

IN THE MATTER OF THE APPLICATION OF RESORTS INTERNATIONAL HOTEL, INC. FOR A CASINO LICENSE

OPINION

Decided May 22, 1979

New Jersey Casino Control Commission

Joseph P. Lordi, Chairman
Kenneth N. MacDonald, Vice-Chairman
Albert W. Merck, Commissioner
Alice Corsey, Commissioner
Prospero DeBona, Commissioner

Appearances

For Resorts International, Inc.:
Joel H. Sterns, Esq.
Sterns, Herbert and Weinroth, attorneys
Raymond A. Brown, Esq.
Raymond M. Brown, Esq.
Brown and Brown, attorneys

For the Division of Gaming Enforcement:
John J. Degnan, Attorney General, by
G. Michael Brown, Assistant Attorney General
Guy Michael, Deputy Attorney General

For the Casino Control Commission:
R. Benjamin Cohen, General Counsel

Legal Considerations

On December 22, 1977, Resorts International Hotel, Inc. (the "applicant") applied to the Casino Control Commission for a casino license. In accordance with the Casino Control Act, the Commission requested the Division of Gaming Enforcement to conduct an investigation into the qualifications of the applicant. On March 17, 1978, while that investigation was in progress, the Legislature amended the Casino Control Act to

authorize temporary casino permits upon the filing of certain corporate information, the institution of an appropriate voting trust agreement and the establishment of the suitability of the proposed casino hotel facilities. On April 3, 1978, the applicant formally requested to be issued a temporary casino permit. After conducting a hearing on this request, the Commission found that the applicant met the requirements for a temporary casino permit. Thereafter, the Commission issued such a permit which became effective on May 26, 1978. Except as noted above, the statutory requirements for a temporary casino permit were limited to areas which did not concern the suitability of the applicant or other persons required to be qualified for a casino license. On December 4, 1978, the Division filed its "Report to the Casino Control Commission with Reference to the Casino License application of Resorts International Hotel, Inc." (the "Report"). Along with this comprehensive Report, the Division filed a "Statement of Exceptions" setting forth seventeen (17) matters discussed in the Report which were deemed particularly significant. These documents were submitted by the Division pursuant to its statutory responsibility to investigate the qualifications of each applicant and to provide all necessary information to the Commission.

Although they assisted the Commission in focusing its inquiry into the qualifications of the applicant, these documents were not evidence of the matters stated therein. Nor did the Report and Statement of Exceptions initiate the license hearing. The Casino Control Act requires a hearing on every casino license application, and each applicant must meet the statutory criteria regardless of the tenor of the Division's report.

In order to expedite the proceedings and to fairly permit the parties to prepare for the hearing, four (4) pre-hearing conferences were conducted. These conferences resulted in four (4) pre-hearing conference orders delineating the factual matters which were to be the primary subjects of the hearing. Essentially, those subjects concerned the areas described in the Division's Report, as supplemented by additional submissions which were incorporated in the pre-hearing conference orders. As to any other factual matters not placed in issue nor actually litigated during the hearing, it was assumed that such matters posed no cause for concern. In this regard, the Commission took notice of the fact that the applicant had filed numerous documents pertaining to uncontested matters which were not introduced at the hearing.

The Chairman instructed the Commissioners that the process to be followed in reaching a decision involved four (4) steps:

First, all the evidence as to each factual question was to be considered and evaluated as to its accuracy and credibility. In performing this function, the Commissioners were to assess the credibility of the witnesses based on such factors as the demeanor of the witness, the candor or forthrightness of his answers, the interests or motives of the witness as to the outcome, and the inherent credibility or incredibility of his testimony. A similar assessment was to be made as to the accuracy and credibility of any documents or writings which were admitted into evidence. Thus, the reliability of the sources of information contained in such documents were to be considered along with the circumstances under which the document was written or the information obtained. During the course of the hearing, the Chairman, as presiding officer, refused to admit certain materials into the record. These items were not to be considered. On the other hand, various forms of hearsay evidence were admitted during the hearing, even though such evidence might not have been allowed in a court of law. The Commissioners were instructed that they were entitled to consider such hearsay and to accord it the weight which it deserved upon analysis of its nature and source.

Second, based upon review and assessment of the quality of the evidence, the Commissioners were to arrive at a determination of the underlying specific facts. Those facts were to indicate what the Commissioners found to be the important facts and events which occurred and were to reflect the evidence and the reasons for each finding. In reaching these fact findings, the Commissioners were advised that they might draw any reasonable inferences that might flow from the credible or believable evidence. The Commissioners were instructed that any finding of fact must be supported by the "sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs." Whether the evidence met this standard was to appear from the evaluation described above in the first step. The Chairman instructed that, although a finding may be based solely on hearsay which meets this standard, the Commissioners must consider whether the opposing party had an opportunity to confront and cross-examine the source of the information and whether such confrontation and cross-examination would be required for a full and true disclosure of the asserted facts. If the source was not available and if cross-examination was necessary to fairly respond to disputed assertions in the hearsay, then such hearsay evidence should not form the sole basis for any fact finding. In announcing a decision, the Commissioners were to articulate on the record all necessary findings of fact as to each

contested statutory standard and the reasons therefor, including the evidence relied upon.

