

THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION  
ADJUDICATORY HEARING  
PUBLIC MEETING #89

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RE: APPLICATION FOR CROSSROADS  
MASSACHUSETTS, LLC FOR PHASE 1 SUITABILITY  
DETERMINATION FOR A CATEGORY 1 GAMING LICENSE  
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CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

James F. McHugh

Gayle Cameron

Bruce W. Stebbins

Enrique Zuniga

November 13, 2013

BOSTON CONVENTION AND EXHIBITION CENTER

415 Summer Street, Room 107B

Boston, Massachusetts 02210

1 APPEARANCES:

2 ON BEHALF OF THE MASSACHUSETTS GAMING

3 COMMISSION:

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1 APPEARANCES CONT'D:  
2 John Hickey, Esq., General Counsel for  
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6 Adam Barnosky, Esq., Co-Counsel for  
7 Crossroads, LLC  
8 Nina Pickering Cook, Co-Counsel for the  
9 Massachusetts Gaming Commission  
10 Kimberly Copp, Counsel for the Town of Milford  
11 Bruce Etkin, Etkin Gaming  
12 Robert Potamkin, Potamkin Group  
13 Alan Potamkin, Potamkin Group  
14 Crystal A. Whipple, Mashantucket Pequot Tribal  
15 Council  
16 Scott Butera, CEO, Foxwoods Resort Casino  
17 Jackson King, Esq., General Counsel,  
18 Mashantucket Pequot Tribal Council  
19 Guy Michael, Esq., Guy & Michael  
20 Rodney A. Butler, Chairman, Mashantucket  
21 Pequot Tribal Council  
22 David Nunes, Chief Development Officer,  
23 Foxwoods Resort Casino  
24 Sean Reardon, Tetra Tech

## I N D E X

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## WITNESSES:

SCOTT BUTERA

JOHN HICKEY

JACKSON KING

GUY MICHAEL

RODNEY A. BUTLER

SEAN REARDON

DAVID NUNES

## EXHIBITS:

Exhibit 1, Notice of Adjudicatory Proceeding

Exhibit 2, Memorandum

Exhibit 3, Cover Letter

Exhibit 4, Report of Suitability

Exhibit 5, Sworn Transcript, David Nunes

Exhibit 6, Letter, February 26, 2013

Exhibit 7, Letter, April 3, 2013

Exhibit 8, Sworn Transcript, Scott Butera

Exhibit 9, MP Tribal Council Resolution

Number, TCR030413-01

Exhibit 10, MP Tribal Council Resolution

Number, TCR061913-01

1           EXHIBITS CONT'D:  
2           Exhibit 11, Foxwoods MA LLC Operating  
3           Agreement  
4           Exhibit 12, Sworn Transcript, Rodney Butler  
5           Exhibit 13, U.S. Attorney's Office Press  
6           Release, January 3, 2013  
7           Exhibit 14, Stipulation of Offense Conduct  
8           Exhibit 15, Sworn Transcript, Crystal Whipple  
9           Exhibit 16, Article, Hartford Courant

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1 (Bureau Exhibits 1 through 16,  
2 premarked)

3  
4 P R O C E E D I N G S

5  
6 CHAIRMAN CROSBY: Good morning.

7 Today is Tuesday, November 13, 2013. This is  
8 a Phase 1 suitability hearing before the  
9 Massachusetts Gaming Commission relative to  
10 the application of Crossroads Massachusetts,  
11 LLC.

12 My name is Steve Crosby, and I'm the  
13 chairman of the commission. I'm joined today  
14 by Commissioners Cameron, McHugh, Zuniga and  
15 Stebbins. The entire commission will preside  
16 over the hearing and decision on this matter.

17 This is an adjudicatory proceeding,  
18 which is convened in accordance with 205 CMR  
19 115.04, paragraph three, and will be conducted  
20 pursuant to the formal rules outlined in 801  
21 CMR 1.01, subject to the clarifications  
22 contained in 205 CMR 101.03 and Chapter 30A of  
23 the General Laws. Fortunately, for those  
24 clarifications.

1           Before we begin, I'd like to explain  
2           the procedural history that led us here, as  
3           well as the process that will govern this  
4           proceeding.

5           Crossroads Massachusetts, LLC  
6           submitted a Phase 1 application to the  
7           commission. The commission then instructed  
8           the Investigations and Enforcement Bureau to  
9           commence an investigation into the suitability  
10          of the applicant to hold a gaming license in  
11          Massachusetts.

12          The bureau has conducted such an  
13          investigation into the qualifications and  
14          suitability of the applicant and its  
15          qualifiers, and has generated an investigative  
16          report of its finding, which it submitted to  
17          the commission. A copy of the report was  
18          provided to the applicant by the commission.  
19          Based on the report, the commission has  
20          scheduled this proceeding on its own  
21          initiative.

22          I see that a number of lawyers are  
23          present here today on behalf of the applicant  
24          and the bureau. I will ask that you each

1 please identify yourself and advise the  
2 commission as to whom you will be  
3 representing.

4 MR. ALLEN: Thank you, Mr. Chairman,  
5 members of the commission. My name  
6 is Robert Allen, I have a law practice at  
7 300 Washington Street in Brookline. I'm here  
8 representing Crossroads. With me today is  
9 Jennifer Gilbert from my office, and  
10 Adam Barnosky from my office. And Jackson --

11 MR. KING: My name is Jackson King,  
12 general counsel to the Mashantucket Pequot  
13 Tribe, representing the Mashantucket Pequot  
14 Gaming Enterprise.

15 MR. HICKEY: My name is John Hickey.  
16 I have an office --

17 CHAIRMAN CROSBY: Get your --

18 MR. HICKEY: Hi. My name is  
19 John Hickey. I have an office in  
20 Philadelphia, Pennsylvania. I'm general  
21 counsel for the Potamkin Group, which is an  
22 investor in Crossroads.

23 CHAIRMAN CROSBY: Okay. Everybody  
24 on this side. And this --



1                   MR. MACKEY: Good morning,  
2                   Mr. Chairman, commissioners. My name is  
3                   David Mackey from the law firm  
4                   Anderson & Kreiger. With me is Nina Pickering  
5                   Cook, a colleague of mine from the firm, and  
6                   we are representing, this morning, the  
7                   Investigations and Enforcement Bureau.

8                   CHAIRMAN CROSBY: Is that it? Thank  
9                   you, Counsel. At the conclusion of my opening  
10                  comments, this proceeding will commence with a  
11                  recitation and explanation of the  
12                  investigative report by the bureau. We will  
13                  ask that the bureau outline the manner in  
14                  which the investigation was conducted, and  
15                  outline the findings relative to each  
16                  qualifier.

17                  The bureau's presentation will  
18                  largely be made by Karen Wells, who is the  
19                  director of the bureau. Director Wells is  
20                  joined by the consultants who assisted in the  
21                  conduct of the investigation.

22                  We will allow the consultants to  
23                  offer any clarification or answer any  
24                  questions during Director Wells' presentation.

1 Any commissioner may ask a question of  
2 Director Wells or a consultant at any point  
3 during or following her presentation.

4 At the conclusion of the bureau's  
5 presentation, the applicant, through its  
6 counsel, will be afforded an opportunity or  
7 cross-examine Director Wells, or consultants,  
8 relative to any of the information contained  
9 in the investigative report or to which they  
10 testify. The applicant may reserve its right  
11 to cross that examination until the end of  
12 their presentation, if they so choose.

13 Next, the applicant will be given an  
14 opportunity to present its case. The burden  
15 is on the applicant to demonstrate by clear  
16 and convincing evidence, both its affirmative  
17 qualification for licensure and the absence of  
18 any disqualification for licensure. To that  
19 end, the application has already subjected  
20 itself to a thorough background investigation,  
21 the results of which are set out in our  
22 investigative report. Those findings will be  
23 considered in determining whether the burden  
24 of proof on the applicant has been satisfied.

1                   For purposes of this proceeding,  
2                   however, the applicant may call any witnesses  
3                   and present any other evidence it desires in  
4                   an effort to satisfy its burden. The director  
5                   of the commission has directed that at a  
6                   minimum, Scott Butera, Rodney Butler, Crystal  
7                   Whipple and David Nunes be available to  
8                   present testimony as to the issues set forth  
9                   in the notice of this hearing that was  
10                  provided to the applicant. Are those four  
11                  parties here?

12                   MR. ALLEN: Yes.

13                   CHAIRMAN CROSBY: I understand that  
14                   counsel for the applicant had an opportunity  
15                   to meet with counsel for the bureau and the  
16                   commission to discuss this proceeding. The  
17                   purpose, in part, was to clarify some of the  
18                   issues that the applicant should address in  
19                   its presentation. Those are primarily the  
20                   issues that are set forth in the written  
21                   notice of this hearing; is that correct, that  
22                   you had --

23                   MR. ALLEN: That's correct,  
24                   Mr. Chairman.

1           CHAIRMAN CROSBY: While those areas  
2           should be included in the applicant's  
3           presentation, it may certainly address any  
4           other issues it believes may be relevant to  
5           its suitability determination. Similarly, the  
6           commissions -- commissioners may certainly  
7           inquire into any issue that is of interest to  
8           us.

9           At the conclusion of each witness'  
10          testimony, counsel for the bureau will be  
11          provided an opportunity to cross-examination  
12          of the witness, then each commissioner will be  
13          afforded an opportunity to ask questions of  
14          the witness. Any commissioner may, however,  
15          ask any question of any witness at any time  
16          during an examination, or at the conclusion of  
17          the examinations. We will allow very limited  
18          redirect and recross of a witness, if it is  
19          absolutely necessary. Either party may raise  
20          objections they desire at anytime, however,  
21          the basis for all objections must be clearly  
22          stated.

23          Finally at the conclusion of all the  
24          evidence, the applicant will be provided an

1 opportunity to make a closing statement  
2 summing up why it believes it is suitable to  
3 issue a gaming license and should be allowed  
4 to precede to the Phase 2 portion of the  
5 process.

6 Before we begin, I understand that  
7 there are a number of premarked exhibits that  
8 have been exchanged by parties in advance of  
9 this hearing. I'll now ask the bureau's  
10 counsel, Mr. Mackey, to introduce the bureau's  
11 exhibits.

12 MR. MACKEY: Yes, sir. We have  
13 premarked 16 exhibits that we are going to  
14 introduce on behalf of the bureau. The first  
15 four are the notice of the proceeding. Then  
16 there's the memorandum regarding the conduct  
17 of this adjudicatory process. The cover  
18 letter by Director Wells, and the redacted  
19 suitability report.

20 We have also premarked a number of  
21 other exhibits. The sworn testimony of the  
22 witnesses that we anticipate the applicant  
23 will have testify, as well as some other  
24 documents that we may use in connection with

1 -- with a question. And I have exchanged  
2 these documents with Mr. Allen. He has no  
3 objection to the introduction of any of them.

4  
5 CHAIRMAN CROSBY: Are there any  
6 objections to these exhibits being marked and  
7 entered into evidence?

8 MR. ALLEN: No, there's not,  
9 Mr. Chairman.

10 CHAIRMAN CROSBY: Now, if the  
11 applicant has any exhibits, which it would  
12 like to introduce, I would ask that they be  
13 introduced.

14 MR. ALLEN: We do not at this time,  
15 Mr. Chairman.

16 CHAIRMAN CROSBY: Okay. So I assume  
17 there are no objections. If either party  
18 would like to have any additional documents  
19 entered into evidence during the course of the  
20 hearing, I'd ask that they be properly  
21 introduced and marked by the court reporter.

22 The commissioner anticipates that is  
23 inquiry at this proceeding will be limited to  
24 the matters addressed in the investigative

1 report. In the event that a line of  
2 questioning conducted by the commission or  
3 bureau, moves into an area that has not been  
4 included in the report, but that is included  
5 as part of the investigative file and is  
6 material to the suitability determination, the  
7 applicant may request a recess in the  
8 proceeding so as to review the issue. This  
9 would be an unlikely happenstance, however, as  
10 the commission anticipates addressing solely  
11 issues covered in the investigative report.

12 No final decision will be made at  
13 the conclusion of this hearing today.  
14 Instead, the matter will be taken under  
15 advisement at the conclusion of the proceeding  
16 and a written decision ultimately issued.

17 If at any point during the  
18 commission's deliberations it determines that  
19 further testimonial or documentary evidence is  
20 desirable, it reserves the right to ask the  
21 applicant to provide such evidence prior to a  
22 suitability decision being made.

23 Will now swear all of witnesses in.  
24 Anyone who will be testifying in this

1 proceeding please stand and raise your right  
2 hand. Wow.

3 MS. WELLS: Just in case.

4  
5 WITNESSES, Sworn,

6  
7 CHAIRMAN CROSBY: All have answered  
8 in the affirmative. Thank you all.

9 Before we begin, does counsel have  
10 any preliminary issues or objections on either  
11 side.

12 MR. ALLEN: None with us,  
13 Mr. Chairman.

14 CHAIRMAN CROSBY: About ground  
15 rules?

16 MR. MACKEY: No, sir.

17 CHAIRMAN CROSBY: With that, I ask  
18 Attorney Mackey to begin the bureau's  
19 presentation.

20 MR. MACKEY: Okay. And we will  
21 begin with a presentation from Director Wells.

22 MS. WELLS: Good morning,  
23 Mr. Chairman, members of the commission. As a  
24 preliminary matter, I really would like to



1           thank the Massachusetts State Police and the  
2           firm of Michael and Carroll, who were  
3           instrumental in conducting this investigation.  
4           Really did an excellent and thorough job.

5                       The applicant before you today is  
6           Crossroads Massachusetts, LLC. The proposed  
7           site of the Category 1 casino is on 107 --  
8           pardon me, 187 acres on the eastern side of  
9           I -- I-495 in Milford.

10                      As identified in my cover letter and  
11           the accompanying suitability report, the  
12           glaring issue for the applicant is that they  
13           have not secured a 55 percent equity ownership  
14           interest for the proposed project. As such, I  
15           cannot even reach the point where the IEB can  
16           even make a recommendation to the commission  
17           at a suitability, because the majority equity  
18           ownership hasn't even been identified yet. So  
19           as a preliminary matter, that's where we're  
20           starting from.

21                      I have indicated to the applicant,  
22           it is their burden demonstrate suitability to  
23           the commission, and it's not possible for me  
24           to do that without a complete deal in place.

1           The suitability report does contain  
2 information on the applicant as it now stands.  
3 And the IEB identified certain issues, which  
4 the commission should consider at a hearing,  
5 if it wishes to proceed. The investigation,  
6 to date, reviewed 10 entity qualifiers,  
7 including Crossroads, and 12 individual person  
8 qualifiers.

9           Crossroads Massachusetts LLC is  
10 owned 100 percent by a number of entity  
11 qualifiers. Ajax Gaming Ventures, LLC, wholly  
12 owned by David Nunes, R & P Massachusetts  
13 Gaming, LLC, wholly owned by 2001 A & A Trust,  
14 who's managers are Robert and Alan Potamkin.  
15 Etkin Massachusetts Gaming, LLC, wholly owned  
16 by Five Trees, LLP, the managing member of  
17 Etkin Gaming, whose general manager is  
18 Bruce Etkin. White River Gaming, LLC, owned  
19 by Jeffrey Magee, or Maygee (phonetically)  
20 Timothy Presutti, Timothy Bell and  
21 John Siedem.

22           Crossroads entered into an agreement  
23 with Mashantucket Pequot Gaming Enterprise, an  
24 unincorporated instrumentality of the

1           federally-recognized Mashantucket Pequot  
2           Tribal Nation, who does business as, and  
3           operates the Foxwoods Resort Casino in  
4           Connecticut. Upon that agreement, MP  
5           Enterprise would provide assistance in finding  
6           an investor for the remaining 55 percent of  
7           the equity ownership. However, to date, as I  
8           have previously indicated, that never  
9           occurred. Once the equity ownership had  
10          been -- is secured, or according to agreement  
11          would be secured, it would commit a certain  
12          amount of money and obtain a approximately  
13          10 percent interest in the gaming licensee.

14                        However, given that they have not  
15          obtained that 55 percent interest and there's  
16          10 percent through the Foxwoods group or the  
17          MP enterprise group, that really lowers the  
18          percentage of actual equity that the applicant  
19          now possesses at about 35 percent of what  
20          they'd need for this complete deal.

21                        As a result of the partnership  
22          between Crossroads and MP Gaming Enterprise,  
23          Crossroads formed FCX Massachusetts, LLC, for  
24          the sole purpose for pursuing gaming interest

1 in Massachusetts. That entity will now serve  
2 as the development arm of Crossroads.

3 Crossroads management structure,  
4 they -- they have Scott Butera as the  
5 president, Bruce Etkin, the VP of development  
6 and assistant secretary, Robert Potamkin, the  
7 VP of strategic planning, secretary is  
8 Tim Presutti, the VP -- pardon me, Tim  
9 Presutti, the VP finance and treasurer.

10 Functional positions within  
11 Crossroads include David Nunes as the chief  
12 development officer, and Alan Kronberg is --  
13 as the project manager. Scott Butera is also  
14 the CEO and president of MP Gaming Enterprise,  
15 and was appointed to serve as president of  
16 FCX.

17 Crossroads was founded by  
18 David Nunes and William Warner. The contracts  
19 for the purchase of the land for the proposed  
20 casino site were held by Nunes LLC Ajax. Once  
21 Nunes formed the partnership with Warner, who  
22 just formed Warner Gaming, LLC, the land was  
23 assigned by Ajax to Crossroads. Warner became  
24 less involved in the project and has redeemed

1 all his remaining interest in the Crossroads  
2 application.

3           Needing additional equity finance,  
4 Nunes' friend, Robert Potamkin, agreed to make  
5 an investigate through his LLC R & P  
6 Massachusetts Gaming, LLC. Robert Potamkin  
7 told Bruce Etkin about the opportunity and  
8 Etkin also agreed to make an investment in  
9 Crossroads through his LLC, Etkin  
10 Massachusetts Gaming, LLC. Timothy Presutti,  
11 another friend of Nunes, agreed to become an  
12 investor, along with three others whom  
13 Presutti was acquainted. White River Gaming,  
14 LLC was formed by Presutti, John Siedem,  
15 Timothy Bell and John Magee, Maygee  
16 (phonetically).

17           Mr. Nunes contacted Butera with the  
18 opportunity for MP Gaming Enterprise -- with  
19 the opportunity of MP Gaming Enterprise. That  
20 formed Foxwoods Mass, LLC for the sole purpose  
21 of managing the affairs of the proposed casino  
22 resort project in Massachusetts. Mr. Butera,  
23 Mr. Butler and Ms. Whipple constitute the  
24 board of managers.

1                   Upon securing the new equity, which  
2                   I've previously mentioned, according to the  
3                   paperwork that they filed with the IEB,  
4                   Foxwoods Mass will have decision-making  
5                   authority over the day-to-day activities of  
6                   the Crossroads casino licensee, along with the  
7                   other major decisions concerning business and  
8                   affairs of Crossroads. The licensee to be --  
9                   the decisions are to be vested in the board of  
10                  managers, which I indicated includes Butera,  
11                  Butler and Whipple, with at least one designee  
12                  from the original Crossroads investor group,  
13                  one designee from the Foxwoods Massachusetts  
14                  investor group, and not more than four  
15                  designees from the new equity, subject to  
16                  supermajority voting rights to be mutually  
17                  agreed upon.

18                  Foxwoods Massachusetts will have  
19                  primary responsibilities for designing,  
20                  developing, constructing, equipping and  
21                  furnishing the casino resort project, and be  
22                  entitled to a development fee equal to a  
23                  portion of the overall cost of the project.

24                  While on paper this excludes --

1 authority rests with Foxwoods Mass, LLC it is  
2 certainly a legitimate area of inquiry for the  
3 commission as to whether this wall between the  
4 LLC and the tribe is expected to be real when  
5 it would effectively occur in practice.

6 Particularly, in light of the concerns  
7 described in the report regarding the criminal  
8 issues surrounding Michael Thomas, Steven  
9 Thomas and Anthony Beltran. That is why the  
10 IEB identified those issues for the hearing  
11 today and for the applicant to come forward  
12 and address.

13 As detailed in the report, the IEB  
14 also believes the applicant should address the  
15 suitability of Mr. Nunes, given information  
16 contained in the report, including the  
17 internal conflict within the partnership, his  
18 communication with the IEB about the status  
19 proposed equity partner and, most notably, the  
20 assignment and repurchase agreement he entered  
21 into with Warner to make it appear that the  
22 entity with gaming expertise had a larger  
23 percent of Crossroads, when, in fact, it was a  
24 meaningless exercise whereby he was to buyback

1 the interest after filing the application.

2 The IEB also informed the applicant  
3 it should come before the commission and  
4 demonstrate at this hearing that it has the  
5 business ability to run a successful gaming  
6 operation in Massachusetts, given its  
7 difficulty in finding additional equity  
8 interest, and the current debt load and  
9 declining revenues of their proposed operator.  
10 Details on this issue can be found in the  
11 report.

12 Additionally, concerns were recently  
13 brought to the commission's attention  
14 regarding the applicant's representations  
15 regarding the position of DOT on the highway  
16 issues by Representative Dykema. I believe  
17 the commission has received that letter, and  
18 the applicant has been notified they should  
19 respond to that issue to the commission.

20 Overall, as I've stated in my letter  
21 to the commission, the IEB is really just not  
22 in a position to make a recommendation  
23 regarding suitability, because we don't have a  
24 complete picture of what this applicant is



1 going to look like. I'm particularly  
2 concerned because there is a majority equity  
3 ownership that's missing. And if there is  
4 some kind of deal in place, once you get a  
5 majority ownership in place, I don't know at  
6 this point whether that's going to change the  
7 structure of how things work, so I'm  
8 particularly concerned about that.

9 And, also, this wall between the LLC  
10 and the tribe. The tribe were not deemed  
11 qualifiers because on paper these people in  
12 the LLC will have the exclusive  
13 decision-making authority. But I think it's a  
14 legitimate area of inquiry for the commission  
15 to ask and the applicant to present evidence  
16 to the commission to satisfy the commission,  
17 that's really going to take place in practice,  
18 because we could always make a decision to  
19 have additional qualifiers. If that's not  
20 really what's going to happen, then we would  
21 potentially need other people to be qualifiers  
22 and check on the suitability of other members,  
23 including members of the tribe.

24 So given where we are right now,

1 I've had conversations with the applicant, and  
2 indicated that this hearing is somewhat  
3 unusual in that I can't make a recommendation  
4 because we don't even have a complete picture.  
5 But it's their burden to come before the  
6 commission and address these issues. And  
7 we've had discussions that they need to come  
8 before the commission, address that, indicate  
9 what they plan to do, if we can even go  
10 forward, because I can't tell you what this  
11 whole application looks like. So that's  
12 really all I have for today.

13 CHAIRMAN CROSBY: Okay. What's  
14 next? Are there questions back from -- do we  
15 go, then, to your response?

16 MR. ALLEN: I believe so.

17 CHAIRMAN CROSBY: Yeah, okay.

18 MR. ALLEN: Thank you, Mr. Chairman,  
19 and thank you, Director Wells. First, let  
20 me -- I know you want to hear from -- from  
21 Mr. Butera, and particularly relative to the  
22 equity position, and we'll get into that.

23 I want to thank you for the  
24 opportunity to present here. I want to thank

1 Director Wells, the state police and  
2 investigatory team for doing a thorough,  
3 thorough job and their expertise in this area.

4 I do want to introduce everybody at  
5 the table, because I don't think we have done  
6 that yet. Scott Butera is to my right. He is  
7 the president of Crossroads. With him is the  
8 chairman of Mashantucket Pequot Tribal  
9 Council, Rodney Butler. The vice chair-elect,  
10 Crystal Whipple, is a couple rows behind. To  
11 his right is counsel, who you've met, and John  
12 Hickey, who was the drafter of most, if not  
13 all of the corporate documents, and David  
14 Nunes is at the end.

15 We also have Robert Potamkin, Alan  
16 Potamkin and Bruce Etkin behind me. I also  
17 want to note that town counsel Kim Copp from  
18 Chicago, who represented Milford, is a couple  
19 rows behind me also.

20 We're pleased to be here today. And  
21 while we certainly understand the issue  
22 relative to equity, we are pleased with the  
23 outline of report, because we do feel that  
24 through this extensive and thorough

1 investigation there were no real issues that  
2 would make any of the people before you here  
3 today not be found suitable. So we're pleased  
4 that the good character and the honesty,  
5 integrity came out in our individuals after  
6 this investigation.

7 I do want to be clear, before Scott  
8 takes over, is that, throughout this entire  
9 process from January 15th until today, there's  
10 never been a time when we haven't been open  
11 and honest and kept the commission apprised of  
12 every step along with the way, including where  
13 we were with the equity. We were always very  
14 clear about that. We weren't trying to -- to  
15 play any games, or we weren't trying to  
16 deceive in any way. Even when the issue came  
17 up of Mr. Warner leaving, we were clear with  
18 the commission at that time, and, always,  
19 Director Wells and I had a open line of  
20 communication.

21 Our presentation today is really  
22 going to focus on the five issues that  
23 Director Wells raised, but I do think it's  
24 important, since one of the issues of

1           suitability is suitability of the site, and as  
2           far as I know, this commission is not aware of  
3           what this site looks like and what our  
4           proposal is. So with your indulgence,  
5           Mr. Chairman, I would -- Scott would like to  
6           give a quick, little overview of what this  
7           project's going to look like. And you will  
8           hear Mr. Butera get into the explanation of  
9           the gaming operation at Foxwoods, the debt  
10          restructuring, and the equity piece of it.  
11          And with that, I'll turn it over to Scott.

12                       MR. BUTERA: Okay. Thank you, Bob.  
13          Chairman Crosby, members of the commission,  
14          Director Wells, on behalf of Foxwoods and  
15          Crossroads partnership, I would like to echo  
16          what Bob says, we are very thankful to be  
17          before you today. And I would also like I  
18          say, we're very appreciative of the efforts of  
19          the commission and its advisers throughout  
20          this process. We've found it to be very fair  
21          and balanced, and informative. And having  
22          been in the gaming business for most of my  
23          career, I will say it's been one that's been  
24          done very well, so congratulations to you and

1           your team.

2                       As Mr. Allen said, I do want to talk  
3           a little bit about the suitability of the site  
4           and why we feel it's such a compelling  
5           opportunity for Massachusetts. Since getting  
6           to know Milford from the beginning of the  
7           year, what we've found is Milford's a very --

8                       CHAIRMAN CROSBY: Excuse me,  
9           Mr. Butera.

10                      MR. BUTERA: Yes.

11                      CHAIRMAN CROSBY: Is it possible to  
12           get the screen on the -- on the feed, on the  
13           Web feed?

14                      THE VIDEOGRAPHER: No. We're not  
15           set up for that.

16                      CHAIRMAN CROSBY: Can't do that?  
17           Okay.

18                      MR. BUTERA: Okay. As I was saying,  
19           having spent the better part of this year in  
20           Milford, Massachusetts, what I'll say is it's  
21           a very robust and proud community. It has a  
22           very strong leadership, and it has citizens  
23           that have a great sense of social  
24           responsibility and history. And what we

1 really wanted to do was come up with something  
2 that best represents how that community feels.

