voting of the applicant's voting securities, it would be anomalous to conclude that the holding company must subject the holders of its own non voting securities to a qualification condition. Thus, the term "securities" in Section 82(d)(7) must reasonably mean "voting securities" or "equity securities" which are defined in Section of the Act to include all actual or potential voting securities.

Exhibits C-1, C-2, C-20, A-10, A-15, A-16, A-17, A-18 and a stipulation demonstrate that the applicant and its holding company have filed the required by-law provisions with the Commission and have complied with Section 82(d)(7).

Statutory Requirement

Pursuant to N.J.S.A. 5:12-82(d)(8), since the applicant is not a publicly traded corporation, it must establis to the satisfaction of the Commission that appropriate charter o by-law provisions create the absolute right of such non-publicly traded corporation and its non-publicly traded holding companies intermediary companies and subsidiaries to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the even that the Commission disapproves of a transfer in accordance with

the provisions of the Act.

Commission Determination

Where the applicant is a non-publicly traded corporation, N.J.S.A. 5:12-82(d)(8) requires that appropriate by-law provisions create the absolute right of "such corporations and companies" to repurchase its securities if the Commission disapproves a transfer. In context, the quoted phrase, especially the word "such," refers back to the introductory clause which limits this paragraph to non-publicly traded corporations. Thus, the repurchase requirement is intended to apply only to non-publicly traded applicants and their non-publicly traded holding, intermediary and subsidiary companies. This interpretation is supported by Section 105(d) of the Act, which describes the mechanism for disassociation of a disqualified holder and which refers only to Section 82(d)(7) (and not to 82(d)(8)), as being applicable to publicly traded holding companies. Furthermore, the practical and economic difficulties of requiring a publicly traded corporation to repurchase any disapproved transfer strongly militate in favor of the above reading.

Accordingly, exhibits C-1, C-2, C-20, A-10, A-15, A-16, A-17, A-18, and a stipulation establish that the applicant has complied with the requirement of Section 82(d)(8).

Statutory Requirement

N.J.S.A. 5:12-82(e) limits to three the number of casinos licenses that may be held by a particular person.

Commission Determination

Since the Commission has not previously issued any casino license or temporary casino permit, the applicant is in

compliance with this section. At the pre-hearing conference on May 4, 1978, it was stipulated that this section was not applica here. (See Appendix A).

Statement of Compliance

A statement of compliance is hereby issued to th applicant with respect to N.J.S.A. 5:12-82.

B. Suitability of Proposed Casino Hotel

Statutory Requirements

Pursuant to Section 21(b) of P.L. 1978, c.7, the Commission may issue a temporary casino permit when it finds that a statement of compliance has been issued to the applicant with respect to Section 84(e) of the Casino Control Act and when it finds pursuant to 21(c) of P.L. 1978, c.7 that the proposed casino hotel facility is an approved hotel in accordance with the requirements of Section 83 of the Act.

Section 84(e) (N.J.S.A. 5:12-84(e)) provides that a casino license applicant shall "establish to the satisfaction of the Commission:"

> a) "the suitability of the casino and related facilities and its proposed location;"
>
> b) "that the proposal will not adversely affect casino operations;" and
>
> c) "that the proposal will not adversely affect...overall environmental conditions."

Section 84(e) further requires that each casino license applicant "submit an impact statement which shall include, without limitation:"

> d) "architectural and site plans which establish that the proposed facilities comply in all respects to the requirements of [the Casino Control Act,]... the master plan and zoning ordinances of Atlantic City, and...the 'Coastal Area Facility Review Act,' [CAFRA; N.J.S.A. 13:19-1 et seq.];"
>
> e) "a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under [the Casino Control Act;]"; and
>
> f) "an analysis of the effect of the proposal on the overall environment, including, without limitation, economic,

> social, demographic and competitive conditions as well as the natural resources of Atlantic City and the State of New Jersey."

The Casino Control Act has also declared as the public policy of New Jersey the encouragement of "a limited numbe of casino rooms in major hotel convention complexes" in Atlantic City "offered and maintained as an integral element of such hospitality facilities, rather than as the industry unto themselves." N.J.S.A. 5:12-1(b)(4) and (5). It expressly confers upo the Commission "the power and duty to review architectural and si plans to assure that the proposal is suitable by enforcement, aesthetic and architectural standards." N.J.S.A. 5:12-1(b)(11).

The statutory architectural requirements concerni a casino hotel facility are found primarily in N.J.S.A.5:12-6,27, (a)through (d),98(b)(2) through (5), and 136. These sections, amo other things, define "casino" and "approved hotel" and set forth certain minimum requirements. An "approved hotel" must, in a single building located within Atlantic City, contain not fewer than 500 sleeping units that are available and regularly used fo the lodging of tourists and convention guests. N.J.S.A. 5:12-27 and 83(a) and (d). The sleeping units must each contain private bathroom facilities and must measure at least 325 square feet including bathroom and closet space. N.J.S.A. 5:12-27. Additio the main entrance or only access to an approved hotel shall not through a casino. N.J.S.A. 5:12-27.

A casino may only be located within a single roo of at least 15,000 square feet without substantial obstruction t visibility between any two areas of the room. N.J.S.A. 5:12-6 a 98(b)(3). The maximum permissible size of a casino room is

determined by the number of qualifying units and the amount of qualifying "meeting and exhibition space" and "dining, entertainment and sports space" contained in the hotel facility. N.J.S.A. 5:12-83(a) through (d).

Space having "direct public access only through the casino" cannot qualify as either "meeting and exhibition space" or "dining, entertainment and sports space." N.J.S.A. 5:12-98(b)(5). If the hotel facility contains between 500 and 749 qualifying sleeping units, the hotel facility must also contain a minimum of 25,000 square feet of meeting and exhibition space and 40,000 square feet of dining, entertainment and sports space to qualify for the privilege of having a casino. N.J.S.A. 5:12-83(d). The casino room, as noted previously, must be of a minimum of 15,000 square feet. It may not exceed 30,000 square feet unless it contains qualifying meeting and exhibition space and dining, entertainment and sports space in excess of the cited N.J.S.A. 5:12-83(d) minimums.

Meeting and exhibition space must be "indoor public space available and of the sort regularly used for conventions, exhibits, meetings, banquets and similar functions..." N.J.S.A. 5:12-83(b). Space "regularly used as restaurants, lobbies, lounges, bars, show theaters, sports facilities, casinos, or parking areas" must be excluded. N.J.S.A. 5:12-83(b).

Dining, entertainment and sports space must be "indoor space used for dining, entertainment, and sports facilities, including restaurants, bars, lounges, show theaters, shops, dance halls, and swimming facilities..." N.J.S.A. 5:12-83(c). Space used as "lobbies, casinos, parking areas and tennis facilities" must be excluded. N.J.S.A. 5:12-83(c). Moreover, only the "actual swimming

pool and a 25-foot area on all sides thereof shall be eligible fo inclusion in the allowable indoor sports space." N.J.S.A. 5:12-83(

If the hotel facility exceeds the minimum meeting and exhibition space and dining, entertainment and sports space requirements, the maximum allowable casino space increases but only to an amount not exceeding twice the original maximum allowable casino space. N.J.S.A. 5:12-83(d).

Exterior public entrances to the casino room must be "through an enclosed lobby or receiving foyer of not less than 400 square feet" and the casino room may not be "visible from outside the casino hotel facility." N.J.S.A. 5:12-98(b)(2) and (4).

Lastly, all casino hotel facilities must conform to N.J.S.A. 52:32-4 et seq. relating to "barrier-free design" in providing facilities for the physically handicapped in public build

Commission Determination

In determining whether the foregoing requirements were complied with, the Commission considered the testimony of Mayor Joseph Lazarow, Michael F. Kauker, Peter P. Karabashian, Jo Pasquale, Herbert Stephen Norton, Melvin Grossman, Lauren Jenkins Robert Engle, Stuart L. Bressler, William M. Connolly, Robert Williams, Lawrence J. Skey, Anthony Ingenito, Herbert Wettstein Donald Graham and exhibits C-13, C-14, C-15, C-18, C-19, C-21, C A-21, A-21A, A-22, A-23, A-24, A-25, A-27, A-28, A-29, A-32, A-3 and A-39. After considering this evidence, the Commission issue a statement of compliance with respect to Section 84(e) of the Casino Control Act and determined that the applicant's casino ho facility was an "approved hotel" in accordance with the requirements of Section 83 of the Act and other related sections. Certa representations were made by the applicant with regard to the ho

facility. Additionally, the Commission attached certain conditions to the issuance of the temporary casino permit. These representations and conditions are outlined below.

More specifically, the Commission found that the applicant's hotel contained 504 qualifying rooms and that it also had 49,065 square feet of dining, entertainment and sports space and 28,098 square feet of meeting and exhibition space. These figures are exclusive of "kitchen support facilities." The actual size of the applicant's casino room is 33,735 square feet which includes the open floor space from wall to wall, the Gallery Lounge, and the baccarat pit area,but excludes the elevated semi-circular protrusion of the Rendezvous Lounge.

Accordingly, because of the excess meeting and exhibition space and dining, entertainment and sports space contained in the applicant's casino hotel facility, a casino room of 33,735 square feet was authorized.

C. CORPORATE FILINGS

Pursuant to Subsection 21(b) of P.L. 1978, c.7, before it may grant a temporary casino permit, the Commission must find that a statement of compliance has been issued to the applicant with respect to N.J.S.A. 5:12-85(a) and 85(b). Section 85(a) of the Casino Control Act sets forth additional requirements which must be met by a corporation applying for a casino license. Essentially, this section requires that the applicant must file certain information with the Commission. It does not require a finding by the Commission that the information is complete or accurate.

Statutory Requirement

Section 85(a)(1) of the Act requires the filing of several classes of information:

(a) organization, financial structure and nature of all businesses operated by the applicant and its holding, intermediary and subsidiary companies;

(b) names, personal employment and criminal histories of all officers, directors and principal employees of the applicant and its holding, intermediary and subsidiary companies.

Commission Determination

The testimony of Raymond M. Gore and H. Stephen Norton as well as exhibits A-17, C-1, C-5, and C-20 demonstrate that the applicant has complied with the foregoing provision.

Statutory Requirement

Section 85(a)(2) of the Act requires that the applicant provide information regarding:

(a) the rights and privileges acquired by holders of different classes of authorized securities and,

(b) the names, addresses and amounts held by all holders of such securities.

Commission Determination

The testimony of Raymond M. Gore and exhibits A-17, C-1, C-5, and C-20 demonstrate that the applicant has provided the requisite information.

Statutory Requirement

Section 85(a)(3) of the Act requires that the applicant provide information as to the terms upon which its securities have been or are to be offered.

Commission Determination

The testimony of Charles F. Murphy and exhibits A-17, C-1, and C-20 establish that the applicant has complied with the above provision.

Statutory Requirement

Section 85(a)(4) of the Act requires that the applicant supply the terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices.

Commission Determination

Exhibits A-17, C-1, C-5, and C-20 demonstrate that the applicant has supplied the requisite information.

Statutory Requirement

Section 85(a)(5) of the Act requires that the applicant must provide information as to:

(a) the equity security holding in the applicant of all officers, directors and underwriters and,

(b) the total renumeration of such persons.

Commission Determination

The testimony of Raymond M. Gore and exhibits A-17, C-1, C-5, and C-20 establish that the applicant has complied with the foregoing provision.

Statutory Requirement

Section 85 (a)(6) of the Act requires that the applicant provide the names of persons, other than directors and officers, whose compensation exceeds $25,000 per year and the amounts thereof.

Commission Determination

Exhibits A-17, C-1, C-5, and C-20 demonstrate that the applicant has supplied the requisite information.

Statutory Requirement

Section 85(a)(7) of the Act requires that the applicant must provide a description of all bonus and profit sharing arrangements.

Commission Determination

Exhibits A-17, C-1 and C-20 establish compliance with the above requirement.

Statutory Requirement

Section 85(a)(8) of the Act requires that the applicant must provide copies of all management and service contracts.

Commission Determination

Section 85(a)(8) pertains to all "management and service contracts" entered into by the applicant. This section is set in the context of several requirements for information concerning the key personnel of the corporation and the terms of any compensation due such personnel. Further, the quoted phrase itself requires management contracts to be filed. Accordingly, the term "service

contract" means in the present context, personal service contracts with officers, directors or employees of the corporation. This interpretation is buttressed by the fact that Section 85(a)(1) deals with information regarding the structure and composition of the corporation itself, rather than with the service industries with which the corporation may deal. Moreover, Section 104(b) of the Act requires a casino licensee or temporary casino permittee to present to the Commission any written or unwritten agreement regarding the realty of, or any business or person doing business with or on the premises of its casino hotel facility. Thus, Section 85(a)(8) cannot require that this same information be furnished by an applicant for a casino license or for a temporary casino permit. For the foregoing reasons, "service contract" means personal service contract and not all contracts entered into by the applicant.

The testimony of Raymond M. Gore and exhibits A-34, C-5, and C-20 demonstrate compliance with the above provision. Additionally, the applicant is directed to file with the Commission copies or detailed descriptions of all consultant and other personal service contracts for professional services.

Statutory Requirement

Section 85(a)(9) of the Act requires that the applicant provide a listing of stock options existing or to be created.

Commission Determination

Exhibits A-17, C-1, and C-20 demonstrate compliance with the above provision.

Statutory Requirement

Section 85(b) of the Act requires that all holding companies and intermediary companies with respect to the applicar must meet certain requirements and provide certain information. The question becomes which enterprises are holding or intermediar companies with respect to the applicant.

Commission Determination

Exhibits A-17, C-1, C-5, and C-20 establish that the only holder of the applicant's outstanding voting securities is Resorts International, Inc. (the holding company).