Third, upon reaching findings of fact, the Commissioners were instructed to apply the pertinent findings to the statutory standards to which they related. The Commissioners were then to indicate whether these findings and any reasonable inferences drawn therefrom indicated satisfaction of the standard or not. In reaching this legal conclusion, the Commissioners were to be aware of the applicable burden of proof and what quantum of believable, reliable evidence must be present to meet that burden, that is either "clear and convincing evidence" or a "preponderance of the evidence." The Commissioners were advised to articulate this reasoning and announce the determination in the language of the particular contested statutory standard.

Fourth and finally, the Commissioners were instructed to state whether, based on the above determinations, the qualifications for licensure had been met and whether a casino license should or should not issue. In the event that licensure were recommended, the Commissioners were advised to state on the record whether the issuance should be subject to any conditions, and, if so, to specify those conditions. Pursuant to law, a casino license and any condition imposed thereon must be approved by at least four (4) Commissioners.

The statutory standards to be considered under the foregoing procedure are contained in sections 84, 85(c), 85(d), 86 and 89 of the Casino Control Act.¹ Sections 84 and 89(b)(2) of that Act set forth the criteria which the applicant and other persons required to be qualified must affirmatively establish by clear and convincing evidence. The clear and convincing evidence requirement falls somewhere between the ordinary civil standard of preponderance of the evidence and the criminal standard of beyond a reasonable doubt. Clear and convincing evidence should produce in the minds of the Commissioners a firm belief or conviction as to the truth of the matters sought to be established. The Chairman charged that in order to sustain its burden, the applicant must present clear and convincing proof of the facts upon which the Commission may base a reasonable conclusion as to suitability.

As noted, the applicant had the burden of establishing by clear and convincing evidence that it met the criteria of section 84 and that all the

¹ N.J.S.A. 5:12-84, -85(c), -85(d), -86, and -89.

persons who must be qualified met the criteria of section 89(b)(2) for casino key employees. The persons required to so qualify are described in sections 85(c) and 85(d) of the Act. Under section 85(c), the following persons connected with the applicant corporation must qualify:

- (a) each officer;
- (b) each director;
- (c) each person holding any beneficial interest, direct or indirect, in the securities of the applicant corporation;
- (d) any person who in the opinion of the Commission has the ability to control the corporation or elect a majority of the board of directors of the corporation, other than a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business; and
- (e) any lender, underwriter, agent or employee of the applicant corporation whom the Commission considers appropriate for qualification.

Under section 85(d) the officers, directors, lenders, underwriters, agents, employees and securities holders of Resorts International, Inc. (the holding company) must also qualify to the standards under section 89.²

As to the standards themselves, sections 84 and 89(b)(2) establish essentially the same qualification criteria which must be established by clear and convincing evidence for the applicant, the holding company and the other persons to be qualified. One affirmative qualification criterion is that of "financial stability, integrity and responsibility." By its terms, this standard encompasses all financial aspects of the applicant, the holding company and the other qualifiers. In addition to basic financial solvency or soundness, the standard relates to honesty and forthrightness in business dealings. Further, it includes the care and prudence exercised by the entity or individual in managing, preserving and enhancing the assets entrusted to such entity or individual.

² Since Resorts International, Inc., (the holding company) is a publicly traded corporation, the Commission and the Director of the Division were permitted by the Act to waive such qualification requirement as to persons not significantly involved in the activities of the applicant corporation and who do not have the ability to control the holding company or to elect one or more directors of the holding company. During the pre-hearing conferences, the Division submitted a list of persons whom the Division deemed required to be qualified. The Division also indicated those individuals to whom it interposed an objection and the grounds for such objection. These materials were incorporated into the pre-hearing conference orders, which were provided to the Commissioners and the parties. The Commission accepted the Divisions's list of persons to be qualified.

A second affirmative qualification criterion appears in both section 84(c) and section 89(b)(2). Although the wording of the two sections is not precisely the same, the difference is without consequence. Section 84(c) requires such proof of "good character as may be required to establish by clear and convincing evidence the applicant's good reputation for honesty and integrity," whereas section 89(b)(2) requires such proof as necessary "to establish by clear and convincing evidence . . . reputation for good character, honesty and integrity." The underlying concepts in either formulation are those of good character, honesty and integrity. These concepts are so commonly employed and so well understood that elaboration is unnecessary. However, in addition to these three qualities, the Act speaks in terms of reputation. Some comment is appropriate on this point.

Literally, the statute states that an applicant must establish that it enjoys a *reputation* for good character, honesty, and integrity. This reference to reputation is consistent with the express policy of the Act to foster and maintain "public confidence and trust in the integrity of the regulatory process and of casino operations." A sullied reputation may well be indicative of poor character. In that respect, reputation is quite relevant. However, reputation and actual character are not the same. It may well occur that an applicant or individual suffers from an undeservedly bad reputation. In such cases, the applicant or individual must address the questions raised by the reputation and must convincingly show that the reputation is not grounded in fact and that it does not accurately reflect the true character of the person. In other words, if the credible evidence demonstrates that, despite the unfavorable reputation, the person actually possesses the essential attributes of good character, honesty, and integrity, then that person should not be rejected. Public confidence will be preserved by the exposition of reliable evidence which proves the inaccuracy of the reputation.