3 Like with any real estate project,  
4 location is always critical. And we feel that  
5 we have an outstanding location for  
6 Massachusetts in terms of being able to  
7 capture revenue, not only from the Boston  
8 area, but, really, throughout New England.  
9 And, you know, as an operator only  
10 140-some-odd miles away, we feel -- I'm sorry,  
11 within 50 miles, we feel that we know this  
12 market extremely well. And, in fact, many of  
13 our customers already reside in this area. So  
14 we think the location is outstanding.

15 In addition to having an outstanding  
16 location, we think we have an outstanding  
17 site. And by site, I mean topography of the  
18 land. As Director Wells says, we have 187  
19 acres, most of which will not be used, which  
20 allow us to create a lot of outdoor natural  
21 areas and have a project that we think will be  
22 very green.

23 As you can also see, we're very  
24 proximate to 495. And, in fact, we believe

1           that over 95 percent of the traffic that will  
2           come to the facility will come from 495 and  
3           will not invade local streets. And the site  
4           right now is currently undeveloped, so that we  
5           think tat we can get in had there and work on  
6           this project in a way that will be as  
7           noninvasive as possible for a project of its  
8           scale. So, you know, we think that, you know,  
9           actual site itself, the community and the  
10          topography provide a great starting point for  
11          an outstanding development.

12                        As I mentioned, you know, the site  
13           is right off of 495. It's only 10 highway  
14           miles from the Mass Pike and only 20 miles  
15           from I-95, so, again, we think we'll have  
16           great access throughout the New England  
17           community.

18                        In addition, because we are so  
19           close, we'll be able to offer a connector road  
20           that will come right from 495 through Route 16  
21           to our project, and provide direct and simple  
22           access to the facility. And I can tell you,  
23           having operated, as I said, in the gaming  
24           business most of my career, convenience is



1 usually the number one factor in determining a  
2 person's decision to come to a facility. So  
3 we think this facility will be very  
4 convenient, even for those in the city of  
5 Boston, where they can easily get on the  
6 highway and come in and out without having to  
7 deal with a lot of traffic or other things  
8 that could be preventative. So we're really  
9 excited about our site and its access.

10 In terms of providing, you know, a  
11 great setting for a casino -- you know, one of  
12 the other things I'd like to say is, we also  
13 think that because we're in the suburbs, and  
14 in Foxwoods we're used to operating in the  
15 suburbs and being a drive-to destination for  
16 major metropolitan areas, we think that we can  
17 be a great complement to those businesses in  
18 Boston as opposed to something that competes  
19 with them, which, also, we think is important.

20 What we wanted to do in talking  
21 about, like, the history of Milford and  
22 Massachusetts, and New England, was come up  
23 with something that was a New England style,  
24 almost grand resort. I can tell you that most

1 gaming jurisdictions are different in terms of  
2 customer base and customers' desires and  
3 wants. If you talk to any slot manufacturer,  
4 they'll tell you that a slot product that  
5 works in one market isn't, you know,  
6 guaranteed to work in another, just because  
7 people have different tastes.

8 So what we did is, we wanted to come  
9 up with -- given that gaming is new to  
10 Massachusetts, we wanted to come up with  
11 something that, yes, incorporated gaming, but  
12 also incorporated many other recreational and  
13 entertainment elements that people from the  
14 New England area that didn't particularly want  
15 a game could still come and enjoy. So we  
16 think that we've been able to create that.

17 In terms of the -- the location once  
18 more, we think it has, you know, again, the  
19 highest potential revenues, you know, because  
20 of it's proximity and because of, you know, we  
21 think Foxwoods' unique ability to operate a  
22 facility in this location. You know, as I  
23 mentioned, Foxwoods has a active customer base  
24 of -- of over a million active members, 300

1 million total members. Almost 40 percent of  
2 our active members come from folks that are  
3 approximate to where this facility would be  
4 located. So we think that we have an ability  
5 to service an existing customer base that we  
6 know quite well. We've been operating at  
7 Foxwoods for over 20 years. We have a great  
8 history with a lot of these folks. And being  
9 able to offer them a product that's closer to  
10 home, we think, is, you know, again extremely  
11 compelling.

12 So in terms of -- just back to the  
13 New England resort, you know, what we've done  
14 is we've created to -- to do something that we  
15 think best represents that New England resort  
16 feel, we actually created a team that was  
17 basically entirely based in the New England  
18 or, if not, Boston area. Our architect is  
19 CBT, which is located in Boston. Tetra Tech  
20 is our chief engineer. And most of the people  
21 that have been involved in the project know,  
22 like and have lived for a great portion of the  
23 their life in this area, and we're able to  
24 apply that expertise in helping to come up

1 with this vision.

2 In terms of what we're going to do,  
3 you know, for Milford, one of the things is  
4 we're going to invest over a \$100 million in  
5 new highway infrastructure improvements to  
6 transportation entities. This will all be,  
7 you know, self-financed. We're not asking for  
8 any grants or concessions for that. So we  
9 intend to actually widen 495 and create new  
10 lanes. We're going to create a connector  
11 road. And as I said, I think that more than  
12 95 percent of the traffic to this resort will  
13 come from that thoroughfare.

14 We will also spend money to improve  
15 certain intersections throughout Milford and  
16 the surrounding communities, so that anything  
17 that, you know, that could be impacted by our  
18 facility from a traffic standpoint will be  
19 dealt with on our behalf. And -- and  
20 obviously, our teams have had meetings with  
21 various federal, state and local officials,  
22 including Massachusetts DOT and the  
23 surrounding communities to work on this  
24 project.

1                   One of the things we -- and these  
2                   are just, you know, some more projects. One  
3                   of the things I want to talk about in coming  
4                   up with the vision of this project is, if you  
5                   look at this facility, I use the phrase that I  
6                   don't think there's anything in the world that  
7                   calls itself a casino that looks like this. I  
8                   mean, to me, this is a project that could be  
9                   a -- you know, a campus at one of the colleges  
10                  here, or certainly a resort in this area. And  
11                  we went to great lengths to study the history  
12                  of architecture in New England, everything  
13                  from the actual design of the buildings to the  
14                  materials that will be used therein. And  
15                  we've come up with something that is a very  
16                  modernistic approach to the great history of  
17                  this area.

18                  In terms of -- one of the things I'd  
19                  like to touch on is sustainability. We feel  
20                  very strongly that the resort needs to be  
21                  sustainable and as green as -- as possible.  
22                  On the 187 acres that we're developing on,  
23                  which you can see in the upper, left-hand  
24                  side, we're actually only going to use

1           15 percent of that land for our development.  
2           The remaining portion we will develop, but  
3           develop as green space. So we envision a lot  
4           of outdoor recreational facilities, town  
5           greens, places where people can meet,  
6           hopefully do nature walks. There's a very  
7           good bike trail there that we're going to work  
8           on developing. So we think that it's going to  
9           be an attraction, not only for people who  
10          enjoy what I'll call indoor entertainment, but  
11          also outdoor entertainment. And beyond that,  
12          we're also going to be working to make the  
13          building itself sustainable in terms of, you  
14          know, reuse -- renewable energy and green  
15          roofs and things of that nature. So we're  
16          going to invest a lot of capital in the  
17          project towards that end. And the whole idea  
18          is that this is something that's meant to be  
19          elegant, not opulent.

20                   And, you know, I've -- again, I've  
21          been in many other gaming jurisdictions. I've  
22          worked, for a long time, in Atlantic City and  
23          in Las Vegas, and they're just different, you  
24          know. The markets are different. I -- you

1 know, I'm from the Boston area, I lived most  
2 of my life in New England. And I know when I  
3 moved my wife and three kids to Las Vegas in  
4 2005, because I was CEO of Tropicana at the  
5 time, it was quite a shock to their system.  
6 So, you know, I think when we, you know, do  
7 this, we're going to do it in a way that this  
8 community will appreciate and feel very proud  
9 of.

10 In terms of actual facility, we'll  
11 have the largest gaming floor, I believe, of  
12 any of the applicants with over 200,000 square  
13 feet and 6700 positions. We'll also have a  
14 very nice 500 hotel room -- 500-room hotel  
15 that'll be of the same quality that one might  
16 see if they were to come to Foxwoods. I think  
17 Foxwoods has some of the nicest hotel product  
18 of any gaming resort. We intend to have fun,  
19 and also elegant restaurants and clubs,  
20 obviously, bars and lounges.

21 And in addition to that, we're going  
22 to have a strong retail product. We're going  
23 to have entertainment, which will take place  
24 in our banquet and meeting space, and we're

1 going to have structured parking. And, again,  
2 toward the idea of being green, obviously, we  
3 have a lot of land and we could have gone with  
4 surface parking because of that, and in many  
5 regards, customers prefer surface parking, but  
6 obviously, we thought the most responsible  
7 approach was to have structured parking. And,  
8 in fact, if you can see the, sort of, grey  
9 area of the building, that's the actual  
10 parking facility. And we talk about  
11 convenience, one can actually get from 495  
12 into that parking structure and onto our  
13 gaming floor within five minutes, which is  
14 just about as convenient as it gets. So,  
15 again, because of the site, and because  
16 there's raw land there, it offers us a great  
17 opportunity to do something that, you know, is  
18 very compelling from that standpoint.

19 We've undergone -- and this gets  
20 into Director Wells' comments about our equity  
21 rates. We've undergone as comprehensive a  
22 process as one could go through with the town  
23 of Milford. And I really commend the town and  
24 its advisers for identifying what the critical



1 issues would be for a town. But we've always  
2 told them is, ironically, what their main  
3 issues are, are also the main issues for a  
4 casino operator. You know, things like, you  
5 know, traffic and access to energy and, you  
6 know, having access to water and all those  
7 kind of things, obviously, if you don't have  
8 any of that, you can't run a great facility.  
9 Facility needs to always be clean, safe, fun,  
10 lit up. And, you know, I think fortunately  
11 for both of us, we were all focused on the  
12 same things. But we did go through a very,  
13 very long and comprehensive process.

14 Not only did we have to hire a full  
15 team to produce the materials we've produced,  
16 but the town itself hired their version of a  
17 full team, and we were able to compare notes  
18 with them and work through a process. And we  
19 went through things like real estate values,  
20 impact on schools, obviously traffic, water,  
21 sewage, wetlands, the power grid. You know,  
22 again everything that they would be concerned  
23 with. And we were -- in negotiating our  
24 community host agreement, that was the result

1 of that very, very comprehensive and  
2 informative process. I think we had seven  
3 meetings with the selectmen, we had many town  
4 hall meetings where every citizen was invited  
5 to and allowed to ask questions. You know,  
6 these were meetings that would go late into  
7 the night.

8 But one of the -- one of the great  
9 results of all that is, I think we have a  
10 project, and as an applicant, I think we have  
11 a project that has great visibility. And by  
12 great visibility, what I mean is, what you see  
13 what I believe you will get, because we're not  
14 just doing this based on schematic designs and  
15 conjecture. This is a result of many, many  
16 hours of hard work, many meetings, and I think  
17 the result is something we all feel  
18 comfortable can be achieved along the lines of  
19 what we're presenting.

20 In terms of what the impact will be  
21 to Milford, it is significant for that town.  
22 Obviously, we're going to be investing over a  
23 billion dollars in the project itself. We'll  
24 create over 3,000 construction jobs and 3500

1 permanent jobs. I always like to mention,  
2 when we talk about jobs with any casino, the  
3 diversity of jobs within a casino. You know,  
4 so there's so many different types of  
5 businesses, as I mentioned, within a casino  
6 facility. I know at Foxwoods we have over 150  
7 different types of job descriptions. So you  
8 could be a gaming professional, a food and  
9 beverage professional, financier, you know, or  
10 somebody who works in banquets or -- you know,  
11 that type of thing, construction people, you  
12 name it. So there are a lot of jobs. They're  
13 all fairly well-paying jobs, and they all come  
14 with good benefit packages. Seems like I  
15 cant' turn on the news today without hearing  
16 about health care. And we're probably the  
17 leader in providing health care to all of our  
18 employees at Foxwoods, and would bring that  
19 same approach to Milford.

20 In terms of direct, economic  
21 benefits to Milford, we will be providing them  
22 with over \$30 million in upfront payments, and  
23 over \$30 million in annual payments. And  
24 those will go to things like real estate

1 taxes, fire and police, utility and  
2 infrastructure, there'll be a residents'  
3 impact fund for those who feel their property  
4 values were impacted. We'll also be providing  
5 money for school aid and development grants.  
6 So, obviously, if you add all of this up, it  
7 comes to over a \$1,000 per citizen, which is  
8 well ahead of any other community on a per  
9 citizen standpoint. And then, here are just  
10 some more renderings of the site where you can  
11 see how the parking garage actually  
12 circumnavigates the facility itself and  
13 provides great access.

14 So in terms of, you know, what's  
15 next for us, obviously, we're working really  
16 hard on our Phase 2 application. We're really  
17 excited about that. We have complete team  
18 working on around the clock on that. We do  
19 have a referendum in Milford on November 19th,  
20 and we're working hard to get a successful  
21 vote there. We'll also need a zoning change,  
22 so the town council will have to vote on that  
23 shortly after our referendum. And if all goes  
24 well, we believe that we could open this

1 facility sometime in the fall of 2017. So  
2 that concludes my remarks on the actual site.

3 I'd like to spend some time talking  
4 about Foxwoods and it's -- how we got involved  
5 at the benefits of our recent financial  
6 restructuring. Foxwoods -- I came to Foxwoods  
7 three years ago. Foxwoods, as I said, has  
8 operated in state of Connecticut successfully  
9 for over 20 years. During 2006 and 2007, when  
10 the economy started to turn, not unlike many  
11 operators, Foxwoods was in the process of  
12 expanding and opened a large facility in 2008.  
13 And, unfortunately, that's right in the heart  
14 of the economic crisis. Revenues were going  
15 down, jobs were being lost. And,  
16 unfortunately, because of the debt burden that  
17 was put on the casino resort at that time, and  
18 the economy, they ran into a little bit of  
19 financial difficulty so I was brought in to  
20 restructure the enterprise's finances and  
21 restructure it's operations.

22 Having done this restructuring  
23 practice for a lot of my career, I will tell  
24 you that this is, by far, the most successful

1           outcome I've ever been involved in. We had --  
2           when I joined Foxwoods we had, approximately,  
3           \$2.2 billion of debt. In order to do the type  
4           of restructuring that you need -- that we  
5           needed to do, where we reduced or  
6           indebtedness, extended our maturities and  
7           lowered our interest rates, you have two  
8           choices, you either get consent of 100 percent  
9           of your holders -- and just, you know, to give  
10          you some numbers, we had over six tranches of  
11          debt, 160-some-odd institutions. Doesn't  
12          sound like quite an achievable thing, or you  
13          can file, you know, for bankruptcy and have  
14          a -- have a court impose that.

15                        We, after much deliberation, decided  
16          that we would actually attempt to get a  
17          consensual deal done. We spent over  
18          two-and-a-half years working on it, and I can  
19          probably say that we, on July 1, concluded a  
20          consensual deal where all but \$300,000 of the  
21          2.2 billion signed up for our deal, which is  
22          astounding. And that 300,000, by the way, has  
23          a trust set aside to pay that money off. We  
24          just couldn't find the people that held that.

1 But, virtually, every holder of our securities  
2 was involved in the negotiations and  
3 successful conclusion of this restructuring,  
4 which, to me, means it was something that,  
5 obviously, they felt very good about.

6 But one of the great benefits of  
7 that restructuring is it put the tribe in very  
8 strong financial condition. We reduced our  
9 indebtedness by over \$550 million. We  
10 extended the maturities in our debt  
11 significantly. Our most junior debt  
12 doesn't -- our first tranche of our junior  
13 debt doesn't come due until 2026. All of our  
14 debt is at interest rates -- single-digit  
15 interest rates, and we have substantial  
16 coverage in terms of our EBDA to fixed income  
17 payments, which would be our principal and  
18 interest payments.

19 As Director Wells says, we have  
20 experienced declining revenues that's been the  
21 result of a couple of things. Obviously,  
22 economic conditions, but more importantly, new  
23 competition. So, you know, my experience in  
24 real estate, one of the benefits of a down

1 market is supply also goes down, so when you  
2 emerge, you emerge stronger. But unusual  
3 times created the need for gaming revenues in  
4 certain states, so we had the weird situation  
5 where revenues were declining and supply was  
6 going up, you know, which kind of defies  
7 logic, but, you know, that's what was  
8 happening so we had to deal with all that.

9 So, you know, whereas Connecticut  
10 was a \$2.2 billion gaming market and there was  
11 no Pennsylvania, and there was, you know, no  
12 New York City, now Pennsylvania's over a \$2  
13 billion market, New York City's soon to be a  
14 \$2 billion market, you know, and all of those  
15 have customer bases, which we compete with.

16 So you know, basically, if somebody  
17 opens up a Walmart right next to your Lowe's,  
18 you have -- you'll probably experience some  
19 declining revenues. That doesn't mean you  
20 can't have a great business, it just means you  
21 have to change your business profile.

22 When I first started covering gaming  
23 many years ago, gaming revenues in Las Vegas  
24 represented about 75 percent of revenues. Now



1           they represent 40 percent, because they went  
2           through a similar thing where there was no  
3           California, and then all of a sudden  
4           California had casinos everywhere. So what  
5           Vegas did is, it transformed itself and  
6           created other sources of revenues,  
7           restaurants, nightclubs, entertainment  
8           facilities. We're in the process of doing the  
9           same thing at Foxwoods. And, in fact, even  
10          though our revenues have been declining, our  
11          cash flow and bottom line has been improving,  
12          since I've been with the company, and we  
13          expect that to continue. And that's been the  
14          result of operating a lot more efficiently,  
15          getting out of unprofitable business lines and  
16          supplementing some loss gaming revenues with  
17          other gaming revenues, like hotel revenues,  
18          convention revenues, banquet revenues, things  
19          like that.

20                         If you were to come to Foxwoods now,  
21          you'd see an incredibly robust environment.  
22          There's quite a bit of redevelopment that's  
23          going on. One of the great benefits of our  
24          restructuring is it provided a fair amount of

1 cash for us to invest in projects, not only at  
2 Foxwoods, but obviously in other jurisdictions  
3 like Massachusetts.

4 So right now we're renovating rooms,  
5 we're renovating retail stores, restaurants,  
6 we just broke ground on a 300,000 square foot  
7 outlet center mall, high-end outlet center  
8 mall, which we're developing with Tanger  
9 Outlet Centers. So quite a bit of money is  
10 being spent at our facility at home, not only  
11 in the physical plant, but also in our  
12 marketing programs and training our  
13 professionals. And we also have a fair amount  
14 of money to diversify, because one of the  
15 things restructuring taught us is, you know,  
16 diversity is good and, you know, having --  
17 being in multiple jurisdictions is, obviously,  
18 better for your business.

19 So I think the -- you know, to  
20 address the financial situation at Foxwoods. I  
21 think, you know, we've done a great job. I do  
22 pay a lot of credit to the tribe, and -- and  
23 Mr. Butler and the tribal council, because  
24 they, I think, did what was right. They

1 obviously reduced, you know, a lot of the  
2 money that was going from the enterprise to  
3 the tribe. I think, right now, we're just  
4 paying the tribe for essential government  
5 services. It's probably 30 percent of what  
6 the enterprise used to pay the tribe.

7 So everybody did what it took to  
8 make sure that the enterprise would be in  
9 good, financial condition and was something  
10 that would be sustainable for many years to  
11 come. All of our restructuring plans were  
12 done with the notion that there would be  
13 gaming in Massachusetts. And worst case  
14 scenario, we wouldn't be a participant in  
15 that. So, you know, whether or not we're  
16 successful here will not have great impact on  
17 the Foxwoods resorts, so we feel very good  
18 about where we are from a financial  
19 standpoint.

20 In terms of the equity rates and,  
21 you know, why -- why we are still working on  
22 that, obviously, as you can see from the  
23 process, there was a lot to do. We at  
24 Foxwoods got involved, really, in February and

1 beginning of the year. But, in earnest, you  
2 know, once we knew our restructuring was going  
3 to be complete because, obviously, we needed  
4 to be able to complete that in order to make  
5 this investment, you know, I'd say that we  
6 probably started out in the eyes of the  
7 investment world as a bit of an underdog.

8           You know, we really hadn't had any  
9 plans at the time so we had to develop our  
10 plans, we had to work with the town, investors  
11 wanted to see that we had an agreement with  
12 Milford. Obviously, that took a lot of time  
13 to get to that agreement because of the  
14 process I've described. But I will say that,  
15 since all of that has been done, you know,  
16 we've been actively involved in negotiations,  
17 we have two, you know, very, very strong  
18 offers or opportunities to fill that gap,  
19 which we're on short strokes of negotiating  
20 right now. And, you know, I'm confident that  
21 we will, in short order, have that -- have  
22 that done.

23           But, really, the reason we're here  
24 now with that having been completed is just a

1 result of what the process has been in, kind  
2 of, the natural order of -- of how these  
3 things come together. And --

4 CHAIRMAN CROSBY: Excuse me, when  
5 did you finish your restructuring?

6 MR. BUTERA: July 1.

7 CHAIRMAN CROSBY: Of this year?

8 MR. BUTERA: Yes, that's correct.

9 And I will say that, most recently, I would  
10 say that people view us as a much -- much  
11 stronger candidate and one that has a great  
12 chance of securing this license.

13 So with that, hopefully, I wasn't  
14 too verbose, I'll complete my remarks and ask  
15 if they are any questions.

16 CHAIRMAN CROSBY: Counselor,  
17 commissioners, for starters? Go ahead.

18 MR. MACKEY: Good morning,  
19 Mr. Butera.

20 MR. BUTERA: Good morning.

21 MR. MACKEY: Let me just begin where  
22 you left off with the equity investor. And I  
23 understand that there may be confidentiality  
24 concerns about identifying who and specific

1 terms. But, you know, to the extent that you  
2 can, can you describe more fully the entities  
3 you're talking to, the terms that you're  
4 discussing and, you know, specifically when  
5 you anticipate coming to closure on this?

6 MR. BUTERA: Sure, I will. And we  
7 are under confidentiality. And, obviously,  
8 when you're in the process of negotiations,  
9 confidentiality is important, you know, to the  
10 success of the negotiation.

11 We have two offers that, you know, I  
12 think one of which we will select. They're a  
13 little bit different structure. One is with a  
14 -- you know, what would be considered a  
15 private equity fund, that it has been involved  
16 in gaming, has been licensed in other  
17 jurisdictions. Whereas they would provide,  
18 approximately, \$350,000 million of equity for  
19 the project, they would obviously share in any  
20 future distributions with the Crossroads  
21 partners, and, you know, they would -- they  
22 would obviously be involved in the governance  
23 of Crossroads and the development of the  
24 project. That would be for the equity

1           portion.

2                       I can say that on the fixed income  
3           portion or leverage portion of our deal, we  
4           have been working, from the beginning of this  
5           project, with Deutsche Bank, which is one of  
6           the leading, you know, financiers and advisers  
7           to the gaming community. They will be  
8           providing a senior note that will finance a  
9           majority of the project, and they will be  
10          providing a highly confident letter for that  
11          note. So, you know, that -- I think that  
12          portion is secure. It's really the -- the  
13          equity portion.

14                      So the first would be, you know,  
15          just a -- basically, what I'll call  
16          straight-up equity funding. And there would  
17          be an arrangement where Foxwoods would get a  
18          development fee, a management fee and a  
19          licensing fee for use of our database and our  
20          brand. And then there would be, like I say, a  
21          split of any future distributions. The second  
22          entity --

23                      MR. MACKEY: Let me stop you there  
24          for a second because I want to -- with respect

1 to this first option that you identified,  
2 would the -- the current management operating  
3 structure that -- that it were outlined in the  
4 course of this suitability investigation,  
5 would that remain in place, or would you  
6 anticipate this new investor, given their  
7 state, would make some changes there?

8 MR. BUTERA: No. I think -- I think  
9 it would stay in place. I think, you know,  
10 obviously, they would be, you know, very  
11 involved in the governance. So they would --  
12 obviously, if there was a board, they might be  
13 on the board, they might have a majority of  
14 that board. But the actual structure is one  
15 that's contemplated under the deal that we're  
16 talking to them about.

17 MR. MACKEY: Right.

18 MR. BUTERA: So they would basically  
19 join as a new partner.

20 MR. MACKEY: Okay. So the -- I  
21 guess my -- just to -- just to put a finer  
22 point on the entity, I think it's -- the  
23 formal name is Foxwoods Massachusetts, LLC,  
24 would remain in place, even as the first



1 option that you're considering?

2 MR. BUTERA: Correct. Right. Yep.  
3 And then, under the second option it would be  
4 with a publicly-traded company, so  
5 confidentiality is a little bit important.  
6 And what they would do is they would actually  
7 provide funding -- yeah, they would provide  
8 funding for the real estate portion of our  
9 development. So anything that would be  
10 considered a real asset, which would be the  
11 building, the infrastructure, obviously, not  
12 the license or, you know, things like  
13 furniture, fixture, equipment, stuff like  
14 that. But the actual building, they would  
15 provide what I'll call sale leaseback  
16 financing.

17 We would basically sell them all of  
18 the real estate and we'd lease it back for a  
19 rental payment. And then, for the remaining  
20 fund -- that would cover the real estate  
21 portion. Then for the nonreal estate portion,  
22 they would be providing us a seven-year  
23 funding for that piece. So a little bit  
24 different structure would be bifurcated into a

1 loan and a sale of real estate, as opposed to  
2 an equity and debt structure. But it would  
3 basically cover the same total amount.

4 MR. MACKEY: The total amount being  
5 the 350 million?

6 MR. BUTERA: Well, being the -- the  
7 1. -- the \$1 billion or whatever it takes to  
8 build a facility.

9 CHAIRMAN CROSBY: So that would  
10 preclude -- Deutsch Bank would not be involved  
11 in that deal?

12 MR. BUTERA: In that deal --

13 CHAIRMAN CROSBY: -- they'd replace  
14 Deutsche Bank?

15 MR. BUTERA: -- it's unclear that --  
16 Deutsche Bank would be involved in as an  
17 adviser, but not a lender. So we wouldn't  
18 need a loan because, essentially, we'd be  
19 selling our real estate.

20 CHAIRMAN CROSBY: Right.

21 MR. BUTERA: So the biggest portion  
22 will either come in the form -- the majority  
23 of the financing will either come in the form  
24 of a loan from Deutsche Bank, supplemented

1 with an equity investment, or a sale of our  
2 real estate supplemented -- with a -- loans,  
3 mezzanine-type loans, slash, equity investment  
4 from that entity.

5 MR. MACKEY: Okay. And then, same  
6 question with respect to this --

7 MR. BUTERA: And under both  
8 circumstances - I just want to clarify -  
9 Foxwoods would be the manager. So we would be  
10 the ones controlling the development of the  
11 resort, and the day-to-day operations of that  
12 resort.

13 MR. MACKEY: According to the same  
14 structure that's been outlined previously, the  
15 Foxwoods Massachusetts, LLC entity and the,  
16 sort of, direction control relationship of the  
17 facility here in Massachusetts?

18 MR. BUTERA: That's correct.

19 MR. MACKEY: Okay. All right. I  
20 wanted to ask you a few questions regarding  
21 the issue that Director Wells raised in her  
22 remarks regarding this, in effect, wall that  
23 has been set up in the operating agreement  
24 between the Foxwoods Massachusetts, LLC --

1 MR. BUTERA: Right.

2 MR. MACKEY: -- and then, MPGE, it's  
3 referred to in the documents, I guess, as  
4 "Enterprise;" is that how you refer to it?