Under Section 26 of the Act, a "holding company" is defined as any business entity which, directly or indirectly owns has the power or right to control, or has the power to vote all any part of the outstanding voting securities of a corporation which holds or applies for a casino license. Plainly, Resorts International, Inc. is a holding company by virtue of its 100 percent ownership of the applicant's voting securities. Due to t concentration of the voting rights of the stock of the holding company in the hands of a few individuals (See exhibits A-18, C- C-5 and C-20), the Commission concluded that there were no other entities which have the power or right to control or vote the out standing voting securities of the applicant and, therefore, that no other holding companies existed. Thus, Resorts International, Inc. is the only holding company or intermediary company which must comply with the specific requirements of Section 85(b).

Statutory Requirement

Section 85(b)(1) of the Act requires that the holding company must qualify to do business in the State of New Jersey.

Commission Determination

Exhibits A-13 and C-20 demonstrate that the holding company has complied with the above provision.

Statutory Requirement

The first portion of Section 85(b)(2) of the Act requires that a holding company must register with the Commission.

Commission Determination

At the pre-hearing conference on May 4, 1978, a stipulation was entered into that the holding company had "registered" with the Commission. (See Appendix A and exhibit C-20).

The second portion of Section 85(b)(2) of the Act requires that the holding company furnish the Commission with all information required of a corporate licensee under Section 85(a).

Statutory Requirement

Section 85(a)(1) of the Act requires that a holding company provide information regarding the following:

(a) organization, financial structure and nature of all businesses operated by the holding company and its subsidiary companies; and

(b) names, personal employment and criminal histories of all officers, directors and principal employees of the holding company and its subsidiary companies.

Commission Determination

The testimony of James Crosby and Raymond M. Gore and exhibits A-18, A-33, C-2, C-3, C-5, C-6, C-10 and C-20 demonstrate that the holding company has substantially complied with the foregoing requirement.

The temporary casino permit is conditioned upon the holding company filing with the Commission personal employment and

criminal history information on Norman Golden, James Sutherland, David Carney, Thomas Carney, and Fred Robinett as well as detail information regarding the status of David Probinsky and his relat ship to the holding company. The temporary casino permit is also conditioned upon the holding company using its best efforts to obtain more information regarding Twin Fair, Inc., which may technically be a subsidiary.

Lastly, Mr. Gore, on behalf of the corporation, represe ed that the status of Bahamas Land and Mortgage, LTD, Bahamas Marine, LTD, Colony Properties, LTD, and CPL, LTD, would be dete mined and that the Commission would be informed thereof.

Statutory Requirement

Section 85(a)(2) of the Act requires that a holding company must provide information as to:

(a) the rights and privileges acquired by the holders of different classes of authorized securities of the holding company and its subsidiaries, and

(b) the names, addresses, and amounts held by all holders of such securities.

Commission Determination

Section 85(a)(2) requires submission of the names of, addresses of and amounts held by all holders of Resorts International, Inc. securities. This section does not refer to "beneficial" holding or "beneficial" ownership of such securitie This is to be contrasted with the language of Section 85(b)(3) which does use the phrase "beneficially holding" in addition to the phrase "security holders."

The testimony of James Crosby and Raymond M. Gore and exhibits A-18, C-2, C-5, C-6, and C-20 demonstrate that the hold

ing company has provided the requisite information.

As a condition of the temporary casino permit, the holding company is to use its best efforts to obtain the names of any and all beneficial holders of its outstanding securities.

Statutory Requirement

Section 85(a)(3) requires that the holding company must submit the terms upon which securities of the holding company have been or are to be offered.

Commission Determination

Exhibits A-18, C-2, and C-20 demonstrate that the above provision has been complied with.

Statutory Requirement

Section 85(a)(4) of the Act requires that a holding company must submit the terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or other indebtedness or security devices utilized by the holding company.

Commission Determination

Exhibits A-18, C-2, C-5, and C-20 establish compliance with the foregoing requirement.

Statutory Requirement

Section 85(a)(5) of the Act requires that a holding company must indicate the extent of the equity security holding of all officers, directors and underwriters and their renumeration.

Commission Determination

Exhibits A-18, C-2, C-5, C-6, and C-20 demonstrate compliance with the above provision.

Statutory Requirement

Section 85(a)(6) of the Act requires a holding company to submit the names of persons other than directors and officers whose compensation exceeds $25,000.00 per year and the amounts thereof.

Commission Determination

Exhibits A-18, C-2, C-5 and C-20 establish compliance with the foregoing provision.

Statutory Requirement

Section 85(a)(7) of the Act requires a holding company to submit a description of all bonus and profit sharing arrangements.

Commission Determination

Exhibits A-18, C-2, C-6, and C-20 demonstrate compliance with the foregoing provision.

Statutory Requirement

Section 85(a)(8) of the Act requires a holding company submit copies of all management and service contracts.

Commission Determination

Exhibits C-5 and C-20 establish compliance with this provision.

Statutory Requirement

Section 85(a)(9) of the Act requires a holding company to submit a list of all stock options existing or to be created.

Commission Determination

Exhibits A-18, C-2, C-5, C-6, and C-20 demonstrate compliance with the above requirement.

Statutory Requirement

Section 85(b)(3) of the Act applies to non-corporate holding companies of corporate applicants.

Commission Determination

Since there does not appear to be any non-corporate holding companies of the applicant, this section of the Act is not applicable to the present application.

STATEMENT OF COMPLIANCE

The Commission issued a statement of compliance to the applicant with regard to Sections 85(a) and 85(b) of the Casino Control Act.

D. THE VOTING TRUST

Statutory Requirement

Section 21(d) of P.L. 1978, c.7 requires the Commission to find that a voting trust agreement has been execute in accordance with N.J.S.A. 14A:5-20 and that a statement of compliance has been issued to the applicant with regard thereto bef the Commission may grant a temporary casino permit.

Commission Determination

Based upon Exhibits A-4 and C-20, the representat and testimony of Charles Murphy, Jr. and the recommendations of Commission and Division staff on the record, the Commission determined that the voting trust agreement satisfied the requirements of the Act and of N.J.S.A. 14A:5-20.

Ancillary to the Commission's consideration of th voting trust agreement, the Commission approved First National State Bank as depository for the reissued and legended shares in the trustees names and approved the transfer of the voting trust certificate from the shareholder, Resorts International, I to First National State Bank as part of the security interest (S Exhibits A-1, A-2, and A-3).

Statutory Requirement

Pursuant to Section 21(e) of P.L. 1978, c.7 the Commission must find that the applicant has deposited with the Commission a fully executed copy of the voting trust agreement, that all outstanding shares of stock in the applicant have been surrendered to the applicant for cancellation, and that duplicat legended shares have been reissued which are specifically made

subject to the voting trust agreement in accordance with N.J.S.A. 14A:7-12 and N.J.S.A. 12A:8-101, et seq.

Commission Determinations

The testimony of Charles Murphy, Jr. as well as Exhibits A-4 and A-43 establish compliance with this requirement.

Statutory Requirement

The Commission must find that the shares of the corporate applicant are subject to the voting trust agreement, pursuant to Section 21(f) of P.L. 1978, c.7.

Commission Determination

Exhibit A-43 and the testimony of Charles Murphy, Jr. establish compliance with this provision.

Statutory Requirement

The voting trust may, at the discretion of the Commission, become effective at such time as any person required to be qualified under the Act as a condition of a casino license is found to be disqualified or at such time as any sanction whatsoever is imposed upon the temporary casino permittee by the Commission, pursuant to Section 21(g) of P.L. 1978, c.7.

Commission Determination

Exhibits A-4 and C-20 and the recommendation of Commission and Division staff on the record establish compliance with this provision.

Statutory Requirement

The Commission must find, pursuant to Section 21(h) of P.L. 1978, c.7, that the voting trust agreement contains such conditions as the Commission has deemed necessary or desirable, including the unencumbered ability of the trustees to vote the shares.

Commission Determination

Exhibit A-4 and the recommendations of the Commission and Division staff on the record established compliance with this requirement.

Statutory Requirement

The Commission must find that the term of the voting trust agreement extends for the term of the temporary casino permit, pursuant to Section 21(i) of P.L. 1978, c.7.

Commission Determination

Exhibit A-4 and the recommendations of the Commission and Division staff establish compliance with this provision.

Statutory Requirement

Pursuant to Section 21A of P.L. 1978, c.7., the applicant shall propose the trustees of the voting trust agreement subject to the approval of and appointment by the Commission. The trustees must satisfy the qualification criteria applicable to a casino key employee, except for residency and casino experience. The compensation for the services, costs, and expenses of the trustees shall be stated in the voting trust agreement and shall be approved by the Commission.

Commission Determination

The applicant proposed Leonard C. Johnson, the Honorable John J. Francis, and William F. Marfuggi as trustees. (See Exhibit A-6). The names and resumes of the three proposed trustees were forwarded to the Division of Gaming Enforcement with a request that the Division investigate and report to the Commission with regard to the qualifications of the proposed

trustees. Thereafter, the Division submitted written reports which were forwarded to the Commissioners under separate cover. The Commission staff and Division staff recommended the approval of the three trustees. After considering the qualifications of Messrs. Johnson, Francis and Marfuggi, the Commission approved them and appointed them as trustees.

Statement of Compliance

After considering the testimony and exhibits, a statement of compliance was issued with regard to the voting trust agreement.

E. THE INTERESTS OF THE PUBLIC

Statutory Requirement

Pursuant to Section 21(j) of P.L. 1978, c.7., th Commission must find that the temporary casino permit will best serve the interests of the public with particular reference to the policies and purposes enumerated in Section 1 of P.L. 1978, c.7.

Commission Determination

On March 17, 1978, P.L. 1978, c.7 was enacted em powering the Commission to grant a temporary casino permit to an eligible applicant. When it passed this law, the Legislature indicated that the aims of continuity and stability in casino gaming operations and of law enforcement would best be served by system in which applicants and investors would be assured of pro and continuous casino operation under certain circumstances wher the applicant had not yet been fully licensed as long as control of the applicant's operation in such circumstances might be plac in the possession of persons in whom the public might feel a con fidence and trust. A system whereby the satisfaction of certain criteria (including the execution of a voting trust agreement) would permit temporary casino operation prior to licensure, serv both the economic and law enforcement interest involved in casin gaming operations. See Section 1(b)(16) and 1(b)(17) of P.L. 19 C.7.

The Commission has considered the testimony of a the witnesses, as well as the evidentiary items, and has conclud

that a temporary casino permit will best serve the interests of the public in the present matter.

The Commission, however, in passing upon the present application for a temporary casino permit does not render any ruling upon the financial stability of the applicant, the reputation and integrity of the applicant's financial sources, the adequacy of the applicant's financial resources, the applicant's reputation for honesty and integrity, the applicant's business ability and experience, or the qualifications of its officers, directors and owners. The Commission must ultimately pass upon these factors when considering full casino licensure.

F. MISCELLANEOUS

a) Alcoholic Beverages on Casino Hotel Facilities

Section 103(a) of the Casino Control Act (N.J.S.A. 5:12-103(a)) vests in the Commission the exclusive authority to grant any license for, or to permit or prohibit the presence of, alcoholic beverages in, on, or about any premises licensed as par of a casino hotel.

The testimony of H. Stephen Norton revealed that applications for casino hotel alcoholic beverage licenses had bee prepared but had not yet been submitted to the Commission.

b) Equal Employment Opportunity

Section 134 of the Casino Control Act (N.J.S.A. 5:12-134) provides that each applicant at the time of submitting architectural plans or site plans to the Commission for approval of proposed construction, renovation or reconstruction of any structure or facility to be used as an approved hotel shall accompany same with a written guaranty that all contracts and sub contracts to be awarded in connection therewith shall contain appropriate provisions by which contractors and subcontractors or their assignees agree to afford an equal employment opportunity t all prospective employees and to all actual employees.

The Commission staff indicated that Section 134 of the Act had been complied with. The Commission deferred consideratio of the affirmative action requirements of Sections 134 and 135 of the Act until the hearing on the certificate of operation.

On May 25, 1978, during a hearing on the temporary permittee's certificate of operation, the Commission considered the affirmative action program that had been submitted and granted its approval to such program. Three conditions were attached to the approval of the program. They are as follows:

a) The permittee shall schedule and hold monthly meetings with the affirmative action officers of its contractors and subcontractors, with representatives of the construction trade unions, with representatives of the Commission any other appropriate persons or groups to establish and augment training and apprentice programs for minority workers and female workers in the construction workforce;

b) The permittee shall contact appropriate referral agencies and actively recruit minority and female workers for participation in training and apprentice programs and for union membership;

c) In addition to weekly project manning reports, the permittee shall submit monthly reports to the Commission advising as to the progress of its equal employment opportunity efforts.

III. COMMISSION DECISION

On May 15, 1978, after considering the evidence presented, and no objection being voiced by the Division of Gaming Enforcement, the Commission found by a vote of 5-0 by clear and convincing evidence that:

1. the applicant was a corporate entity;
2. a statement of compliance had been issued to the applicant with respect to N.J.S.A. 5:12-82;
3. a statement of compliance had been issued to the applicant with respect to N.J.S.A. 5:12-84(e).
4. a statement of compliance had been issued to the applicant with respect to N.J.S.A. 5:12-85(a) an 5:12-85(b);
5. the proposed casino hotel facility was an approved hotel in accordance with N.J.S.A. 5:12-83;
6. a voting trust agreement had been executed accor ing to law and a statement of compliance had bee issued to the applicant with regard thereto;
7. the temporary casino permit will best serve the interests of the public.

Accordingly, a temporary casino permit was issued to Resorts Inte national Hotel, Inc. and made effective upon the issuance of a certificate of operation.

IV. CONDITIONS

In granting a temporary casino permit to Resorts International Hotel, Inc. the Commission attached several conditions with respect thereto. They were as follows:

1. The temporary casino permit was conditioned upon the issuance of the appropriate certificate of occupancy by the New Jersey Department of Community Affairs and the Atlantic City Division of Inspections.

2. The temporary casino permit was conditioned upon continued compliance with the requirements of the Atlantic City Planning Board, the master plan of Atlantic City, the New Jersey Department of Environmental Protection, and the Coastal Area Facility Review Act.