To deny an application based on an undeserved reputation does not significantly further the statutory goals but does effect an unfair result to the party involved. Of course, if the applicant is unable to convincingly demonstrate the falsity of any adverse reputation bearing on character, honesty, or integrity, then the license should not issue. The denial would be based in such instances on the inability of the applicant to shoulder its affirmative burden to the satisfaction of the Commission. To reiterate, reputation is relevant to raise questions which the applicant is obliged to answer; but the real issue is the applicant's actual character, with special attention being given to the subject matter of the reputation.

In setting forth good character, honesty, and integrity as a qualification standard, the Act recites several types of information which should be considered in determining whether that standard is met. "Business, professional and personal associates" are included in this recitation. Such associations are not themselves a standard of qualification. In this context, associations are relevant only to the extent that they may reflect upon actual character and present fitness to either hold a casino license or participate in gaming operations.

Whether an association does so reflect upon present character and fitness depends upon many factors including the time of the association, its duration, its purpose, its intensity, its attenuation through third parties, the character of the associate, the associate's reputation, the applicant's knowledge of such reputation or character, the applicant's exercise of reasonable efforts to determine the suitability of its associates, termination of the association and the reasons for termination. Only after all the significant circumstances are taken into account can it be determined whether an association casts an unfavorable light upon the applicant or person to be qualified. The mere fact that some innocent relationship may have existed with persons of unsuitable character would not alone indicate a failure to meet the standard of good character, honesty, and integrity. Of course, it is incumbent on the applicant to demonstrate either that it had no involvement with notorious or unsavory persons or that such involvement indicates no lack of good character, honesty, and integrity.

A related qualification requirement concerns the "integrity and reputation" of all financial sources which bear any relation to the proposed casino operation. Since the reputation and integrity of such sources "shall be judged on the same standards as the applicant," there is no independent standard established for this class. Therefore, the foregoing comments applicable to the standards for the applicant are equally applicable to these financial sources with regard to reputation and integrity.

A third affirmative qualification criterion requires the applicant or qualifying person to demonstrate by clear and convincing evidence "sufficient business ability and casino experience as to establish the likelihood" that the applicant will create and maintain "a successful, efficient casino operation" or that the qualifying person will achieve "success and efficiency in the position involved." The plain meaning of this criterion renders any explanatory remarks unnecessary. It should be noted, however, that the applicant has now operated casinos both in New Jersey and in the Bahamas. Both operations are relevant in assessing the applicant's ability to properly, efficiently and securely operate a casino. But, without

ignoring the Bahamian operation, it would seem that the applicant's experience during the past nine months while operating in Atlantic City under the Commission's regulations should be the primary factor in assessing ability to operate under the New Jersey scheme in the future. Moreover, evaluation of the applicant's performance in the Bahamas should take into account the governmental controls and requirements which existed there. Although the absence of strict governmental regulation in the Bahamas would not justify improper or unsound casino operations, it would not be fair to judge the Bahamian activities by retrospective application of the strict New Jersey code.

To this point, only those qualification standards which the applicant must affirmatively demonstrate by clear and convincing evidence have been addressed. Regardless of whether the applicant can sustain its burden as to those standards, no casino license will issue so long as the applicant or any person required to qualify suffers from any of the disqualification criteria enumerated in section 86 of the Act. An applicant will be denied a casino license based on a section 86 disqualification only if the credible proofs in the whole record indicate the existence of the disqualification by a preponderance of the evidence. If, however, the credible proofs in the whole record fail to indicate the existence of a disqualification by a preponderance of the evidence, those proofs may nonetheless be considered as to whether the applicant has established by clear and convincing evidence the three (3) affirmative qualification criteria discussed above.

As mentioned earlier, "preponderance of the evidence" is a lesser requirement than "clear and convincing evidence." It is the normal standard of proof in civil matters. Essentially, "preponderance of the evidence" means that, upon analysis and evaluation of all the evidence, for and against the finding, including an assessment of the credibility of witnesses and documents, it must appear more probable that the fact exists. Stated differently, when all the evidence on the point is considered, the credible, believable evidence must favor the fact to be found and must fairly support the finding. As before, any finding of fact must be based on "the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs." Here also, the use of hearsay evidence to support any critical aspect of a factual finding must be circumscribed by the guidelines which already have been outlined.

The first disqualification criterion under section 86 is failure to provide all information required by the Act or requested by the Commission, failure to reveal any fact material to qualification or supplying any infor-

mation which is untrue or misleading as to any material fact pertaining to qualification. In this regard, a "material fact" is one which would be important to evaluation of the qualifications of the applicant or person required to qualify. However, not every failure to provide material information should be deemed a disqualifying event. In evaluating such a failure, the Commissioners should consider whether the failure was willful or whether it evinced a conscious disregard for the regulatory system. Merely inadvertent or ignorant failure to disclose a material fact would not ordinarily warrant the severe response of disqualification. In judging such a failure, the existence of an official request for the information would be a significant factor.