5 MR. BUTERA: Yeah.

6 MR. MACKEY: Okay.

7 MR. BUTERA: I'll address that. And  
8 we also have Jackson King here, who's  
9 counselor for the tribe, that can also address  
10 that.

11 This is structure that's actually  
12 been used quite a bit in the gaming  
13 environment. I think it might have started  
14 with an entity called Colony Capital. Where  
15 Colony was one of the first private equity  
16 funds to invest in gaming. And in order to  
17 not have all of their limited partners have to  
18 get licensed they set up a structure where you  
19 had a control entity. So, really, we just  
20 mirrored, you know, what I'll call the Colony  
21 Capital structure. And it truly is an  
22 independent governing authority.

23 So all of the Foxwoods Massachusetts  
24 decisions are done with Rodney Butler, who is

1 the chairman of the tribal council, and  
2 Councilor Crystal Whipple, who's here today,  
3 and then myself as a third. And none of those  
4 decisions are conferred to with either the  
5 remaining council or the tribal members.

6 MR. MACKEY: Okay. Let me -- I just  
7 want to back up and, sort of, track the  
8 development of this structure over time. And  
9 it's reflected in the document that we've  
10 offered up to the commission, and I don't  
11 necessarily mean to burden the commission with  
12 the review of each of these documents, but as  
13 I understand it, back in March of 2013,  
14 February and March of 2013, there was a  
15 different structure envisioned at that point;  
16 would that be fair to say?

17 MR. BUTERA: With regard to the  
18 tribal enterprise?

19 MR. MACKEY: With regard to the  
20 relationship between the enterprise and  
21 Foxwood Massachusetts?

22 MR. BUTERA: I don't believe so.

23 MR. MACKEY: Okay. Well, why don't  
24 we take a look, then. Do you have, Mr. Allen,

1 the exhibits we offered, Exhibit No. 9? Okay.  
2 Is that a document that you recognize?

3 MR. ALLEN: I think this may be best  
4 for Mr. King to look at this.

5 MR. MACKEY: Okay. That's fair  
6 enough. Let me just represent, for the  
7 record, that it's a resolution passed by the  
8 tribal council, and it authorizes a binding  
9 letter of intent with Crossroads. And at the  
10 top of page two, if I could just ask you,  
11 Mr. Butera, to turn to the second page of the  
12 document -- or if Mr. King is the more  
13 appropriate person --

14 MR. ALLEN: Yeah.

15 MR. MACKEY: -- to direct these to.

16 MR. KING: Yeah I'm probably more  
17 familiar with it.

18 MR. MACKEY: Okay. That's fair  
19 enough. No concern about Mr. King answering  
20 directly.

21 The top of the second page,  
22 Mr. King, the whereas clause, it says, "MPGE,  
23 the enterprise, desires to enter into a  
24 binding letter of intent with Crossroads,

1           which is attached as Exhibit B;" do you see  
2           that?

3           A.       Yes.

4           Q.       Okay.  And then at the very bottom  
5           of the page it says "MPGE," again, "The  
6           enterprise," will have primary responsibility for  
7           managing the project, and in return MPGE will  
8           receive a management fee equal to 1 percent of  
9           gross revenues;" do you see that?

10          A.       Yes.

11          Q.       Okay.  So it looks, at least at this  
12          point in time, and this was signed in March 2013,  
13          the resolution was passed in March 2013, that  
14          MPGE, the tribal enterprise, would have direct  
15          control over this project?

16                   MR. KING:  Well, that is the gaming  
17          enterprise that Mr. Butera is the CEO of.  
18          That's right, there was no third entity formed  
19          at that point.

20                   MR. MACKEY:  At that time.

21                   MR. BUTERA:  Let me clarify.  So  
22          MPGE, which I, you know, am the presidency of,  
23          we report to the tribal council.

24                   MR. MACKEY:  Understood.  In effect,

1 I guess just, you know, the way I think of it  
2 is, MPGE is the operational unit for the  
3 gaming enterprise, but the tribal council  
4 effectively sits as the board of MPGE, the  
5 board of directors?

6 MR. BUTERA: Essentially. That's  
7 correct.

8 MR. MACKEY: And then, you're the  
9 CEO of that enterprise?

10 MR. BUTERA: Correct.

11 MR. MACKEY: Okay. And so,  
12 initially, in March of 2013, the structure was  
13 direct control by the tribe over MPGE, which  
14 would manage this facility; is that fair to  
15 say?

16 MR. BUTERA: Yeah, I would say --

17 MR. MACKEY: Mr. King or --

18 MR. BUTERA: Well, I would say  
19 that -- yes. I would say that that's -- that  
20 was fair at that time. But, you know, we  
21 hadn't contemplated, you know, setting up this  
22 structure so --

23 MR. MACKEY: Understood. And I know  
24 that it -- it changed at a point in time --



1 MR. BUTERA: Right.

2 MR. MACKEY: -- but I want to ask  
3 about the reasons --

4 MR. BUTERA: Yeah, okay.

5 MR. MACKEY: -- for the change in  
6 just a minute.

7 Bottom of page four it just outlines  
8 a little bit more what -- how the -- how the  
9 tribal council -- the tribal control, the  
10 entity, the bottom of page four it just says,  
11 "Be it further resolved, the tribal council  
12 hereby appoints the following tribal council  
13 members to the committee that shall have  
14 decision-making authority for purposes of  
15 MPGE's involvement in the project." And then  
16 it identifies Mr. Butler and then two other  
17 individuals as the individuals on the tribal  
18 committee, correct?

19 MR. KING: Correct.

20 MR. MACKEY: Okay. Just so we're  
21 all clear, in March of 2013 the structure was  
22 the tribal council with a subcommittee or a  
23 committee of the tribal council, which would  
24 effectively act as the board for MPGE's

1 enterprise here in Massachusetts, correct?

2 MR. KING: I think that's correct as  
3 of that date, yes.

4 MR. MACKEY: Okay.

5 MR. ALLEN: But I'm not sure if it  
6 was a subcommittee --

7 MR. KING: It was a separate  
8 committee.

9 MR. MACKEY: It was a separate  
10 committee of the board -- I'm sorry, of the  
11 tribal council?

12 MR. KING: It was a committee of  
13 three, yeah.

14 MR. MACKEY: Okay. All right. But  
15 then, it would be fair to say -- well, let  
16 me -- let me have you look at Exhibit No. 10  
17 Bureau Exhibit No. 10, which was a subsequent  
18 resolution of the tribal council authorized  
19 in -- on June 24, 2013.

20 MR. KING: Or is it June 19th, it  
21 doesn't matter.

22 MR. MACKEY: The signatures on it  
23 are June 24th.

24 MR. KING: Okay. Yeah, the

1 resolution's passed on the 19th.

2 MR. MACKEY: Okay, on the 19th.

3 MR. KING: Yes.

4 MR. MACKEY: And this reflects a  
5 significantly different structure for the  
6 control of the Massachusetts facility;  
7 wouldn't that be fair to say?

8 MR. KING: Yes.

9 MR. MACKEY: Okay. And just to draw  
10 your attention to the top of page two, the  
11 limited structure envisioned here, Mr. King,  
12 is that there is a designated board of  
13 managers of the liability company, and we've  
14 referred to that as Foxwoods Massachusetts,  
15 Limited Liability Company?

16 MR. KING: Yes.

17 MR. MACKEY: "Which is empowered to  
18 act entirely independent of the Mashantucket  
19 Pequot Tribe and the Mashantucket Pequot  
20 Tribal Council;" did I read that  
21 correctly?

22 MR. KING: That's correct.

23 MR. MACKEY: Okay. And then on the  
24 next page there are two further resolutions,

1 the sixth and seventh, be it further resolves,  
2 there's one that reads, "Be it further  
3 revolve, the tribal council approves of a  
4 structure whereby the three managers," and  
5 those are the three members of the  
6 Massachusetts, LLC, correct?

7 MR. KING: Yes.

8 MR. MACKEY: "Shall have irrevocable  
9 authority to take any and all action that may  
10 be necessary to manage the LCC in connection  
11 with the potential Massachusetts facility."

12 MR. KING: That's correct.

13 MR. MACKEY: Okay. And then the  
14 second resolve clause after that is that,  
15 "Neither the Mashantucket Pequot Tribal  
16 Council, nor any member thereof, other than  
17 the designated manager, shall, in any manner,  
18 participate in the management or operations of  
19 the limited liability company;" did I read  
20 that correctly?

21 MR. KING: Yes.

22 MR. MACKEY: Okay. So something,  
23 obviously significant, changed between  
24 March 19th and June 9 -- 19th, I guess it was,

1           went from a situation where the tribal council  
2           had a direct control relationship to a  
3           scenario where the Massachusetts LLC had sole  
4           exclusive an irrevocable authority without a  
5           relationship to the tribe to run the facility.  
6           So can you explain --

7                     MR. KING: That's correct.

8                     MR. MACKEY: So why did that happen?

9                     MR. KING: Well, because it was  
10           recognized that it was better business  
11           structure to have the Massachusetts operation  
12           being entirely independent of the tribal  
13           council. And the earlier resolution, we felt,  
14           did not create as much independence as was  
15           created in the second one. We wanted to make  
16           it very clear, and we were in contact with the  
17           gaming commission representatives, we wanted  
18           to make it absolutely clear that the three  
19           managers had the sole and exclusive authority  
20           to manage and operate the Massachusetts  
21           operations. Exactly what it says.

22                     MR. MACKEY: Okay. And the three  
23           managers you're referring to are Mr. Butera --

24                     MR. KING: Yes.

1                   MR. MACKEY:  -- and Chairman  
2                   Mr. Butler and Ms. Whipple?

3                   MR. KING:  Yes.

4                   MR. MACKEY:  Okay.  Now --

5                   MR. BUTERA:  One other thing I'd  
6                   like to just mention, you know, just thinking  
7                   about the entity -- entity itself, Foxwoods  
8                   Massachusetts will be -- you know, Foxwoods  
9                   itself will be a minority owner and manager,  
10                  as opposed to Foxwoods in Connecticut, which  
11                  we own 100 percent of.  You know, so that's  
12                  also -- gives some credence to why that  
13                  structure exists.

14                  MR. MACKEY:  Mr. King you mentioned  
15                  that you'd had some conversations with the  
16                  team here, the commission on this issue.  In  
17                  fact, one of the reasons why the structure was  
18                  set up was because it would not necessitate  
19                  the qualification of the tribal -- of the  
20                  entire tribal council; is that correct?

21                  MR. KING:  I think that was a  
22                  factor, yes.

23                  MR. MACKEY:  Okay.  And, in fact, at  
24                  this particular point in time when this was

1 set up, Steven Thomas, a member of the tribal  
2 council, had been indicted on a federal felony  
3 theft charge, correct?

4 MR. KING: Correct.

5 MR. MACKEY: And he was still on the  
6 tribal at that point?

7 MR. KING: Correct.

8 MR. MACKEY: And, in fact, he was  
9 the treasurer of the tribal council at that  
10 point?

11 MR. KING: That's correct.

12 MR. MACKEY: Okay. Let me draw your  
13 attention, just very quickly, to  
14 Exhibit No. 11, which I'll represent is, in  
15 fact, the operating agreement with Foxwood  
16 Massachusetts, LLC authorized by the  
17 resolution that we've been looking at. And  
18 I'm happy to have either Mr. Butera or  
19 Mr. King answer. But do -- do you see that  
20 document?

21 MR. KING: Yes.

22 MR. MACKEY: Okay. And that's --  
23 and just note for the record, on page 19,  
24 Mr. Butera, that's your signature on the

1 document, correct?

2 MR. BUTERA: Yes. That's my  
3 signature.

4 MR. MACKEY: Okay. Just want to  
5 reference a couple of provisions of the  
6 document. Section 5.1A, it's on page two, do  
7 you see that?

8 MR. KING: Yes.

9 MR. MACKEY: Okay. And just the  
10 very beginning of that section says, "Except  
11 as provided in this operating agreement, the  
12 board of managers," and, again, that's  
13 Mr. Butera, Chairman Butler and Ms. Whipple,  
14 "is charged with the responsibility invested  
15 with the exclusive authority to manage the  
16 company's business and affairs." Did I read  
17 that correctly?

18 MR. KING: I believe so.

19 MR. MACKEY: Okay. And --

20 CHAIRMAN CROSBY: The company --  
21 excuse me, "manage the company's business,"  
22 which company is that referring to?

23 MR. MACKEY: The Massachusetts.

24 CHAIRMAN CROSBY: To the LLC.



1 MR. MACKEY: LLC's affairs.

2 CHAIRMAN CROSBY: To the LLC.

3 MR. MACKEY: All right. And in  
4 Section B, 5.1B, it says, "In furtherance of  
5 their authority as provided in this operating  
6 agreement, the board of managers is  
7 irrevocably authorized and empowered to  
8 perform any and all acts necessary to carry  
9 out its function;" did I read that correctly?

10 MR. KING: Yes.

11 MR. MACKEY: And then the next  
12 section, 5.2, which is just below that,  
13 the last sentence of that paragraph says  
14 "In the event any member," and that's the  
15 three members that we've identified,  
16 correct?

17 MR. KING: That's correct.

18 MR. MACKEY: "And in the event any  
19 member resigns or is unable to continue in  
20 office, the remaining members shall choose a  
21 successor."

22 MR. KING: That's correct.

23 MR. MACKEY: So it's envisioned that  
24 the enterprise, MPGE, or -- nor the tribal

1 council will have any role, even in selecting  
2 the board of members -- of the management  
3 board of the Foxwood Massachusetts, LLC.

4 MR. KING: That's correct.

5 MR. MACKEY: And this operating  
6 document is still the document that's in force  
7 today, correct; it hasn't been superseded,  
8 right?

9 MR. KING: I don't think it's been  
10 changed.

11 MR. MACKEY: Right. Okay. It still  
12 does reflect the operating model and the  
13 relationship between the enterprise and  
14 Foxwood Massachusetts LLC?

15 MR. KING: To my knowledge it does,  
16 yes.

17 MR. MACKEY: So in connection with  
18 this -- this model, there is some anticipation  
19 here that a management fee would be earned by  
20 the enterprise, for example; that's one of the  
21 things that it's going to do to that's going  
22 to generate revenue, correct?

23 MR. KING: That's correct.

24 MR. MACKEY: Okay. How much is that

1 management fee; is it a percentage of  
2 revenues?

3 MR. BUTERA: Yes. It's a percent --  
4 there's a -- there's a 1 percent of revenue  
5 management fee, and then there's an incentive  
6 management fee based on profitability.

7 MR. MACKEY: And based on -- have  
8 you done projections about order of magnitude  
9 what that would be on an annual basis?

10 MR. BUTERA: Yes, we have.

11 MR. MACKEY: Okay. What will that  
12 be?

13 MR. BUTERA: It will be,  
14 approximately, \$15 million.

15 MR. MACKEY: \$15 million?

16 MR. BUTERA: Yeah. We also earn  
17 branding fee of .25 percent of revenues.

18 MR. MACKEY: All right. But who is  
19 it who will actually be earning that fee?

20 MR. BUTERA: The enterprise. The  
21 enterprise, Foxwoods Casino Resort.

22 MR. MACKEY: But it's been -- it's  
23 fairly apparent in the document, though,  
24 that the enterprise will have no

1 management role here. The only management  
2 role is the role that will be played by  
3 the board of managers.

4 MR. BUTERA: The enterprise will  
5 have an -- will have an operating role. So a  
6 day-to-day operating role. So in terms of  
7 who's, you know, controlling -- you know,  
8 running -- providing oversight for running the  
9 facility, you know, running the restaurants,  
10 running the gaming facilities, training the  
11 employees, all those kinds of things will be  
12 provided for by the enterprise. And the  
13 Enterprise will earn a fee for providing those  
14 services. In terms of any, you know,  
15 governance decisions, they'll be made by the  
16 committee.

17 MR. MACKEY: So it's not really the  
18 case here that there is the sole exclusive  
19 irrevocable authority to manage the property  
20 vested in the Massachusetts LLC; The  
21 enterprise will continue to have an ongoing  
22 operational role?

23 MR. BUTERA: I think by manage --  
24 we'll have to, you know, talk about what we

1 mean by management. So the -- the committee,  
2 you know, will decide what services the  
3 enterprise will or won't provide. It'll  
4 provide that, you know, kind of, what I'll  
5 call as governance. And then what the -- you  
6 know, basically, the enterprise will be --  
7 will be a foot soldier. It'll go in there and  
8 do the tasks that the committee, you know,  
9 deems that it should be doing.

10 CHAIRMAN CROSBY: So, again, is the  
11 -- is the board of director's model apt  
12 effectively; so does the three-member  
13 committee effectively act as a board of  
14 directors over the --

15 MR. BUTERA: Yes.

16 CHAIRMAN CROSBY: -- over the -- the  
17 Enterprise, which is managing the LLC?

18 MR. BUTERA: That's correct. That  
19 board acts as the -- that three-member  
20 committee acts as the board for our activities  
21 with relationships to Foxwoods Massachusetts.  
22 The entire tribal council acts as the board  
23 with relationships to Foxwoods Connecticut.

24 CHAIRMAN CROSBY: Excuse me, can I

1 just --

2 MR. MACKEY: Sure.

3 CHAIRMAN CROSBY: -- if you're going  
4 here stop me but -- at the moment, Foxwoods  
5 Massachusetts is the existing investors.  
6 Foxwoods Massachusetts will be modified to the  
7 tune of 55 percent equity investor, one  
8 structure or another.

9 How does the committee relate to the  
10 new equity structure and the new management  
11 situation within Foxwoods, LLC.

12 MR. BUTERA: Well, the committee is  
13 not the governance committee for Crossroads  
14 or, you know, what we're calling that Foxwoods  
15 Massachusetts body. The committee only  
16 relates to Foxwoods' involvement in that  
17 partnership.

18 So you'll have the partnership --  
19 you'll have a governance board for all of  
20 Foxwoods Massachusetts, which we now call  
21 Crossroads, and then Foxwoods, our Foxwoods is  
22 a partner in that. So that three-person  
23 committee will govern how -- how our piece of  
24 that partnership behaves. And then it'll be a

1 member alongside other members, you know, of  
2 that, which would include this new equity  
3 partner.

4 CHAIRMAN CROSBY: So if Foxwoods --  
5 if -- Crossroads is Foxwoods, LLC, if  
6 Crossroads, it will have some kind of a  
7 governing body --

8 MR. BUTERA: Correct.

9 CHAIRMAN CROSBY: -- I guess. Some  
10 kind of board.

11 MR. BUTERA: Right.

12 CHAIRMAN CROSBY: -- and the  
13 committee will appoint its representatives on  
14 that body and exercise its share of whatever  
15 the -- the vote ratios are within the  
16 decision-making; is that right?

17 MR. ALLEN: Yeah, essentially.

18 MR. BUTERA: Yeah. Essentially,  
19 that's right. I mean, again, we're primarily  
20 the manager. Foxwoods is primarily the  
21 manager. So I would say that committee is  
22 really governing, you know, the operational --  
23 our role with regard to the operational  
24 management. And then that -- a member of that

1 committee may or may not be part of the  
2 ultimate Crossroads' board, but it could be.

3 CHAIRMAN CROSBY: Right.

4 MR. ALLEN: Mr. Hickey drafted the  
5 corporate document. So, John, if you want to  
6 clarify any issue that was brought up, it  
7 might be helpful for the commission.

8 MR. MACKEY: Mr. Butera --

9 CHAIRMAN CROSBY: Excuse me.

10 MR. MACKEY: I'm sorry.

11 CHAIRMAN CROSBY: I think Mr. Hickey  
12 -- were you going to say something,  
13 Mr. Hickey?

14 MR. HICKEY: Well, I think -- I  
15 think in terms of clarification, every  
16 operational entity, and in this case we're  
17 talking about Crossroads Massachusetts, it's  
18 going to have its own governing board. That  
19 governing board is not going to be controlled  
20 by Foxwoods, either the sub-Foxwoods Committee  
21 that's part of our membership, or by the  
22 tribal council. In reality, Foxwoods is not  
23 going to have controlling equity interest in  
24 the deal, but it will be a manager.



1           So what you have to understand is  
2           that there are various levels of governing  
3           bodies. And we will have a separate governing  
4           board for Crossroads Massachusetts, which  
5           operates the casino. And the members that own  
6           interest in there, including Foxwoods, will  
7           have a right to appoint a person to sit on  
8           that board. But it will be that board that  
9           makes the decisions for Crossroads, not the  
10          Foxwoods' board and not the Foxwoods' tribal  
11          council.

12                   CHAIRMAN CROSBY: Okay.

13                   MR. MACKEY: Mr. Butera, if I could  
14           ask you to turn to Bureau Exhibit 8, which is  
15           the --

16                   MR. BUTERA: Eight?

17                   MR. MACKEY: I believe it's eight.  
18           Yes, Exhibit 8, which is a copy of your -- the  
19           sworn testimony that you gave to gaming  
20           commission representatives back on August 7th.

21                   MR. BUTERA: Okay.

22                   MR. MACKEY: Are you there?

23                   MR. BUTERA: Yes.

24                   MR. MACKEY: And if you could turn

1 first to page 92, I just want to ask you some  
2 questions about some remarks you made about  
3 the structure that we've been talking about.

4 MR. BUTERA: Okay.

5 MR. MACKEY: Okay. You're asked,  
6 and this beginning at the top of page 92 by  
7 Ms. Sacco, "And for the record, you think that  
8 the management contract will be with the  
9 enterprise, or will the management contract be  
10 with the Foxwood Massachusetts, LLC, which has  
11 the 9.9 percent interest?" And then you go on  
12 to say, your answer is, "However it's  
13 structured, management company will -- the  
14 management contract will be owned and  
15 controlled by the enterprise. Could there be  
16 an intermediary? I don't know." But,  
17 ultimately, the creditors -- and I take it  
18 that's the creditors associated with the  
19 restructuring --

20 MR. BUTERA: Correct.

21 MR. MACKEY: -- that you've  
22 described earlier?

23 MR. BUTERA: That's correct.

24 MR. MACKEY: "The creditors, all of

1           that money will go to the enterprise.  
2           Anything earned will go to the enterprise, and  
3           any resources provided will be provided by the  
4           enterprise." And then Ms. Sacco asks, "Okay,  
5           I'm just asking because that could result in  
6           additional qualifiers." And your response  
7           was, "Yes, I understand. But that's a very"  
8           iron clad -- iron -- excuse me, "ironclad  
9           clause in our restructuring documents.  
10          Anything within 150 miles is, basically, the  
11          enterprise's.

12                         So, first of all, you know, could  
13          you explain what you mean there --

14                         MR. BUTERA: Sure.

15                         MR. MACKEY: -- by anything in 150  
16          miles belongs to the enterprise?

17                         MR. BUTERA: Sure. Under the  
18          conditions of our restructuring documents,  
19          any -- any gaming facility that Foxwoods would  
20          be involved in, any monies earned from any  
21          game activities within 150 miles of Foxwoods  
22          in Connecticut would go to the enterprise, and  
23          to the benefit of our creditors first.

24                         MR. MACKEY: Okay.



1 explain what you mean by that response, this  
2 is controlled by the enterprise; again, given  
3 the corporate structure you've got set up,  
4 which has this wall between it and -- and  
5 the enterprise in Connecticut?

6 MR. BUTERA: Yeah. You know, I'm  
7 not exactly sure what "this is controlled by  
8 the enterprise" was meant to respond to. But  
9 with regard to -- you know, with regard to  
10 what we were getting at -- let me just take a  
11 quick second.

12 I mean, all -- I don't really -- I  
13 don't really recall what this is -- this is --  
14 what that response was meant to be, other than  
15 I -- you know, what I'm saying here is that,  
16 you know, currently, if there's a management  
17 contract at that time, you know, the  
18 management team reported to the tribal  
19 council, you know, at Foxwoods.

20 MR. MACKEY: The management team at  
21 Foxwoods Massachusetts?

22 MR. BUTERA: Foxwoods Connecticut  
23 reports to the tribal council. You know,  
24 there's no -- there's no current operational

1 activity at Foxwoods Massachusetts at the  
2 moment so --

3 MR. MACKEY: Okay. Let me try one  
4 other -- turn back to page 69 for a minute,  
5 just a little bit earlier in your sworn  
6 interview.

7 MR. BUTERA: I'm sorry, page 69?

8 MR. MACKEY: Page 69. Down to the  
9 line 20 there, again, questions from Ms. Sacco  
10 relating to this management structure issue.  
11 Page 69, line 20?

12 MR. BUTERA: Yes, I'm there.

13 MR. MACKEY: Okay. The question is,  
14 from Ms. Sacco, "I don't know if you've got  
15 this far, but has been decided on how this  
16 management structure will be; for instance,  
17 will there be certain executives at  
18 the enterprise level now that will provide the  
19 management oversight for the property level?"  
20 And you say -- you responded, "Correct;" do  
21 you see that?

22 A. Yes.

23 Q. Okay. And then you go on to say, "I  
24 would say the property will have a full management

1 team headed by the president or general manager."

2 So those are the people on the ground,

3 Mr. Butera --

4 MR. BUTERA: Right.

5 MR. MACKEY: -- in Connecticut?

6 MR. BUTERA: Right. Correct.

7 MR. MACKEY: Whatever you want to

8 call them. And it would have its own

9 executive committee. So it would have a

10 senior marketing official, it would have a

11 senior finance official, it would have a

12 senior human resource official, a senior

13 information technology official, and all the

14 things that you would find in a property of

15 that size. "And then that group of

16 individuals would be overseen by the executive

17 committee of Foxwoods, of which I am the CEO."

18 Did I read that last part correctly?

19 MR. BUTERA: Yes, you did.

20 MR. MACKEY: Okay. So who is -- who

21 is the Foxwoods' executive committee?

22 MR. BUTERA: Foxwoods' executive

23 committee would be myself and seven of my

24 colleagues --

1 MR. MACKEY: Okay.

2 MR. BUTERA: -- that have similar  
3 titles to this.

4 MR. MACKEY: Okay. Based --

5 MR. BUTERA: Right.

6 MR. MACKEY: -- down in Connecticut?

7 MR. BUTERA: Right. So you'd  
8 have -- so the way we envisioned it, is  
9 Foxwoods Massachusetts would have its own  
10 employees, it's own staff, it's own senior  
11 management team, and then that management team  
12 would be guided by the Foxwoods executives.

13 MR. MACKEY: They would be overseen  
14 by you in your capacity --

15 MR. BUTERA: Me and my -- me and my  
16 colleagues, correct.

17 MR. MACKEY: Okay. And I take it,  
18 are there members of tribal council on that  
19 executive team?

20 MR. BUTERA: No. There are not.

21 CHAIRMAN CROSBY: Mr. Mackey, excuse  
22 me. Could the -- can the Crossroads  
23 governance structure, whatever that turns out  
24 to be after the new equity is involved, can



1           they -- can that board, that entity, fire the  
2           enterprise as the managing -- as the contract  
3           manager?

4                   MR. BUTERA:  Yeah, there are some  
5           restrictions on how that would be done.  But,  
6           yes, they could replace the manager, or they  
7           could decide to self-manage.

8                   CHAIRMAN CROSBY:  Right.

9                   MR. MACKEY:  Okay.  Have the  
10          creditors, in connection with your  
11          restructuring, expressed views about the  
12          current operating model?