3. The temporary casino permit was conditioned upon the permittee submitting to the New Jersey Department of Environmental Protection, the Atlantic City Planning Board, and the Commission an environmental impact statement which contained, in addition to the normal matters addressed in such a statement, information concerning the adequacy of parking, circulation of vehicles, air quality,alternative modes of transportation, and a phase-out schedule concerning the interim nature of the parking plan.

4. The temporary casino permittee was to provide such information as requested by the Commission as to the primary and secondary housing impacts caused by a casino operation in its facility.

5. The temporary casino permittee was to provide such market information as requested by the Commission as to its patrons, its employees, and the enterprises which service the facility.

6. The temporary casino permittee was to provide such information as requested by the Commission concerning the solid waste management of its casino hotel facility.

7. The temporary casino permit was conditioned upon t filing with the Commission of personal employment and criminal history information for Norman Golden, James Sutherland, David Carney, Thomas Carney, and Fred Robinett.

8. The temporary casino permit was conditioned upon t permittee filing with the Commission detailed information regar ing the status of David Probinsky and his relationship to the permittee or the holding company.

9. The temporary casino permit was conditioned upon t permittee filing with the Commission descriptions of its consult agreements and other personal service contracts, including thos agreements for professional services entered into by the permitt or the holding company.

10. The temporary casino permit was conditioned upon t holding company supplying its best efforts to obtain the names o any and all beneficial holders of its outstanding securities.

11. The temporary casino permit was conditioned upon t holding company using its best efforts to obtain more informati regarding Twin Fair, Inc.

12. The temporary casino permit was conditioned on t permittee scheduling and holding monthly meetings with the affirmative action officers of its contractors and subcontracto with representatives of the construction trade unions, represen tives of the Commission and any other appropriate persons or groups to establish and augment training and apprent programs for minority workers and female workers in the con-

struction workforce

13. The temporary casino permit is conditioned upon the permittee contacting appropriate referral agencies and actively recruiting minority and female workers for participation in training and apprentice programs for union memberships.

14. In addition to weekly project manning reports, the permittee shall submit reports to the Commission advising as to the progress of its equal employment opportunity efforts.

15. The temporary casino permittee agreed that it would undertake a feasibility study to determine whether or not it was feasible, both practically and economically, to install sprinklers in the hotel guest rooms which link the north and south wings of the building.

16. During the hearing, Raymond M. Gore, on behalf of the holding company, agreed that he would submit to the Commission information as to the status of Bahamas Land and Mortgage, Ltd; Bahamas Marine, Ltd; Colony Properties, Ltd; and CPL, Ltd.

17. During the course of the hearing, the permittee agreed that it would attempt to locate Dr. Hinds of El Salvador and ascertain his status with regard to the holding company.

Joseph P. Lordi, Chairman
Casino Control Commission

APPENDIX A

NEW JERSEY CASINO CONTROL COMMISSI

IN THE MATTER OF AN APPLICATION OF RESORTS INTERNATIONAL HOTEL, INC. FOR A TEMPORARY CASINO PERMIT.

PRE-HEARING CONFERENC

ORDER

A pre-hearing conference having been held on May 4, 197 at the offices of the New Jersey Casino Control Commission attended by the following persons:

For Resorts International Hotel, Inc. (hereinafter the "applicant"):

Joel H. Sterns, Esq., Attorney for the applicant
Charles Murphy, Esq., Attorney for the applicant
Richard K. Weinroth, Esq., Attorney for the applica
H. Steven Norton, Vice President of Resorts International, Inc.

For the Division of Gaming Enforcement:

Robert P. Martinez, Director
Peter R. Richards, Deputy Director
Guy S. Michael, Deputy Attorney General

For the Casino Control Commission:

Joseph P. Lordi, Chairman
R. Benjamin Cohen, General Counsel
Joseph A. Fusco, Special Counsel for Licensing
Robert J. Genatt, Senior Assistant Counsel
Thomas N. Auriemma, Assistant Counsel

The following items were agreed upon, subject to the approval o the Commission:

1. Presentation of Evidence

With regard to each element which the applicant is required to establish under the Casino Control Act as amended, the applicant will present its case through the testimony of witnesses and the presentation of documentary or other evidence. Each witness will be subject to cross-examination by the Division, by the Commission staff and by the Commissioners. After the applicant has presented its case, the Division may call and examine any witnesses it deems appropriate, and then the Commission may call and examine any witnesses it deems appropriate.

After all parties have rested, the Commission will, in its discretion, permit members of the public to appear and testify under oath concerning the applicant's application for a temporary casino permit. The applicant, the Division and the Commission shall have an opportunity to cross-examine any such witnesses. The applicant will be then afforded an opportunity to offer rebuttal testimony.

Following all of the testimony the parties will be afforded an opportunity to present summations.

2. Introduction of Documentary Evidence

It was agreed that where the Act requires the Commission to find that the applicant has filed certain required documents or information with the Commission, testimony from a competent witness that such documents or information have, in fact, been filed, coupled with an identification of such documents or information will be sufficient.

3. Issues

The primary issues at the hearing are:

a. the eligibility and corporate filings requirements;

b. the voting trust agreement;

c. the suitability of the casino and related facilities

d. that the temporary casino permit will best serve the interests of the public.

4. Evidence and Stipulations

The statutory requirements were reviewed at length and following stipulations were agreed upon:

a. the applicant is a casino license applicant within the meaning of section 21 of P.L. 1978, c. 7;

b. Resorts International, Inc. has registered with the Commission within the meaning of section 85(b) of P.L. 1977, c. 110;

c. Section 82(a) of P.L. 1977, c. 110 pertains to the certificate of operation and not to the temporary casino permit;

d. Section 82(c) of P.L. 1977, c. 110 is not applicable to the applicant's application for a temporary casino permit;

e. Section 82(e) of P.L. 1977, c. 110 is not applicable to the applicant's application for a temporary casino permit.

It is hereby on the 5th day of May, 1978 ORDERED that t Pre-Hearing Conference Order be served upon the applicant and u the Division of Gaming Enforcement within three (3) days of its entry.

JOSEPH P. LORDI,
Chairman

APPENDIX B

CASINO CONTROL COMMISSION EXHIBITS

C-1	Appendix to Resorts International Hotel, Inc. Business Entity Disclosure Form.
C-2	Appendix to Business Entity Disclosure Form, Resorts International, Inc.
C-3	Letter dated 4/26/78 from Richard Weinroth to Robert P. Martinez of the Division of Gaming Enforcement relating to subsidiaries of Resorts International, Inc.
C-4	Letter dated 5/1/78 from R. Benjamin Cohen to Joel H. Sterns.
C-5	Letter from Joel H. Sterns to R. Benjamin Cohen dated 5/5/78 (Attachments).
C-6	Letter from Richard Weinroth to R. Benjamin Cohen dated 5/6/78.
C-7	Letter from Richard Weinroth to R. Benjamin Cohen dated 5/9/78;also letters from Gary Shenfeld and Ralph White.
C-8	Mortgage between Prudential Insurance Company and Resorts International.
C-9	Letter from Richard Weinroth to Joseph P. Lordi dated 2/21/78.
C-10	Letter dated 1/25/78 with attachments from Joel H. Sterns to Joseph P. Lordi.
C-11	Letter dated 2/22/78 from David G. Bowden to Richard K. Weinroth.
C-12	Annual Report, Securities and Exchange Commission, FormK-10.
C-13	Memorandum from Joseph A. Fusco to Joseph P. Lordi concerning Assistance to the Commission staff by other government agencies, dated 5/9/78.
C-14	Memorandum from Thomas N. Auriemma dated 5/8/78 to members of the Commission regarding Transportation.
C-15	Memorandum from Joseph A. Fusco to Joseph P. Lordi and Commission members relating to suitability of casino hotel facility dated 5/8/78.
C-16	RECAP from Applicant re: Qualifying Area, Resorts International Hotel, Inc. dated 5/4/78 (East Building) 9 pages.

C-17 Lobby Floor Plan received 5/5/78 from Resorts Internatio
8 pages.

C-18 June 1976 Economic Research Associates Appendix 11A.

C-19 Resorts International Traffic Study.

C-20 Memo dated 5/9/78 to Commission from R. Benjamin Cohen a
Robert J. Genatt on Application of Resorts International
Hotel, Inc. for temporary casino permit.

C-21 Testimony dated 5/11/78 of Michael Kauker.

C-22 Department of Environmental Protection draft of facility
analysis of Resorts International, Hotel Inc. - May 10,1

C-23 Building design, 3 page article from Fire Journal - NOT
SUBMITTED AS EVIDENCE.

C-24 May, 1978 Final Report of Department of Environmental
Protection of Resorts International Hotel, Inc. facility
analysis - NOT SUBMITTED AS EVIDENCE.

APPLICANT EXHIBITS

A-1	Letter dated 5/9/78 from E.D. Knapp to Joseph P. Lordi regarding agreement to act as depository agent for trustees.
A-2	Letter dated 5/10/78 from Leonard Johnson, John Francis and William Marfuggi, Trustees regarding authorization of Commission to deposit stock certificate.
A-3	Letter dated 5/9/78 from E. D. Knapp to Joseph P. Lordi regarding request for approval to deliver beneficiary certificate issued to Resorts International, Inc. Attached is copy of Guaranty of Payment and Completion and Security Agreement (9 page attachment).
A-4	Voting Trust Agreement (14 pages).
A-5	Letter dated 4/3/78 to Joseph P. Lordi from Joel H. Sterns requesting the Commission to grant a temporary casino permit to Resorts International Hotel, Inc.
A-6	Letter dated 4/3/78 to Joseph P. Lordi from Joel H. Sterns regarding approval and appointment of Leonard C. Johnson, Honorable John J. Francis and Mr. William F. Marfuggi as trustees.
A-7	Letter dated 4/20/78 to Joel H. Sterns from Joseph A. Fusco regarding hearing on a temporary casino permit for Resorts International Hotel, Inc. and a pre-hearing conference to be held on May 3, 1978 in the Commission offices.
A-8	Letter dated December 22, 1977 to Joseph P. Lordi from Joel H. Sterns regarding the filing of Resorts International Hotel, Inc. application and accompanying check of $100,000 as a filing fee (Three page attachment).
A-9	Letter to Joel H. Sterns from Joseph P. Lordi dated 1/9/78 (4 pages).
A-10	Restated Certificate of Incorporation, Resorts International Hotel, Inc., (with 4 page attachment).
A-11	By-laws of Resorts International Hotel, Inc. (22 pages).
A-12	Certificate of Leeds Company dated 5/8/78.
A-13	Authorization to do business in New Jersey 5/9/78.
A-14	Restated Certificate of Incorporation of Resorts International, Inc. (State of Delaware) (15 pages plus 2).
A-15	Section 5, Article 6 of By-laws with attachment.
A-16	Section 5, Article 6 Resolution of By-laws dated 5/8/78.

A-17	Original Business Entity Disclosure Form of Resorts International Hotel.
A-18	Business Entity Disclosure Form of Resorts International (parent company).
A-19	Letter to Commission from Commonwealth Land Title Company dated 5/3/78 and attachment.
A-20	Draft of Map #9 parking diagram INCORPORATED INTO A-21 and 21A.
A-21	Site plan Study for Resorts International.
A-21A	10 Charts.
A-22	Letter from David Kinsey, CAFRA to Patrick McGahn plus attachment dated 6/21/77).
A-23	Plans designed by Melvin Grossman, Architect for Resorts International, 10 pages.
A-24	Ordinance number 12 of 1977 dated 3/77.
A-25	Ordinance number 20 of 1978 dated 4/13/78.
A-26	Ordinance number 23 of 1978 dated 4/27/78.
A-27	Letter to Joseph A. Fusco from Stephen Sidel, Esq., dated 4/28/78 regarding description of merger of Palace Hotel Corporation into Leeds & Lippincott.
A-28	Environmental Impact Statement Study for Resorts International by Pandullo Quirk.
A-29	Resorts International Environmental Impact Statement dated 9/77 plus Technical Supplement.
A-30	Impact Summary (page #93).NOT SUBMITTED AS EVIDENCE.
A-31	Rough Draft, Barton-Aschman Associates, Inc. and memo to Demetrious dated 4/21/78 (10 pages). NOT SUBMITTED AS EVIDENCE.
A-32	Ordinance number 1 of 1978 dated 1/5/78 concerning parking vehicles on public streets.
A-33	4 pages of subsidiaries of Resorts International, Inc.
A-34	Resorts International Hotel, Inc. & subsidiaries list of consultants.
A-35	G.B. Management, Ltd., personnel earning over $25,000.

A-36 Paradise Enterprises Ltd., personnel earning over $25,000.

A-37 Resorts International Hotel, Inc. Casino Facility Statement received 12/22/77.

A-38 Casino Floor Plan Architectural Drawing.

A-39 1 page blueprint casino floor plan present entry from Pennsylvania Avenue.

A-40 Organization Charts - Resorts International Hotel Surveillance and Security Departments.

A-41 Business Entity Disclosure Form for International Intelligence Inc.

A-42 Lectrolarm Custom System Business Entity Disclosure Form.

A-43 Stock Certificate issued in the name of the Voting Trustees.

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
Addendum to Opinion No. (TCP-
July 12, 1978

Resorts International Hotel, Inc.
North Carolina Avenue & Boardwalk
Atlantic City, New Jersey.

Decision of the Casino
Control Commission

IN THE MATTER OF THE APPLICATION OF
RESORTS INTERNATIONAL HOTEL, INC., F
AN AMENDMENT TO ITS TEMPORARY CASINO
PERMIT.

Guy S. Michael, Deputy Attorney Gene
appearing for the Division of Gaming
Enforcement

Joseph A. Fusco, Esq., Special Couns
for Licensing appearing for the Casi
Control Commission

Joel H. Sterns, Esq., Messrs. Sterns,
Herbert & Weinroth, appearing for
Resorts International Hotel, Inc.