Three of the disqualifying factors in section 86 may be conveniently considered together. One of the three criteria would disqualify any applicant or person to be qualified who has committed any act which would be a certain type of offense under current New Jersey law, whether such conduct has been prosecuted or not. The second criterion would bar any person who is currently being prosecuted for one of the disqualifying offenses. The third such criterion prohibits any person from participation in gaming where the person has been convicted of such a disqualifying offense. This section, 86(c), also describes the disqualifying offenses.

Although these criteria are fairly straightforward, two aspects deserve comment. The first concerns the possibility of unfairly applying current New Jersey law to events occurring at other times and in other jurisdictions. As noted, an applicant or other person will be disqualified if he committed any act which would have constituted one of the described offenses in New Jersey at the time of application for a casino license. This section must be read to encompass only those acts which, at the time and place committed, would have constituted an offense. Thus, if a person had conducted activity which was legal under the then existing law of the jurisdiction where it occurred, no automatic disqualification would arise under these criteria even if the same conduct would constitute one of the described offenses if it were committed now in New Jersey. However, the Commission would remain free to consider such conduct under the affirmative standards in sections 84 and 89(b)(2), for example, as relating to good character, honesty, and integrity.

The second aspect concerns the nature of an offense which will automatically disqualify an applicant or other person from participation in gaming operations. After describing several classes and types of offenses, section 86(c) concludes with the general category of "any other offense which indicates that licensure . . . would be inimical to the policy of this

act and to casino operations.” Whether an offense is “inimical” to the Act and to legalized gaming is a question which can only be resolved in the circumstances of each case. The nature of the offense, the events surrounding it, including any mitigating or aggravating factors, the remoteness of the offense and the offender’s conduct since the offense to the present are all matters to be considered. Without limiting the notion of what is “inimical” to the Act or to gaming, it would appear to encompass those offenses which, when viewed in light of all the circumstances, indicate that participation by that person either would justifiably undermine public confidence in the integrity of the regulatory process and of gaming operations or would create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business or financial arrangements incidental to gaming operations. As will be presently seen, this same concept plays a crucial role in two other disqualification criteria.

An applicant also may be disqualified because either the Applicant itself or any person required to qualify pursued economic gain in an occupational manner or context which is in violation of the civil or criminal public policies of this State. The statute defines “occupational manner or context” as the “systematic planning, administration, management or execution of an activity for financial gain.” Thus, an isolated or incidental transgression of civil or criminal public policy is not a disqualification under this section. Rather, there must appear a regular or ongoing scheme for financial gain which has as an integral component, repeated or continuing violations of the criminal or civil policies of this State.

With regard to whether the civil or criminal public policy of this State is violated, there must be reliable proof in the record to support a finding that such policy exists and that it was routinely violated. Without limitation, these policies would include the criminal laws and civil requirements, infractions of which would give rise to penalties or private causes of action at law. In this respect, one must be careful not to extend the New Jersey public policy to a jurisdiction where a different policy is in force. If no such policy was violated in the places where the pursuit of gain actually occurred, then it cannot be said that this disqualification criteria applies.

Such pursuit of economic gain will disqualify a person under this standard only if that pursuit creates a reasonable belief that participation of such person in casino operations would be “inimical” to the policies of the Act or to legalized gaming. The analysis must be similar to that just described with regard to offenses “inimical to casino operations.” Many factors, including the nature of the systematic pursuit of economic gain,

the public policies violated, the circumstances surrounding the pursuit, the person's involvement in the pursuit, termination of the pursuit and remoteness of the pursuit in time, all must be assessed to determine whether public confidence in the regulatory process will be eroded or whether an enhanced danger of improper activity will result if the person is permitted to participate in legalized gaming.

Under section 86(f) of the Act, disqualification will follow upon identification of the applicant or person required to qualify as either a "career offender" or a member of a "career offender cartel." A "career offender" is "any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State." Thus, a career offender must systematically seek financial gain by methods which have as a normal or regular component the violation of the criminal laws. Of course, it is not necessary that the individual physically conduct this activity in New Jersey but, if the activity occurred in another jurisdiction, it must have been a violation of the criminal laws applicable at that time and place. A "career offender cartel" is defined as "any group of persons who operate together as career offenders." Thus, to be a member of a career offender cartel, one must participate with other career offenders in the unlawful enterprise and must share the intent to further that scheme. In order to disqualify a person as a career offender or a member of a career offender cartel, there must be sufficient, believable proof to sustain such finding.

A person who is neither a career offender nor a member of a career offender cartel may nonetheless be disqualified if that person is an "associate of a career offender or career offender cartel in such manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of the Act and to gaming operations." Associations were discussed previously with respect to the affirmative qualification criterion of good character, honesty, and integrity. The same factors mentioned at that point are applicable here in assessing the quality and importance of the association. However, in considering an alleged association with a career offender, the Commission is concerned with more than the reflection, if any, which the association has on the character of the applicant or other person required to be qualified.