13                   MR. BUTERA:  About the Foxwoods --

14                   MR. MACKEY:  Massachusetts LLC  
15          operating model.

16                   MR. BUTERA:  -- Massachusetts  
17          operating model?  We've described it to them.  
18          We've gone for their approval to make this  
19          investment and enter into this, so I haven't  
20          had any reaction affirmatively or negatively  
21          with regard to it.

22                   MR. MACKEY:  In terms of checks and  
23          balances on the Foxwoods Massachusetts board  
24          of managers, again yourself and

1 Chairman Butler, and Ms. Whipple, how would  
2 those work; for example, if the enterprise  
3 executive committee determined that the  
4 Massachusetts LLC was doing something it  
5 didn't like or mismanaging the facility, how  
6 would it exercise its control over -- over the  
7 local entity?

8 MR. BUTERA: I would say, as any  
9 board would exercise control over any  
10 management team it would -- you know, usually  
11 the board has oversight. As an executive that  
12 reports to a board, and I've been doing it for  
13 a lot of my career, I always view that the  
14 executive's role is to advise and to execute.

15 So I report to a board with my best  
16 advice, the board makes a decision and then I  
17 execute. So if I tell the -- if at Foxwoods  
18 the tribal council, we should have brown rugs  
19 and they decide they want purple, then I have  
20 to get them great purple rugs. So I would  
21 envision that that would be the same case here  
22 and they'd be -- the management team would  
23 report to that committee, it will give its  
24 best advice and then execute what the

1 committee decided to do.

2 CHAIRMAN CROSBY: I'm sorry, I may  
3 be missing it. You were just now talking  
4 about the committee the three-member  
5 committee?

6 MR. BUTERA: The three-member,  
7 correct.

8 CHAIRMAN CROSBY: If you -- you  
9 won't propose to them what color rugs in  
10 Massachusetts; you propose to the Crossroads  
11 governance body?

12 MR. BUTERA: Correct. To the  
13 Crossroads governance body, correct. Well, I  
14 was giving example of what I currently do at  
15 Foxwoods. So I'm saying that same type of  
16 relationship would now exists at Foxwoods  
17 Massachusetts where we would report to that  
18 three-person -- with regard to Foxwoods  
19 Massachusetts we'd report to that three-person  
20 committee and say we want brown rugs, and then  
21 that three-person would --

22 CHAIRMAN CROSBY: But Foxwoods, the  
23 committee only represents the minority share  
24 in the governance structure of Crossroads.

1           MR. BUTERA: But we -- but --  
2           majority share, but we're in charge of the  
3           operations. So deciding of the color of rugs  
4           would be an operational matter.

5           MR. ALLEN: But deciding on --

6           MR. BUTERA: Selling the property --

7           MR. ALLEN: -- selling or borrowing,  
8           or something like that would be the Crossroads  
9           entity would have to come into that.

10          MR. BUTERA: They'll be --

11          MR. ALLEN: Day-to-day operation  
12          will be Foxwoods.

13          MR. BUTERA: There'll be an  
14          operating agreement between -- between  
15          Foxwoods and Crossroads.

16          CHAIRMAN CROSBY: Okay.

17          MR. BUTERA: And it'll discuss  
18          decision-making, and it'll discuss  
19          decision-making that'll be made by the board  
20          of Crossroads, and then it'll discuss  
21          decision-making that'll be made by the  
22          executives running the property. So that'll  
23          be defined in an agreement.

24          COMMISSIONER MCHUGH: Can I just

1 try -- try to see if I understand this. We've  
2 got three bodies -- actually four. But three  
3 bodies you've mentioned most recently. We've  
4 got the Foxwoods management team that you  
5 report to now, insofar as the Connecticut --

6 MR. BUTERA: That I'm part of,  
7 correct.

8 COMMISSIONER MCHUGH: Insofar as the  
9 Connecticut operations are concerned?

10 MR. BUTERA: Right. I'm part of the  
11 Foxwoods management team.

12 COMMISSIONER MCHUGH: All right.

13 MR. BUTERA: Right.

14 COMMISSIONER MCHUGH: We've got the  
15 Crossroads management team, which is  
16 contemplated by this agreement?

17 MR. BUTERA: Correct.

18 COMMISSIONER MCHUGH: And we've got  
19 the Foxwoods Mass LLC group of three, right?

20 MR. BUTERA: Correct.

21 CHAIRMAN CROSBY: Well, the group of  
22 three isn't the LLC. The group of three is  
23 the -- is the tribal representative in the  
24 equity team makeup.

1                   COMMISSIONER MCHUGH: Foxwoods Mass,  
2                   LLC irrevocable authority for management and  
3                   oversight has been delegated consisting to a  
4                   board of managers consisting of Butler,  
5                   Whipple and Butera, right?

6                   MR. BUTERA: Right.

7                   COMMISSIONER MCHUGH: Okay. So  
8                   that's the three I was referring to. That  
9                   three has oversight over the operational  
10                  component of this contemplated facility, the  
11                  color of rugs, the kinds of machines you're  
12                  going to get, how many and of the spacing of  
13                  the machines and what kind of lights you have,  
14                  and all of that rests, ultimately, in that  
15                  group of three?

16                  MR. BUTERA: Correct.

17                  COMMISSIONER MCHUGH: And management  
18                  of the overall facility, economic employment  
19                  decisions, what hotels to build, how much to  
20                  invest in the transportation infrastructure,  
21                  that all is a decision of Crossroads?

22                  MR. BUTERA: Correct.

23                  COMMISSIONER MCHUGH: Right? So  
24                  that, you, Ms. Whipple and Mr. Butler really

1           are the three ultimate decision-makers insofar  
2           as operation of the casino is concerned,  
3           right?

4                       MR. BUTERA:   Correct.

5                       COMMISSIONER MCHUGH:  All right I'll  
6           come back to that when it's my turn.  I just  
7           wanted to try and see if I understood that  
8           phrase.

9                       MR. MACKEY:  And just to follow-up  
10          on that question, with respect to those  
11          operational issues, you referenced there will  
12          be oversight, nonetheless, by the executive  
13          committee team down in Connecticut, correct?

14                      MR. BUTERA:  Correct.

15                      MR. MACKEY:  Okay.  Who appoints  
16          that executive committee?

17                      MR. BUTERA:  The executive committee  
18          is appointed by myself.  I appointed the  
19          members of executive committee.

20                      MR. MACKEY:  I have no further  
21          questions.

22                      CHAIRMAN CROSBY:  Break?

23                      COMMISSIONER ZUNIGA:  If you're  
24          going to talk about governance, maybe you can

1 continue, but I think thinking maybe time for  
2 a break.

3 CHAIRMAN CROSBY: Okay. Let's take  
4 a quick break and we will pick up then.

5  
6 (A recess was taken)

7  
8 CHAIRMAN CROSBY: We just have  
9 pretty much the presentation from the  
10 applicant. Do you have something you want to  
11 say?

12 MR. ALLEN: Just -- Mr. Chairman,  
13 the way the governance came up through  
14 questioning, almost starting at the end and  
15 then going back to the beginning maybe caused  
16 some confusion so, Mr. Butera, if we could  
17 just have a minute, just to make sure we're  
18 all on the same page here.

19 CHAIRMAN CROSBY: Sure.

20 MR. BUTERA: Just want -- just want  
21 to clarify how the governance of Foxwoods  
22 Massachusetts will work. So Foxwoods  
23 Massachusetts, or Crossroads, will have its  
24 own board that will govern all of the major



1 decision-making of that enterprise. That  
2 board will then hire a manager, manager being  
3 Foxwoods. So the three-person committee  
4 actually, you know, reports up to and is hired  
5 by that board.

6 So you have the Foxwoods  
7 Massachusetts, or Crossroads board, hires the  
8 manager, the manager is governed by the  
9 three-person committee, and then that  
10 three-person committee hires the executives,  
11 such as myself.

12 CHAIRMAN CROSBY: And the  
13 three-person committee also represents the  
14 Foxwoods equity share on the top --

15 MR. BUTERA: That's correct.

16 MR. ALLEN: That's correct. That's  
17 correct. And it's important to note that this  
18 Crossroads ultimately controls everything, the  
19 board, because they control the budget. So  
20 the scenario with the rugs, the management  
21 company can say purple versus brown, but as  
22 long as it's within the budget, Crossroads  
23 doesn't care, as long as they're working  
24 within the budget.

1                   CHAIRMAN CROSBY: Yeah.

2                   MR. ALLEN: But just to be clear --  
3                   and Foxwoods LLC may or may not have a member  
4                   on that board, and that would something that  
5                   would be negotiated at a later time.

6                   CHAIRMAN CROSBY: Is the -- as long  
7                   as we're talking about this, whoever's the  
8                   best person to speak to this, it might even be  
9                   Catherine Blue, is the -- is this irrevocable  
10                  resolution something that we believe is, in  
11                  fact, irrevocable; can another -- can another  
12                  resolution not just come along and say we've  
13                  got a new way to structure this?

14                  MS. WELLS: I would defer to -- to  
15                  Guy Michael on that with the tribal expertise?

16                  CHAIRMAN CROSBY: Okay. Can you use  
17                  the mic, Guy?

18                  MR. MICHAEL: Yeah. To answer your  
19                  question, Chairman, yes. We were satisfied  
20                  that for purposes of the qualification  
21                  standards presently, the resolution that was  
22                  entered into by the tribal council of  
23                  Mashantucket Pequots is irrevocable. It's a  
24                  delegation that gives them utter and complete

1 control independent of the council's authority  
2 for the operation of the Massachusetts  
3 project. Can --

4 CHAIRMAN CROSBY: Except --

5 MR. MICHAEL: -- subsequent council  
6 pass a resolution that revokes the  
7 irrevocability, I suppose legally that's  
8 possible, but then the commission will have  
9 the authority to say, this is not the standard  
10 upon which we granted you, whatever you've  
11 ultimately granted them, and be able to  
12 revisit this whole issue.

13 CHAIRMAN CROSBY: Right.

14 MR. BUTLER: Correct. And,  
15 Chairman, if I could, to that exact point,  
16 correct, at some point a council could decide  
17 to produce a follow-up resolution, as with any  
18 legislative body could. But it would put the  
19 license at risk, and that's certainly  
20 something that the council would take into  
21 consideration in not going to do.

22 And with regard to this specific  
23 resolution in this action, it clearly assigns  
24 responsibilities to myself, the vice

1 chairwoman-elect, Crystal Whipple and  
2 Mr. Butera. And in addition to that, we  
3 made -- we ensured that each councilor -- each  
4 remaining council members have signed waivers  
5 to that effect, that they are not involved in  
6 any way, shape or form of the project.

7 CHAIRMAN CROSBY: Actually, I would  
8 like to pursue this a little bit, unless  
9 somebody else has something it's in the middle  
10 of.

11 So one of -- apparently not the, but  
12 one of the reasons for this committee  
13 structure was to insulate the applicant from  
14 the problems that were then going on with some  
15 of the tribal council membership. So that  
16 they wouldn't be applicants and I assume -- so  
17 they wouldn't be qualifiers, and I assume,  
18 also, sort of, to give a level -- to the  
19 extent that those various issues, and we'll  
20 talk about them specifically, but to the  
21 extent that those are substantive, and I'm  
22 sure it's debated -- debatable how substantive  
23 they are, but to the extent that those are  
24 substantive, this structure is designed to

1 insulate the applicant from criticism about  
2 those problems; is that correct?

3 MR. BUTLER: Yeah. I mean, the  
4 structure's set up to give us the best  
5 opportunity to obtain a license within this  
6 jurisdiction. And that's how we approach all  
7 jurisdictions that we look at. We set up  
8 different structures for varying jurisdictions  
9 and then different enterprises that we've  
10 entered into. That's typical in Indian -- in  
11 Indian country, whereby they'll have a  
12 governing council and then have different  
13 business entities established to address  
14 bearing the needs of the -- of the nation  
15 itself.

16 MR. BUTERA: But, Chairman Crosby,  
17 if I may, I think the structure was -- was  
18 more set up to be practical. You know, as I  
19 mentioned with the Colony Capital structure,  
20 which it's sort of known as in the business,  
21 whereas Colony didn't want to have to go  
22 through the process of having all of its  
23 limited partners membered, the Mashantucket  
24 tribe didn't want to go through the process

1 obviously, or it wouldn't be practical to go  
2 through the process of having all 900-plus  
3 members of the tribe go through a application  
4 process. So that -- that was really why it  
5 was set up, was to, you know, limit the amount  
6 of people from a practicality standpoint as  
7 to -- who would have to go through the  
8 licensing standpoint.

9 You know, I think the criticisms of  
10 any member of the tribe or former council  
11 would arise, regardless of that structure.

12 CHAIRMAN CROSBY: Well I -- well, I  
13 hear that. And I guess what I'm -- what I'm a  
14 little bit troubled by is, to the extent that  
15 the independence of that body is crucial,  
16 whether it's for cosmetic reasons or  
17 simplicity operation reasons, or best  
18 practices or whatever, to the extent that that  
19 independence is crucial, how independent can  
20 they really be, being two of the three elected  
21 officials? You know, we're politicians, you  
22 know. And you're subject to pressures from  
23 people on your board, from -- how independent  
24 can those people be?

1           If the independence is what really  
2 matters here, for whatever the host of reasons  
3 is, then why wouldn't they be really  
4 independent; why would they be outside people,  
5 you know, who genuinely do have -- to say -- I  
6 mean, I totally trust the good faith. Have  
7 reason not to trust the good faith but I --  
8 you know --

9           MR. BUTERA: I can give -- I'll turn  
10 it over to Chairman Butler, but I can give you  
11 my, sort of, experience having been there for  
12 three years. I talked a lot about the  
13 restructuring and some of the sacrifices that  
14 the tribe had to make.

15           When Foxwoods was in its -- in  
16 better times, better economic times, Foxwoods,  
17 the gaming enterprise was paying substantial  
18 dividends to all the tribal members, was  
19 covering a lot of health care, housing,  
20 mortgages, you know, you name it. As part of  
21 the restructuring, this council had to go in  
22 and cut all of those programs out, cut all of  
23 those distributions out. As you can imagine,  
24 those were incredibly unpopular decisions, and

1           they made those decisions.

2                       So while they are elected officials,  
3           I've seen them do things that are -- that  
4           are -- were in the best interest of the  
5           operation -- in the long-term best interest of  
6           the tribe, but extremely unpopular at the  
7           time.

8                       MR. BUTLER: Thank you, Scott. And  
9           with regard to being elected officials, that's  
10          absolutely correct. But in the sense of our  
11          tribal nation, we're elected officials -- the  
12          way I describe it, we're elected officials,  
13          we're members of a board --

14                      CHAIRMAN CROSBY: Sheep herders --

15                      MR. BUTLER: -- sheep herders, head  
16          of a family. And it's amazing the exposure we  
17          have. There's no job like it in the world, I  
18          can say that for certainty. And as -- as  
19          Mr. Butera pointed out, the exposure that  
20          provides us and the experiences that provide  
21          us allow us to give substantial insight and  
22          direction to this -- this initiative.

23                      MR. ALLEN: And I think there's a  
24          little bit of checks and balance that may give



1           you some -- alleviate some of your concern in  
2           that there's still that Crossroads board of  
3           governors that if they're not happy with the  
4           decisions that this three-board makes, can--  
5           can remove them, can -- can fire them. So if  
6           they feel they're doing something in the best  
7           interest of the tribe --

8                         CHAIRMAN CROSBY: Yeah. They can't  
9           fire the three-member board but they could  
10          fire --

11                        MR. ALLEN: The management.

12                        CHAIRMAN CROSBY: The management.

13                        MR. ALLEN: Right. Sorry. The  
14          management, correct.

15                        COMMISSIONER MCHUGH: They could  
16          fire Foxwoods.

17                        MR. ALLEN: But if they felt the  
18          decisions were being in the best interest of  
19          the tribe and not necessarily of Crossroads,  
20          is my point.

21                        COMMISSIONER MCHUGH: That would be  
22          a big deal.

23                        MR. BUTLER: Certainly.

24                        MR. ALLEN: Certainly.

1                   CHAIRMAN CROSBY:  Okay.  Other  
2                   commissioners, other questions on this  
3                   general --

4                   COMMISSIONER MCHUGH:  Yeah, I  
5                   have --

6                   CHAIRMAN CROSBY:  Go ahead.  Okay.

7                   COMMISSIONER MCHUGH:  I have just a  
8                   couple of questions that tie this back to the  
9                   incomplete financing.

10                  At the moment, there is about  
11                  45 percent of the financing, equity financing  
12                  in place, right, 10 percent, roughly, from  
13                  Foxwoods, 35 percent from Crossroads?

14                  MR. BUTERA:  Yeah.  I think the  
15                  percentage --

16                  COMMISSIONER MCHUGH:  Some --  
17                  some -- whatever the split is.  There's about  
18                  45 percent.

19                  MR. BUTERA:  Correct.  There's a  
20                  minority amount of funding, correct, in place.

21                  COMMISSIONER MCHUGH:  All right.  
22                  But 55 percent of equity financing is still  
23                  being sought?

24                  MR. BUTERA:  Correct.

1                   COMMISSIONER MCHUGH:  And this  
2                   structure has been set up by the existing  
3                   equity participants?

4                   MR. BUTERA:  Correct.

5                   COMMISSIONER MCHUGH:  What guarantee  
6                   is there that the new equity participant is  
7                   going to be content with this structure as  
8                   opposed to some other structure?

9                   MR. BUTERA:  I would say, with  
10                  regard to the structure, you know, we've been  
11                  in very lengthy discussions, and I think we're  
12                  very close with either one of two parties.  
13                  We've gone through this structure with them  
14                  very thoroughly.  So I can represent that the  
15                  structure, I believe, will -- will remain.  
16                  Now, in terms of actual equity splits and how  
17                  distributions are allocated, you know, that's  
18                  part of the current negotiations.  Something  
19                  might change.

20                  COMMISSIONER MCHUGH:  I understand  
21                  that, but in terms of management structure --

22                  MR. BUTERA:  Right.  That's been --  
23                  that, I believe strongly, will remain intact  
24                  as you see it.

1                   COMMISSIONER MCHUGH: All right.

2                   And on top of the equity is another three --  
3                   about three times the equity in debt that's  
4                   being anticipated.

5                   MR. BUTERA: That's correct.

6                   COMMISSIONER MCHUGH: And what  
7                   guarantees are there that the lender -- that  
8                   the lender will be content with this  
9                   structure?

10                  MR. BUTERA: The lender has been --  
11                  Deutsche Bank has been involved in this  
12                  process for since I've been involved with it,  
13                  so since the beginning of the year.

14                  COMMISSIONER MCHUGH: But Deutsche  
15                  Bank may not be the ultimate lender?

16                  MR. BUTERA: That would be -- I  
17                  would be surprised if that were not the case.  
18                  I would be surprised if Deutsche Bank did not  
19                  lead the financing for this --

20                  COMMISSIONER MCHUGH: I missed it.

21                  MR. BUTERA: -- unless a loan is not  
22                  required.

23                  COMMISSIONER MCHUGH: I'm sorry. I  
24                  thought I understood you to say one of the

1 alternatives was the sale and leaseback --

2 MR. BUTERA: Correct.

3 COMMISSIONER MCHUGH: -- plus a loan  
4 from the --

5 MR. BUTERA: Right. So if a loan is  
6 required, Deutsche Bank is very likely to be  
7 that lender.

8 COMMISSIONER MCHUGH: Oh. Under the  
9 sale and leaseback arrangement as well?

10 MR. BUTERA: Under the sale and  
11 leaseback arrangement there would not be the  
12 need for a loan.

13 CHAIRMAN CROSBY: There is a loan,  
14 it's just not a bank loan.

15 MR. BUTERA: Right. It's not a --  
16 well, it's a sale leaseback. It's a sale to  
17 an enterprise.

18 CHAIRMAN CROSBY: I thought then  
19 there was additional --

20 MR. BUTERA: Oh, I'm sorry. There  
21 is a loan. The loan is with the same entity  
22 that's providing sale leasebacks.

23 CHAIRMAN CROSBY: So it isn't --

24 COMMISSIONER MCHUGH: So it's not

1           Deutsch Bank?

2                       MR. BUTERA: That's correct.

3                       CHAIRMAN CROSBY: Right. So if you  
4 pick one option, Deutsch Bank's involved, but  
5 the other they aren't.

6                       MR. BUTERA: So one option is  
7 private equity fund, Deutsche Bank, another  
8 option is one enterprise in a sale leaseback  
9 and loan from that same enterprise.

10                      COMMISSIONER MCHUGH: That's what I  
11 thought. So if you go the sale leaseback  
12 route, what guarantee is there that the  
13 lender, under that component, is prepared to  
14 accept this management structure?

15                      MR. BUTERA: I would say there's  
16 never a guarantee, but we've been in, you  
17 know, lengthy discussions with this  
18 enterprise, they know our structure, they've  
19 given us terms and haven't suggested any  
20 change to that structure. So based on all the  
21 evidence that I have, I believe the structure  
22 will remain intact.

23                      COMMISSIONER MCHUGH: Thank you.

24                      COMMISSIONER ZUNIGA: I have a

1 question on that -- that point. So you  
2 characterize these conversations from these  
3 two alternatives as advanced; is that a fair  
4 statement?

5 MR. BUTERA: I would say well  
6 advanced.

7 COMMISSIONER ZUNIGA: Well advanced?

8 MR. BUTERA: Yes.

9 COMMISSIONER ZUNIGA: Do you have an  
10 estimate in terms of timing as a result of  
11 that?

12 MR. BUTERA: What's that?

13 COMMISSIONER ZUNIGA: Timing.

14 MR. BUTERA: I think that's  
15 aggressive, but, yeah, within -- you know, I  
16 would say within certainly within a week, but  
17 hopefully within days.

18 CHAIRMAN CROSBY: And on this same  
19 -- sorry.

20 COMMISSIONER CAMERON: No. Go  
21 ahead.

22 CHAIRMAN CROSBY: Just on this same  
23 score. So either one of them would create new  
24 qualifiers, correct, of some number?

1 MR. ALLEN: Yes.

2 CHAIRMAN CROSBY: And if it's  
3 anywhere from two or three to five or six, I  
4 mean, somewhere, presumably, in that range,  
5 what are our time constraints? We don't  
6 technically have any rule that says  
7 suitability has to be done by X, I don't  
8 think.

9 MR. ALLEN: But we also understand,  
10 Mr. Chairman, that if we showed up here with  
11 30 it would never happen. If we showed up  
12 with five it may not ever happen. And Karen  
13 is sitting over there saying one may not be  
14 able to happen. But there is -- but I will  
15 tell you this, I've, as recently as today,  
16 have continued to apprise Karen, and there is  
17 a scenario there that -- that wouldn't cause  
18 her a lot of concern about the timing of it.

19 CHAIRMAN CROSBY: Meaning, very few,  
20 if any, qualifiers?

21 MR. ALLEN: Correct.

22 CHAIRMAN CROSBY: Well, I guess it's  
23 a hard question to ask.

24 MS. WELLS: Right.





1 brought out here this morning that I hadn't  
2 focused on was the fact that monies from this  
3 project in Massachusetts would be owed to  
4 creditors on the restructuring in Connecticut.  
5 And I had a question.

6 How can we be assured that the  
7 operator would make decisions in the best  
8 interest of this project, and not the overall  
9 Foxwoods Connecticut project because monies  
10 are due? And I'm particularly referring to a  
11 much better tax rate in Connecticut that would  
12 be advantageous, especially, in a situation  
13 where you owe creditors to focus customers in  
14 Connecticut.

15 MR. BUTERA: Yeah. Many -- many  
16 different elements to answering that question.  
17 One, the tax rates are fairly similar. We  
18 have -- we pay 25 percent of our -- of our  
19 slot gaming revenue in taxes.

20 COMMISSIONER CAMERON: But zero on  
21 table games?

22 MR. BUTERA: That's correct.

23 COMMISSIONER CAMERON: Well, then,  
24 that's not 25 percent over all.

1           MR. BUTERA: Table games have a much  
2 lower operating profitability than slot  
3 machines. But you're correct, we do not pay  
4 taxes on table games. But when you factor in  
5 what it costs to operate a table game versus  
6 what it costs to slot machine, they're fairly  
7 similar.

8           But, more importantly, the money  
9 that we earn as -- as part of managing the  
10 facility in Massachusetts is -- is going to be  
11 based on the success of that property. So the  
12 more successful that Foxwoods Massachusetts  
13 is, the more money that the gaming enterprise  
14 in Connecticut will earn. so it would behoove  
15 us to maximize profitability in that market.

16           Furthermore, you know, we have a  
17 customer base that we want to satisfy. As I  
18 mentioned, you know, the primary decision  
19 usually for somebody making a decision as to  
20 where they want to go game has a lot o do with  
21 convenience and location. So our customer  
22 base that -- that we're going to cater to that  
23 facility is going to want to go to that  
24 facility anyway. We're not in the business of

1 adjusting people's wants.

2 So I think there's going to be a  
3 strong, natural demand from our existing  
4 customer base. I actually think you'll see  
5 people from Connecticut go to Massachusetts to  
6 go see a new product, to go see a new  
7 facility. So on the -- you know, contrary  
8 view, I think that we'll be instrumental in  
9 bringing customers and revenues to  
10 Massachusetts, as opposed to taking it from  
11 there. But our -- anything we earn will be  
12 completely based on success of that facility.

13 COMMISSIONER CAMERON: I also had a  
14 question for Mr. Butler, Chairman Butler. You  
15 know, you will be influential in this project,  
16 if it's successful moving forward here.

17 MR. BUTLER: Yes.

18 COMMISSIONER CAMERON: I just had  
19 questions about, on your watch as chairman, an  
20 indictment and some other issues with board  
21 members. I know you chose to support one of  
22 them and, you know, paid for those legal  
23 defenses. I just wanted to hear more about  
24 your decision-making process with regard to

1           these -- these issues.

2                         MR. BUTLER:  Okay.  I'm just -- I --  
3           give an overview, and thank you for the  
4           question.  Give an overview of the structure  
5           of the tribe itself, and I think that will  
6           help get into the actual concerns.

7                         And so, the tribe is operated by a  
8           governing council, which includes myself as a  
9           chair, and, again, Councilor Whipple will be  
10          the new vice chair in January.  There's seven  
11          members of that council, and we're all elected  
12          on staggered terms, serving three-year terms.  
13          And as I stated earlier, we oversee all -- all  
14          issues regarding the tribe, whether it be  
15          governing family enterprise.  And under that,  
16          we serve, roughly, a thousand tribal members,  
17          a community.  No -- no different than what  
18          you'd see in a municipality or in a state.  As  
19          you have citizens of that state, we have  
20          citizens of the nation.

21                         And so, as individual citizens make  
22          personal decisions that impact them in various  
23          legal ways, we are a community that  
24          recognizes, as a family community, that we

1 recognize that, you know, first, they're  
2 family members and we need to look after them  
3 in that sense. But, secondly, we need to  
4 understand what they're being accused of and  
5 -- as a -- as a responsible government and  
6 treat that appropriately as well.

7 And so, the two issues. One was  
8 regarding the former chairman. His issues  
9 occurred prior to my -- my becoming chairman,  
10 obviously, because he was removed during his  
11 chairmanship for unrelated issues to what he  
12 was indicted for. But after being removed  
13 from the council, by the council, again, which  
14 saw in the best of the tribe to do so, he was  
15 indicted for -- for allegedly, and now  
16 convicted of utilizing travel funds for  
17 personal reasons.