On May 15, 1978, the Commission authorized the casino hotel facility of Resorts International Hotel, Inc. [hereinafter the temporary permittee] to contain a casino room of 33,735 squa feet. This finding was based upon the evidence presented to the Commission during its hearing on May 10, 11, 12 and 15, 1978.

By letter dated June 16, 1978, the temporary permitte formally requested that the Commission amend its temporary casin permit so as to authorize additional casino floor space.

A hearing was held on the temporary permittee's reque on July 12, 1978, in Atlantic City. The five member Comission consisting of Joseph P. Lordi, Chairman; Kenneth N. MacDonald,

Vice Chairman; Commissioner Alice Corsey, Commissioner Prospero DeBona; and Commissioner Albert Merck were present during the hearing.

In rendering a decision on the application to amend the temporary casino permit, the Commission heard the testimony of H. Steven Norton, Lorne Jenkinson, and Walter I. Rogers and considered the following exhibits:

P-1 June 28, 1978 Memorandum of Special Counsel Joseph A. Fusco Regarding the Hearing on the Request of Resorts International Hotel, Inc. for an Amendment to its Temporary Casino Permit.

P-2 Certificate of conformity from Atlantic City Building Department.

P-3 Letter dated June 29, 1978 to Chairman Lordi from Richard K. Weinroth.

P-4 Letter dated June 29, 1978 to Chairman Lordi from Richard K. Weinroth.

P-5 Letter dated July 5, 1978 to Chairman Lordi from Richard K. Weinroth.

P-6 Plan of Phase I and II Casino - Melvin Grossman, Architect.

P-7 Letter dated June 22, 1978 to the Commission from Alfred Wensley.

P-8 Letter dated June 29, 1978 to Joseph P. Lordi from L.C. Jenkinson.

After considering the evidence presented, the Commission determined that the temporary permittee had an aggregate total of 116,147 square feet of qualifying dining, entertainment and sports space, meeting and exhibit space, and kitchen support facilities. By a vote of 5-0 the Commission amended the temporary casino permit and authorized a casino room of 54,768 square feet, which room included the open floor space, the baccarat pit, and the slot machine parlor. The gallery area above the baccarat pit was

eliminated as casino floor space.

Joseph P. Lordi, Chairman
Casino Control Commission

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
ADDENDUM TO OPINION NO.(TCP 78-1)
November 8, 1978

Resorts International Hotel, Inc.
North Carolina Avenue & Boardwalk
Atlantic City, New Jersey

Decision of the Casino Control Commission
IN THE MATTER OF
THE APPLICATION OF RESORTS INTERNATIONAL HOTEL, INC. FOR AN EXTENSION OF ITS TEMPORARY CASINO PERMIT.

By letter dated November 1, 1978, Resorts International Hotel, Inc. [hereinafter, the temporary permittee] requested a three month extension of its temporary casino permit which became effective on May 26, 1978, and is due to expire on November 26,1978. By letter dated November 3, 1978 from Director Robert P. Martinez of the Division of Gaming Enforcement, the Division joined in the request of the temporary permittee for an extension of the temporary casino permit. The contents of the foregoing letters were read into the record at the Commission's November 8, 1978, public meeting.

Section 26 of P.L. 1978, c.7 provides that:

> Unless otherwise terminated pursuant to this amendatory and supplementary act, a temporary casino permit shall expire at the conclusion of 6 months from the date of its issuance and be renewable, at the discretion of the commission, for one 3-month period.

After considering the request, the Commission at its November 8, 1978, meeting granted by a vote of 5-0 a three month

extension of the temporary casino permit from November 26, 1978, February 26, 1979.

Prior to February 26, 1979, it is anticipated that the Commission will hear and decide the application of the temporary permittee for a casino license.

Joseph P. Lordi, Chairman
CASINO CONTROL COMMISSION

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
DOCKET NO.'s 78-1 through 78-20

STATE OF NEW JERSEY, DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF GAMING ENFORCEMENT,	)	
Charging Party,	)	
v.	)	
RESORTS INTERNATIONAL HOTEL, INC.	)	
Respondent.	)	FINAL ORDER

The New Jersey Casino Control Commission having read and considered the Report and Recommendation of Commissioner Kenneth MacDonald, Hearing Examiner, the Respondent's brief setting forth objections and exceptions thereto, and the Division of Gaming Enforcement's responsive brief, and having on September 6, 1978, heard full oral argument on behalf of both the Respondent and the Division, and having considered the Hearing Examiner's findings, conclusions and recommendations in light of the sanctions provided in Section 129 of the New Jersey Casino Control Act (N.J.S.A. 5:12-129) and the standards for imposition of such sanctions provided in Section 130 of the New Jersey Casino Control Act (N.J.S.A. 5:12-130),

It is on this 12th day of September, 1978, ORDERED that the Report and Recommendation of the Hearing Examiner be and hereby is adopted by the Commission; and

It is further ORDERED that the Respondent be and hereby is directed to pay the civil penalty of Thirty-nine Thousand Dollars ($39,000.00) to the New Jersey Casino Control Commission on or before September 18, 1978; and

It is further ORDERED that the Respondent be and hereby is censured as more particularly set forth in the Report and Recommendation of the Hearing Examiner; and

It is further ORDERED that the Respondent be and hereby is directed to cease and desist the conduct and to comply strictly with the Commission Regulations as more particularly set forth in the Report and Recommendation of the Hearing Examiner; and

It is further ORDERED that a copy of this Order be served on the parties within two (2) days of its entry.

NEW JERSEY CASINO CONTROL COMMISSION

By: _____

Joseph P. Lordi
CHAIRMAN

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
DOCKET NO.'S 78-1 through 78-20

STATE OF NEW JERSEY,)
DEPARTMENT OF LAW AND)
PUBLIC SAFETY, DIVISION)
OF GAMING ENFORCEMENT,
Charging Party,)
v.) REPORT AND RECOMMENDATION
RESORTS INTERNATIONAL)
HOTEL, INC.,)
Respondent.)

Joel H. Sterns, Esquire appearing for Respondent.
Joan Robinson Gross, Deputy Attorney General, appearing for the Division of Gaming Enforcement
Robert J. Genatt, Senior Assistant Counsel, appearing for the Casino Control Commission.

On June 8, 1978 the Division of Gaming Enforcement (hereinafter "Division") filed with the Casino Control Commission (hereinafter "Commission") nine formal complaints[1] against Resorts International Hotel, Inc.[2] (hereinafter "Respondent") alleging violations of the Regulations on Internal and Accounting Controls.

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1. Docket No. 78-1; Docket No.'s 78-3 through 78-10.

2. Respondent, a New Jersey corporation having its principal place of business at North Carolina Avenue and Boardwalk, Atlantic City, New Jersey, was issued a temporary casino permit and a certificate of operation effective 10:00 a.m. Friday, May 26, 1978, which permit and certificate entitle Respondent to operate a casino hotel in accordance with the New Jersey Casino Control Act as amended, N.J.S.A. 5:12-1, et seq., and the Regulations of the Commission adopted pursuant to that Act.

On June 15, 1978 the Division filed with the Commission ten additional complaints[3] against the Respondent alleging violations of these Regulations. On June 22, 1978 the Division filed with the Commission one additional formal complaint[4] against the Respondent alleging violations of those Regulations.

On June 23, 1978, June 30, 1978 and July 6, 1978 Respondent filed timely Notices of Defense to these twenty complaints. Pursuant to Commission Regulations, Respondent requested hearings on four of these complaints[5] and waived its right to hearing on the other sixteen complaints.[6] There are no contested issues of fact, except for one question relating to No. 78-2 which will be discussed herein. With the consent of all parties, hearings were held before the undersigned Hearing Examiner on July 10, 1978, as to the four complaints for which hearings had been requested. In the interest of clarity each complaint will be dealt with separately.

No. 78-1

Based upon the pleadings, I find the facts to be as follows:

1. On May 28, 1978, Respondent issued credit to an individual named Yip Hon.

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3. Docket No. 78-2; Docket No.'s 78-11 through 78-19.

4. Docket No. 78-20

5. Docket No.'s 78-2, 78-3, 78-14, 78-15.

6. Docket No.'s 78-1; 78-4 through 78-13; 78-16 through 78-20.

2. The credit issued on the aforementioned date was in the amount of $30,000 (thirty thousand dollars).

3. Respondent prepared a credit file for Yip Hon.

4. The aforementioned credit file did not contain information with regard to Mr. Hon's address.

5. The aforementioned credit file did not contain information with regard to Mr. Hon's bank account number.

6. The aforementioned credit file did not contain initials of the cage cashier required to verify Mr. Hon's credit references.

7. The aforementioned credit file contained notation that there would be no limit on Mr. Hon's permitted credit.

8. The notation referred to above was made without signature indicating identification of authority or title.

9. N.J.A.C. 19:45-25(d) provides in pertinent part that:

> " A credit file for each patron shall be prepared manually or by computer, prior to acceptance of a check from a patron by cage cashiers, and such file shall include, at a minimum, the following:
> (2) The address of the patron;
> (4) The number of the patron's bank account;
> (5) Credit references accompanied by the initials of the cage cashier indicating verification with either a recognized credit bureau, the patron's bank or another legal casino;
> (7) The credit limit and any changes thereto, approved in writing by the casino manager, assistant casino manager, or shift manager;"

10. The aforementioned credit file of Yip Hon was prepared by employees of and under the supervision and direction of the Respondent.

Based upon these facts, I conclude that the Respondent is guilty of having prepared the aforementioned credit file of Yip Hon in violation of N.J.A.C. 19:45-25(d).

In light of Respondent's explanation that Mr. Yip Hon is known to both Mr. I.G. Davis, Jr., President of the parent company and Vice Chairman of the Board of the Respondent, and to Mr. Walter I. Rogers, who is responsible for Respondent's casino, and in light of the fact that this violation occurred on the third day of operation of Respondent's casino, and based upon Respondent's assurance that it has taken every precaution to ensure that the Regulation in question is strictly complied with, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8), a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed, pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the credit file regulation, N.J.A.C. 19:45-25(d);

c) A civil penalty of$5,000 be assessed against Respondent, of which $1,000 is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

No. 78-2

Based upon the pleadings and the testimony and evidence presented at the hearing, I find the facts to be as follows:

(As to Count I):

1. On Monday, May 29, 1978 at or about 11:00 p.m. a customer seated at baccarat table number 2 requested $1,000 in credit from the pit boss then and there on duty.

2. Said pit boss then approached the casino clerk then and there on duty and held a brief conversation with her.

3. Said casino clerk then completed a check credit slip and requested the player to sign same.

4. Several minutes prior to the patron's affixation of his signature to the check credit slip, and, accordingly, prior to the return of said slip to the dealer, said patron was extended the requested $1,000 in chips.

5. N.J.A.C. 19:45-23(g)(4) provides in pertinent part that:

> "In no instance shall the chips or plaques be given to the patron prior to the receipt of the check credit slip copy of the counter check by the dealer or boxman."

6. The transaction described above was, with the exception of the patron, conducted by persons employed by, and under the supervision and direction of the Respondent.

(As to Count II)

1. On Monday, May 29, 1978 at or about 10:50 p.m. a customer seated at baccarat table number 3 requested credit from the pit boss then and there on duty.

2. Said pit boss then held a brief discussion with the casino clerk then and there on duty.

3. Said casino clerk then prepared a check credit form and delivered same to the customer for signature.

4. Prior to the customer's affixation of his signature to the check credit form and, accordingly, prior to the return of said form to the dealer, the customer was provided with chips representing the amount of credit requested.

5. N.J.A.C. 19:45-23(g)(4) provides in pertinent part that:

> "In no instance shall the chips or plaques be given to the patron prior to the receipt of the check credit slip copy of the counter check by the dealer or boxman."

6. The transaction described above was, with the exception of the customer, conducted by persons employed by and under the supervision and direction of the Respondent.

In the pleadings and at the hearing Respondent disputed the factual allegations of the Division that Walter I. Rogers, Vice President of casino operations for the Respondent, observed the transaction described in Count II and failed to make any effort to alter, revise or correct the procedures employed. Respondent did not dispute that the transaction occurred. Mr. Rogers testified that the transaction may have happened, and that he may have been in the vicinity at the time, but he denied that he was aware of the transaction and stated that he would have corrected it if he had seen it. (T144-22 to T145-16).[7] He further testified that he has observed similar transactions and has corrected them. (T145-19 to T146-10). On the date of the hearing the sole witness for the Division on this issue was out of the jurisdiction and unavailable to testify. His report of the incident was admitted in evidence. (D-3). Due to the short notice of the hearing date, the lack of opportunity of Respondent to cross-examine this witness, and the importance of this factual issue to the question of penalty, I continued the hearing as to Count II of No. 78-2 until such time as the Division can produce its witness. I note here that since the Respondent has

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7. "T" refers to the transcript of testimony at the hearing held in these matters on July 10, 1978.

has admitted the violation in question, resolution of this factual issue bears solely upon the question of penalty and not upon the question of guilt.

Based upon the foregoing facts I conclude as follows:

1. Count I - Respondent is guilty of having violated N.J.A.C. 19:45-23(g)(4).
2. Count II - Respondent is guilty of having violated N.J.A.C. 19:45-23(g)(4).

In light of Respondent's explanation that this offense occurred during the initial days of operation of its casino and in light of Respondent's representation that it has issued memos to all its affected personnel calling attention to its internal procedures with regard to the issuance of credit and has made it plain that no deviation will be tolerated, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to the Respondent, which letter shall be made a permanent part of the file of the Respondent.

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with N.J.A.C. 19:45-23(g)(4);

As to Count I,

c) a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above;

d) As to Count II, judgment as to sanction is reserved pending resolution of the factual issue described above.