Even assuming the good character of such person, a continuing association with career offenders or other unsuitable persons might well be inimical to the Act or to legalized gaming where the nature and quality of the association would justly call into question the integrity of the regula-

tory process and of casino operations. Such a question would arise where the nature and quality of the relationship create a risk that the career offender might exercise some degree of influence or control over the association with regard to gaming operations or other business incidental to such operations. The danger of such indirect participation by career offenders or other unsuitable individuals cannot be tolerated. Therefore, if reliable evidence appears to show that the applicant or other person to be qualified is associated in any way with a person who is proven to be a career offender or otherwise statutorily unsuitable, the applicant must come forward with evidence to rebut such allegation or to demonstrate that the association is of such nature as to pose no appreciable threat to the proper functioning of legalized gaming in this State.

The final disqualification criterion in section 86 is contumacious defiance, by the applicant or by any person required to qualify, of any official investigatory body when such body is engaged in investigating crimes related to gaming, official corruption or organized crime activity. This criterion requires no explanation except to note that contumacious defiance is an improper, willful refusal to obey a lawful request or order of such investigatory body.

The foregoing summary has attempted to briefly touch upon the specific licensing standards of the Act. However, the broad scope of those standards reveals that no precise, mechanical formulation is possible or even desirable. In deciding whether this applicant should receive a license, the overall sense and purpose of the Act must be brought to bear on the particular facts as found. Careful evaluation of the evidence must be combined with a conscientious effort to achieve the true intent of the law. The four-step procedure described above is designed to assure that this has actually been done. In that way, the Commissioners will have exercised their own reasoned judgment in finding the pertinent facts and applying those facts to the statutory criteria, both those qualification criteria which the applicant must affirmatively establish by clear and convincing evidence and those disqualification criteria which must appear, if at all, by a preponderance of the evidence in the record as a whole.

Findings

The applicant, Resorts International Hotel, Inc., a New Jersey corporation, is a wholly-owned subsidiary of Resorts International, Inc., a North Miami, Florida based corporation whose stock is publicly traded on the American Stock Exchange. Primarily through the applicant corporation, the parent corporation, Resorts International, Inc., conducts its activities

in Atlantic City. The parent corporation also does business in other parts of the world.

In the San Francisco, California area, it operates a sixty-six acre theme park under the name of Marine World/Africa U.S.A., which combines marine, animal and amusement exhibits. From Miami, Florida, it operates air flights to the Bahama Islands as Chalk's International Airline. From seven different cities (Washington, D.C., Atlantic City, New York, Toronto, Chicago, Los Angeles and Memphis), as Intertel, it provides services pertaining to the protection, preservation and enhancement of corporate assets including the supervision of security at its own three casinos.

The parent company also has actively been present in the Bahama Islands since 1963. Freeport, the primary city on Grand Bahama Island, is sixty-five miles due east of Palm Beach, Florida and one hundred miles from Miami. The corporation, as Bahama Developers, Ltd., owns 1,700 acres of land on Grand Bahama at Queens Cove which is available for residential land and apartment sales. The company also operates El Casino in Freeport, through its subsidiary G.B. Management, Ltd. This 16,000 square foot casino contains 46 gaming tables and 340 slot machines.

Approximately 125 miles southeast of Grand Bahama is New Providence Island, containing the Bahamian capital city of Nassau. This island is 175 miles from Miami and almost due east of the Florida Keys. Paradise Island is connected to Nassau by a 1,500 foot bridge owned by a company which is independently owned by James Crosby. The parent company owns approximately 650 acres on Paradise Island, which is almost the entirety of this small island, and thereon operates three hotels which contain a total of 844 sleeping units. The Paradise Island Casino, which it operates, is 22,000 square feet in size and contains 42 gaming tables and 350 slot machines.

Through the applicant company, this publicly traded corporation conducts its Atlantic City activities. This, of course, primarily involves the operation of its 561 sleeping unit hotel (504 of which are qualifying within the meaning of the Casino Control Act) and its 54,768 square foot casino which presently contains 97 gaming tables and 1,354 slot machines.

James Maurice Crosby (who was born in Great Neck, New York in 1927) has since 1959 been the principal individual shareholder and the Chairman of the Board of the parent corporation. He had, one year earlier, met New York attorney Charles E. Murphy (born in approximately 1924) who has, since that time, been both Mr. Crosby's attorney and the corporation's general counsel. It was in January of 1959 that Mr. Crosby acquired the then publicly traded Mary Carter Paint Company which was

headquartered in Tampa, Florida. In December 1960, I.G. Davis, Jr. (who was born in White Plains, New York in 1925) joined the corporation as its president, a position which he still holds today.

In early 1963, Miami attorney Richard Olsen discussed with Mr. Crosby the possibility of this paint company diversifying by purchasing land in the Bahamas for residential resale. On April 1, 1963, the Bahamian government granted to Bahama Amusements, a company controlled by Wallace Groves and Louis Chesler, a certificate of exemption for the operation of casinos on Grand Bahama Island. No casino, however, was then operating on Grand Bahama. Between May 24 and July 13, 1963, the Mary Carter Paint Company (through a merger with a group of Miami businessmen operating as Bahama Developers, Ltd.) acquired approximately 3,500 acres of land near Freeport on Grand Bahama known as Queens Cove and Kings Cove for planned residential development and land sales. Approximately six months later, in January 1964, the above-mentioned Groves-controlled Bahama Amusements, Ltd. opened the Monte Carlo Casino at the newly constructed Lucayan Beach Hotel in Freeport (which was located more than five miles from the Mary Carter Paint Company land). This casino was operated by that firm for three and one-half years until it closed on June 30, 1967. However, the Groves' group bought out associate Louis Chesler of Miami in May of 1964, five months after the casino had opened.