18 And so, understanding that, we felt  
19 as a council, that those accusations were  
20 against the tribe and we could not support  
21 that. Right. And so we have a fiduciary  
22 responsibility, regardless of being a family  
23 member, as a governing body of a nation, we  
24 have a fiduciary responsibility to the nation

1 first and then to the family members second.  
2 And in his case, we could not support his  
3 claims. And so, that has concluded. He  
4 actually goes for sentencing, I believe, next  
5 week regarding that issue.

6 With regard to the treasurer, the  
7 treasurer, Steven Thomas, his issue, as we  
8 understood them, were related to past -- past  
9 work performance. Going back several years,  
10 much longer to him being on council, prior to  
11 him being on the council, going back, I think,  
12 to 2008, 2007.

13 And so, those issues were, in our  
14 minds from the information we had at that  
15 time, were related to employment matters that  
16 we had dealt with as a nation, including -- up  
17 to including his -- his termination from his  
18 former position -- or his forced resignation  
19 from his prior position.

20 And so, like any elected body, the  
21 constituents have an opportunity to elect who  
22 they so chose to serve on the council. And,  
23 at large, the community chose him to serve.

24 Now, during his service as -- on the

1           council, he did an exceptional job being a  
2           member of the council, and then being selected  
3           internally by the council as the treasurer of  
4           the council, and he served as treasurer during  
5           one of our most darkest financial times in  
6           this -- this very difficult restructuring.  
7           And he was instrumental in leading that effort  
8           on from a community perspective along with  
9           understand what the restructuring meant as a  
10          family and delivering those hard messages, as  
11          Mr. Butera relayed earlier, regarding the --  
12          the declining services being provided by the  
13          tribe, and lack of distributions from  
14          the enterprise as well. And so, he led that  
15          charge.

16                         And when we looked at the -- what he  
17          was being accused of, we felt that there were  
18          already issues that we had already dealt with  
19          as a nation. And so, in that process I went  
20          so far as even sitting down with the U.S.  
21          Attorney himself, not Eric Holder, but  
22          Lanny Breuer at the time, and walking through  
23          what we felt were the facts from -- from the  
24          nation's perspective. That they continue to





1 clarify that statement, not only do -- do I  
2 believe that they're qualified, but the state  
3 of Connecticut agrees that they're qualified  
4 because it was a memorandum of understanding  
5 that we jointly worked upon with the state in  
6 agreement to allow our officers to essentially  
7 become peace officers, or qualified by the  
8 state to handle criminal activity on the  
9 reservation.

10 And so, they're all postcertified in  
11 Connecticut so -- postcertification for their  
12 state officers. All of our officers are  
13 postcertified under the guides of the state of  
14 Connecticut. And that's -- that is a  
15 qualification for them to move forward and  
16 handle those criminal matters on the  
17 reservation. So it was a lengthy process. It  
18 wasn't so much driven by cost savings. It  
19 wasn't driven by cost savings at all, in fact.  
20 Cost savings was a benefit of that because of  
21 the cost the state was charging us for -- for  
22 regulatory fees related to the state police.

23 The overriding issue there was truly  
24 the fact that, one, we're a sovereign nation

1           and the ability to self-govern, and, two, we  
2           had the qualified police force that could  
3           enforce laws on the reservation in compliance  
4           with our laws and with Connecticut state laws.

5                        So it was a collaborative agreement  
6           with the state of Connecticut that actually  
7           went into effect as of November 1st, where the  
8           state of Connecticut has withdrawn their state  
9           troopers from the reservation, and we're  
10          actively concluding negotiations on the  
11          memorandum of understanding.

12                       MR. BUTERA:  And from an operating  
13          standpoint, I'd just like to clarify, we still  
14          have, you know, involvement with the  
15          Connecticut State Police when we deem it's  
16          necessary.  So our police force has a good  
17          relationship with the state police, and if we  
18          need their services on a moment's notice we  
19          call them and they come in and assist us.  So  
20          it's not like the Connecticut State Police are  
21          no longer involved in the facility.

22                       MR. BUTLER:  Any major crime, they  
23          intervene.

24                       COMMISSIONER CAMERON:  Thank you.

1           One last question. I see that you've made  
2           attempts in other jurisdictions to operate a  
3           commercial casino. It has not been  
4           successful, correct, Kansas and you've applied  
5           in New York? There's obvious difference  
6           between tribal gaming and commercial gaming.  
7           Do you anticipate issues around operating a  
8           commercial casino, if -- if granted a license?

9                       MR. BUTLER: I don't foresee any  
10           issues. Those issues related to those  
11           specific projects -- and we had a project out  
12           in California that was -- it was a tribal  
13           project, but our perspective was a  
14           commercial gaming -- was that it was  
15           commercial gaming. When you looked at the  
16           timing of those projects, all those projects  
17           were horribly impacted by the broader economy,  
18           the lack of financing that was related to the  
19           financial markets in 2008.

20                      When you look today at the Kansas  
21           project, it is a -- one of the most successful  
22           projects in the country from a return on  
23           investment perspective. The competing project  
24           in Philadelphia, Sugar House, is doing very

1 well, and now Pennsylvania is reopening --  
2 they're going through the license -- licensing  
3 process of the second Philadelphia project,  
4 which was originally our license.

5 So both, on paper, were fantastic  
6 projects. They saw the management teams put  
7 in place. It literally came down to financing  
8 at that time, and it was just the worst market  
9 timing that you could have seen anywhere at  
10 that time. Financing for any new construction  
11 project, regardless of the economics, was not  
12 getting approved anywhere in the country.

13 COMMISSIONER CAMERON: Thank you.

14 COMMISSIONER STEBBINS: Couple of  
15 quick follow-ups to Commissioner Cameron's  
16 questions.

17 First of all, in terms of -- I  
18 understand you have a proposal that was just  
19 approved in New York state following a  
20 referendum last week; is that correct?

21 MR. BUTERA: We -- we are applying  
22 for a license in New York state, that's  
23 correct.

24 COMMISSIONER STEBBINS: Okay.

1                   MR. BUTERA:  And there was a bill  
2                   that was just -- that was just voted  
3                   affirmatively --

4                   COMMISSIONER STEBBINS:  A week ago,  
5                   right?

6                   MR. BUTERA:  Correct.

7                   COMMISSIONER STEBBINS:  Okay.

8                   MR. BUTERA:  Allowing for those  
9                   licenses to go forward.

10                  COMMISSIONER STEBBINS:  And your  
11                  project, I think it's in the Catskills, can  
12                  you give a quick overview of your role in that  
13                  project --

14                  MR. BUTERA:  Yeah.  It'd be very --

15                  COMMISSIONER STEBBINS:  -- perhaps  
16                  even the financing piece of it?

17                  MR. BUTERA:  Sure.  It would be very  
18                  similar to what's being proposed here.  We  
19                  would be a minority equity partner, developer,  
20                  manager of that facility.  It's contemplated  
21                  that that facility is going to be, although  
22                  similar in style, probably smaller than what  
23                  we're proposing here.  It's probably going to  
24                  be a \$500 million facility, but it will be a

1 fully-integrated resort casino with  
2 restaurants, hotel rooms and entertainment  
3 facilities in the Catskills.

4 COMMISSIONER STEBBINS: Okay. As  
5 CEO, you're managing, for the lack of a better  
6 term, reorganization turnaround at your  
7 facility in Connecticut, you're potentially  
8 managing a billion-dollar-plus project,  
9 potentially, in Massachusetts, and now an  
10 additional project in New York state. How  
11 is -- how do you, as CEO, undertake that  
12 responsibility of keeping these projects all  
13 in the air at the same time?

14 MR. BUTERA: Well, you know, it's  
15 always challenging, but I've been involved in  
16 situation like that in the past. Previously,  
17 I was the CEO of a company called Tropicana  
18 Resorts where we operated 10 facilities. I  
19 was CEO of Trump Resorts in Atlantic City,  
20 where we operated three very large facilities,  
21 and actually a fourth, Riverboat.

22 So, you know, we -- I have a good  
23 management team. We do hire up in staff  
24 accordingly, so I do have property managers







1 of, you know, obviously you're an elected  
2 member of the council, you don't need to leave  
3 the council, but could you step back from  
4 responsibilities as treasurer these are all  
5 financial charges and financial matters that  
6 they're being alleged against him at the time.  
7 Was there any consideration saying, step back  
8 from that position until some of these issues  
9 can we resolved?

10 MR. BUTLER: There were discussions.  
11 And, again, we understood the case -- the  
12 facts of the case, as I had stated earlier,  
13 and we felt comfortable with that position.  
14 We did spend time, not only with our vendors  
15 and our creditors explaining the position, and  
16 they all concurred. We also spent a lot of  
17 time working with the department of interior  
18 and department of justice with regard to  
19 contracts and grants as they issued that  
20 letter. And they ultimately felt, as well,  
21 that we had satisfied the structure, that he  
22 wasn't engaged -- similar to the structure  
23 that we set up for Massachusetts, whereby the  
24 other councilors aren't engaged in decisions

1           regarding Massachusetts.

2                   COMMISSIONER STEBBINS: Thank you.

3                   COMMISSIONER MCHUGH: Can I just  
4 follow-up on that, because I recognize  
5 structure's in place, and I recognize why it's  
6 in place, and I recognize the insulation of  
7 the tribal members, and you've described that  
8 well?

9                   On the other hand, there is a  
10 question. You and Ms. Whipple are two-thirds  
11 of the team that ultimately will make the  
12 decisions for Foxwoods Mass.

13                   MR. BUTLER: Mm-hmm.

14                   COMMISSIONER MCHUGH: So some part  
15 of the -- of the thinking is -- is important  
16 to me. Mr. Steven Thomas was basically  
17 accused, in the government's view, of -- of  
18 having a \$200,000 a year no-show job, right;  
19 when you boil it down, that's what the  
20 accusation is?

21                   MR. BUTLER: Correct.

22                   COMMISSIONER MCHUGH: And how was it  
23 that you processed the notion that it was  
24 something the tribe had dealt with, that he

1 was -- that made -- that made the council okay  
2 with supporting that accusation; was it that  
3 the facts were wrong, that he -- that he  
4 actually showed up every day and he earned his  
5 money; was it something else that lead you and  
6 the council to support?

7 MR. BUTLER: Just on that issue,  
8 again, the facts that -- that we had, and our  
9 opinion on that were that, again, it was -- it  
10 was a job that he wasn't performing well at.  
11 We didn't have any evidence --

12 CHAIRMAN CROSBY: That he was not?

13 MR. BUTLER: That he was --

14 CHAIRMAN CROSBY: He was?

15 MR. BUTLER: He wasn't -- I'm sorry,  
16 I apologize. That he wasn't performing --

17 CHAIRMAN CROSBY: Was not?

18 MR. BUTLER: -- well at. We didn't  
19 have any indications from -- we do annual  
20 performance reports on all of our employees.  
21 We didn't have any indications from a -- from  
22 a reporting perspective that he wasn't  
23 performing. And so, based on the information  
24 that we had had, again, we felt comfortable in

1 his current -- in his current standing.

2 COMMISSIONER MCHUGH: That he had,  
3 in fact, been showing up and performing his  
4 job?

5 MR. BUTLER: No. That in that  
6 position as -- as an underperforming position,  
7 we had later dealt with that at that time, in  
8 2008, by terminating his position.

9 COMMISSIONER MCHUGH: But he had  
10 collected some \$700,000 for a job he hadn't  
11 performed.

12 MR. BUTLER: That is what the  
13 government was alleging, yes.

14 COMMISSIONER MCHUGH: Did the tribe  
15 conclude that that accusation was correct or  
16 incorrect?

17 MR. BUTLER: No, we didn't.

18 COMMISSIONER MCHUGH: You didn't --

19 MR. BUTLER: We didn't conclude that  
20 it was correct.

21 COMMISSIONER MCHUGH: You concluded  
22 that it was incorrect?

23 MR. BUTLER: We concluded that he  
24 wasn't the best performing employee. And that

1           we had -- as we do with any underperforming  
2           employees, we terminate their positions.  And  
3           that's -- that's how we resolved the  
4           situation.

5                   MR. ALLEN:  So to simplify, he was  
6           showing up, he just wasn't performing at the  
7           best level.  While the government took that as  
8           a no-show, the tribal council took it as the  
9           right to terminate his position.

10                   COMMISSIONER MCHUGH:  The tribal  
11           council, as I understand it, is the hiring  
12           authority for tribal positions.

13                   MR. BUTLER:  No.

14                   COMMISSIONER MCHUGH:  Who is the  
15           hiring authority?

16                   MR. BUTLER:  We have -- so we're --  
17           we're structured in two -- three forms,  
18           actually.  We have regulatory bodies, we have  
19           the gaming enterprise and the nongaming  
20           enterprises and the government.

21                   Within the government itself we have  
22           different departments.  And those department  
23           directors can hire, fire.  They work -- we  
24           have a fairly, well laid out human resource

1 department and policies and procedures. And  
2 there's a -- there's a policy that they follow  
3 that they put up the job for bid, they get a  
4 list of qualifying applicants, and the  
5 director will decide who is employed.

6 Now, from the council's perspective,  
7 we hire on the government the key individuals  
8 so we hire the CFO, the chief staff, the legal  
9 counsel and some of the key administration.  
10 But there's too many ongoing daily occurrences  
11 for the council to be involved in that level  
12 when we're acting in a board capacity.

13 COMMISSIONER MCHUGH: So you hire  
14 the chief of staff?

15 MR. BUTLER: Correct.

16 COMMISSIONER MCHUGH: And the  
17 current chief of staff is Anthony Beltran?

18 MR. BUTLER: Correct.

19 COMMISSIONER MCHUGH: Are there any  
20 criteria for employment insofar as criminal  
21 records are concerned?

22 MR. BUTLER: Not in the government  
23 positions. There are certain federal laws  
24 that relate to employment and background, and

1 if they're working in certain areas with  
2 regard to children. But outside of that,  
3 there aren't any specific regulatory  
4 requirements for government positions.

5 MR. BUTERA: But at the enterprise,  
6 there certainly are.

7 MR. BUTLER: Right. It's completely  
8 separate and distinct.

9 COMMISSIONER MCHUGH: Well, I know.  
10 But I'm now -- I'm now trying to understand  
11 some of the decision-making at the tribal  
12 level. And not at the tribal level, at your  
13 level, your level, potentially, and  
14 Ms. Whipple's because you, as I said, are the  
15 ultimate decision-makers for Foxwoods Mass.  
16 Mr. Beltran was convicted of at least two  
17 felons, right?

18 MR. BUTLER: Mm-hmm.

19 COMMISSIONER MCHUGH: And why isn't  
20 that something that is taken into account  
21 before he's put in charge of the police and  
22 the fire and safety and other kinds of  
23 components of the tribal government?

24 MR. BUTLER: Well, it certainly is.



1 But what's also taken into consideration is  
2 our history with him, and that was prior to  
3 his returning back to the tribe.

4 Some of the history of the tribe is,  
5 when you go back to -- I mean, this year we  
6 cel -- not celebrated, but recognized the  
7 375th year of the Treaty of Hartford. The  
8 treaty of Hartford basically said that Pequots  
9 no longer exist, they can't speak their  
10 language, and everyone was sent off into  
11 slavery. And so, for the last 375 years we've  
12 been fighting for our identity and to get our  
13 lands back, and to hold onto what we had.

14 During that time frame, as you can  
15 imagine, there was very little in the means of  
16 economic activity to keep family members and  
17 citizens at Mashantucket. And so, overtime,  
18 more and more people disbursed from the  
19 reservation. Tony -- Tony and his family  
20 being one of those. And so, many ended up in  
21 -- in the westerly area, Providence, Boston,  
22 New York. Tony himself, I believe, ended  
23 up -- his family located out in the California  
24 region.

1           So, you know, having that -- having  
2           those intergenerational wounds, as they say,  
3           and knowing our history, there were some --  
4           some troubled family members early on. And  
5           when we had the economic success we did,  
6           one -- the key initiative we had was  
7           repatriating, bringing people back to the  
8           reservation. Tony among many of them.

9           And so, when they came back we had  
10          opportunities for folks that they had never  
11          seen in their lifetime. And they were  
12          positive opportunities. And the point of it  
13          was to try to change people's lives. Get them  
14          reengaged in the community, get them to give  
15          back to the community. And I look at Tony as  
16          one of success stories. You know, he came  
17          back to the community -- understanding his  
18          past prior to, came back to the community, was  
19          a contributing member of the -- not only of  
20          the nation, but in the employment arena as  
21          well. Worked his way up to get elected as a  
22          council member. And then following that,  
23          served as the head of our public works  
24          department, and then worked in several council

1 offices. And prior to him being chief of  
2 staff, he was the executive assistant to  
3 the -- to the current vice chair woman and  
4 doing a fantastic job working with the  
5 council.

6 So he showed this innate ability  
7 that -- that you can't teach. And he has this  
8 ability to interact with the departments and  
9 provide the guidance of the council that we  
10 needed to move things forward. And I would  
11 attest the -- the movement in the policing  
12 bill and the commitment from the state of  
13 Connecticut to work with us on policing to  
14 some of his management style and being able to  
15 focus on the task at hand and get it done.  
16 And that gave us confidence in his ability to  
17 be chief of staff. And, again, just to  
18 reiterate, the chief of staff position is  
19 simply government operations and has no  
20 interactions --

21 COMMISSIONER MCHUGH: No, I  
22 understand that.

23 MR. BUTLER: -- or relevance with  
24 gaming.

1                   COMMISSIONER MCHUGH: I understand  
2                   that. I understand. Okay. Thank you.

3                   MR. BUTLER: Thank you.

4                   CHAIRMAN CROSBY: Others?

5                   COMMISSIONER CAMERON: I had a  
6                   couple of questions of Mr. Nunes.

7                   CHAIRMAN CROSBY: Excuse me, are  
8                   we -- you're going to do --

9                   COMMISSIONER CAMERON: Oh, I'm  
10                  sorry. I didn't know were you complete?

11                  MR. MACKEY: Just a few questions --

12                  COMMISSIONER CAMERON: Oh, okay.  
13                  I'll let you go first then, I'm sorry.

14                  MR. MACKEY: -- for Chairman Butler  
15                  and --

16                  COMMISSIONER CAMERON: Sure. I'm  
17                  sorry.

18                  MR. MACKEY: Just to pursue very  
19                  briefly --

20                  COMMISSIONER STEBBINS: Attorney, I  
21                  just haven't one more, kind of,  
22                  business-related question for Mr. Butera.

23                  MR. MACKEY: Okay.

24                  COMMISSIONER STEBBINS: Part of your

1 agreement was to reasonably assist, correct me  
2 if I have this wrong, reasonably assist  
3 Crossroads in securing the additional finance.  
4 Do you think you've played an equal role in  
5 doing that, or a larger role in doing that, in  
6 terms of reasonably assisting Crossroads?

7 MR. BUTERA: Yeah, I think we've --  
8 I think we've played a -- you know, a very  
9 large role in doing that. We've been involved  
10 in all the necessary steps to get to the point  
11 where we could raise financing. We've been  
12 involved in all of the negotiations. The --  
13 you know, unfortunately, equity isn't  
14 something you go into the store and buy.

15 You know, we ran a very lengthy and  
16 robust process. We talked to, probably, over  
17 50 candidates. We narrowed it down to two.  
18 So we've been very involved, as have the other  
19 Crossroads partners.

20 CHAIRMAN CROSBY: Are you finished,  
21 Commissioner?

22 COMMISSIONER STEBBINS: Sorry. Go  
23 ahead.

24 CHAIRMAN CROSBY: No. Let me --

1 I've got some too. We have a couple of  
2 letters from Representative Dykema. And there  
3 were a couple of issues that she raised that I  
4 wanted to ask about.

5 Forgive me if this is explained in  
6 the hundreds of pages, but the -- she talks  
7 about the town of Ledyard being owed \$300,000.  
8 Either it was owed or is owed, that is in  
9 dispute, and she suggests that's evidence of  
10 not a very good relationship with your host  
11 and surrounding communities. What is the --  
12 what are the facts there?

13 MR. BUTLER: I can speak to that.  
14 We actually have a fantastic relationship with  
15 the town of Ledyard. That's a primary school  
16 system for our students at Mashantucket. I  
17 know the mayor, John Rodolico, extremely well.  
18 He's a great guy. And we are the largest  
19 taxpayer in the town of Ledyard, as well.

20 And so, the issue at hand with  
21 regard to this concern, is how -- there's  
22 specific tax treatments with regarding slot  
23 machines in our gaming floors in Mashantucket.  
24 And Ledyard is asserting a claim that they

1           have the ability tax some of these machines,  
2           and that's the tax that's -- that's at issue.  
3           Not so much owing taxes to the town. We did  
4           appeal that claim to -- up to the second  
5           circuit court of appeals. That claim was  
6           denied by the second circuit and we're  
7           currently paying those taxes to the town of  
8           Ledyard.

9                         CHAIRMAN CROSBY: Okay.

10                        COMMISSIONER MCHUGH: Those are  
11           excise taxes, basically?

12                        MR. KING: They're not taxes owed by  
13           the tribe. They're owed by the slot machine  
14           manufacturers who lease those machines to the  
15           tribe, you see?

16                        CHAIRMAN CROSBY: Yeah. And there  
17           aren't other unpaid back taxes or disputed  
18           fees and so forth?

19                        MR. BUTLER: There's nothing owed  
20           from the tribes.

21                        CHAIRMAN CROSBY: Okay. I wanted to  
22           ask a question about this alleged exaggeration  
23           about the I4 -- the I-495 intersection. I  
24           that coming up someplace else, or can I go

1 ahead and --

2 MS. WELLS: We had just -- I had  
3 mentioned that to the -- to the applicant that  
4 they had -- they had submitted a written  
5 response, but they -- I had indicated at the  
6 hearing they should address that, so they  
7 could do that now.

8 CHAIRMAN CROSBY: Okay. Because we  
9 also, we've heard this several places, but  
10 Representative Dykema also wrote this and sent  
11 us some information. We actually did hear a  
12 presentation too, where we heard  
13 characterizations of the interchange, and I  
14 wonder if you could react to that criticism?

15 MR. ALLEN: Yeah.

16 CHAIRMAN CROSBY: The suggestion was  
17 that you dramatically exaggerated, both to the  
18 people of Milford and, by the way, to us, the  
19 status of that, particularly with respect to  
20 Federal Highway.

21 MR. ALLEN: Yeah.

22 CHAIRMAN CROSBY: What's going on  
23 there?

24 MR. ALLEN: Understood. And I think



1 we provided the commission with a two- or  
2 three-page -- Sean Reardon, our engineer went  
3 over that in great depth.

4 We've actually -- I've sat in on  
5 every conversation -- or most every  
6 conversation with Mass DOT as well as Federal  
7 Highway. They -- we've been very clear to say  
8 that a project hasn't been approved, because  
9 we can't say that a project hasn't been  
10 approved because we're not at that stage yet.

11 I think I was troubling -- I was  
12 really troubled by Representative Dykema's  
13 letter because I -- I really think, when you  
14 break it down, it's semantics. The issue  
15 really comes down to the word interchange  
16 verse the word collector-distributor road.  
17 And I think they were talking on a -- on a  
18 technical level that -- that we use the word  
19 interchange verse collector-distributor road.

20 And our goal here is to have a  
21 collector-distributor road that will feed from  
22 one exit for two -- two straight exits. And  
23 it won't be a new interchange, it will be a  
24 new collector-distributor road. And the

1 collector-distributor road is consistent with  
2 what we've been saying at Mass DOT, consistent  
3 to what we've been saying to Mass Highway,  
4 consistent with what we've been saying to you  
5 and to the town. And I think it you if you --  
6 if you really look at the letter, the  
7 correspondence clearly indicates that they  
8 understand that this is the road we're going  
9 in.

10 CHAIRMAN CROSBY: Who's they? "They  
11 understand"?

12 MR. ALLEN: That Mass -- Mass DOT  
13 and Federal Highway understand that that's the  
14 way we're going, but not a new interchange.  
15 And we're not representing that, and that's  
16 not the direction we're going in.

17 And so, I think Mr. Chairman, it was  
18 a matter of semantics. And, you know, while I  
19 provide you with a two- or three-page letter,  
20 it really just came down to that. I think it  
21 was as simple as that. And I'm glad to have  
22 more conversation with the representative if  
23 she thinks we're unclear. But I think we've  
24 been very, very clear. Mass DOT asked us to

1           make it clear, and Federal Highway asked us to  
2           make it clear. And the main thing was, don't  
3           say that you have a project approved.

4                   CHAIRMAN CROSBY: Well, but the  
5           brochure -- the flier, or the ad that she sent  
6           to us, has a sentence that says, "The host  
7           community agreement requires that Foxwoods  
8           Mass will implement and fund all on, offsite  
9           traffic improvements, including, and the first  
10          bullet point is, a new highway interchange  
11          from I-Route 495 to Route 16.

12                   MR. ALLEN: Right.

13                   CHAIRMAN CROSBY: And I guess what  
14          you're saying is, it's not an interchange,  
15          it's something else.

16                   MR. ALLEN: It's really a -- it's  
17          really a collector-distributor road. It  
18          collects --

19                   CHAIRMAN CROSBY: Has it never --  
20          have you -- have you even proposed a new  
21          interchange?

22                   MR. ALLEN: No.

23                   CHAIRMAN CROSBY: So -- but what  
24          you're saying, this was not done with malice,

1           malicious intent you just --

2                   MR. ALLEN:  No.

3                   MR. REARDON:  That's correct.

4                   CHAIRMAN CROSBY:  -- you just -- you  
5           used the wrong word?

6                   MR. ALLEN:  That's correct.

7                   CHAIRMAN CROSBY:  Because an  
8           interchange to me is an interchange.

9                   MR. ALLEN:  Yeah.

10                  CHAIRMAN CROSBY:  It's not a  
11           collector-distributor road.

12                  MR. ALLEN:  And, in hindsight, you  
13           know, you have your folks on the ground that  
14           are sending out those pamphlets, they -- they  
15           run by us, and I take the responsibility for  
16           missing that.  I guess I -- collector road and  
17           distributor wasn't -- I wasn't thinking.

18                  CHAIRMAN CROSBY:  Okay.  Well it's  
19           not trivial because it came to us as well.  I  
20           thought you were talking about a new  
21           interchange when you made your presentation to  
22           us.  And there's a referendum on the 19th,  
23           which, it seems to me it's legit that the  
24           people want -- should know what you're

1 proposing and what you're not. And --

2 MR. ALLEN: Yeah. We made it very  
3 clear through many, many presentations --

4 CHAIRMAN CROSBY: Okay.

5 MR. ALLEN: -- exactly what we're  
6 proposing here. And, actually, Mr. Chairman,  
7 it was Federal Highway that suggested this,  
8 because the current 495 -- the exits between  
9 current 495 currently don't meet the federal  
10 guidelines. So by us doing this, they will  
11 actually make those in compliance. So they  
12 were pushing us in this direction. Not that  
13 they've approved it, but they thought this was  
14 a better solution because it now puts  
15 something that's no in compliance into  
16 compliance.

