

**TESTIMONY
OF
JAMES J. EISENHOWER, ESQ.
PARTNER
SCHNADER HARRISON SEGAL & LEWIS, LLC**

**COUNSEL
TO
PITG GAMING LLC**

**BEFORE THE
SENATE COMMITTEE ON
COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT**

JULY 24, 2008

THANK YOU AND GOOD MORNING, MADAM CHAIRMAN, AND MEMBERS OF THE COMMITTEE.

MY NAME IS JIM EISENHOWER. I'M A PARTNER IN THE PHILADELPHIA OFFICE OF SCHNADER HARRISON SEGAL & LEWIS AND AM HERE TODAY IN MY CAPACITY AS COUNSEL TO PITG GAMING, LLC, REPRESENTING MR. DON BARDEN.

AS YOU MAY KNOW FROM MY CONVERSATIONS WITH MR. BREHOUSE OVER THE COURSE OF THIS PAST WEEK, MR. BARDEN COULD NOT BE PRESENT HERE THIS MORNING, AS HE IS PARTICIPATING IN A CEREMONY AND OTHER PLANNED EVENTS TODAY CELEBRATING THE OPENING OF AN EXPANSION OF HIS FITZGERALDS CASINO IN BLACK HAWK,

COLORADO. BUT HE HAS BEEN SENSITIVE TO THE CONCERNS AND INTERESTS OF THIS COMMITTEE AND WANTED TO DO EVERYTHING HE POSSIBLY COULD TO BE RESPONSIVE, GIVEN THE VERY SHORT NOTICE IN SCHEDULING THESE PROCEEDINGS.

SO WITH MR. BREHOUSE'S PERMISSION, AND YOUR INDULGENCE, I AM APPEARING IN HIS STEAD THIS MORNING AND WILL DO MY BEST TO ANSWER THE QUESTIONS YOU HAVE ASKED US TO ADDRESS BEFORE YOU AND THIS COMMITTEE. I KNOW I SPEAK FOR MR. BARDEN WHEN I SAY THAT WE GENUINELY APPRECIATE THE OPPORTUNITY TO ADD ANY CLARITY WE CAN TO THE PUBLIC DIALOGUE SURROUNDING THE JOINT APPLICATION MADE BY PITG GAMING AND HOLDINGS ACQUISITION CO., L.P., EARLIER THIS MONTH FOR THE CONTINUED DEVELOPMENT OF THE PITTSBURGH CASINO.

MR. BARDEN WOULD LIKE TO ASSURE THIS COMMITTEE THAT HE WOULD BE MORE THAN WILLING TO APPEAR BEFORE YOU AT A FUTURE DATE SHOULD YOU HAVE ANY ADDITIONAL QUESTIONS THAT YOU WOULD LIKE TO DIRECT TO HIM.

MEANWHILE, IT'S OUR SINCERE HOPE THAT YOU WILL FIND OUR TESTIMONY HELPFUL IN ENABLING THIS COMMITTEE TO CARRY OUT ITS MISSION OF FULFILLING THE LEGISLATIVE INTENT OF THE ACT.

BASED ON THE GUIDANCE GIVEN TO US BY COMMITTEE'S COUNSEL, THERE ARE A NUMBER OF SPECIFIC ISSUES THAT I WOULD LIKE TO ADDRESS AS PART OF OUR FORMAL TESTIMONY, AND I WILL THEN BE HAPPY TO ANSWER ANY QUESTIONS AS BEST AS I CAN.

THOSE ISSUES INCLUDE:

- THE COMMITMENT OF COMMUNITY BENEFITS, AS WELL AS THE CONDITIONS OF LICENSURE UNDER THE PITG GAMING APPLICATION,
- THE OWNERSHIP INTERESTS OF MR. BARDEN AND THE MINORITY INVESTORS UNDER THE PITG GAMING APPLICATION,
- COMMUNICATION THAT HAS OCCURRED BETWEEN MR. BARDEN OR HIS REPRESENTATIVES AND MEMBERS OR STAFF OF THE PENNSYLVANIA GAMING CONTROL BOARD, AND,
- THE QUESTION OF WHETHER THE PITG GAMING LICENSE OUGHT TO BE REVOKED AND REBID UNDER THE AUSPICES OF THE GAMING CONTROL BOARD.

PERHAPS IT WOULD BE INSTRUCTIVE TO BEGIN BY BRIEFLY EXPLAINING HOW MR. BARDEN AND MR. BLUHM CAME TOGETHER TO FORM THIS PARTNERSHIP.

LAST MONTH, DAN KEATING, THE CHAIRMAN AND CHIEF EXECUTIVE OFFICER OF KEATING BUILDING CORPORATION, AND PITG GAMING, LLC'S GENERAL CONTRACTOR FOR THE PITTSBURGH CASINO, ARRANGED A MEETING IN CHICAGO BETWEEN MR. BARDEN AND MR. DEAN ADLER, A PRINCIPAL IN THE REAL ESTATE PRIVATE EQUITY FUND, LUPERT-ADLER, TO DISCUSS THE PITTSBURGH PROJECT. MR. ADLER, IN TURN, INVITED MR. NEIL BLUHM TO MEET THE GROUP.