In the latter part of 1964, again through Miami attorney Richard Olsen, Mr. Crosby became interested in further diversifying the Mary Carter Paint Company by acquiring the 683-acre Paradise Island (which was located some 125 miles northwest of its Freeport properties on Grand Bahama) from Huntington Hartford of New York and developing it as a resort area. Hartford had acquired the island four or five years earlier. In January 1965, Messrs. Crosby and Olsen, together with Hartford representative Seymour Alter (who was born in New York in 1921), toured the Paradise Island property. Thereafter, in March, Messrs. Crosby and Murphy, together with Hartford's New York tax attorney Sidney Pine, met with prominent Nassau attorney Sir Stafford Sands. Sands also served the Bahamian government and its United Bahamian Party (U.B.P.), which was then in power, as its Cabinet Minister of Tourism and Finance. This meeting concerned the possibility of the Mary Carter Paint Company retaining Sands' law firm to represent it as local counsel in its prospective purchase from Hartford of Paradise Island. At this March 1965 meeting, Sands apparently indicated that the Bahamian government would insist that the Paradise Island development include the construction of a bridge

to Nassau and a 500-room hotel and that the casino operator be of an acceptable character. It also was Sands who then apparently mentioned another of his clients, Wallace Groves (who had in January 1964 opened the Monte Carlo Casino in Freeport), as a casino operator acceptable to the Bahamian government.

On January 15, 1966, the Mary Carter Paint Company closed on its purchase of Paradise Island from Mr. Hartford. During the thirty-month period beginning in July 1966, Mr. Crosby raised almost \$25 million through equity financing and borrowed an additional \$27 million from institutional lenders. The somewhat complicated terms of the transaction contemplated that a casino be constructed on Paradise Island, that it be operated by persons representing Wallace Groves (in the name of his wife Georgette Groves), and that the Mary Carter Paint Company participate in 50% of the casino's profits. In fact, the Paradise Island Casino was not completed until almost two years after the January 1966 closing. Between December 1965 and August 1967, the Groves' interests operated the Bahamian Club casino in Nassau with the intention of closing it down when the Paradise Island Casino opened. The Bahamian Club had therefore been operated in Nassau by other persons for the preceding forty-five years.

During early 1966, Chairman Crosby and President Davis met and hired present corporate Vice-President H. Steven Norton (who was born in Virginia in 1934), an American who had been working in the hotel business in the Bahamas since 1958. It was also during this period that the Mary Carter Paint Company first became associated with Eduardo Cellini (who was born in Steubenville, Ohio) who, in January 1966, had been brought by the Groves' interests from its Monte Carlo Casino in Freeport to its Bahamian Club casino in Nassau. Mr. Cellini, of course, at this time was an employee of the Groves' interests.

On January 10, 1967, at a general election, Lynden O. Pindling of the Progressive Liberty Party (P.L.P.) unseated the United Bahamian Party and was elected Prime Minister of the Colony of the Bahamas. Media articles primarily critical of the operation of the Monte Carlo Casino in Freeport (which had opened some two years earlier) and concerned about the prospective operation of the Paradise Island Casino then under construction, had appeared in American periodicals in October 1966 (the *Wall Street Journal*) and February 1967 (*Life Magazine* and the *Saturday Evening Post*) and had projected the propriety of casino operations as a campaign issue in the Bahamian general election. In February, after the defeat of his U.B.P. by Pindling, Sir Stafford Sands left the Colony.

In early 1967, El Casino was opened by the aforesaid Groves' company as its second casino in Freeport. On March 4, 1967, the British Governor of the Bahamas appointed a five-member Commission of Inquiry to inquire into the manner in which casinos were then being operated in Freeport and in Nassau with particular reference to the suitability of persons associated with the casino operations, to the nature and propriety of any funds disbursed by the casino companies, and to whether any government officials had received any direct pecuniary benefit from the licensing or operation of the casinos. In March 1967, Assistant U.S. Attorney Robert D. Peloquin was assigned as the U.S. Department of Justice liaison to the Commission of Inquiry. Also in March, Mr. Crosby's personal company opened its newly constructed 1,500 foot long bridge which linked Nassau to Paradise Island. In April or May, Mr. Crosby visited the Criminal Division of the U.S. Department of Justice in Washington, D.C. for advice as to how to prevent organized crime from associating with the casino operation. Between April and August, with the approval of the Bahamian government, the Mary Carter Paint Company bought out the Groves' interest in the Bahamian Club (substituting Mr. Davis for Georgette Groves) and assumed the full obligation of owning and operating that Nassau casino. In June 1967, the Monte Carlo Casino of Freeport closed. In October, two months after the company had assumed the operation of the Bahamian Club, Washington, D.C. attorney Robert D. Peloquin (who was born in 1929) was retained by Mr. Crosby to assure that criminal interests did not infiltrate the corporation's casino operations. One month later, in November 1967, the Commission of Inquiry issued its 108-page report on casino operations. In December, the company opened the Paradise Island Casino under the authorization of a ten-year "Certificate of Exemption" previously granted by the Bahamian government. With the opening of the Paradise Island Casino, the Bahamian Club in Nassau was closed.