17 CHAIRMAN CROSBY: Okay. Go ahead,  
18 sure.

19 COMMISSIONER MCHUGH: On this same  
20 line, have you seen the e-mail from  
21 Michelle Daigle dated the September 30th on  
22 this subject?

23 MR. ALLEN: I don't know if I have.  
24 If I have, I don't recall it.

1                   COMMISSIONER MCHUGH: Let me just  
2                   read it and then we can put it in the record,  
3                   if there's no objection. This is a reply to  
4                   an e-mail by Ms. Marcy Setter. And it says,  
5                   "Dear, Ms. Setter, thank you for your  
6                   September 23 e-mail to Federal Highway FHWA,"  
7                   whatever that is. "Mass DOT and FHWA have  
8                   been briefed by the developers of the proposed  
9                   casino project in Milford regarding access to  
10                  the casino site adjacent to I-95.

11                  Mass DOT and FHWA have advised the  
12                  developers that based on the current design  
13                  standards, a new highway interchange in this  
14                  area is not warranted. Instead, the  
15                  developers are designing a new local  
16                  collector-distributor road system between the  
17                  existing interchange and ramps at Routes 85  
18                  and 16 to accommodate additional traffic. A  
19                  new interchange has not been proposed or  
20                  approved at this time. Mass DOT and FHWA are  
21                  committed to ensuring that the interstate  
22                  system is safe and fully operational, and any  
23                  proposed changes will require significant  
24                  review and approval at various stages during

1 the design process.

2 There is state legislation regarding  
3 the location and development of casino in  
4 Massachusetts with established conditions and  
5 timelines that have to be followed. I  
6 encourage you to work with your state and  
7 local representatives." So that, in essence,  
8 is -- and that's signed by Michelle Daigle,  
9 area engineer, District 3.

10 MR. ALLEN: I have seen that, now  
11 that you've read that to me.

12 COMMISSIONER MCHUGH: That's  
13 consistent with what you just said.

14 MR. ALLEN: That's correct. And I  
15 would appreciate that being put in as an  
16 exhibit, if the commission so inclined. I  
17 think that clarifies my point.

18 CHAIRMAN CROSBY: Just to make sure  
19 about one thing. When you or whoever hired,  
20 let's see now, Mr. But -- no, you're  
21 Mr. Butler. The chief of staff.

22 MS. WELLS: Beltran.

23 CHAIRMAN CROSBY: Beltran, yeah.  
24 The baseball player. Right. When you hired

1           him, were you fully aware of his criminal  
2           record in the past?

3                     MR. BUTLER:  Yes.

4                     CHAIRMAN CROSBY:  And that was  
5           something which was consciously in your  
6           thought process.  You judged -- you knew it,  
7           you judged that he'd done his time.  He was  
8           rehabilitated, but it was -- it was a weighing  
9           process that was a part of your --

10                    MR. BUTLER:  Yes.  And it wasn't  
11           something that was taken lightly.  I mean,  
12           we -- we deliberated, you know, exactly this  
13           specific issue.  Not as it relates to  
14           Massachusetts gaming but just --

15                    CHAIRMAN CROSBY:  Right.

16                    MR. BUTLER:  -- the public  
17           perception itself.  And we felt confident in  
18           this his ability that we would overcome that.

19                    CHAIRMAN CROSBY:  Okay.  Did you  
20           have other questions --

21                    MR. MACKEY:  Just a --

22                    CHAIRMAN CROSBY:  Yeah.

23                    MR. MACKEY:  Just a -- few questions  
24           for Chairman Butler to follow up on those two



1 issues. First, back to Steven Thomas for just  
2 a minute. I understand he was elected to the  
3 council in 2010. It's an -- it's an elective  
4 position --

5 MR. BUTLER: Correct.

6 MR. MACKEY: -- so there's really no  
7 way to do a background investigation --

8 MR. BUTLER: Right.

9 MR. MACKEY: -- in connection with  
10 that. And then, in 2012 he was appointed as  
11 treasurer, correct?

12 MR. BUTLER: I believe so, yes.

13 MR. MACKEY: Okay. How do you -- is  
14 that an appointment made by the chair or is it  
15 made by the rest of the council?

16 MR. BUTLER: It's made corporately  
17 by the council. So the council -- so the  
18 chair and vice chair position and at-large  
19 council members are elected by the citizens.  
20 And then the two remaining officer position,  
21 the secretary and treasurer, are elected  
22 internally by the seven council members.

23 MR. MACKEY: Okay. And is there any  
24 due diligence process before the council makes

1 appointment of these executive positions.

2 MR. BUTLER: I mean, due diligence  
3 in the sense that we've grown up together,  
4 we've known each other. We understand the  
5 strengths and weaknesses. And amongst the  
6 councilors that were eligible for treasurer,  
7 he well exceeded what was necessary to fulfill  
8 the position.

9 MR. MACKEY: Was the council aware,  
10 at the time, that appointed him treasurer,  
11 that he had declared personal bankruptcy two  
12 years previously?

13 MR. BUTLER: Yes.

14 MR. MACKEY: And the council was  
15 presumably aware that, at the time he declared  
16 personal bankruptcy, he was making a  
17 substantial salary?

18 MR. BUTLER: Yeah, correct.

19 MR. MACKEY: Tell me how did the  
20 council assess that personal bankruptcy in  
21 connection with his appointment as treasurer.  
22 Did it enter into it? Did it affect it? Did  
23 anyone say, hey, there may be an appearance  
24 issue here?

1           MR. BUTLER: Yeah. No. It was  
2           certainly part of the conversation, and bought  
3           up, to his credit, by he himself. And so, he  
4           brought up the issues to the council saying,  
5           hey, this is something that may be a  
6           reflection on me publically, but understanding  
7           the circumstances surrounding him, again, we  
8           felt comfortable in his ability to -- to be  
9           treasurer.

10          MR. MACKEY: Okay. Now, in  
11          connection with these executive positions like  
12          treasurer, could the -- I understand that when  
13          you're elected to the council you can't simply  
14          tell somebody to step aside, but could the  
15          council remove him as treasurer?

16          MR. BUTLER: Yes.

17          MR. MACKEY: Okay. And it  
18          determined not to do that, even pending this  
19          federal indictment?

20          MR. BUTLER: Correct.

21          MR. MACKEY: And again on that  
22          issue, was there a discussion -- I understand  
23          that part of the thinking was that council  
24          felt that -- that he was not -- not going to

1           be founds guilty of charges he faced. But did  
2           the appearance issue come up in discussions at  
3           the council level?

4                   MR. BUTLER: Oh, absolutely. And  
5           again, you know, me personally as chairman,  
6           interacting with the various government  
7           agencies, Mr. Butera on behalf of  
8           the enterprise, speaking with vendors, myself  
9           going out to U.S. departments and -- I mean,  
10          there certainly was an appearance concern and  
11          we were well aware of and heavily debated.  
12          But, again, our confidence in the outcome at  
13          that time, which ultimately led to a plea  
14          deal, which wasn't what we expected, but at  
15          that time we felt comfortable with his  
16          remaining treasurer.

17                   MR. MACKEY: Okay. Michael Thomas,  
18          just to switch gears for a second, he, as I  
19          understand it, was indicted on the same day as  
20          his brother, Stephen, correct?

21                   MR. BUTLER: Correct.

22                   MR. MACKEY: And he -- at the time  
23          of that indictment, he was no longer on the  
24          tribal council he had been -- he had --

1 MR. BUTLER: Been removed.

2 MR. MACKEY: -- he stepped off in  
3 2009, I believe?

4 MR. BUTLER: He was removed from  
5 council in 2009.

6 MR. MACKEY: Okay. And as I  
7 understand it, he was indicted in 2013 for the  
8 theft of more than \$100,000 in tribal funds  
9 while he was chairman from, I think 2007 to  
10 2009, thereabouts?

11 MR. BUTLER: Yes.

12 MR. MACKEY: After the indictment,  
13 did the tribe do any independent investigation  
14 into the charges against -- against Michael?

15 MR. BUTLER: No. We -- again being  
16 a federal case and being a separate claim from  
17 what they were claiming against the current  
18 treasurer, we left it into the hands of the  
19 federal authorities. We cooperated with them  
20 willingly to allow them to come to their  
21 conclusions. So we -- we essentially turned  
22 it over to the federal authorities.

23 MR. MACKEY: Well, did the tribal  
24 council, or did you as chair, Mr. Butler,

1 direct that at least someone look into how  
2 Michael could have done this without anybody  
3 noticing?

4 MR. BUTLER: We did. We -- we went  
5 through our records and we, quite frankly,  
6 couldn't find anything within our records,  
7 because the case revolved around records that  
8 weren't necessary filed.

9 MR. MACKEY: Okay.

10 CHAIRMAN CROSBY: Wait a minute.  
11 Say that again.

12 MR. BUTLER: With regard to this  
13 case, what they were looking into were -- were  
14 -- specifically were expense reports and his  
15 not accounting for those. But from our  
16 interim accounting perspective, those  
17 expense -- those expense reports were not  
18 filed with our finance. And so, we weren't  
19 even aware of what was or wasn't being --  
20 being paid for.

21 CHAIRMAN CROSBY: But does that --  
22 does that mean that he was not -- he was  
23 neglecting your rules relative to -- your  
24 standards relative to expense reports?

1 MR. BUTLER: Yes. Correct.

2 CHAIRMAN CROSBY: So the net of  
3 that, what happened; I mean, somebody dropped  
4 the ball on that, right?

5 MR. BUTLER: There was -- the way  
6 that we looked at it, there were many people  
7 that dropped the ball on that. And,  
8 currently, the former chairman is paying the  
9 price for that.

10 CHAIRMAN CROSBY: And what have you  
11 done to address that?

12 MR. BUTLER: We've -- as -- as any  
13 young government, we're evolving, right. And  
14 so, as I spoke earlier about repatriation and  
15 building this government in the last 25, 30  
16 years, this October was our 30th recognition  
17 of federal -- our 30th anniversary of federal  
18 recognition.

19 And so, you know, with any young  
20 government we look at best practices. And as  
21 we see practices that -- that need to be  
22 addressed, we address those. And so, with  
23 regard to expense reporting we've tightened up  
24 the windows as far as when expense reports

1 have to be submitted. We've tightened up the  
2 reimbursement policies. We've tightened up --  
3 in his specific case it was with regard to a  
4 corporate credit card. We've eliminate the  
5 existence of corporate credit card at the  
6 Crossroad organization. And so, as we come  
7 across new challenges, we -- we amend our  
8 policies to reflect that.

9 CHAIRMAN CROSBY: One other -- I  
10 think very few of us, certainly I, don't  
11 really appreciate the structure that you have.  
12 I mean, that just -- it's contrary to our  
13 experience and you know -- you talk about a  
14 family and you think about back, well that --  
15 now that you think back about original Indian  
16 tribes you can see where that comes from, but  
17 it's a structure, which we're not familiar  
18 with. And a lot of people, including you, are  
19 working to try to figure out how to make this  
20 work, and I understand that.

21 But in a comparable structure where  
22 there is a business entity, you're like a  
23 Sovereign fund, you know, which is an odd  
24 structure. But there is a compliance



1 committee that has a specific role, and we've  
2 talked to a lot of applicants about this  
3 compliance role and how is it handled. And  
4 I've said that I think it's important that  
5 people have somebody in their organization who  
6 are empowered to be the skunk at the garden  
7 party who can ask the hard questions, who can  
8 challenge the chair's judgment about a Thomas  
9 or a Beltran, or whoever.

10 I don't remember reading your  
11 structure that either your corporate entity,  
12 or the enterprise entity have a compliance  
13 committee.

14 MR. BUTERA: Yeah.

15 CHAIRMAN CROSBY: And I'd like to  
16 know how that --

17 MR. BUTERA: Sure.

18 CHAIRMAN CROSBY: -- function is  
19 fulfilled.

20 MR. BUTERA: Yeah, I can address  
21 that. First of all, we -- we are a regulated  
22 entity. We have a compliance committee, we  
23 have internal audit.

24 CHAIRMAN CROSBY: This is the

1 enterprise.

2 MR. BUTERA: This is the enterprise.  
3 The enterprise has, I will say, having worked  
4 at many organizations, has as comprehensive a  
5 compliance and regulatory environment as I've  
6 ever operated in. So much so that it, in  
7 fact, hinders our operations from time to  
8 time.

9 But we are -- we are fully staffed.  
10 Our regulations follow regulations of other  
11 jurisdictions, like Atlantic City would  
12 probably be the most relevant jurisdiction  
13 that we follow. Everything is done in  
14 compliance with the state and our compact with  
15 the state. And all of our operations are --  
16 are thoroughly vetted through that compliance  
17 committee. And anything that we do  
18 financially is thoroughly vetted through our  
19 internal audit.

20 We also, as I mentioned, have public  
21 debt, public indebtedness. So we report as  
22 any SEC filer would report. One of the things  
23 that we agreed to in part of our  
24 restructuring, is we would do everything that

1 a SEC filer would do. So we would publish  
2 things that are akin to 10Ks, 10Qs. We have  
3 analyst conference calls, we have investor  
4 meetings.

5 Everything is done through our  
6 external -- we have an external auditor that  
7 issues audit reports. As part of their audit  
8 report they have to do a fraud audit. They  
9 have to meet with our compliance committee.  
10 They have to meet with our internal audit.  
11 This is a big four accounting firm. And we've  
12 gotten favorable reports, both while we were  
13 in and out of restructuring mode. So --

14 CHAIRMAN CROSBY: And who's on the  
15 compliance committee?

16 MR. BUTERA: I don't know the  
17 specific members. I'd have to get back to you  
18 with that. But it's a -- it's a committee of  
19 individuals that -- that, you know, report,  
20 directly up the enterprise, management.

21 CHAIRMAN CROSBY: Who appoints them?

22 MR. BUTERA: I don't know off the  
23 top of my head.

24 CHAIRMAN CROSBY: If this is so

1 robust --

2 MR. BUTERA: Yeah.

3 CHAIRMAN CROSBY: -- and you don't  
4 know who these people are; you don't know who  
5 appoints them?

6 MR. BUTERA: The internal audit  
7 reports to the --

8 CHAIRMAN CROSBY: No. I'm talking  
9 about --

10 MR. BUTERA: -- to the tribal  
11 council.

12 CHAIRMAN CROSBY: I'm talking about  
13 the compliance committee.

14 MR. BUTERA: And the -- the  
15 compliance committee would report to -- would  
16 report to the executive committee.

17 CHAIRMAN CROSBY: Which is what  
18 executive committee?

19 MR. BUTERA: Which would be myself  
20 and my -- seven others.

21 CHAIRMAN CROSBY: But you don't know  
22 who there's on it, and you don't know who  
23 appoints them?

24 MR. BUTERA: I -- off the top of my

1 head I don't -- I can't -- they report -- they  
2 report to our -- they spend most of our time  
3 with our chief financial officer and our  
4 treasurer, so I apologize.

5 CHAIRMAN CROSBY: Well, it's not a  
6 matter of apology. It's just seems odd.

7 MR. BUTERA: Yeah. I would say most  
8 of it -- when I say compliance, most of it is  
9 done -- and may be I misspoke. Most of it is  
10 done through our regulatory environment and  
11 regulators. So that -- that's who I'm  
12 referring to, and that -- that would report to  
13 the council.

14 CHAIRMAN CROSBY: Well, then maybe  
15 you don't -- didn't get what I was talking  
16 about. Because it does seem to me,  
17 particularly with respect to the enterprise,  
18 and the tribe's business is the tribe's  
19 business, though I happen to think it's an  
20 interesting model for other reasons, we have  
21 inspector generals, you know, but -- but  
22 forget that.

23 For relative to the -- to the  
24 enterprise, the compliance committee is meant

1 to be a bunch of this relatively independent,  
2 and I oftentimes think they're not as  
3 independent as they should be, I think that's  
4 a real problem with most of the compliance  
5 structures that we've looked at.

6 MR. BUTERA: Right.

7 CHAIRMAN CROSBY: But they're meant  
8 to be an independent group of people of some  
9 authority, and some maturity, and some force  
10 whose job is to cleanse and pass the sniff  
11 test, and doublecheck the judgment of the  
12 senior most people, most particularly in this  
13 case, yourself --

14 MR. BUTERA: Right. And --

15 CHAIRMAN CROSBY: -- and you want  
16 somebody there, I would think. So --

17 MR. BUTERA: And that -- that  
18 function is handled through our regulatory --  
19 through our regulatory bodies and our internal  
20 audit. And then, within our finance function,  
21 we have compliance officers so -- who -- who  
22 report to our finance department.

23 COMMISSIONER ZUNIGA: Who are the  
24 regulatory bodies?

1           MR. BUTLER: We have a separate and  
2 independent gaming commission, which is  
3 separate from the gaming enterprise itself.  
4 They're appointed by the tribal council. Lead  
5 commissioners -- our lead commissioner  
6 chair -- chair is a gentleman by the name of  
7 George Henningsen. He's been in the gaming  
8 industry, helped write the regulations for --  
9 for New Jersey. And when we entered gaming 25  
10 years ago, we wanted to be at the -- the peak  
11 of compliance. We wanted the tightest  
12 protocols in place, and so we hired the best  
13 at the time and modeled ourselves after  
14 New Jersey, at that time, which was the  
15 strictest regulations in the country, and we  
16 made ours even stricter.

17           And so, when you look at Indian  
18 gaming -- this is more for educational  
19 purposes, you know, we are the most regulated  
20 members of the gaming industry. So we not  
21 only have internal regulations where are  
22 gaming commission -- we're also regulated by  
23 the NIGC, which is the National Indian Gaming  
24 Commission. As well as, through our compact,

1 we report to the state. So the state reviews  
2 and approves our key license holders as well.  
3 So we have multiple checkpoints from a  
4 regulatory and oversight perspective.

5 COMMISSIONER STEBBINS: To follow-up  
6 on that, as I understand it, the gaming  
7 commission, right now, is untrained into a  
8 process of creating a background check system  
9 for nongaming employees?

10 MR. BUTLER: Mm-hmm. We actually --

11 COMMISSIONER STEBBINS: Not your  
12 dealers, et cetera, on the property but --

13 MR. BUTLER: Yeah.

14 COMMISSIONER STEBBINS: -- hotel  
15 staff, et cetera. I mean, having been in  
16 business for so long, can you kind of share  
17 with me why at this moment; was there an event  
18 or something that triggered a decision to kind  
19 of go in this path with respect to nongaming  
20 employees?

21 MR. BUTLER: No. That was one of  
22 those things where the commission itself, you  
23 know, they continue -- continually review the  
24 regulations and look for best practices. And



1 in an instance in one of their jurisdictions  
2 they were licensing nongaming employees. We  
3 actually approved that several years ago, and  
4 recently have removed that as a -- as a -- as  
5 a component of licensing.

6 So we no longer license nongaming  
7 employees, but we did attempt that for a few  
8 years. That was one of the procedures that  
9 Mr. Butera was referring to earlier that  
10 overcomplicated operations as opposed to  
11 easing operations. And we've since removed  
12 that authority from the gaming commission.

13 MR. BUTERA: We also operate under  
14 very strict standard operating measures, SOMs,  
15 which would mirror, you know, any other  
16 regulated jurisdiction. So we have our SOMs.  
17 Our -- our regulators ensure compliance with  
18 our SOMs. Our internal audit ensures  
19 compliance. And then we have compliance  
20 officers that work for our team. That, if  
21 there are problems we'll self-report to those  
22 entities so that we are proactively  
23 identifying any problems.

24 MR. MACKEY: Mr. Chairman, I just

1 have --

2 COMMISSIONER MCHUGH: Could I --  
3 before you -- can I come back to something I  
4 was talking about a minute ago? Because I had  
5 this exchange with you about the letter -- the  
6 e-mail from Mass DOT, which said that you're  
7 not proposing an interchange, you're proposing  
8 a collector -- collector-distributor road  
9 system between the existing interchanges and  
10 ramps at Routes 85 and 16.

11 MR. BUTERA: Correct.

12 COMMISSIONER MCHUGH: But where is  
13 that shown on this slide that you presented us  
14 today?

15 MR. ALLEN: It's actually shown  
16 between -- it's the widening of the road, or  
17 the widening of the 495.

18 COMMISSIONER MCHUGH: But this --  
19 this document, this slide you presented us  
20 today has a label that says, "New interchange  
21 to Route 16." And Route 85 isn't even on it.  
22 Do you want to take a look at it?

23 MR. ALLEN: Sure. Do you mind if I  
24 bring up our engineer, who can speak much more

1           articulately?

2                   COMMISSIONER MCHUGH: Well, I'm  
3 really -- I'm really --

4                   MR. ALLEN: Yeah. It's in yellow  
5 there. That's a tough one to look at.  
6 There's two different things. There's a --  
7 there's an interchange that will lead to  
8 Route 16 but --

9                   COMMISSIONER MCHUGH: But I'm  
10 really -- and I'd love to hear from the  
11 engineer, but I'm really interested in the  
12 presentation. And -- because it does say,  
13 we're talking about whether it's semantics or  
14 something else, it does say here, new  
15 interchange at Route 16, and then there is a  
16 cross section, right?

17                   MR. ALLEN: That's correct. That's  
18 correct.

19                   COMMISSIONER MCHUGH: Is that meant  
20 to be an interchange?

21                   MR. ALLEN: That's correct.

22                   COMMISSIONER MCHUGH: But you're not  
23 proposing an interchange?

24                   MR. ALLEN: No. Yeah.

1                   CHAIRMAN CROSBY:  Why don't you --  
2                   why don't you come up and use the mic.  Good  
3                   point, Judge.

4                   MR. ALLEN:  You don't want a lawyer  
5                   talking engineers.

6                   MR. REARDON:  I'm Sean Reardon with  
7                   Tetra Tech.  We're the engineers that helped  
8                   develop these solutions.  So in an engineering  
9                   profession an interchange is a very specific  
10                  highway improvement.  It's part --  
11                  traditionally you can identify it as where a  
12                  crossing roadway connects with a highway,  
13                  usually indicated by a series of onramps and  
14                  offramps, and that's it.

15                  So when you're speaking about an  
16                  interchange it refers to a very, kind of,  
17                  local improvement, so a more narrower solution  
18                  than what we're proposing here.  As --

19                  CHAIRMAN CROSBY:  I'm sorry.  The  
20                  interchange you just described of crossing  
21                  roads with -- that is what you would typically  
22                  mean by interchange?

23                  MR. REARDON:  Right.  And it's  
24                  limited -- it's limited to the connection of a

1 one roadway with another roadway.

2 CHAIRMAN CROSBY: Right. Okay.

3 MR. REARDON: So in this situation,  
4 an interchange would be like the existing  
5 highway connection between 85 and 495, or the  
6 existing highway connection between 109 and  
7 495. What we're proposing here, we can't do  
8 just an interchange, because as the attorney  
9 suggested, the -- the spacing is too close.  
10 So an interchange is not an appropriate  
11 solution.

12 What we've used is the word  
13 interchange to effectively genuinely refer to  
14 the connection of Route 16 to 495, which  
15 currently doesn't exist. The way we're doing  
16 that is by constructing a  
17 collector-distributor road.

18 Chairman McHugh -- or, I'm sorry,  
19 Commissioner McHugh, that is about a  
20 three-and-a-half mile widening that connects  
21 the three intersections together. So, in  
22 effect, we're not -- there is no interchange  
23 from -- from 16 to 495 because we're  
24 connecting to the collector-distributor road,

1 not directly from Route 16 to 495. So it is a  
2 question of language that we use.

3 We had a real hard time with the  
4 public communicating the concept of a  
5 collector-distributor road. Everybody  
6 identifies it we're -- we're effecting a new  
7 connection between Route 16 and 495 that  
8 currently doesn't exist, referring it to as an  
9 interchange because people, I think,  
10 universally understand the term interchange  
11 versus collector-distributor road.

12 CHAIRMAN CROSBY: Could you --

13 COMMISSIONER MCHUGH: But I  
14 understand that.

15 CHAIRMAN CROSBY: Could you -- could  
16 you put up -- can we put up this picture --  
17 no, I just want to have them put that slide  
18 up. I mean, it's in your -- it was in that  
19 little presentation you made. If you could  
20 just put that slide up so we can -- we got a  
21 -- we got a techy --

22 COMMISSIONER CAMERON: Here he  
23 comes.

24 CHAIRMAN CROSBY: We got a techy

1 coming up.

2 COMMISSIONER MCHUGH: Here he comes.

3 Much anticipation nothing is happening.

4 MR. BUTLER: There it is.

5 CHAIRMAN CROSBY: And, Mr. Engineer,  
6 here's a pointer if you need it, that little  
7 button.

8 MR. REARDON: So I think when people  
9 think of a new interchange people think --

10 CHAIRMAN CROSBY: Can you make that  
11 full screen? Okay.

12 MR. REARDON: When we think of a new  
13 interchange --

14 COMMISSIONER STEBBINS: Can you grab  
15 a mic off of one of those? Thanks.

16 MR. REARDON: In general terms, we  
17 think of one highway or roadway connecting to  
18 another roadway. So what this is, is a  
19 situation where we've got two interchanges.  
20 Exit 19 would be termed as a traditional  
21 interchange, Exit 20, traditional interchange.  
22 Series of onramps and offramps.

23 So as the attorney mentioned, as  
24 Mr. Allen mentioned, this is currently 1.9

1 miles apart, so substandard spacing. So we  
2 couldn't just introduce another standard  
3 interchange at this location. Much cheaper to  
4 do that, much less expensive for us to effect  
5 as a solution, but it wouldn't make it more  
6 complicated, it would make it less safe.

7 So, instead, what we have to do is  
8 combine these three intersections -- or  
9 three -- these three interchanges -- again,  
10 I'm using the term interchange as a general  
11 term speaking as a connection from one highway  
12 to another. Combine these three interchanges  
13 into one offline highway system.

14 So what happens is, these three  
15 interchanges are now connected separate from  
16 the main line and then they join altogether  
17 and then enter at this side and exit at this  
18 side all at one location. So, in effect, it  
19 becomes a new system. Not an interchange, a  
20 collector-distributor road. Far more  
21 expensive than just a single interchange.

22 And this was a very important point  
23 from the Federal Highway standpoint. In our  
24 earlier discussions we had a far more limited



1 infrastructure solution. They came back and  
2 said, no, you can't just do a standard  
3 interchange, you have to do a  
4 collector-distributor road.

5 CHAIRMAN CROSBY: So, in effect, you  
6 would exit at Exit 20 -- you'd exit 495,  
7 either 19 or 20, depending which way you're  
8 coming --

9 MR. REARDON: Correct.

10 CHAIRMAN CROSBY: -- you'd get onto  
11 what I might call a service road?

12 MR. REARDON: Correct.

13 CHAIRMAN CROSBY: And -- and run  
14 alongside 495 until you get to this new  
15 connector?

16 MR. REARDON: Correct.

17 CHAIRMAN CROSBY: Okay.

18 MR. REARDON: And that's exactly  
19 what --

20 CHAIRMAN CROSBY: What's that  
21 crossover line?

22 MR. REARDON: That's a connect --  
23 that's -- that's an overpass to connect the  
24 northbound and southbound lanes to the new

1 connection.