No. 78-3

This complaint alleged that on May 26, 1978 a pit boss (from the casino department), rather than a pit clerk (from the cashier's department) as is required by Commission Regulation N.J.A.C. 19:45-23(g)(1), telephonically verified a patron's remaining check-cashing limit from the cashier's cage. Respondent admitted the facts as alleged in the complaint, but asserted that the procedure utilized was "within the reasonable interpretation of" the Regulation. Respondent based its contention upon the fact that its employees had merely followed the procedure outlined in its Internal Controls Submission (Exhibit P-1) which had been approved by the Commission. See (T18-1 to T25-17; T26-20 to T28-2; T29-11 to 15; T33-1 to 5; T38-17 to 23). Respondent's submission, which was approved by the Commission, provides that the pit supervisor (pit boss) is to verify by telephone that a patron is authorized to receive credit. (T19-1 to T20-1). This is at variance with the procedure required by N.J.A.C. 19:45-23(g)(1) wherein the pit clerk is to perform the verification.

Based upon the pleadings and the testimony and evidence presented at the hearing, I find the facts to be as follows:

1. On Friday, May 26, 1978, at or about 10:15 p.m. a customer entered the baccarat pit and took a seat at table number 1.

2. Said customer then conducted a brief conversation with a pit boss then and there on duty.

3. Subsequent thereto said pit boss conducted a telephone conversation with the casino cage.

4. Soon thereafter a casino clerk, Terry Taylor, entered the baccarat pit and conducted a brief conversation with said pit boss.

5. Terry Taylor did not independently contact the casino cage with regard to the transaction described herein.

6. On the basis of information given to her by the pit boss, Terry Taylor then completed a check credit form and processed same in the normal manner at the gaming table.

7. N.J.A.C. 19:45-23(g)(1) provides in pertinent part that for counter checks exchanged at the gaming table, the casino clerk shall:

> "Determine the patron's remaining check cashing limit from the cashier's cage."

8. All persons involved in the transaction described above, with the exception of the customer, were employed, supervised, and directed by the Respondent.

9. The manner in which the transaction described above was conducted was the manner in which Respondent had specifically directed its employees so to perform.

10. At the time of the events in question, the Respondent had some reason to believe that the procedures described above had been approved by the Commission, by virtue of the Commission's prior approval of Respondent's internal and accounting controls submission containing those procedures.

Based upon these facts I conclude that the Respondent is guilty of having violated N.J.A.C. 19:45-23(g)(1). The requirements of that Regulation are clear and unequivocal. The role of the pit clerk as set forth in that Regulation is dictated both by the statutory[8] requirements that the pit clerk participate in the check

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8. N.J.S.A. 5:12-101(b)(3)

transaction and by the accounting control principle of segregation of duties. (T23-9 to T24-7). The Regulation is law and its violation cannot be countenanced even in light of apparent Commission approval of procedures which might appear to be at variance therewith.

In light of the foregoing facts and circumstances, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-23(g)(1).

No. 78-4

Based upon the pleadings, I find the facts to be as follows:

1. On May 29, 1978 at or about 10:45 p.m. a patron at blackjack table number 50 presented $50 (fifty dollars) in cash to the dealer for exchange for chips.

2. The dealer then and there on duty merely fingered the bills presented in order to determine their total value.

3. The dealer then and there on duty did not spread the bills on the top of the gaming table in full view of the patron who presented them.

4. The dealer then and there on duty did not spread the bills on top of the gaming table in full view of the supervisor assigned to said table.

5. N.J.A.C. 19:45-17(a)(1) provides in pertinent part that cash accepted at a gaming table to be exchanged for chips:

"...shall be spread on the top of the gaming table by the dealer or boxman accepting it in full view of the patron who presented it and the casino supervisor assigned to such gaming table;"

6. The persons involved in the transaction described above, with the exception of the patron, were employed by and under the supervision and direction of Respondent.

Based upon these facts, I conclude that Respondent is guilty of having violated N.J.A.C. 19:45-17(a)(1).

In light of Respondent's assertion that this violation was "contrary to the direct instructions to all dealers issued by the Respondent with regard to the acceptance of cash in exchange for chips" and in light of the fact that this violation occurred on the fourth day of operation of Respondent's casino, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-17(a)(1);

c) a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

Based upon the pleadings, I find the facts to be as follows:

1. On May 28, 1978 at or about 11:00 p.m. employees and/or agents of Respondent conducted a count of coin generated from gaming activity.

2. On said date, Cyril Olson, an employee and/or agent of Respondent was engaged in said count.

3. On said date Steven Hann, an employee and/or agent of Respondent was engaged in said count.

4. On said date Barry Kaplan, an employee and/or agent of Respondent was engaged in said count.

5. On said date Albert G. Washington, an employee and/or agent of Respondent was engaged in said count.

6. On said date Michael Escourt, an employee and/or agent of Respondent was engaged in said count.

7. On said date Joseph Cori, an employee and/or agent of Respondent was engaged in said count.

8. On said date Tom Mills, an employee and/or agent of Respondent was engaged in said count.

9. On said date Lynwood Smith, an employee and/or agent of Respondent was engaged in said count.

10. On said date Michael Aarons, an employee and/or agent of Respondent was engaged in said count.

11. During the course of said count a Slot Win Sheet was prepared.

12. None of the employees and/or agents of Respondent listed signed said Slot Win Sheet.

13. N.J.A.C. 19:45-41(i)(6) provides in pertinent part that:

> "After the contents of each drop bucket is counted and recorded, each count team member shall sign the Slot Win Sheet attesting to the accuracy of the information recorded thereon..."

Based upon these facts, I conclude that the Respondent is guilty of having violated N.J.A.C. 19:45-4(i)(6).

Respondent's explanation is that it "did prepare internal controls /P-1/ including a form entitled Slot Win Report... That form calls for signatures of two (2) count team members. Respondent respectfully states that the form in question was approved by the Commission as part of Respondent's internal control submission, thus giving rise to a conflict between the form itself and the Regulation which the Respondent believed was modified by the approval of its internal control procedure."[9] This explanation is without merit. The Commission approval of Respondent's form Slot Win Report calling for signatures of two count team members was based upon Respondent's Internal Control Submission (P-1) which indicated that the count team would consist of two persons. In light of the plain meaning of N.J.A.C. 19:45-41(i)(6), Respondent could not reasonably have believed that if the count required more than two persons, nevertheless only two signatures were required on the Slot Win Sheet.

In light of the foregoing, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure

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9. Respondent acknowledged that the particular slot win sheet in question here was in violation in any event, since it did not contain one of the two signatures provided for thereon.

be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-41(i)(6);

c) a civil penalty of $5,000 be assessed against Respondent $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph b) above.

No. 78-6

Based upon the pleadings, I find the facts to be as follows: Count I

1. On May 27, 1978, during the hours of approximately 8:30 a.m. to approximately 10:30 p.m. Respondent conducted a count of currency generated by gaming activity, known as the soft count.

2. During said hours, Ms. Francine Accardi, an employee and/or agent of Respondent, was on duty as cage cashier representative in the count.

3. During the course of the performance of her duties, Ms. Accardi received currency from members of the count team.

4. Ms. Accardi received said currency in clips containing multiple amounts of bills.

5. In the course of performing her count of the currency she received, Ms. Accardi did not separate the bills from the clips but rather counted by clip.

6. N.J.A.C. 19:45-31(i)(1) provides in pertinent part that:

> "All currency and coin removed from the drop boxes shall be immediately presented in the count room by a count team member to a general cashier who...

shall recount...the currency and coin received..."

Count II

1. On several occasions during the course of the performance of her duties, Ms. Accardi conducted the count of currency without said currency having been first counted by members of the count team.

2. On said occasions, Ms. Accardi subsequently conducted the second count of the same currency the amount of which she had previously first counted.

3. N.J.A.C. 19:45-31(h)(5) provides in pertinent part that:

"Each denomination of coin and currency shall be counted separately by one count team member..."

4. N.J.A.C. 19:45-31(i)(1) provides in pertinent part that:

"All currency and coin removed from the drop boxes shall be immediately presented in the count room by a count team member to a general cashier who...shall recount the currency and coin received..."

Count III

1. On May 29, 1978 during the hours of approximately 6:00 a.m. to approximately 10:00 p.m. Respondent through its employees and/or agents conducted a count of currency generated by gaming activity, known as the soft count.

2. On certain occasions during the course of said count the cashier representative then and there on duty was forwarded the currency from the count team after it had been counted by said count team.

3. In addition to said currency the count team transferred to said cashier's representative a drop and cash count card reflecting the amounts of currency as determined by the count team.

4. Said cashier representative then verified the amount of currency received from the count team to the amounts reflected on the drop and cash count card.

5. Said cashier representative did not conduct a blind count verification.

6. N.J.A.C. 19:45-31(i)(1) provides in pertinent part that currency removed from drop boxes be presented to a general cashier who:

> "...prior to having access to the information recorded on the Master Game Report....shall recount..."

Based upon these facts, I conclude that the Respondent is guilty on all counts of having violated N.J.A.C. 19:45-3(i)(1) and N.J.A.C. 19:45-31(h)(5).

In light of Respondent's explanation that the violations charged occurred during the first few days of operation of Respondent's casino, Respondent's assertion that these violations were "immediately rectified," and Respondent's statement that "delivery of currency counting equipment has significantly alleviated these problems," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of

N.J.A.C. 19:45-31(i)(1) and N.J.A.C. 19:45-31(h)(5).

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

e) As to Count III,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

No. 78-7

Based upon the pleadings, I find the facts to be as follows:

1. On May 27, 1978 and May 28, 1978 Respondent utilized forms entitled "Chip Exchange."

2. Said Chip Exchange forms were utilized to record and control exchanges of chips between the pit and the cage.

3. Subsequent to the return of the Chip Exchange forms from the cage with the requested chips, said forms were filed in a slot in the pit area and not in the table drop box.

4. No fill or credit slips accompanied the Chip Exchange forms during their utilization.

5. N.J.A.C. 19:45-21(a) provides in pertinent part that:

> "A Request for Fill ("Request") shall be prepared by a casino supervisor or a casino clerk, to authorize the preparation of a Fill Slip ("Fill") for the distribution of gaming chips and plaques to gaming tables."

6. N.J.A.C. 19:45-22(a) provides in pertinent part that:

> "A Request for Credit ("Request") shall be prepared by a casino supervisor, or a casino clerk, to authorize the preparation of a Credit Slip ("Credit") for the removal of gaming chips and plaques from gaming tables to the cashier's cage."

7. Neither the Casino Control Act, as amended, nor the regulations promulgated thereunder permit the utilization of a Chip Exchange form.

8. On May 27, 1978 at or about 8:00 p.m. employees of the Division advised Mr. Ed Michaels, Vice-President for Finance for Respondent that the utilization of the Chip Exchange form without accompanying Fills and Credits was in violation of established regulations.

9. Mr. Michaels then stated the utilization of such forms would be discontinued and that Fill and Credit slips would thereafter be utilized to document chip exchanges between the pit and the cage.

10. Despite the rperesentation of Mr. Michaels, the utilization of Chip Exchange forms without accompanying Fills and Credits continued.

Based upon these facts, I conclude that the Respondent is guilty of violating N.J.A.C. 19:45-21(a) and N.J.A.C. 19:45-22(a).

In light of Respondent's explanation that "immediately upon receipt of [the] Complaint, the use of the Chip Exchange form

was discontinued," I recommend that the Commission impose the following sanctions:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-21(a) and N.J.A.C. 19:45-22(a);

c) a civil penalty of $10,000 be assessed against Respondent, $2,000 of which is to be paid immediately and $8,000 of which is suspended conditioned upon future compliance with paragraph(b) above.

No. 78-8

Based upon the pleadings, I find the facts to be as follows:

Count I

1. On May 27, 1978 at or about 11:00 a.m. a Fill was delivered to Craps table number 2 by a security department member.

2. Said security member delivered the Fill to the pit boss then and there on duty.

3. Said pit boss brought the Fill to said table.

4. The boxman then and there on duty then removed the chips from their containers.

5. Said boxman immediately thereafter placed the chips in the table inventory.

6. The boxman then signed the Fill slip.

7. At no time during the transaction described herein did the boxman break down the chips to count the chips delivered to the table.

8. N.J.A.C. 19:45-21(L)(2) (iii) provides in pertinent part that the boxman receiving a Fill shall sign said Fill to attest to "the accuracy of the information" contained therein.

9. N.J.A.C. 19:45-43(a)(4) provides in pertinent part that signatures attesting to the counting or observation of chips shall signify that the count was made:

> "...by breaking down stacks of chips to the extent necessary..."

10. The persons involved in the transaction described above were employed by and under the direction and supervision of Respondent.

Count II

1. On May 29, 1978 at or about 10:30 a.m. a Fill was delivered to Craps table number 5.

2. Upon said delivery the chips were removed from the chip rack and placed in the table inventory.

3. Said placement of chips in the table inventory was conducted without breaking down the chips and conducting a separate count thereof.

4. N.J.A.C. 19:45-21(L)(2)(iii) provides in pertinent part that the boxman receiving a Fill shall sign said Fill to attest to "the accuracy of the information" contained therein.

5. N.J.A.C. 19:45-43(a)(4) provides in pertinent part that signatures attesting to the counting or observation of chips shall signify that the count was made:

> "...by breaking down stacks of chips to the extent necessary..."

6. The persons involved in the transaction described above were employed by and under the direction and supervision of Respondent.

Count III

1. On May 29, 1978 at or about 10:45 p.m. a Fill was delivered to Roulette table number 4.

2. Upon delivery of said Fill to said table the chips were removed from the chip rack and immediately thereafter placed in the table inventory by the pit boss then and there on duty.

3. At no time during the transaction described did the pit boss or the dealer break down the chips and conduct a separate count thereof.

4. N.J.A.C. 19:45-21(L)(iii) provides in pertinent part that the boxman receiving a Fill shall sign said Fill to attest to "the accuracy of the information" contained therein.

5. N.J.A.C. 19:45-43(a)(4) provides in pertinent part that signatures attesting to the counting or observation of chips shall signify that the count was made:

> "...by breaking down stacks of chips to the extent necessary..."

6. The persons involved in the transaction described above were employed by and under the direction and supervision of Respondent.