In May 1968, the Mary Carter Paint Company sold both its paint division and the "Mary Carter Paint Company" name, and changed its corporate name to "Resorts International, Inc." It, of course, retained its Bahamian and other holdings.

During the period from April 1968 to January 1970, the corporation permitted 309 junkets to be run to its casino by twenty-three persons from at least thirteen different cities. On July 15, 1969, the Bahamian Legislature enacted the Lotteries and Gaming Act and in August of that year, the Bahamian Gaming Board was established. In January 1970, corporate subsidiary International Intelligence, Inc. (Intertel) was formed, and Mr.

Peloquin was installed as its corporate president. During the summer of 1970, the company also operated both the Essex and Sussex Hotel and the Monmouth Beach Hotel in Spring Lake, New Jersey. After a two-year hiatus brought on because of a change in Bahamian tax law in late 1969, the corporation again briefly resumed its junket program and, between January and March 1972, permitted forty-one junkets to be run to its casino by twelve persons from at least eight different cities.

In the general election of 1972, Prime Minister Pindling was re-elected to that office. In 1973, the Colony of the Bahamas was granted its independence from Great Britain. In the general election of 1977, Prime Minister Pindling, still of the P.L.P., was again re-elected to office.

In mid-1976, corporate representatives of Resorts International, Inc. visited Atlantic City and bought real property in anticipation of the legalization of casino gaming there. In November 1976, the referendum authorizing casino gaming was approved by the New Jersey voters, and in June 1977, the Casino Control Act was approved by the Legislature. The applicant, during 1977 and 1978, reconstructed the former Haddon Hall Hotel and created a casino room presently of almost 55,000 square feet. That casino has been operating for the nine months since May 26, 1978, pursuant to a temporary casino permit and operation certificate issued on that date by this Commission. Also during this period, the company borrowed almost \$29 million from institutional lenders.

Five months prior to the opening of its Atlantic City casino, Resorts International, Inc. (on January 1, 1978) obtained from the Bahamian government a renewal of its Certificate of Exemption authorizing its operation of the Paradise Island Casino for an additional ten years and also bid for and obtained authorization to operate El Casino in Freeport for the same ten-year period.

The Division's exception number one deals with Mary Carter Paint Company's acquisition of approximately 1,300 acres of land plus an option on approximately 2,200 more acres on Grand Bahama Island, near Freeport on July 13, 1963. Richard Olsen, the Miami attorney who James Crosby had met in 1960, first advised Crosby about the availability of this property. Olsen knew that Mary Carter Paint Company had a healthy capital situation and was looking to diversify, and that Bahama Developers, Ltd., which owned the land, needed capital. This acquisition was accomplished by means of a corporate merger in which Bahama Developers, Ltd. became a wholly-owned subsidiary of Mary Carter Paint. Bahama Developers, Ltd., whose principals were a group of Miami businessmen, had purchased this property in 1959 or 1960 from the Grand

Bahama Port Authority, a principal of which was Wallace Groves. At the time of the acquisition and after negotiations, the Grand Bahama Port Authority agreed to cancel approximately \$900,000 in mortgages which it held on this land upon prepayment by Mary Carter Paint of \$450,000.

In negotiating this transaction, Messrs. Crosby, Davis, and Murphy had only fleeting contact with Wallace Groves, a man who in 1941 (over twenty years earlier) had been convicted on a mail fraud charge. There was no evidence presented to establish that Crosby, Davis, or Murphy knew of Groves' 1941 conviction when they had the contact with him in 1963. On the contrary, Colin Callendar, a Bahamian attorney, testified at the hearing that prior to the issuance of the Report of the Royal Commission of Inquiry in November 1967, Groves had a good reputation in the Bahamas for honesty and fair dealing. There was no contact in this transaction between any of the principals of Mary Carter Paint Company and Louis Chesler, a man who was linked in the testimony with persons of unsuitable character.

There is nothing in the record to suggest that this was anything other than an arm's length business transaction. After the corporate merger, Bahama Developers, Ltd., as a subsidiary of Mary Carter Paint, continued the business it had been in, which consisted primarily of dredging landfill and the sale of small parcels of land for residential purposes. Under these circumstances, there is nothing concerning this 1963 land transaction which reflects adversely on the character of Mr. Crosby, Mr. Davis, Mr. Murphy, or the applicant corporation.