2 CHAIRMAN CROSBY: That's an  
3 overpass. Okay.

4 MR. REARDON: So really what happens  
5 is right now Route 16 has no connection to the  
6 highway system. And with Federal Highway  
7 regulations we can't -- there's no allowance  
8 for a direct ramp to a private development  
9 site or anything like that, so we have to  
10 connect to a local roadway or -- or a  
11 highway -- state-controlled roadway. Sixteen  
12 provides us that opportunity. To do it in a  
13 safe manner and effective manner that creates  
14 a net improvement on the highway system,  
15 versus creates new issues, we have to  
16 construct a collector-distributor road, which  
17 is far more comprehensive than just a  
18 traditional interchange.

19 COMMISSIONER MCHUGH: But that  
20 collector-distributor road is not shown on  
21 this document.

22 MR. REARDON: It is.

23 COMMISSIONER MCHUGH: Where?

24 MR. REARDON: It's essentially, the

1 yellow is creation of new lanes, grey is  
2 existing lanes. So in order to create the  
3 collector-distributor road, we're building  
4 additional lanes along that full length that  
5 you see there, to effectively create that new  
6 offline roadway or surface road, as the  
7 chairman referenced. So it mimicks -- it's  
8 coincident with the existing lanes.

9 MR. ALLEN: So you could get on at  
10 Exit 19, drive the collector-distributor road  
11 all the way up to Exit 20, or get off at Exit  
12 16 or come into the complex.

13 MR. REARDON: That's a good example.  
14 So if I was -- if I wanted to get from  
15 Route 109 to Route 85, right now I could get  
16 on the highway, I'd have to merge with the  
17 mainline traffic, then get off at Exit 20. In  
18 this situation, we get on the  
19 collector-distributor road, stay on the  
20 collector-distributor road and get off at Exit  
21 20 without ever having to get onto 495.

22 COMMISSIONER MCHUGH: Okay. I -- I  
23 understand that now. I do think this is -- I  
24 can understand where the confusion comes in.

1 I think this is hard to follow.

2 MR. REARDON: And that's --

3 COMMISSIONER MCHUGH: -- at best.

4 MR. REARDON: Attorney Allen took  
5 the blame for that. But that's -- our use of  
6 the word interchange is just a decision to  
7 help communicate the idea of a new connection.

8 COMMISSIONER MCHUGH: I understand  
9 that. But the -- but the existence of these  
10 roads and this whole scheme is a subtlety I  
11 didn't pick up at all on this.

12 MR. REARDON: Yes.

13 COMMISSIONER MCHUGH: And I suspect  
14 most people wouldn't either.

15 MR. ALLEN: Well, one of the things,  
16 Commissioner McHugh, is -- is we provided with  
17 an overview. When we were in these meetings  
18 there was a much more blown-up detail plan  
19 that actually showed the lanes, showed the  
20 distributor -- showed the set of lights of how  
21 you cross over from 495.

22 COMMISSIONER MCHUGH: Okay.

23 MR. ALLEN: So we got into much  
24 more -- much more into the details than we did

1 here today, because we're really hear for  
2 suitability.

3 COMMISSIONER MCHUGH: I understand.

4 MR. ALLEN: Should we get to the  
5 next level, we'll certainly provide the  
6 commission with a lot more to give you more  
7 comfort.

8 COMMISSIONER MCHUGH: I understand.

9 Thank you.

10

11 MR. MACKEY: Mr. Chairman, just a --

12 CHAIRMAN CROSBY: Yep.

13 MR. MACKEY: -- couple of additional  
14 items that I'd like to get into the record via  
15 questions to Chairman Butler, if that's okay.

16 Back to Anthony Beltran for just a  
17 minute. I understand that he was elected to  
18 the tribal council back in 1998?

19 MR. BUTLER: Sometime around there.

20 MR. MACKEY: And, again, no  
21 background checks there. It's an elected  
22 position --

23 MR. BUTLER: Correct.

24 MR. MACKEY: -- and so that's that.

1 But then it's -- how long was he on the tribal  
2 council?

3 MR. BUTLER: One term, three years.

4 MR. MACKEY: Just one term. Okay.

5 And then, at some point after that he was  
6 appointed chief of staff?

7 MR. BUTLER: After other employment,  
8 yes.

9 MR. MACKEY: Okay. What was the  
10 year he was appointed chief of staff?

11 MR. BUTLER: Just this year.

12 MR. MACKEY: Oh, just this year?

13 MR. BUTLER: Yeah. Just this year.

14 MR. MACKEY: Okay. So during your  
15 chairmanship?

16 MR. BUTLER: Yes.

17 MR. MACKEY: Okay. And I take it  
18 from earlier questions from the commission,  
19 that there was a due diligence effort  
20 undertaken before he was appointed chief of  
21 staff?

22 MR. BUTLER: Mm-hmm. We actually  
23 did a internal posting and had several  
24 applicants.

1                   MR. MACKEY: But before Mr. Beltran  
2                   was hired, did someone associated with the  
3                   tribal council take a careful look at his  
4                   background?

5                   MR. BUTLER: Yes.

6                   MR. MACKEY: Okay. And how was that  
7                   done?

8                   MR. BUTLER: Well, knowing him as a  
9                   family member, we fully understood what his  
10                  background was.

11                  MR. MACKEY: Okay.

12                  MR. BUTLER: And so, we had a  
13                  healthy dialogue amongst the council regarding  
14                  that.

15                  MR. MACKEY: Now, as I understand  
16                  it, and is reflected in the suitability  
17                  report, this chief of staff position that  
18                  Mr. Beltran was just appointed to this year --

19                  MR. BUTLER: Mm-hmm.

20                  MR. MACKEY: -- oversees the police  
21                  department?

22                  MR. BUTLER: Correct.

23                  MR. MACKEY: Correct.

24                  MR. BUTLER: All public safety.

1 MR. MACKEY: The fire department?

2 MR. BUTLER: Correct.

3 MR. MACKEY: Emergency services?

4 MR. BUTLER: Mm-hmm.

5 MR. MACKEY: Public affairs?

6 MR. BUTLER: Yes.

7 MR. MACKEY: Museum?

8 MR. BUTLER: Yes.

9 MR. MACKEY: And all public works?

10 MR. BUTLER: Yes.

11 MR. MACKEY: Okay. And, so when you  
12 made this decision to appoints Mr. Beltran to  
13 these positions overseeing these various  
14 departments, it sounds like from earlier  
15 questions, you were aware that he had a prior  
16 felony background, correct?

17 MR. BUTLER: Yes.

18 MR. MACKEY: Were you aware of the  
19 specifics of the felonies that Mr. Beltran  
20 committed?

21 MR. BUTLER: Yes.

22 MR. MACKEY: And you were aware of  
23 the sentences that he served in connection  
24 with those felonies?



1           MR. BUTLER: I wasn't fully aware of  
2           the sentences, but I was aware that he did  
3           serve time, yes.

4           MR. MACKEY: Okay. Let me just ask  
5           you, briefly, if you could turn to Bureau No.  
6           16. And this is Chairman's Butler -- just for  
7           the record, it's a article that was published  
8           in the Hartford Courant in 1998 by  
9           investigative reporter named Lyn Bixby,  
10          detailing, in quite some extent, Mr. Beltran's  
11          background.

12          MR. BUTLER: Mm-hmm.

13          MR. MACKEY: Do you recall if, when  
14          you made the decision, when the tribal council  
15          made the decision to appoint Mr. Beltran to  
16          this position, he had -- was aware of the  
17          existence of this article?

18          MR. BUTLER: Not of this specific  
19          article, no.

20          MR. MACKEY: It was not?

21          MR. BUTLER: No. But it -- it  
22          outlines the -- you know, his background so --

23          MR. MACKEY: Okay. And you're  
24          saying that in your -- is your recollection

1           that the tribal council was aware of the  
2           details of the various criminal offenses that  
3           Mr. Beltran committed before he was appointed  
4           to this position?

5                     MR. BUTLER:  Yes.

6                     MR. MACKEY:  Okay.  Has there been  
7           any effort to determine whether Mr. Beltran  
8           has ever been arrested for other offenses,  
9           other than those offenses for which he's been  
10          convicted?

11                    MR. BUTLER:  Not that I'm aware of,  
12          no.

13                    CHAIRMAN CROSBY:  Not that you're  
14          aware of that he has been arrested?

15                    MR. BUTLER:  We haven't -- I'm not  
16          aware of him -- any other arrest, and we have  
17          not done any background check on him because,  
18          again, it wasn't required for that position.

19                    CHAIRMAN CROSBY:  Okay.

20                    MR. MACKEY:  And, again, just --  
21          when this appointment to the position of chief  
22          of staff, overseeing the departments that it  
23          oversees was made by the tribal council, did  
24          anybody on the tribal council express the view

1           that again, just from an appearance  
2           perspective, this might not be the right  
3           person to oversee, for example, the police  
4           department?

5                       MR. BUTLER:  Yeah.  And so --  
6           absolutely.  I mean, we talked about  
7           appearance and public perception.  But we also  
8           weighed heavily and made the decision upon  
9           ability, and what was appropriate for the job  
10          at the time to effect -- effectively operate  
11          in that position.  And from that perspective,  
12          he fit all of those -- all those builds.

13                      And what I would say as well is,  
14          during that -- and actually subsequent --  
15          following that appointment is when we  
16          continued our negotiations with the state of  
17          Connecticut regarding the policing MOA, which  
18          he was involved with.  And even so, saying  
19          that, the state of Connecticut even had --  
20          came to a comfort level with his ability that  
21          the police department, which now we're --  
22          we're assuming additional authority of with  
23          criminal jurisdiction, his reporting structure  
24          related to that.

1                   MR. MACKEY: I have no further  
2 questions.

3                   MR. BUTLER: Thank you.

4                   CHAIRMAN CROSBY: Okay. We have a  
5 number of several other witnesses, but I think  
6 it's 12:30, I think we ought to take a lunch  
7 break. Can we -- should we try to do it in a  
8 half hour? Is that enough? Or maybe make it  
9 12:15 -- I'm sorry, make it 1:15 when we would  
10 reconvene?

11                   COMMISSIONER MCHUGH: 1:15?

12                   CHAIRMAN CROSBY: Yeah. All right.  
13 We are temporarily adjourned.

14  
15                   (A recess was taken)

16  
17                   CHAIRMAN CROSBY: Okay. I think  
18 we're good to go, if everyone is ready. And I  
19 think we are ready to ask Counsel Mackey to  
20 call next witnesses; is that where we are in  
21 the process?

22                   MR. MACKEY: I believe the applicant  
23 has one more witness.

24                   CHAIRMAN CROSBY: Okay. You're

1 calling the witness. Okay.

2 MR. ALLEN: Thank you, Mr. Chairman.  
3 I just wanted to reintroduce the commission to  
4 David Nunes. David --

5 MR. NUNES: Good morning, Chairman  
6 Crosby, members of the commission,  
7 Director Wells, thank you for the opportunity  
8 to be here today to clarify any matters, which  
9 I may for you. As I was just talking to  
10 Commissioner McHugh, this has been a long  
11 process for all of us. For me, it began in  
12 1998 with the Gay Head Wampanoag's in trying  
13 to push legislation uphill up at Beacon Hill.

14 CHAIRMAN CROSBY: You should have  
15 stuck with them.

16 MR. NUNES: I happen to like my  
17 partners now, so I'm happy to move forward and  
18 answer any questions you may have for me this  
19 morning -- or this afternoon, I should say.

20 CHAIRMAN CROSBY: Do we start with  
21 you?

22 COMMISSIONER CAMERON: Do you want  
23 to --

24 MR. MACKEY: Certainly, I'll start

1 out.

2 Good afternoon, Mr. Nunes. I want  
3 to ask you a series of questions about the  
4 assignment of the interests of Ajax and the  
5 entity to the Warner group and then their  
6 reassignment back. And we've -- we've put the  
7 original three or four pages of documents in  
8 our book. It's Exhibit No. 6 so --

9 MR. NUNES: Okay.

10 MR. MACKEY: -- do you --

11 MR. NUNES: I have it right in front  
12 of me.

13 MR. MACKEY: Oh, okay. Terrific.  
14 So let me just try to characterize what was  
15 happening there, and then I'll ask if I got it  
16 right, just to just save time. On last two  
17 pages of the document are captioned,  
18 "Assignment of LLC Membership Interest Subject  
19 to Repurchase Right;" do you see that; are you  
20 with me?

21 MR. NUNES: Yes. The one that has  
22 WG Massachusetts at the top; is that the one?  
23 Or the --

24 MR. MACKEY: It's the last two pages

1 of Exhibit No. 6.

2 MR. NUNES: Ah, okay, yes.

3 Execution document.

4 MR. MACKEY: Right, yeah. The  
5 execution document.

6 MR. NUNES: Okay.

7 MR. MACKEY: Yeah, okay. This  
8 document is dated January 15th, correct?

9 MR. NUNES: That's correct.

10 MR. MACKEY: Okay. And it is a  
11 signed assignment of the interests of Ajax  
12 Gaming Venture -- Ventures, and it's signed by  
13 you, assigned assignment of those interests to  
14 WG Massachusetts, LLC, as of January 15th,  
15 correct?

16 MR. NUNES: That's correct.

17 MR. MACKEY: Okay. Who's WG  
18 Massachusetts.

19 MR. NUNES: That was Bill Warner's  
20 entity, which was Warner Gaming.

21 MR. MACKEY: Okay. And the  
22 assignment provided that Ajax would assign  
23 most of its interest in this venture to the  
24 Warner group, to WG Gaming, and then buy it

1 all back within a 30-day period, correct?

2 MR. NUNES: That is correct.

3 MR. MACKEY: And it would, in fact,  
4 the Ajax entities, after conveying the  
5 interest to the Warner group, would buy it all  
6 back in a 30-day period for one dollar,  
7 correct?

8 MR. NUNES: That is correct.

9 MR. MACKEY: Okay. And as I  
10 understand it from your testimony before the  
11 commission's investigators, you effected this  
12 assignment because at the time, January 15th,  
13 you felt that Mr. Warner's application with  
14 the commission was complete, and also that he  
15 actually had significant gaming experience, so  
16 you thought the overall application would look  
17 a lot better, if it looked like Warner had  
18 more of an interest than he actually had prior  
19 to January 15th?

20 MR. NUNES: Well, I think it goes a  
21 little bit further than that. I think that,  
22 you know, those statements certainly were made  
23 by me, as I recall my testimony. You know,  
24 but the entire group of Crossroads, you know,



1           talked amongst one another, and we believe  
2           that, you know, as long as this was fully  
3           disclosed to the commission, as it was  
4           upfront, that the -- you know, the repurchase  
5           right was there, it was only for 30 days, and  
6           it was subject to the commission's approval.

7                         And the documents were drafted  
8           between, you know, Bill Warner's attorney and  
9           Bob Allen. That, you know -- at that time  
10          with Bill being the only fully-completed  
11          application, it made sense, a business sense  
12          to me, to do this.

13                        MR. MACKEY: But a business sense  
14          for the reason that it made the application  
15          look stronger, correct?

16                        MR. NUNES: At that point in time,  
17          we didn't know whether the application would  
18          be accepted or not.

19                        MR. MACKEY: But there -- you say  
20          there was a business purpose behind it, but,  
21          really, the only business purpose was to make  
22          it look like Warner Gaming had a larger  
23          interest than it actually was ever going to  
24          have.

1           MR. NUNES: Well, you know, Bill  
2 Warner and I, at the time, we were the  
3 majority shareholders of -- of Crossroads.  
4 And, you know, it was a decision, as I said,  
5 made amongst all of us, that we thought it  
6 would be in the best interest of Crossroads.

7           CHAIRMAN CROSBY: Why?

8           MR. NUNES: Why? Because Warner --  
9 because Warner's application was complete,  
10 Warner had the only background in gaming.  
11 I've been obviously as I said --

12          CHAIRMAN CROSBY: But if it was just  
13 a 30-day transaction and the commission was  
14 going to know it was a 30-day transaction,  
15 what possible benefit would that give? I  
16 mean, it was meaningless.

17          MR. NUNES: We didn't know, at the  
18 time, what possible benefit it would have  
19 given.

20          MR. ALLEN: My memory is,  
21 Mr. Chairman, if I may, was that some of the  
22 discussion was focused around at the time --  
23 this is pre-Foxwoods. At the time it was  
24 going to be Warner that was going to be

1           running the gaming operation. So the  
2           structure may have changed after that point.  
3           We wanted to get the application filed so that  
4           we could -- what happened next.

5                       Now, Warner had the same role as --  
6           as Scott did relative to finding the equity  
7           partner at that particular time. And the  
8           feeling was that Warner being the gaming  
9           partner, the structure of it was going to  
10          change when the equity partner came in. So I  
11          think the business sense at the -- at the  
12          time, was thinking, since Warner is going to  
13          run operation there will be a shift. And when  
14          the equity -- there's going to be another  
15          shift. So I think that's what happened at  
16          that particular time. That's my recollection  
17          of the events.

18                      MR. MACKEY: Ajax did, in fact, buy  
19          the interest back on February 11th for a  
20          dollar, correct? The third page of the  
21          document, the February 15th?

22                      MR. NUNES: February 15th, yes.

23                      MR. MACKEY: Okay. And I your  
24          testimony is, and the record reflects, that

1           this -- this assignment, and then this  
2           assignment back was all fully disclosed to the  
3           commission, correct?

4                   MR. NUNES:  Correct.

5                   MR. MACKEY:  But my question is, did  
6           you ever represent to anyone else, between  
7           January 15th and February 11th that WG Gaming  
8           actually owned the 33 percent of Crossroads  
9           that -- that you had assigned?

10                   MR. NUNES:  Did I ever --

11                   MR. MACKEY:  I mean, I understand it  
12           was disclosed to the commission.  Was it  
13           disclosed to anybody else?

14                   MR. NUNES:  Everybody in Crossroads  
15           knew.

16                   MR. MACKEY:  Well, understanding  
17           that because they're a really, party here.  
18           But, you know, did you use this in connection  
19           with marketing the project to the community,  
20           for example, that WG Gaming owned this larger  
21           share?

22                   MR. NUNES:  Well, I think if -- if  
23           you look into, you know, at that point in time  
24           there was a, you know, dispute that arose, so

1 I wasn't exactly the most vocal person at that  
2 point in time.

3 MR. MACKEY: I'm not sure I --

4 MR. NUNES: I wasn't talking much  
5 about the project.

6 MR. MACKEY: Okay. Was it ever  
7 represented to investors between January 15th  
8 and February 15th, that WG Gaming owned this  
9 portion of the enterprise that you had  
10 assigned to them?

11 MR. NUNES: I -- I don't recall that  
12 there were any discussions with investors at  
13 that point in time.

14 MR. MACKEY: Let me draw your  
15 attention to the next exhibit, which is bureau  
16 Exhibit No. 7. And this is a letter that you  
17 wrote to the town administrator in Milford --

18 MR. NUNES: Right.

19 MR. MACKEY: -- on April 3rd,  
20 understanding that it's written in the context  
21 with an ongoing dispute that you'd had with  
22 your partners, correct?

23 MR. NUNES: Okay. Yes.

24 MR. MACKEY: Okay. Can you just

1 describe, very briefly, what precipitated that  
2 letter?

3 MR. NUNES: You know, I guess to  
4 describe it in a succinct fashion, you know,  
5 these are complex matters, complex  
6 negotiations. A lot of discussion took place  
7 in a 24-hour period over the January 14th,  
8 January 15th period. And let's just say that  
9 the parties were at odds over the events that  
10 took place.

11 And the two parties had seemingly  
12 found their way apart, and the town was asking  
13 about my whereabouts, since I had been the  
14 face, obviously had tied up at the property  
15 and done everything with the project up until  
16 you know, the January 15th timetable. And so,  
17 they were anxious to understand where I was,  
18 and I notified them as such.

19 And, you know, as is sometimes the  
20 case in life, you find in a business dispute  
21 you can find your way back to finding some  
22 common in which to work with. And --

23 MR. MACKEY: And have you done that  
24 here?

1           MR. NUNES:  And we've settled -- we  
2           settled the dispute, you know, shortly  
3           thereafter.  I would say within the next 30 to  
4           45 days.  I can't remember the exact date of  
5           the settlement.  But, you know, the parties  
6           came together and worked out their differences  
7           and moved forward.

8           MR. MACKEY:  The first sentence of  
9           your letter reads, "Dear, Mr. Villani, I wish  
10          to take this opportunity to inform you that I  
11          will no longer be active in any negotiations  
12          with the town of Milford on behalf of  
13          Crossroads Massachusetts, LLC, or its alleged  
14          new entity FCX Massachusetts, LLC," and you  
15          have the word alleged in quotation marks.  
16          Tell me when you what you meant by that, by  
17          the word alleged.

18          MR. NUNES:  The word alleged was I  
19          wasn't exactly clear as to what the  
20          creation -- I was in the dark at the time so I  
21          wasn't -- there wasn't a lot of communication  
22          with me.  So I didn't know what FCX  
23          Massachusetts was, so I used the word alleged.

24          MR. MACKEY:  Okay.  At this point in

1           time Mr. Nunes, had you seen the operating  
2           agreements, the resolutions from the tribe and  
3           so forth, that reflected what the structure of  
4           this entity was going to be?

5                     MR. NUNES: Not to my knowledge, was  
6           I receiving a lot of documentation.

7                     MR. MACKEY: No further questions.

8                     COMMISSIONER CAMERON: I had a  
9           couple of questions for Mr. Nunes.

10                    MR. NUNES: Yes, Commissioner.

11                    COMMISSIONER CAMERON: I'm just  
12           trying to understand your role now, sir. I  
13           know that you are the chief development  
14           officer at this point. Are you involved,  
15           personally, with these financial discussions  
16           regarding another business partner?

17                    MR. NUNES: Yes.

18                    COMMISSIONER CAMERON: Okay. I  
19           think the Warner matter was asked and  
20           answered. I had -- I had a question about --  
21           a follow-up question to the dispute, a  
22           financial dispute; is that correct?

23                    MR. NUNES: It was financial and,  
24           you know, a matter of authority.



1                   COMMISSIONER CAMERON: Okay. And  
2                   you made a statement in the report here that  
3                   you were -- you were paid an additional amount  
4                   for pain and anguish. I just -- when I read  
5                   that in the report, I thought I'd ask you to  
6                   explain that statement.

7                   MR. NUNES: I'd have to --

8                   COMMISSIONER CAMERON: Page --  
9                   bottom of page 84 of the report.

10                  MR. NUNES: Page 84 of the report,  
11                  okay.

12                  MR. ALLEN: It's 84 in this, David.

13                  MR. NUNES: Oh, it is.

14                  MR. ALLEN: In your -- is that your  
15                  testimony? Yeah.

16                  MR. NUNES: Okay. Thanks, Bob.

17                  CHAIRMAN CROSBY: That looks like  
18                  his testimony.

19                  MR. NUNES: That's my testimony.

20                  CHAIRMAN CROSBY: Of the report.

21                  MR. ALLEN: Oh, I'm sorry. I'm  
22                  thought you said --

23                  CHAIRMAN CROSBY: Of the report.

24                  MR. ALLEN: Oh, I'm sorry.

1 MR. NUNES: The report.

2 MR. ALLEN: I'm sorry, David.

3 MR. NUNES: Well, if you -- if you  
4 looked at the history of my fundraising  
5 activities for Crossroads, I had a history  
6 of -- for running the project I was paid a sum  
7 of, approximately, 50,000 a month. That came  
8 to an end in January. I called it pain and  
9 anguish because four months I was suffering  
10 pain and anguish about not having to -- you  
11 know, all of a sudden I've been diluted to a  
12 significant degree, and suddenly it's, okay,  
13 we might not need you anymore. You've done  
14 your job.

15 So, for me, I looked at it as pain  
16 and anguish, when it was, in fact, the amount  
17 of monthly management fee I was being paid all  
18 along since I began my fundraising efforts to  
19 bring partners in, in order to manage the  
20 process. You know, it obviously takes a great  
21 deal to handle public relations, handle the  
22 land negotiations, and handle all the other  
23 things with the town, et cetera. That was why  
24 I coined it that phrase.

1                   COMMISSIONER CAMERON: Is it fair to  
2 say, I'm maybe reading into this and I'd like  
3 you to clarify, one of the reasons you were  
4 back with the team is -- is the fact that the  
5 town of Milford was accustomed to dealing with  
6 you and there was uncertainty without you  
7 without the project?

8                   MR. NUNES: I would say that -- that  
9 has a good deal of truth in it.

10                  COMMISSIONER CAMERON: My last  
11 question, sir. And maybe -- either one of  
12 you, Mr. Allen, you know, there have been so  
13 many iterations since January 15th, when I  
14 dealt with you, Mr. Allen, in accepting the  
15 application, so many changes, and at this late  
16 date there's still a major piece of it  
17 missing. And just looking at the  
18 investigation and how many changes there have  
19 been, how are we to have faith that this is  
20 now the version moving forward that -- that  
21 will be -- that will be the applicant?

22                  MR. ALLEN: Well, I will only say to  
23 you there hasn't been any changes in the  
24 recent past. There were clearly changes at

1 the beginning and -- and I think David has a  
2 good point. This is a tremendously complex  
3 deal, and you have to remember on January  
4 15th, I didn't know this gentleman to my right  
5 and Foxwoods wasn't even in the picture here.  
6 When they come in things change. A lot of  
7 things change. And when the financial  
8 elements come in, sometimes there's additional  
9 changes.

10 Now, I tend to agree with what Scott  
11 said to the commission earlier. I think we  
12 would have been in a different place, had we  
13 been dealing with a city form of government.  
14 We were deal withing a town form of  
15 government. And rightfully so, the selectmen,  
16 which don't have the power of a mayor, because  
17 ultimately it's town meeting that controls  
18 everything. We had to deal with them, and we  
19 had to get the community host agreement from  
20 them.

21 So we had to get them comfortable.  
22 They had to meet Scott. They've only known  
23 David Nunes. And we had to go to this  
24 extensive process that you know -- they put us

1           in great shape for Phase 2. We are far ahead  
2           Phase 2. You know, I wish we were as far  
3           ahead as Phase 1, as we were in Phase 2. But  
4           we -- we -- we're very far ahead on Phase 2.  
5           And I think that it -- it chilled the equity  
6           ability until we got a community host  
7           agreement. And now I think we are extremely  
8           close.

9                        I think Scott was correct. I think  
10           in a matter of days we will have something.  
11           You know, naturally our goal was come here  
12           today with it, but it didn't work out that  
13           way. But I'm -- I'm confident that, while you  
14           might see a change in the table of org, you  
15           will see a change in the table of org, if it  
16           goes in one direction. If it goes in the  
17           other direction, you're going to see the same  
18           group that you see before you now.

19                       And the other reason why you won't  
20           see any changes is because we don't have time  
21           to make changes. That's the reality of it.  
22           We can call a spade a spade here. We don't  
23           have time to be bringing in any additional  
24           people here. We understand our time

1 constraints.

2 COMMISSIONER CAMERON: Thank you.

3 CHAIRMAN CROSBY: Anybody else?

4 COMMISSIONER STEBBINS: Yeah. I  
5 want to follow-up, I think this is in  
6 connection to the letter, Mr. Nunes, that  
7 Attorney Mackey asked you about in a letter  
8 with the town. I believe you used the  
9 following language, shed any -- "I shed any  
10 faith in the project, given that investors and  
11 Foxwoods have not invested the time to get to  
12 know the people in Milford."

13 I mean, you're stepping out of this  
14 deal, it seems that that language kind of goes  
15 above and beyond what you would be saying in  
16 the context of, I'm not the point person  
17 anymore, direct inquiries to Attorney Allen or  
18 someone else.