Based upon these facts, I conclude that the Respondent is guilty on all counts of having violated N.J.A.C. 19:45-43(a)(4).

In light of Respondent's statement that these "transactions took place in the first days of operation and were contrary to the procedures adopted by the Respondent in which all of its relevant casino employees were fully instructed," and in light of Respondent's

representation that "upon receipt of information pertaining to this Complaint, Respondent issued a further memorandum to all affected casino personnel reminding them of the Regulations and of their obligations thereunder," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-43(a)(4);

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

e) As to Count III,

a civil penalty of $5,000 be assessed against Respondent $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

Based upon the pleadings, I find the facts to be as follows:

Count I

1. On May 29, 1978 at or about 10:30 a.m. a member of Respondent's security department transported a Fill to Crap table #5.

2. Said security department member delivered the chip rack to the pit boss then and there on duty at said table.

3. Said security department member then departed from said table without observing the placement by the dealer or boxman then and there on duty at said table of the duplicate Fill in the drop box attached to said table.

4. N.J.A.C. 19:45-21(n) provides in pertinent part that the security department member that transports chips and the duplicate Fill to a gaming table must, after signature requirements have been met:

> "...observe the immediate placement by the dealer or boxman of the duplicate Fill in the drop box attached to the gaming table to which the gaming chips and plaques were transported."

5. The persons involved in the transaction described were employed by and under the direction and supervision of Respondent.

Count II

1. On May 29, 1978 at or about 7:40 p.m. one of Respondent's security department members transported a Fill to Blackjack table #50.

2. Said security department member delivered the chip rack to the pit boss then and there on duty at said table.

3. Said security department member then remained in the pit but did not observe the insertion of the duplicate Fill into the table drop box.

4. N.J.A.C. 19:45-21(n) provides in pertinent part that the security department member that transports chips and the duplicate Fill to a gaming table must; after signature requirements have been met:

> "...observe the immediate placement by the dealer or boxman of the duplicate Fill in the drop box attached to the gaming table to which the gaming chips and plaques were transported."

5. The persons involved in the transaction described were employed by and under the direction and supervision of Respondent.

Count III

1. On May 29, 1978 at or about 7:40 p.m. one of Respondent's security department members transported a Fill to Blackjack table #45.

2. Said security department member delivered the chip rack to the pit boss then and there on duty at said table.

3. Said security department member then remained in the pit but did not observe the insertion of the duplicate Fill into the table drop box.

4. N.J.A.C. 19:45-21(n) provides in pertinent part that the security department member that transports chips and the duplicate Fill to a gaming table must; after signature requirements have been met:

> "...observe the immediate placement by the dealer or boxman of the duplicate Fill in the drop box attached to the gaming table to which the gaming chips and plaques were transported."

5. The persons involved in the transaction described were employed by and under the direction and supervision of Respondent.

Count IV

1. On May 29, 1978 at or about 7:30 p.m. one of Respondent's security department members transported a Fill to Crap table #9.

2. Said security department member delivered the chip racks to pit personnel.

3. The pit personnel then emptied the chip racks onto the table.

4. Said security department member then took the empty chip racks and departed the pit.

5. Said security department member did not observe the verification of the contents of said chip rack.

6. Said security department member did not observe signing of the duplicate Fill.

7. Said security department member did not observe the placement of the duplicate Fill in the table drop box.

8. N.J.A.C. 19:45-21(n) provides in pertinent part that the security department member that transports chips and the duplicate Fill to a gaming table must; after signature requirements have been met:

> "...observe the immediate placement by the dealer or boxman of the duplicate Fill in the drop box attached to the gaming table to which the gaming chips and plaques were transported."

9. The persons involved in the transaction described were employed by and under the direction and supervision of Respondent.

Count V

1. On May 29, 1978 at or about 10:45 p.m. a member of Respondent's security department transported a Fill to Roulette table #4.

2. The chip racks delivered by said security department member were emptied by the pit boss then and there on duty and said pit boss signed the duplicate Fill and inserted it into the table drop box.

3. Said security department member then remained in the pit but did not observe the insertion of the duplicate Fill into the table drop box.

4. N.J.A.C. 19:45-21(n) provides in pertinent part that the security department member that transports chips and the duplicate Fill to a gaming table must; after signature requirements have been met:

> "...observe the immediate placement by the dealer or boxman of the duplicate Fill in the drop box attached to the gaming table to which the gaming chips and plaques were transported."

5. The persons involved in the transaction described were employed by and under the direction and supervision of Respondent.

Based upon these facts, I conclude that the Respondent is guilty on all counts of having violated N.J.A.C. 19:45-21(n).

In light of Respondent's statement that these transactions "took place in the first days of operation and [were] contrary to the procedures adopted by the Respondent in which all of its relevant casino employees were fully instructed," and in light of Respondent's representation that "upon receipt of information pertaining to this Complaint, Respondent issued a further memorandum to all affected casino personnel reminding them of the Regulation and of their obligations thereunder," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Purusant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-21(n);

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

e) As to Count III,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

f) As to Count IV,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

g) As to Count V,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

No. 78-10

Based upon the pleadings I find the facts to be as follows:

1. On May 27, 1978, the drop box for Blackjack table #51, day shift, did not contain an Opener when said box was opened for counting.

2. On May 27, 1978, the drop box for Blackjack table #54, day shift, did not contain an Opener when said box was opened for counting.

3. The absence of said Openers was confirmed to agents of the Division by James Thorsby, an employee and/or agent of Respondent.

4. N.J.A.C. 19:45-20(f) provides that when opening tables for gaming:

> "After the count of the contents of the container and the signing of the Opener, such slip shall be immediately deposited in the drop box attached to the gaming table after the opening of such table."

5. The actions described above are in violation of N.J.A.C. 19:45-20(f).

Based upon these facts, I conclude that Respondent is guilty of having violated N.J.A.C. 19:45-20(f).

In light of Respondent's statement that "the events complained of took place in the first twenty-four (24) hours of casino operation and were contrary to the internal procedures adopted by the Respondent in which all of its relevant employees were fully instructed," and in light of Respondent's representation that "upon learning of the information contained in this Complaint, Respondent issued a further memorandum to all affected casino personnel requiring strict adherence to the Regulation in question," I recommend that the

Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-20(f);

c) a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

No. 78-11

Based upon the pleadings, I find the facts to be as follows:

Count I

1. On May 27, 1978 employees and/or agents of Respondent conducted a count of currency generated during gaming activity, said count known as the soft count.

2. During said soft count said employees and/or agents of Respondent wore outer garments provided by Respondent.

3. Said outer garments contained pockets.

4. Said outer garments were not full-length.

5. N.J.A.C. 19:45-31(d) provides in pertinent part that:

> " All persons present in the count room during the counting process, except representatives of the Commission and Division, shall wear as outer garments, only a full-length, one-piece, pocketless garment with openings only for the arms, feet, and neck."

Count II

1. On May 28, 1978 Mr. C.L. Rice, an employee and/or agent of Respondent entered the hard count room and was present during the count of coin.

2. On May 28, 1978 Mr. Bob Steward, an employee and/or agent of Respondent entered the hard count room and was present during the count of coin.

3. While present in the hard count room during the count of coin on May 28, 1978, Mr. C.L. Rice did not wear a full-length and pocketless outer garment.

4. While present in the hard count room during the count of coin on May 28, 1978, Mr. Bob Steward did not wear a full-length and pocketless outer garment.

5. N.J.A.C. 19:45-31(d) provides in pertinent part that:

> "All persons present in the count room during the counting process, except representatives of the Commission and Division, shall wear as outer garments, only a full-length, one-piece, pocketless garment with openings only for the arms, feet, and neck."

Count III

1. On May 29, 1978 Mr. C.L. Rice, an employee and/or agent of Respondent entered the hard count room and was present during the count of coin.

2. On May 29, 1978 Mr. Bob Steward, an employee and/or agent of Respondent entered the hard count room and was present during the count of coin.

3. On May 29, 1978, Mr. Tom Murphy, an employee and/or agent of Respondent entered the hard count room and was present during the count of coin.

4. While present in the hard count room during the count of coin on May 29, 1978, Mr. Bob Steward did not wear a full-length and pocketless outer garment.

5. While present in the hard count room during the count of coin on May 29, 1978, Mr. C.L. Rice did not wear a full-length and pocketless outer garment.

6. While present in the hard count room during the count of coin on May 29, 1978, Mr. Tom Murphy did not wear a full-length and pocketless outer garment.

7. N.J.A.C. 19:45-31(d) provides in pertinent part that:

> "All persons present in the count room during the counting process, except representatives of the Commission and Division, shall wear as outer garments, only a full-length, one-piece, pocketless garment with openings only for the arms, feet and neck."

Count IV

1. On May 29, 1978 employees and/or agents of Respondent conducted a count of currency generated during gaming activity, said count known as the soft count.

2. During said soft count said employees and/or agents of Respondent wore outer garments provided by Respondent.

3. Said outer garments contained pockets.

4. Said outer garments were not full-length.

5. N.J.A.C. 19:45-31(d) provides in pertinent part that:

> "All persons present in the count room during the counting process, except representatives of the Commission and Division, shall wear as outer garments, only a full-length, one-piece, pocketless garment with openings only for the arms, feet, and neck."

Count V

1. On May 29, 1978, Respondent, through its agents and/or employees conducted a count of coin generated by gaming activity.

2. During the course of said count, A.G. Washington, a count team member and agent and/or employee of Respondent wore an outer garment which contained pockets.

3. During the course of said count, Mike Escourt, a count team member and agent and/or employee of Respondent wore an outer garment which contained pockets.

4. N.J.A.C. 19:45-31(d) provides in pertinent part that:

> "All persons present in the count room during the counting process, except representatives of the Commission and Division, shall wear as outer garments, only a full-length, one-piece, pocketless garment with openings only for the arms, feet, and neck."

Based upon these facts, I conclude that Respondent is guilty on all counts of having violated N.J.A.C. 19:45-31(d).

In light of Respondent's explanation that "Respondent's employees engaged in the count wore a one-piece surgical smock which, in some instances, did have a pocket," and in light of Respondent's representation that "the use of said smocks was discontined immediately upon notice to the Respondent and they have been replaced with pocketless outer garments," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-31(d);

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

e) As to Count III,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

f) As to Count IV,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

g) As to Count V,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

Based upon the pleadings, I find the facts to be as follows:

Count I

1. On May 28, 1978 at or about 6:15 p.m., I.G. Davis entered the slot count room during the course of the conduct of the count.

2. On May 28, 1978 at or about 6:15 p.m., Seymour Alter entered the slot count room during the course of the conduct of the count.

3. Neither Mr. Davis nor Mr. Alter entered the slot count room during a normal work break or in an emergency.

4. Both Mr. Davis and Mr. Alter were permitted to enter the slot count room by employees and/or agents of Respondent.

5. N.J.A.C. 19:45-41(f) provides in pertinent part that during a count:

> "...no person shall be permitted to enter or leave the count room, except during a normal work break or in an emergency, until the counting devices to be used are checked for accuracy, and until the entire counting, recording, and verification process is completed."

Count II

1. On May 29, 1978, during the course of the conduct of the slot count Edward Michaels was permitted to enter and leave the slot count room.

2. On May 29, 1978, during the course of the conduct of the slot count Cornelius T. Klerk was permitted to enter and leave the slot count room.

3. On May 29, 1978 during the course of the conduct of the slot count Raymond Gore was permitted to enter and leave the slot count room.

4. On May 29, 1978 during the course of the conduct of the slot count Robert Peloquin was permitted to enter and leave the slot count room.

5. All persons listed were permitted to enter the slot count room by employees and/or agents of Respondent.

6. None of the persons listed entered the slot count room during a normal work break or in an emergency.

7. N.J.A.C. 19:45-41(f) provides in pertinent part that during a count:

> "...no person shall be permitted to enter or leave the count room, except during a normal work break or in an emergency, until the counting devices to be used are checked for accuracy, and until the entire counting, recording, and verification process is completed."

Based upon these facts, I conclude that Respondent is guilty on both counts of having violated N.J.A.C. 19:45-41(f).

In light of the foreging, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-41(f);

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

No. 78-13

Based upon the pleadings, I find the facts to be as follows:

Count I

1. On May 28, 1978 employees and/or agents of Respondent conducted a count of coin received from gaming activity, said count known as the hard count.

2. At or about 11:50 a.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

3. At or about 1:10 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

4. At or about 1:45 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

5. At or about 2:30 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

6. At or about 3:05 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

7. At or about 3:30 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

8. At or about 4:40 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

9. At or about 5:27 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

10. At or about 5:38 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

11. At or about 7:12 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

12. At or about 8:45 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

13. At or about 9:11 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

14. At or about 10:02 p.m. on said date coin was removed

from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

15. At or about 10:33 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

16. At or about 10:37 p.m. on said date coin was removed from the hard count room and transferred directly to the slot booth by employees and/or agents of Respondent.

17. N.J.A.C. 19:45-32(a)(7) provides in pertinent part that:

> "Except for the exchange of change with change persons the slot booth shall not be allowed to obtain coin, from other than patrons, through exchange or otherwise, from any source other than the cashier's cage."

Count II

1. On May 29, 1978 employees and/or agents of Respondent conducted a count of coin received from gaming activity, said count known as the hard count.

2. By use of slot booth exchange slip number 000533 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

3. By use of slot booth exchange slip number 000535 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

4. By use of slot booth exchange slip number 000536 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

5. By use of slot booth exchange slip number 000537 on said date employees and/or agents of Respondent transferred coin

from the hard count room directly to the slot booth.

6. By use of slot booth exchange slip number 000543 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

7. By use of slot booth exchange slip number 000593 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

8. By use of slot booth exchange slip number 000594 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

9. By use of slot booth exchange slip number 000595 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

10. By use of slot booth exchange slip number 000596 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

11. By use of slot booth exchange slip number 000597 on said date employees and/or agents of Respondent transferred coin from the hard count room directly to the slot booth.