SINCE HE WAS AT THE MEETING, I THINK MR. KEATING WOULD BE BETTER ABLE TO OFFER ANY ADDITIONAL INSIGHTS TO THAT MEETING, WHICH HAS ULTIMATELY BROUGHT US TO THIS POINT IN THE PROCESS.

WITH THAT BRIEF HISTORY, LET ME NOW TURN IMMEDIATELY TO THE QUESTION OF COMMUNITY BENEFITS AND THE CONDITIONS OF LICENSING UNDER THE PITG GAMING LICENSE.

WITH ALL DUE RESPECT, MADAM CHAIRMAN, WE BELIEVE THE JOINT PETITION FILED WITH THE GAMING CONTROL BOARD ON JULY 9, 2008, SPEAKS FOR ITSELF ON THIS MATTER.

SPECIFICALLY, ON PAGE 8 OF THE JOINT APPLICATION, ITEM #40 UNDER THE HEADING, "PHASING MODIFICATIONS TO THE DEVELOPMENT PLAN," THE APPLICATION CLEARLY STATES THAT THE NEW ENTITY, HEREIN REFERRED TO AS HOLDINGS, THE ENTITY CONTROLLED BY WALTON STREET CAPITAL, WILL

QUOTE, "HONOR THE CONDITIONS OF LICENSURE IMPOSED ON PITG BY THE BOARD, INCLUDING OBLIGATIONS TO THE CITIZENS OF PITTSBURGH AS OUTLINED IN PARAGRAPHS 55-57 OF THE PITG STATEMENT OF CONDITIONS.

PARAGRAPHS 55-57 SPECIFICALLY REFER TO MR. BARDEN'S PLEDGE OF \$3 MILLION TO THE NORTH SIDE LEADERSHIP CONFERENCE, \$3 MILLION TO PITTSBURGH'S HILL DISTRICT NEIGHBORHOOD, AND \$7.5 MILLION PER YEAR FOR A PERIOD OF 30 YEARS TO BE USED TO HELP FUND A NEW MULTI-USE ARENA FOR THE CITY OF PITTSBURGH.

I THINK YOU SHOULD KNOW, MADAM CHAIRMAN, THAT MR. BARDEN REQUIRED THAT THESE COMMITMENTS BE HONORED AS PART OF ANY DEAL INVOLVING EQUITY INVESTORS, WHICH NOW INCLUDES MR. BLUHM. WE'RE DELIGHTED THAT HE AND THE MEMBERS OF HIS OWNERSHIP GROUP HAVE AGREED TO NOT ONLY HONOR THOSE COMMITMENTS, BUT TO PUT THEM IN WRITING IN THE FORM OF THIS JOINT APPLICATION.

THE NEXT ISSUE PERTAINS TO THE NEW OWNERSHIP STRUCTURE, SPECIFICALLY PERTAINING TO MR. BARDEN AND THE MINORITY INVESTORS WHO WERE INCLUDED IN THE ORIGINAL PITG GAMING LLC OWNERSHIP GROUP.

AS YOU MAY KNOW, MADAM CHAIRMAN, UNDER THE PITG GAMING APPLICATION, THE OWNERSHIP STRUCTURE WAS ESSENTIALLY DIVIDED BETWEEN TWO ENTITIES: JURAT HOLDINGS, LLC AND PITG GAMING INVESTOR HOLDINGS, LLC.

PITG GAMING INVESTOR HOLDINGS WAS CREATED TO PROVIDE OWNERSHIP OPPORTUNITIES FOR LOCAL INVESTORS TO PARTICIPATE IN THIS PROJECT. SOME OF THE MORE WELL-KNOWN INDIVIDUALS IN THIS GROUP INCLUDED MOTOWN LEGEND SMOKEY ROBINSON AND MS. GLADYS BETTIS, A DETROIT NEIGHBOR OF MR. BARDEN'S AND THE MOTHER OF FORMER PITTSBURGH STEELER JEROME BETTIS. A NUMBER OF OTHER INDIVIDUALS FROM THE PITTSBURGH COMMUNITY AND ELSEWHERE IN PENNSYLVANIA WERE ALSO MEMBERS OF THIS LOCAL OWNERSHIP GROUP.

UNDER THE PREVIOUS OWNERSHIP STRUCTURE, JURAT HOLDINGS CONTROLLED 81% OF PITG GAMING, WHILE PITG GAMING INVESTOR HOLDINGS – THE LOCAL OWNERSHIP GROUP – CONTROLLED 19%.

HOWEVER, UNDER THE TERMS OF THE OWNERSHIP STRUCTURE OUTLINED IN THE JOINT APPLICATION, MR. BARDEN'S EQUITY POSITION IN THE PITTSBURGH CASINO IS NOW PROPOSED TO BE 20%, WITH WALTON STREET CAPITAL, OTHER EQUITY INVESTORS AND CERTAIN PENSION FUNDS COMPRISING THE REMAINING 80%.