19 That language in that letter seemed  
20 to go above and beyond that. I mean, you're  
21 still invested in the project. You're still  
22 an investor, I guess, through Ajax and  
23 Crossroads. It seemed to be a step further  
24 than just removing yourself from being a point

1 of contact for the town.

2 MR. NUNES: I think the only way I  
3 can answer that, Commissioner, is after five  
4 years of, you know, pulling it altogether, and  
5 then being in a situation where I felt like my  
6 back was against the wall, anger and  
7 frustration came out in my letter, as opposed  
8 to maybe some smart-headedness.

9 CHAIRMAN CROSBY: The IEB report  
10 there's -- which you've read, I'm sure, has  
11 some concern about your forthcomingness. The  
12 degree of your forthcomingness. They  
13 specifically mention the issue of the  
14 assertions that the financing was just around  
15 the corner, and particularly the Penn National  
16 assertion. And they're -- they characterize  
17 that you substantially misled them by  
18 substantially overstating where the Penn  
19 National Deal was. How do you react to that?

20 MR. NUNES: If I recall the  
21 conversation, Chairman, I went in for some --  
22 I had some questions for the director, and one  
23 of the them, at the time it was concerning we  
24 were just beginning discussions with Penn

1 National. And there had been a -- a meeting  
2 the week before, and although there were no  
3 actual concrete terms on the table, I could  
4 tell that by the actual discussion of the way  
5 that the debt would be laid out and the  
6 structure would be a better structure for our  
7 -- for Crossroads, than the other structure  
8 that we had been pursuing as well.

9 So if I misstated the actual  
10 position that we were in at the time with our  
11 discussions with Penn, I apologize for that.  
12 It was really just to find out -- I was really  
13 there to see if Penn was, you know, in trouble  
14 because it had been reported in the newspaper  
15 the day before, that one of the members was  
16 having a suitability issue. And so, really  
17 that's what I was there to ask about.

18 And, you know -- and Director Wells  
19 reminded me at that meeting that she had sent  
20 an October 24th letter, and that I, you know,  
21 should be more concerned about those things  
22 than to be in asking other questions.

23 So if I did mislead Director Wells,  
24 it was not my intention. I was really there



1 to find out whether Penn was going to have a  
2 suitability issue or not, and it turns out  
3 they did not.

4 CHAIRMAN CROSBY: Okay.

5 COMMISSIONER ZUNIGA: I have a  
6 question, Mr. Nunes. The report talks about  
7 the dispute between the partners that  
8 eventually resulted in you changing roles now  
9 to one of chief development officer. How  
10 would you characterize now that relationship,  
11 especially in the context of finding that  
12 equity partnership that -- that you need to  
13 find?

14 MR. NUNES: You know, I think that  
15 everybody's working hard to, you know,  
16 finalize this equity piece. I don't think  
17 anybody's it not giving it 110 percent on our  
18 team. You know, right down to Attorney Allen  
19 and his team. And I think that that's been  
20 everybody's primary focus. And while at the  
21 same time I've been, you know, busy inside the  
22 town of Milford trying to win a referendum on  
23 the 19th. And as we've seen recently in a  
24 number of jurisdictions, those referendums are

1           much harder to get than they once were. And  
2           so we -- you know, we've been working both  
3           fronts as hard as we possibly can.

4                        COMMISSIONER ZUNIGA: Thank you.

5                        MR. MACKEY: Just, Mr Chairman, just  
6           one --

7                        CHAIRMAN CROSBY: Yep.

8                        MR. MACKEY: -- one question.

9           Mr. Nunes, you're described in -- in the  
10          suitability report as being the moving force,  
11          at least originally in the development of this  
12          project, and also as the -- as the public face  
13          of the company in terms of dealing with  
14          Milford. As you're sitting here today, and I  
15          mean today, this afternoon, what is your role,  
16          and what do you see your role going forward  
17          being?

18                       MR. NUNES: I think it very much is  
19          a chief development officer. I'm working hard  
20          in the community to raise support for the  
21          project, which is what anybody in my role  
22          would be doing. You know, if you're -- if --  
23          if you're before a -- a zoning board or  
24          anybody of that nature and you're trying to

1 plan a project in a town, as a chief  
2 development officer, it's your job to rally  
3 support to make sure that people are there,  
4 and also, at the same time, work with others  
5 to raise funds for the project. So I very  
6 much consider my role as chief development  
7 officer to be a very real role.

8 MR. MACKEY: No further questions.

9 COMMISSIONER MCHUGH: We've touched  
10 on this before, but I -- I -- I want to go  
11 back and see if I can't delve a little more  
12 deeply into -- into the two major, sort of,  
13 disruptions that occurred after the  
14 application was filed, two major changes.  
15 January 15th you assign your interest in  
16 Crossroads to Warner Gaming, right?

17 MR. NUNES: (Mr. Nunes nodding up  
18 and down)

19 COMMISSIONER MCHUGH: The assignment  
20 gives you an option to buy it all back for a  
21 dollar in 30 days?

22 MR. NUNES: (Mr. Nunes nodding up  
23 and down)

24 COMMISSIONER MCHUGH: You file that

1 assignment with the commissioner.

2 MR. NUNES: (Mr. Nunes nodding up  
3 and down)

4 COMMISSIONER MCHUGH: In 30 days you  
5 exercise your right to buy it back, and you  
6 get it all back for a dollar.

7 MR. NUNES: (Mr. Nunes nodding up  
8 and down)

9 COMMISSIONER MCHUGH: The reason for  
10 doing that was what?

11 MR. NUNES: At the time a decision  
12 was made amongst the partnership, and since  
13 Warner -- again, Warner was filling the role  
14 of Foxwoods at the time, was going to be the  
15 gaming entity, et cetera. And we knew that  
16 his application was the only complete  
17 application at the time. And he --

18 CHAIRMAN CROSBY: When you say the  
19 application, are you referring to the  
20 background check, or what are you referring --  
21 the background check forms; is that what  
22 you're referring to?

23 MR. NUNES: The initial application  
24 that was due January 15th.

1                   CHAIRMAN CROSBY:  The background  
2                   checks?

3                   MR. NUNES:  The background check  
4                   forms.  Okay.

5                   CHAIRMAN CROSBY:  Yep.

6                   MR. NUNES:  For Phase 1.

7                   CHAIRMAN CROSBY:  Yep.

8                   MR. NUNES:  So just a -- a decision  
9                   was made to go ahead and do that.

10                  COMMISSIONER MCHUGH:  Yeah, but the  
11                  decision -- the decision that was made to go  
12                  ahead and do that, and by "that," you mean the  
13                  assignment?

14                  MR. NUNES:  Yes.

15                  COMMISSIONER MCHUGH:  Was a decision  
16                  that this was only going to be something that  
17                  would be in place for 30 days.  You knew, at  
18                  the end of 30 days when you did this, that you  
19                  might exercise your right to get it back?

20                  MR. NUNES:  Well it's -- if I recall  
21                  correctly, it said at the end of 30 days I had  
22                  the right --

23                  COMMISSIONER MCHUGH:  You had the  
24                  right.  That's right.

1 MR. NUNES: I had the right to get  
2 it back. It didn't say I had to do it in 30  
3 days.

4 COMMISSIONER MCHUGH: No. You had  
5 the option to get it back.

6 MR. NUNES: What -- I would say what  
7 precipitated my wanting to do it was because  
8 there -- a dispute had evolved.

9 COMMISSIONER MCHUGH: A dispute  
10 between who?

11 MR. NUNES: My equity partners and  
12 myself.

13 COMMISSIONER MCHUGH: Your --

14 MR. NUNES: My new --

15 COMMISSIONER MCHUGH: -- your  
16 other --

17 MR. NUNES: -- yes.

18 COMMISSIONER MCHUGH: -- your other  
19 equity partners and Crossroads?

20 MR. NUNES: Yes.

21 CHAIRMAN CROSBY: Foxwoods.

22 MR. NUNES: No, not Foxwoods.

23 CHAIRMAN CROSBY: The other firm.

24 COMMISSIONER MCHUGH: Yeah. The

1 other Crossroads equity partners. And that  
2 dispute caused you to get -- to exercise your  
3 option to get your interest, the Crossroads  
4 interest back from --

5 MR. NUNES: Right, because I was  
6 worried about lots of things at the time, as  
7 you could well imagine.

8 COMMISSIONER MCHUGH: I can imagine  
9 a lot of things.

10 MR. ALLEN: So Commissioner  
11 McHugh -- I don't want to interrupt -- I don't  
12 want to step on your --

13 COMMISSIONER MCHUGH: But I -- can  
14 you be more concrete about what was concerning  
15 you? The reason I'm pursuing this line is  
16 that, obviously, in terms of suitability the  
17 commission is, among many other things,  
18 interested in stability, and interested in the  
19 expectation that what we see presented now is  
20 what we're going to see in place for the  
21 foreseeable future. And -- and so some of the  
22 history of changes is relevant to prediction.  
23 That's where I'm going with this. It's not  
24 just idle curiosity.

1           So -- so at this point I don't  
2 understand, in any concrete terms, apart from  
3 imagings, what it was that changed between  
4 January 15th and February 15th, that caused  
5 you, on February 15th, to exercise the option  
6 to get back that you had built in to the  
7 assignment in the first place?

8           MR. NUNES: Again, I think the only  
9 way I can answer that, Commissioner, is that I  
10 was worried about where those shares might end  
11 up. At that point in time a dispute had --

12           COMMISSIONER MCHUGH: What Warner  
13 might do with those shares?

14           MR. NUNES: What Warner might do  
15 with those shares, what could have legally  
16 happened. I wanted to make sure they were  
17 back in my control.

18           COMMISSIONER MCHUGH: And so, some  
19 event occurred between January 15 and  
20 February 15th that raised that fear in your  
21 mind?

22           MR. NUNES: Yes. I think it's  
23 recognized in the -- you know, in the notes,  
24 that there was a dispute that --



1                   MR. ALLEN: That's when the partner  
2                   dispute took place.

3                   MR. NUNES: The partner dispute took  
4                   place.

5                   COMMISSIONER MCHUGH: Okay.

6                   MR. NUNES: Very shortly after the  
7                   15th.

8                   COMMISSIONER MCHUGH: Okay. Now  
9                   let's jump forward to April 3rd. April 3rd  
10                  you send a letter to the town of Milford.  
11                  That was just quoted from a minute ago.

12                  MR. NUNES: Right.

13                  COMMISSIONER MCHUGH: In which you  
14                  say you're not any longer going to be the face  
15                  of the project. But you also say, "I have had  
16                  my authority and my title stripped by my  
17                  investor partners, and they wish to proceed in  
18                  place of me." Can you explain, in more  
19                  detail, what happened there?

20                  MR. NUNES: I was sent a cease and  
21                  desist letter.

22                  COMMISSIONER MCHUGH: And the cease  
23                  and desist letter said what, in essence, I'm  
24                  not asking you to quote it.

1           MR. NUNES: That I had no authority  
2           to communicate with anyone on this project  
3           moving forward.

4           COMMISSIONER MCHUGH: And who sent  
5           you that letter.

6           MR. NUNES: A law firm from Delaware  
7           that I'm not sure of.

8           COMMISSIONER MCHUGH: Representing  
9           whom?

10          MR. NUNES: Representing the -- my  
11          partners in Crossroads.

12          COMMISSIONER MCHUGH: Oh, the other  
13          Crossroads partners?

14          MR. NUNES: Yes.

15          COMMISSIONER MCHUGH: What  
16          precipitated that -- what precipitated that  
17          event?

18          MR. NUNES: It was the same dispute  
19          that precipitated the -- the dispute that  
20          began on January 17th or 18th, or thereabouts,  
21          lasted until the end of May.

22          COMMISSIONER MCHUGH: And it was the  
23          other partners who are current partners in  
24          Crossroads --

1 MR. NUNES: That is correct.

2 COMMISSIONER MCHUGH: -- who sent  
3 you that? So you had a dispute with them that  
4 began in January, led you to get your -- get  
5 the Crossroads shares back from Warner in  
6 February, and then flared up again two months  
7 later in April?

8 MR. NUNES: It was continuous.

9 COMMISSIONER MCHUGH: And was  
10 resolved, at least to the extent of putting  
11 you back as a -- as a visible part of the  
12 project in June? So that --

13 MR. NUNES: It's thereabouts, I  
14 believe.

15 COMMISSIONER MCHUGH: Thereabouts.  
16 Precise dates aren't important. But it was  
17 about a -- a two-month flareup then, beginning  
18 in -- in early April?

19 MR. NUNES: No. It was from  
20 January, February --

21 COMMISSIONER MCHUGH: Well, I mean,  
22 another flareup that caused -- okay.

23 MR. NUNES: No. The town -- the  
24 letter to the town --

1                   COMMISSIONER MCHUGH: Right.

2                   MR. NUNES: -- Commissioner, really  
3                   was because the town had wondered why I had  
4                   seemingly dropped off the face of the earth.

5                   COMMISSIONER MCHUGH: All right.  
6                   But the dispute then, was one that began in  
7                   early February and continued through this  
8                   period until it was resolved and you came back  
9                   into the picture beginning of May, early June.

10                  MR. NUNES: Correct.

11                  COMMISSIONER MCHUGH: And how was it  
12                  resolved? I don't want dollar figures or  
13                  anything, but how was it resolved, again,  
14                  thinking about the stability of this project  
15                  going forward? We're only four months down  
16                  the road from that.

17                  MR. NUNES: It's -- it was resolved  
18                  by a meeting of the minds amongst everybody.  
19                  And I have to admit that, you know, Scott  
20                  Butera, you know, served as a great mediator  
21                  at bringing people together.

22                  COMMISSIONER MCHUGH: Thank you.

23                  MR. MACKEY: If I might  
24                  Mr. Chairman --

1                   CHAIRMAN CROSBY:  Yep.

2                   MR. MACKEY:  -- just one more.

3                   Mr. Nunes you -- in response to Commissioner  
4                   McHugh referenced that it was this dispute  
5                   that developed post-January 15th that  
6                   compelled you to exercise your rights to get  
7                   the shares you'd assigned back, correct; is  
8                   that correct?

9                   MR. NUNES:  Well, to do it rather  
10                  quickly.

11                  MR. MACKEY:  Yes.  But it was the  
12                  dispute that you have referenced here that  
13                  caused you to exercise your option for a buck  
14                  to get that interest back, correct?

15                  MR. NUNES:  I would say --

16                  MR. MACKEY:  Is that what your --  
17                  that's your testimony?

18                  MR. NUNES:  Yes.

19                  MR. MACKEY:  Okay.  Please look at  
20                  your sworn testimony, page 104.  It's exhibit  
21                  -- sorry, bureau Exhibit --

22                  MS. WELLS:  Five.

23                  MR. MACKEY:  -- 5, page 104.  And  
24                  you're asked by Ms. Sacco, in connection with

1 discussion about this -- this assignment,  
2 you'd indicated something to the effect, and  
3 I'd like to you expound upon that, that you  
4 did that, and that's exercise the assignment,  
5 because you thought the gaming application  
6 would be perceived better if Warner had a  
7 bigger interest.

8 And here is your answer, "This was,  
9 you know, again a lot of things happened  
10 between the -- January 13th and 15th. So in  
11 my mind, because his application was complete  
12 and Crossroads was founded by me and Warner,  
13 it was my suggestion that I said, well, why  
14 don't I assign you a bigger interest so the  
15 application will receive, because you're  
16 licensed in other jurisdictions.

17 You do have a history in the gaming  
18 business. And then I'll, you know, at the  
19 time that my application gets completed and  
20 goes back in, I'll have the ability to acquire  
21 it back. And you know the discussion happened  
22 in the snap of a finger and so it was, and a  
23 document was drafted and we signed it, and  
24 that was really the nature of it. There was

1 no other, you know, rhyme or reason behind it,  
2 other than we thought that it would look  
3 better if Warner had a bigger interest in it,  
4 because he was the only completed application  
5 that day." Did I read that correctly?

6 MR. NUNES: Yes.

7 MR. MACKEY: Thank you.

8 MR. NUNES: I'm just not following  
9 how that relates to acquiring the interest  
10 back.

11 MR. MACKEY: Well, you entered into  
12 the transaction because you thought at the  
13 time it would look better if Mr. Warner had a  
14 larger interest. But at the very beginning  
15 your testimony reflects you intended to  
16 acquire it back and nowhere in that sworn  
17 testimony do you reference a dispute.

18 MR. NUNES: But the commissioner's  
19 question is answering it back in 30 days, if I  
20 recall correctly.

21 CHAIRMAN CROSBY: Right.

22 MR. NUNES: And I don't see how that  
23 relates to the 30-day question.

24 MR. MACKEY: My question is, your

1 sworn testimony appears to reflect that you  
2 intended to buy those shares back.

3 MR. NUNES: Definitely. Definitely.  
4 Definitely.

5 MR. MACKEY: At the time you entered  
6 into the assignment agreement?

7 MR. NUNES: That's correct.

8 MR. MACKEY: And the intent was that  
9 you would do that within 30 days.

10 MR. NUNES: It said that after 30  
11 days I could acquire them back.

12 CHAIRMAN CROSBY: The right of  
13 return was after 30 days.

14 MR. NUNES: The right of the return  
15 was after 30 days.

16 CHAIRMAN CROSBY: And you did it on  
17 the 30th day because of the dispute that had  
18 evolved?

19 COMMISSIONER MCHUGH: Right. That's  
20 how I understood it, so go ahead.

21 MR. MACKEY: The assignment  
22 agreement, though, did require that you  
23 exercise that right within 30 days correct?

24 MR. NUNES: No. After 30 days.



1                   MR. ALLEN: After 30 days. After 30  
2 days.

3                   MR. MACKEY: Yeah. Just, if you  
4 could look at paragraph two of the agreement.  
5 And I may be reading this incorrectly and  
6 plainly, I apologize. It's bureau Exhibit 6.

7                   MR. NUNES: I lost track of where it  
8 is.

9                   MR. MACKEY: Section 2 just says,  
10 "At anytime within 30 days after the effective  
11 date assignor may deliver to assignee notice  
12 of its exercise of it's right to repurchase  
13 the assigned membership interest."

14                   MR. NUNES: It does say at anytime  
15 within 30 days. And assignee's obligation to  
16 reconvey -- yeah, I mean the -- the language  
17 does say anytime within the 30 days of the  
18 effective date.

19                   MR. MACKEY: No reason for me to  
20 belabor this. I just want to make sure the  
21 record's clear, that at the time you entered  
22 into the transaction on January 15th, you  
23 contemplated, as your sworn testimony  
24 reflects, that under any circumstance you

1 intended to buy that back within a 30-day  
2 period, correct?

3 MR. NUNES: I'm assuming that's  
4 correct.

5 MR. MACKEY: Okay. Thank you. I  
6 have no further questions.

7 CHAIRMAN CROSBY: Anybody else?  
8 Anything? Any recross, cross re?

9 MR. ALLEN: Before we wrap up?

10 CHAIRMAN CROSBY: Yeah. Before we  
11 wrap up anything else, anybody? All right.  
12 Then the applicant has an opportunity to make  
13 their closing remarks.

14 MR. BUTERA: Thank you,  
15 Mr. Chairman. I'd just like to start by  
16 simply saying again, we're very appreciative  
17 of the process. I want you to know that since  
18 we've been involved we've been working  
19 fever -- feverishly around the clock to  
20 satisfy all the requirements of what it takes  
21 to put together a great project. The last  
22 piece of which I know is the financing. But  
23 in order to have something that's attractive  
24 to a potential investor, you have to have a

1 lot of pieces in place.

2 The town of Milford drove us pretty  
3 hard to get the community host agreement, to  
4 get -- to get the project to the point where  
5 they were comfortable entering into a  
6 community host agreement. We have worked to  
7 do that.

8 We've worked, you know, very hard  
9 throughout the community to educate people on  
10 what we're trying to create and what we -- and  
11 we've put together, I think, a world-class  
12 team. And I think our project very well  
13 represents what the Commonwealth of  
14 Massachusetts is looking for in a integrated  
15 resort casino.

16 I think that we've done something  
17 that everyone can be very proud of and will  
18 be a must-see attraction in a community that  
19 is very deserving of this type of project.

20 So I very much understand the need  
21 to secure the remaining funding as  
22 expeditiously as possible. Hopefully, within  
23 days. Hopefully, this afternoon. I am very  
24 appreciative and respectful of Director Wells'

1 time and understand the constraints that  
2 she -- that she's been going through and the  
3 enormous amount of work that she has. And I  
4 don't want to impose any hardship upon her, so  
5 we will do everything we can to get this last  
6 piece closed, hopefully, within hours, if not  
7 days. But we understand it can be no longer.

8 MR. ALLEN: If I can just summarize,  
9 Mr. Chairman. You know, I think the  
10 investigators and the board did a great job  
11 flushing out the questions. I've lived this  
12 for the last 11 years, and -- and you've hit  
13 along all the questions.

14 When -- you know, we had some speed  
15 bumps at the middle, and I think David did  
16 a -- did a good job explaining it. But, you  
17 know, it really came down to at the last  
18 minute some money needed to be shifted. As a  
19 result, some interests get shifted. And David  
20 has lived this project for a very long time.  
21 And, you know, he took things personally, and  
22 maybe he put on a personal hat instead of a  
23 business hat. But when David Nunes is on this  
24 team we are a better team. He is excellent at

1           what he does. As a chief development officer,  
2           he is excellent at what he does.

3                     You know, these investigations can  
4           be difficult sometimes and -- and I'm sure  
5           people look at their transcript and say, geez,  
6           did I say that? I didn't mean to say that.  
7           But I really think today --

8                     And I really appreciate the way  
9           Chairman Butler stepped up and answered the  
10          questions the way he did. And they were tough  
11          questions, and he made some tough decisions.  
12          But he had good reasons for those tough  
13          decisions. And I think he answered very  
14          respectfully. And I do suggest to you we have  
15          put together a good team here.

16                    If you look through the suitability,  
17          you know, leaving the elephant of the equity  
18          out for a minute, there are really very few  
19          issues related to our suitability that  
20          wouldn't overcome the clear and convincing. I  
21          think that we have the right team here. I  
22          think one of the reasons that we got involved,  
23          and we're excited to get involved, is for  
24          competition in Region A. And, boy, Region A

1 is really struggling now.

2 And we really think -- somewhere  
3 along the line, probably about August, we  
4 don't look at this as a license for Crossroads  
5 anymore. We look at this as a license for  
6 Milford. We've done a lot in that community.  
7 This community deserves -- if they're willing  
8 to have us on next Tuesday they deserve this  
9 license. They've really embraced us. And  
10 that has a lot to do with David Nunes. He set  
11 this table for this group. And then, when  
12 Scott took over, Scott's done a wonderful job  
13 building back any trust when there was a  
14 little hiccup with -- with the dispute.

15 And, clearly, that letter that when  
16 out was difficult. It was difficult to  
17 overcome. You know, from a PR standpoint, how  
18 do you defend a letter that that went out?  
19 And it was difficult. But Scott stood up  
20 there, we stood up there in front of Milford  
21 and -- and we took the punches we need to and  
22 they're on board with us. So I think we've  
23 gained the trust in the community.

24 And I think it's important to note,

1 as I'll reiterate again, we've been open and  
2 honest with the commission, and I've tried to  
3 keep everybody of everything. I'm extremely  
4 confident, as I sit here today -- and I'm not  
5 sure I could have said this yesterday, but I'm  
6 extremely confident as I sit here today, that  
7 we will have the equity in place in time and  
8 prior to the Phase 2 submission.

9 So what my request is, I'm asking  
10 the commission to make a determination finding  
11 that the applicant, Crossroads Massachusetts,  
12 LLC is deemed suitability, subject to the  
13 entering into an agreement with the remaining  
14 financial source, and, if necessary, having  
15 any additional qualifiers vetted and found  
16 suitable prior to the Phase 2 submission date.

17 And with that, I really thank you  
18 for time. And again, Director Wells, and  
19 Mackey and the investigators for their  
20 efforts. Thank you.

21 CHAIRMAN CROSBY: Thank you,  
22 Counsel.

23 COMMISSIONER MCHUGH: Thank you.

24 COMMISSIONER CAMERON: Thank you.

1 COMMISSIONER STEBBINS: Thank you.

2 COMMISSIONER ZUNIGA: Thank you.

3 CHAIRMAN CROSBY: With that, we will  
4 conclude this portion of the suitability  
5 proceeding. The commission will deliberate  
6 about the matter in private and issue a  
7 written decision. We are very sensitive of  
8 the election day, and we'll do everything we  
9 possibly can to get the decision out well  
10 before that.

11 The proceeding, at this point,  
12 however, does remain open. If at any point  
13 during the deliberation the commission  
14 determines that further testimony or  
15 documentary evidence is desirable it may send  
16 notice of such to the applicant and provide  
17 instructions as to how to proceed.

18 Further, all applicants, of course,  
19 have a continuing duty to provide updated  
20 information to the commission and to the  
21 bureau. It is now November 13th at 2:15, and  
22 we will adjourn.

23 MR. ALLEN: Mr. Chairman, just one  
24 quick question.



1                   CHAIRMAN CROSBY: Sure. Sure.

2                   Unadjourn.

3                   MR. ALLEN: Did you feel it  
4                   necessary for the -- for a organizational  
5                   chart to be resubmitted to you as kind of a  
6                   postmeeting brief. I know one of the  
7                   things -- the -- the way the questioning came  
8                   in we started with this wall between Foxwoods,  
9                   then we started with the whole structure. If  
10                  the -- if the board deem it necessary, I'm  
11                  glad to provide you with a short little brief  
12                  and probably a picture of the structure of  
13                  Crossroads, if you feel it necessary. If you  
14                  feel you've satisfied your concerns then --

15                  COMMISSIONER CAMERON: Has it --

16                  MR. ALLEN: There is one in there.

17                  CHAIRMAN CROSBY: Yeah.

18                  MR. ALLEN: Okay.

19                  CHAIRMAN CROSBY: I think it's --

20                  MR. ALLEN: Okay.

21                  CHAIRMAN CROSBY: It got fuzzy for  
22                  awhile, but it got unfuzzy. I feel all right  
23                  about. If commissioner McHugh?

24                  COMMISSIONER MCHUGH: I'm fine.

1 CHAIRMAN CROSBY: Yeah.

2 MR. ALLEN: You can readjourn.

3 CHAIRMAN CROSBY: We're fine.

4 Adjourned. Thank you.

5

6 (Proceedings concluded at 2:16 p.m.)

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## C E R T I F I C A T E

1  
2  
3 I, Brenda M. Ginisi, Court Reporter, do  
4 hereby certify that the foregoing is a true  
5 and accurate transcript from the record of the  
6 proceedings.

7 I, Brenda M. Ginisi, further certify  
8 that the foregoing is in compliance with the  
9 Administrative Office of the Trial Court  
10 Directive of Transcript Format.

11 I, Brenda M. Ginisi, further certify  
12 that I neither am counsel for, related to, nor  
13 employed by any of the parties to the action  
14 in which this hearing was taken and further  
15 that I am not financially nor otherwise  
16 interested in the outcome of this action.

17 Proceedings recorded by verbatim means,  
18 and transcript produced from computer.

19  
20 WITNESS MY HAND THIS 15th of November  
21 2013.

22  
23 BREND A M. GINISI My Commission expires:  
24 Notary Public July 11, 2014