12. The signature of Bob Steward on certain of the Slot Booth Exchange slips listed above is not indicative of movement of coin from the hard count room to the cashier's cage, as Mr. Steward was not acting in the capacity of a cashier's cage representative at the time he affixed such signatures.

13. At or about 6:40 p.m. on said date, fifteen thousand dollars in quarters was removed from the hard count room and transferred directly to slot booth number two by employees and/or agents of Respondent.

14. At or about 6:40 p.m. on said date, ten thousand dollars in silver dollars was removed from the hard count room and transferred directly to slot booth number two by agents and/or employees of Respondent.

15. At or about 8:02 p.m. on said date ten thousand dollars in silver dollars was removed from the hard count room and transferred directly to slot booth number one by agents and/or employees of Respondent.

16. N.J.A.C. 19:45-32(a)(7) provides in pertinent part that:

> "Except for the exchange of change with change persons the slot booth shall not be allowed to obtain coin, from other than patrons, through exchange or otherwise, from any source other than the cashier's cage."

Count III

1. On May 30, 1978 employees and/or agents of Respondent conducted a count of coin received from gaming activity, said count known as the hard count.

2. During the course of said day, said employees and/or agents of Respondent, on numerous and repeated occasions transferred coin from the hard count room directly to the slot booth.

3. N.J.A.C. 19:45-32(a)(7) provides in pertinent part that:

> "Except for the exchange of change with change persons the slot booth shall not be allowed to obtain coin, from other than patrons, through exchange or otherwise, from any source other than the cashier's cage."

Based upon these facts, I conclude that Respondent is guilty on all counts of having violated N.J.A.C. 19:45-32(a)(7).

In light of Respondent's statement that "the matters in question took place in the first days of operation," and in light of

Respondent's representation that "upon notice to it, the procedure in question was immediately stopped," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-32(a)(7); Respondent be further directed to maintain sufficient coin inventory so as to prevent the possibility of a recurrence of the actions set forth in No. 78-13;

c) As to Count I,
a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately,and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

d) As to Count II,
a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

e) As to Count III,
a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

No. 78-14

This complaint alleged in Count I that on May 27, 1978 the empty drop boxes from blackjack tables number 59 and 60[10] were stacked against a wall in the soft count room at both the start and completion of the day's count, contrary to Commission Regulation N.J.A.C. 19:45-31(h)(3) which provides, in part, that after removal of the contents from the drop boxes, those boxes shall be locked and placed in the storage area for drop boxes. Respondent admitted the facts as alleged in the complaint, but denied that the actions taken violated N.J.A.C. 19:45-31(h)(3). Respondent asserted in its Notice of Defense that at all times relevant to this complaint, blackjack tables 59 and 60 were neither in use nor open to the public.[11] Respondent argued in its Notice of Defense and at the hearing that the Regulation in question, N.J.A.C. 19:45-31(h)(3) establishes procedure for the storage of drop boxes which are emptied as a part of the count and does not pertain to storage of drop boxes such as the ones in question, which were not part of the count.

Count II of this complaint alleged a violation on May 27, 19[illegible] of the same Regulation with regard to drop boxes which were part of the currency count. Respondent admitted in its Notice of Defense that this was a violation of N.J.A.C. 19:45-31(h)(3).

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10. Three drop boxes for each table (for the day shift, swing shift and grave shift) for a total of six drop boxes.

11. Respondent had initially proposed to operate 60 blackjack tables in "Phase I" of its casino, but the Certificate of Operation issued by the Commission effective 10:00 a.m. May 26, 1978 only authorized Respondent to operate 58 blackjack tables. Consequently blackjack tables 59 and 60 were not in use at the times relevant to this complaint. See (T72-5 to T73-4; T83-2 to T84-12).

Based upon the pleadings and the testimony and evidence presented at the hearing, I find the facts to be as follows:

Count I

1. On May 27, 1978 the drop box for Blackjack table number 59, day shift, was stacked against a wall in the soft count room at both the start and completion of the day's count.

2. On May 27, 1978 the drop box for Blackjack table number 59, swing shift, was stacked against a wall in the soft count room at both the start and completion of the day's count.

3. On May 27, 1978 the drop box for Blackjack table number 59, grave shift, was stacked against a wall in the soft count room at both the start and completion of the day's count.

4. On May 27, 1978 the drop box for Blackjack table number 60, day shift, was stacked against a wall in the soft count room at both the start and completion of the day's count.

5. On May 27, 1978 the drop box for Blackjack table number 60, swing shift, was stacked against a wall in the soft count room at both the start and completion of the day's count.

6. On May 27, 1978 the drop box for Blackjack table number 60, grave shift, was stacked against a wall in the soft count room at both the start and completion of the day's count.

7. N.J.A.C. 19:45-31(h)(3) provides in pertinent part that after removal of contents from drop boxes, said boxes:

> "...shall be locked and placed in the storage area for drop boxes."

8. The actions described above were taken by persons employed by and under the direction and supervision of Respondent.

Count II

1. On May 27, 1978 Respondent, through its employees and/or

agents, conducted a count of currency generated by gaming activity.

2. In the course of said count table drop boxes were emptied and their contents were counted.

3. During the course of said count, after their being emptied, drop boxes were placed against the wall of the count room.

4. Said placement of said boxes was made by Dennis Chambers, an employee and/or agent of Respondent.

5. N.J.A.C. 19:45-31(h)(3) provides in pertinent part that after removal of contents from drop boxes, said boxes:

> "...shall be locked and placed in the storage area for drop boxes."

N.J.A.C. 19:45-31 establishes procedures for counting and recording the contents of drop boxes. Paragraph (h)(3) of that Regulation provides:

> "Immediately after the contents of a drop box is emptied onto the count table, the inside of the drop box shall be held up to the full view of a closed circuit television camera and shall be shown to at least one other count team member and the Commission inspector to assure all contents of the drop box has been removed, after which the drop box shall be locked and placed in the storage area for drop boxes."

By its terms paragraph (h)(3) pertains to storage of drop boxes which have been emptied as part of the count process. The drop boxes in question here were not part of the count process, and therefore were not drop boxes to which the provisions of N.J.A.C. 19:45-31(h)(3) pertained.

At the hearing testimony was adduced concerning Commission Regulation N.J.A.C. 19:45-16 which pertains to the transportation and storage of drop boxes. See (T69-19 to T70-19). Specifically,

N.J.A.C. 19:45-16(c) and -16(d) provide as follows:

> "(c) Drop boxes, after a shift is completed, shall be stored in the count room in an enclosed storage cabinet or trolley and secured in such cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the accounting or security department and the key to the second lock shall be maintained and controlled by a Commission inspector."
>
> "(d) Drop boxes, when not in use, during a shift may be stored on the gaming tables provided that adequate security as approved by the Commission is provided in the casino. If adequate security is not provided during this time, the drop boxes shall be stored in the count room in an enclosed storage cabinet or trolley as required in (c) above."

Quite clearly the acts charged in Count I of No. 78-14 violate N.J.A.C. 19:45-16(c) and (d). However, the Division did not allege a violation of N.J.A.C. 19:45-16(c) and (d) in Count I of the Complaint. Since the Complaint is penal in nature, it must be strictly construed in favor of the Respondent. Therefore, as to Count I, I find the Respondent not guilty of having violated N.J.A.C. 19:45-31(h)(3). As to Count II, I find the Respondent guilty of having violated N.J.A.C. 19:45-31(h)(3).

In light of the fact that the offense set forth in Count II occurred on the second day of the operation of Respondent's casino, I recommend that the Commission impose the following sanctions with regard to Count II, pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-3(h)(3);

c) a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

No. 78-15

This complaint alleged that on May 27, 1978 (Count I) and on May 28, 1978 (Count II) coin generated from gaming activity remained in the hard count room,after it had been counted,and into the following day, contrary to Commission Regulation N.J.A.C. 19:45-41(j)(1) which provides that subsequent to the count of coin, the coin shall remain in the custody of cage cashiers. Respondent admitted the facts as alleged in the Complaint, but denied that the actions taken violated N.J.A.C. 19:45-41(j)(1). Respondent asserted in its Notice of Defense that the hard count room is part of and an extension of the cashiers' cage and that it serves as a holding vault for the cashier and that, therefore, at all times in question, the coin was under the custody of the cage cashier.

In essence, Respondent's position is that after the coin has been counted and a representative of the cage cashier has come into the hard count room, verified that count and then left the coin in the hard count room, that counted coin "remains in the custody of the cage cashiers" within the meaning of N.J.A.C. 19:45-41(j)(1). Neither logic nor reason support Respondent's position. The testimony at the hearing established that after the cage cashier representative leaves the counted coin in the hard count room, access to that room is controlled not by the cage cashier, but by the casino security department and the Commission inspectors. (T112-17 to T114-7; T122-24 to T23-20; T129-4 to T130-4).

Moreover, count team personnel, who are not cage cashiers, are physically present in the hard count room and have access to the counted coin in question. (T114-24 to T115-21).

Additionally, the procedures followed by the Respondent were not in conformity with its own Internal Control Procedures (P-1) which were approved by the Commission. (T125-24 to T1129-1). Those procedures require the counted coin to be secured in a wire cage, whereupon the cage cashier representative is to re-lock that wire cage and assume responsibility for the coin.

Based upon the pleadings and the testimony and the evidence presented at the hearing, I find the facts to be as follows:

Count I

1. On May 27, 1978 Respondent conducted a count of coin generated from gaming activity.

2. The coin so counted remained in the hard count room after its having been counted and into the following day.

3. The coin so counted was not kept in the custody of cage cashiers.

4. N.J.A.C. 19:45-41(j)(1) provides in pertinent part that subsequent to the count of coin:

> "The coin and currency thereafter shall remain in the custody of cage cashiers."

Count II

1. On May 28, 1978 Respondent conducted a count of coin generated from gaming activity.

2. The coin so counted remained in the hard count room after its having been counted and into the following day.

3. The coin so counted was not kept in the custody of cage cashiers.

4. N.J.A.C. 19:45-41(j)(1) provides in pertinent part that subsequent to the count of coin:

> "The coin and currency thereafter shall remain in the custody of cage cashiers."

Based upon the foregoing, I conclude that the Respondent is guilty on both counts of having violated N.J.A.C. 19:45-41(j)(1).

In light of these circumstances, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-41(j)(1);

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

No. 78-16

Based upon the pleadings, I find the facts to be as follows:

Count I

1. On May 28, 1978 at or about 8:40 p.m. blackjack table number 7 was opened for play.

2. Upon opening said table, the dealer then and there on duty unlocked the container with the table inventory.

3. After said container was unlocked, the dealer then and there assigned did not count the contents of the container and agree the amount therein to the amount reflected on the Opener.

4. After unlocking the container with the table inventory the casino supervisor then and there on duty did not remain to observe the count of the chips contained therein.

5. N.J.A.C. 19:45-20(c) provides in pertinent part that upon opening a table for gaming:

> "The dealer or boxman assigned to the gaming table shall count the contents of the container in the presence of the casino supervisor assigned to such table and shall agree the count to the opener removed from the container."

6. The persons involved in the transaction described above were employed by and under the supervision and direction of Respondent.

Count II

1. On May 28, 1978 at or about 8:40 p.m. blackjack table number 7 was opened for play.

2. Upon opening said table for play the dealer then and there assigned did not sign the Opener attesting to the accuracy of the information thereon.

3. Upon opening said table for play the casino supervisor then and there assigned did not sign the Opener attesting to the accuracy of the information thereon.

4. N.J.A.C. 19:45-20(d) provides in pertinent part that upon opening a table for gaming:

> "Signatures attesting to the accuracy of the information recorded on the Opener shall be placed on such Opener by the dealer or boxman assigned to the table and the casino supervisor that observed the dealer or boxman count the contents of the container."

5. The persons involved in the transaction described above were employed by and under the supervision and direction of Respondent.

Based upon these facts, I conclude that Respondent is guilty:

a) of having violated N.J.A.C. 19:45-20(c) as to Count I;

b) of having violated N.J.A.C. 19:45-20(d), as to Count II.

In light of Respondent's statement that "the matters complained of all took place on the first weekend of operations," and in light of Respondent's assertions that "they were in direct violation of Respondent's own internal procedures" and that "immediately upon learning of the violations, Respondent by memo reminded all affected personnel of their strict duty to comply with N.J.A.C. 19:45-20(c) and (d); and that, to the best of Respondent's knowledge and belief, said regulations have since that time been strictly complied with," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-20(c) and (d);

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

No. 78-17

Based upon the pleadings, I find the facts to be as follows: Count I

1. On May 27, 1978 Respondent, through its employees and/or agents, conducted a count of currency generated from gaming activity.

2. During the course of said count a Master Game Report was completed.

3. Vicki Platka, a count team member and employee and/or agent of Respondent did not sign said Master Game Report.

4. Ronald Chatham, a count team member and employee and/or agent of Respondent did not sign said Master Game Report.

5. N.J.A.C. 19:45-31(h)(10) provides in pertinent part that:

> "After preparation of the Master Game Report, each count team member shall sign the report attesting to the accuracy of the information recorded thereon..."

Count II

1. On May 27, 1978 Respondent, through its employees and/or agents, conducted a count of currency generated from gaming activity.

2. During the course of said count a Master Game Report was completed.

3. Jim Thorsby, an employee and/or agent of Respondent was responsible for recording information on said Master Game Report.

4. Mr. Thorsby did not record the win or loss on said Master Game Report after the contents of each drop box was counted.

5. N.J.A.C. 19:45-31(h)(7) provides in pertinent part that:

> " After the contents of each drop box is counted and recorded, one member of the count team shall record by game and shift on the Master Game Report, the...win and loss..."

Based upon these facts, I conclude that Respondent is guilty:

a) of having violated N.J.A.C. 19:45-31(h)(10), as to Count I;

b) of having violated N.J.A.C. 19:45-31(h)(7), as to Count II.

In light of Respondent's statement that these violations "occurred during the very first count on the day following the opening of the casino," and in light of Respondent's assertions that "the regulations in question are a part of the internal procedures of the Respondent," and that "immediately upon learning of the violation, all relevant personnel were informed of their duty to strictly comply with the Regulations in question; and that, to the best of Respondent'

knowledge and belief, N.J.A.C. 19:45-31(h)(7) and (10) have been strictly complied with," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-31(h)(7) and -31(h)(10);

c) As to Count I,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

No. 78-18

Based upon the pleadings, I find the facts to be as follows:

1. On May 29, 1978, at or about 10:00 a.m. to 6:00 p.m. employees and/or agents of Respondent conducted the soft count.

2. During the conduct of said soft count drop boxes were emptied.

3. Once said drop boxes were emptied, said employees and/or agents of Respondent emptying the boxes did not show the

empty drop boxes to at least one other count team member.

4. N.J.A.C. 19:45-31(h)(3) provides in pertinent part that immediately after the contents of a drop box is emptied onto the count table the inside of the drop box:

> "...shall be shown to at least one other count team member..."

Based upon these facts, I conclude that the Respondent is guilty of having violated N.J.A.C. 19:45-31(h)(3).

In light of Respondent's statement that "the action in question took place during the first days of operation," and in light of Respondent's assertions that " theregulation in question is a part of the internal procedures of the Respondent," and that "immediately upon learning of the violation, all relevant personnel were instructed that they must strictly comply with the Regulation in question; and that, to the best of Respondent's knowledge and belief, N.J.A.C. 19:45-31(h)(3) has been strictly complied with," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-31(h)(3);

c) a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

No. 78-19

Based upon the pleadings, I find the facts to be as follows:

1. On May 26, 1978 no roulette table in the casino operated by Respondent contained signs indicating the minimum and maximum wagers permitted at such tables.

2. On May 27, 1978 no roulette table in the casino operated by Respondent contained signs indicating the minimum and maximum wagers permitted at such tables.

3. On May 28, 1978 no roulette table in the casino operated by Respondent contained signs indicating the minimum and maximum wagers permitted at such tables.

4. On May 29, 1978 no roulette table in the casino operated by Respondent contained signs indicating the minimum and maximum wagers permitted at such tables.

5. N.J.A.C. 19:47-80(e) in pertinent part provides that:

> "The minimum wagers as approved by the Commission and the maximums as established by the casino licensee shall be and remain conspiciously posted on a sign at each table."

Based upon these facts, I conclude that the Respondent is guilty of having violated N.J.A.C. 19:47-80(e).

In light of the fact that the minimum and maximum wagers were established by the Commission on May 25, 1978, and in light of Respondent's representation that it "was not physically able to obtain correct minimum and maximum signs until May 30, 1978, at which time they were posted," and in light of Respondent's further assertions that "prior to May 30, 1978 attempts were made to use hand-made signs which were not properly secured to the tables," and that "at all

times in question the minimums and maximums were adhered to and all bettors were informed of them," I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-80(e);

c) a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph (b) above.

No. 78-20

Based upon the pleadings, I find the facts to be as follows:

Count I

1. On May 27, 1978 no alarm device was connected to the entrance of the soft count room which can alert the office of the Division in the casino.

2. N.J.A.C. 19:45-30(b)(3) requires that the count room include:

> "An alarm device connected to the entrance of the count room in such a manner as to cause a signaling to the monitors of the closed circuit television system and to the Division's office in the establishment whenever the door to the count room is opened."

Count II

1. On May 30, 1978 no alarm device was connected to the entrance of the hard count room which would cause a signaling to the monitors of the Respondent's closed circuit television system whenever the door to the count room is opened.

2. N.J.A.C. 19:45-30(b)(3) requires that the count room include:

> "An alarm device connected to the entrance of the count room in such a manner as to cause a signaling to the monitors of the closed circuit television system and to the Division's office in the establishment whenever the door to the count room is opened."

Based upon these facts, I conclude that the Respondent is guilty on both counts of having violated N.J.A.C. 19:45-30(b)(3).

In light of Respondent's statements that these violations occurred during the first few days of operation of its casino and that the required alarm devices were promptly installed, I recommend that the Commission impose the following sanctions pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8) a letter of censure be issued to Respondent, which letter shall be made a permanent part of the file of the Respondent;

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with the provisions of N.J.A.C. 19:45-30(b)(3);

c) As to Count I,

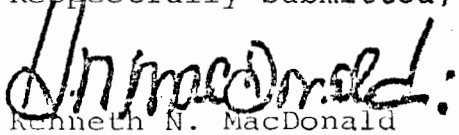
a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph(b) above.

d) As to Count II,

a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with paragraph b) above.

At this point, I feel that a few observations of this Hearing Examiner are pertinent. The Regulations adopted by this Commission are law, and violations thereof are a serious matter. This is especially true of the offenses in question here, since internal and accounting controls go to the very heart of casino operations. Each individual control is important to the entire scheme. Public confidence in the gaming industry and in the regulatory scheme demand that the State be ever vigilant in detecting violations, prosecuting offenders and taking all steps necessary to insure that the gaming industry in New Jersey remains above reproach. These violations are the first to come before this Commission. I am mindful of the precedential impact of this report and recommendation, and I intend that it carry with it the message that this Commission will not tolerate actions which are contrary to the letter or spirit of the law.

Respectfully submitted,



Kenneth N. MacDonald
Hearing Examiner

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
Docket Number 78-2

STATE OF NEW JERSEY, DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF GAMING ENFORCEMENT)

Charging Party,)

v.)

RESORTS INTERNATIONAL HOTEL, INC.)

Respondent.) FINAL ORDER

The New Jersey Casino Control Commission having read and considered the Report and Recommendation of Commissioner Kenneth MacDonald, Hearing Examiner, the Respondent's letter indicating that it had no objections or exceptions thereto, and the Division of Gaming Enforcement's letter indicating that it had no objections or exceptions thereto, and having considered the Hearing Examiner's findings, conclusions and recommendations in light of the sanctions provided in Section 129 of the New Jersey Casino Control Act (N.J.S.A. 5:12-129) and the standards for imposition of such sanctions provided in Section 130 of the New Jersey Casino Control Act (N.J.S.A. 5:12-130);

It is on this 25th day of October, 1978, ORDERED that the Report and Recommendation of the Hearing Examiner be and hereby is adopted by the Commission; and

It is further ORDERED that the Respondent be and hereby is directed to pay the civil penalty of one thousand dollars ($1,000) to the New Jersey Casino Control Commission on or before November 6, 1978; and

It is further ORDERED that a copy of this Order be served on the parties within two (2) days of its entry.

NEW JERSEY CASINO CONTROL COMMISSION

BY: J. P. Lordi

Joseph P. Lordi, Chairman

STATE OF NEW JERSEY
CASINO CONTROL COMMISSION
DOCKET NO. 78-2

STATE OF NEW JERSEY,)
DEPARTMENT OF LAW AND)
PUBLIC SAFETY, DIVISION)
OF GAMING ENFORCEMENT,)
Charging Party,)
v.) REPORT AND RECOMMENDATION
RESORTS INTERNATIONAL)
HOTEL, INC.,)
Respondent.)

Joan Robinson Gross, Deputy Attorney General, Appearing for the Division of Gaming Enforcement.
Robert J. Genatt, Senior Assistant Counsel, Appearing for the Casino Control Commission.
Joel H. Sterns, Esq., Appearing for Respondent.

This report and recommendation relates to the imposition of penalty as to Count II of Complaint No. 78-2, and is intended to supplement my earlier report and recommendation in this matter.[1] A hearing was initially conducted before me in this matter on July 10, 1978. At the conclusion of that hearing, I continued this matter due to the unavailability of a witness for the Division of Gaming Enforcement, Mr. Dennis Gomes. While the testimony of this witness has no bearing upon the question of Respondent's guilt, which was admitted, this testimony was essential as to the penalty to be imposed.

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1. That earlier report and recommendation, which was adopted by the Casino Control Commission on September 12, 1978, is incorporated herein by reference.

In my original report and recommendation pertaining to guilt in this matter I found the facts to be as follows:

1. On Monday, May 29, 1978 at or about 10:50 p.m. a customer seated at baccarat table number 3 requested credit from the pit boss then and there on duty.

2. Said pit boss then held a brief discussion with the casino clerk then and there on duty.

3. Said casino clerk then prepared a check credit form and delivered same to the customer for signature.

4. Prior to the customer's affixation of his signature to the check credit form and, accordingly, prior to the return of said form to the dealer, the customer was provided with chips representing the amount of credit requested.

5. N.J.A.C. 19:45-23(g)(4) provides in pertinent part that:

> "In no instance shall the chips or plaques be given to the patron prior to the receipt of the check credit slip copy of the counter check by the dealer or boxman."

6. The transaction described above was, with the exception of the customer, conducted by persons employed by and under the supervision and direction of the Respondent.

In the pleadings and at the hearings, Respondent disputed the factual allegations of the Division that Walter I. Rogers, Vice President of casino operations for the Respondent, observed the transaction described in Count II and failed to make any effort to alter, revise or correct the procedures employed. Respondent did not dispute that the transaction occurred.

Mr. Rogers testified that the transaction may have happened, and that he may have been in the vicinity at the time, but he denied that he was aware of the transaction and stated that he would have corrected it if he had seen it. (T144-22 to T145-16).[2] He further testified that he has observed similar transactions and has corrected them. (T145-19 to T146-10). On the date of the initial hearing the sole witness for the Division on this issue, Mr. Dennis Gomes, was out of the jurisdiction and unavailable to testify. His report of the incident was admitted in evidence. (D-3) Due to the short notice of the hearing date, the lack of opportunity of Respondent to cross-examine this witness, and the importance of this factual issue to the question of penalty, I continued the hearing as to Count II of No. 78-2 until such time as the Division could produce its witness. I noted that since the Respondent had admitted the violation in question, resolution of this factual issue bore solely upon the question of penalty and not upon the question of guilt.

Based upon the foregoing facts I concluded that as to Count II Respondent was guilty of having violated N.J.A.C. 19:45-23(g)(4).

In light of Respondent's explanation that this offense occurred during the initial days of operation of its casino and in light of Respondent's representation that it has issued memos to all its affected personnel calling attention to its internal

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2. "T" refers to the transcript of testimony at the hearing held in these matters on July 10, 1978

procedures with regard to the issuance of credit and has made it plain that no deviation will be tolerated, I recommended that the Commission impose the following sanctions, pursuant to N.J.S.A. 5:12-129:

a) Pursuant to N.J.S.A. 5:12-129(8), a letter of censure be issued to the Respondent, which letter shall be made a permanent part of the file of the Respondent.

b) Respondent be directed pursuant to N.J.S.A. 5:12-129(7) hereafter to comply strictly with N.J.A.C. 19:45-23(g)(4

c) As to Count II, judgment as to sanction was reserved pending resolution of the factual issue described above.

On September 15, 1978, at the continued portion of the hearing, Mr. Dennis Gomes, project specialist with the Division of Gaming Enforcement, testified in this matter. Mr. Gomes' testimony was central on the issue of penalty since his observations and his report (D-3 in evidence) formed the basis of the allegation in the complaint that Walter I. Rogers, Vice President of casino operations for the Respondent, was present and observed the improper credit transaction in question and did not make any effort to alter, revise, or correct the procedures employed.

As Vice President in charge of casino operations, Mr. Rogers is the chief corporate officer of the Respondent with direct supervisory authority over the operation of Respondent's casino. If, as alleged, Mr. Rogers did in fact observe an admittedly improper credit transaction and fail to make any

effort to correct it, this would be an aggravating circumstance of the offense warranting a very severe penalty. I am mindful of the standards for the imposition of sanctions contained in Section 130 of the Casino Control Act.[3] Those standards include, among others, the following:

"

* * *

(b) the seriousness of the conduct of the licensee, and whether the conduct was purposeful and with knowledge that it was in contravention of the provisions of this act or regulations promulgated hereunder,

* * *

(e) The corrective action taken by the licensee to prevent future misconduct of a like nature from occurring;"

With these factors in mind I now turn to the evidence presented on the disputed question. Mr. Rogers testified that he was present in the casino on the night in question and might very well have been in a position to observe the improper credit transaction. However, he stated that he was not aware of such a transaction, and that if he had noticed such a transaction he would have corrected it. (T144-15 to T145-16; T146-8 to 10; T146-17 to 24). He added that on other occasions he had observed and corrected such improper credit transactions in the casino. (T145-19 to T146-7; T146-25 to T148-6).

Mr. Gomes testified that on the night in question he saw Mr. Rogers observing baccarat table number 3 while the improper credit transaction was occurring. The thrust of Mr. Gomes' testimony was that Mr. Rogers was in a position to observe that

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3. N.J.S.A. 5:12-130.

transaction and appeared to be looking in the direction of that transaction. However, Mr. Gomes admitted that in light of the circumstances,

> "it is reasonable to say that [Mr. Rogers] may not have been aware of what he was looking at, of the ramifications of the thing, the violation itself, that that procedure was a violation. I would say that's definitely possible, that he was not aware that a violation was occurring." (TT19-23 to TT20-3).[4]

Mr. Gomes candidly stated that since there were numerous other transactions occurring simultaneously, although he was certain Mr. Rogers visually saw the improper credit transaction, he was "not certain that he consciously saw it." (TT26-8 to 20). See also (TT37-13 to TT38-4).

Based upon this record, I am unable to find as a fact that Mr. Rogers was consciously aware of the improper credit transaction as alleged in the complaint.

In light of the above, I recommend that the Commission impose the following sanction pursuant to N.J.S.A. 5:12-129, in addition to the letter of censure and the cease and desist order previously entered:

> As to Count II of No. 78-2, a civil penalty of $5,000 be assessed against Respondent, $1,000 of which is to be paid immediately, and $4,000 of which is suspended, conditioned upon future compliance with the cease and desist order.

Dated: Oct. 31 1978

Respectfully submitted,

Kenneth N. MacDonald
Hearing Examiner

4. "TT" refers to the transcript of testimony at the hearing held in these matters on September 15, 1978.