Exception number two deals with the utilization by Mary Carter Paint of the services of Sir Stafford Sands, an attorney and Minister of Tourism and Finance in the Cabinet of the Bahamian government. In June 1964, Richard Olsen advised James Crosby that Huntington Hartford had told Olsen that he wanted to sell Paradise Island. Olsen brought Crosby to visit the property in January 1965. Huntington Hartford's representative, Seymour Alter, showed Crosby the island. In early February 1965, Olsen arranged for Crosby, Davis, and Murphy to meet with Huntington Hartford and Sidney Pine, one of Hartford's attorneys, in New York to discuss acquisition of the property. Hartford's asking price and the concept of the development of Paradise Island as a resort made a license to operate a casino an important element of the transaction.

At the suggestion of Pine, Crosby, Davis, and Murphy went to see Sir Stafford Sands in early March 1965. Sands had the reputation at that time as the outstanding lawyer in the Bahamas and was also a Cabinet Minister. At that meeting, Sands explained the conditions which the Bahamian

government would impose before agreeing to issue a casino license. The primary conditions included the acceptability of the purchaser of the island to the government as a casino operator, the construction of hotel facilities, and the construction of a bridge linking Paradise Island to Nassau.

Sands suggested that the government would find Wallace Groves acceptable as a casino operator since it had issued a Certificate of Exemption to Groves' company, Bahama Amusements, Ltd., on April 1, 1963. Crosby agreed because he needed a casino operator who had experience and who would be acceptable to the government. Sands advised Crosby at that time of Groves' prior conviction in 1941. After looking into the matter, Crosby felt that he could deal with Groves because in Crosby's mind, Groves had proven himself to have been rehabilitated, because Groves was acceptable to the Bahamian government, and because some of the leading companies in the world were dealing with the Grand Bahama Port Authority, which was controlled by Groves.

It was agreed that Sands would be retained as the attorney to make application for the Certificate of Exemption and to create the companies and contractual arrangements necessary to accommodate the interests of the three principals to the Paradise Island transaction: Huntington Hartford, Mary Carter Paint, and the Groves' interests. Sands explained that under the code of ethics then prevailing in the Bahamas with regard to unsalaried government officials, he could make the application for a Certificate of Exemption as an attorney, but would be required to abstain from taking part in the consideration of such application as a Cabinet Minister.

Negotiations amongst the parties continued throughout 1965. Three interlocking companies were formed: Paradise Enterprises, Ltd. (100% owned by the Groves' interests) was to operate the casino and retain 10% of the casino profits; Paradise Realty, Ltd. (5/9 owned by Paradise Island, Ltd. and 4/9 owned by the Groves' interests) was to build the hotel and casino and was to receive 90% of the casino profits; Paradise Island, Ltd. (75% owned by Mary Carter Paint and 25% owned by Huntington Hartford) was to own the land.

During the course of the negotiations sometime in late 1965, the Bahamian government suggested that the parties purchase the Bahamian Club, a small casino which had been operated under a Certificate of Exemption on a seasonal basis on New Providence Island for many years. The suggestion was that the Bahamian Club casino be operated until the Paradise Island Casino was ready to open, at which time the Certificate of

Exemption would be transferred to the Paradise Island Casino and the Bahamian Club would close.

Mary Carter Paint obtained the necessary financing and on January 15, 1966, the Paradise Island transaction was closed. The Bahamian Club was purchased for \$750,000. On December 7, 1965, a Certificate of Exemption was issued to Paradise Enterprise, Ltd. for the Bahamian Club. That certificate was valid until the earlier of the opening of the new Paradise Island Casino or December 31, 1967. The certificate was valid for the Paradise Island Casino for ten years thereafter, until December 31, 1977.

James Crosby testified that Sir Stafford Sands was paid \$240,000 in legal fees over a period of one and one-half years for the legal work he performed. Of that \$240,000, \$50,000 went to another law firm which was representing the Bank of Nova Scotia. Another \$30,000 of the \$240,000 went to an English attorney named Freddie Marsh, who had prepared the complex contracts involved. This would have left \$160,000 for Sands. At the hearing, the expert testimony of the Bahamian attorney, Colin Callendar, was to the effect that under the scale of legal fees in the Bahamas prevailing in 1965, the minimum fee for a transaction of this magnitude would have been approximately \$180,000. So the fee paid to Sands was in no way inordinate.

It is equally clear from Callendar's testimony that Sands' conduct in representing Mary Carter Paint as a private client before the government of which he was a member was proper under the prevailing ethical standards of the Bahamas, so long as Sands declared his interest and withdrew from consideration of the matter as a Minister.

Under all of these circumstances, the utilization of the services of Sir Stafford Sands by Mary Carter Paint during the period from March 1965 to January 1967, cannot be said to reflect adversely on the good character, honesty, and integrity of Crosby, Davis, Murphy, or the applicant corporation.

Exception number three addresses the business arrangement wherein Mary Carter Paint Company, from January 15, 1966 until August 1967, was associated with Wallace Groves and with Bahama Amusements, Ltd. in the operation of the Bahamian Club casino. The circumstances under which these associations were initiated have already been described. After the closing of the Paradise Island transaction on January 15, 1966, Paradise Enterprises, Ltd. (100% owned by Georgette Groves, wife of Wallace Groves) operated the Bahamian Club casino. Under an agreement with Georgette Groves, Bahama Amusements, Ltd. took over management of

the Bahamian Club for Paradise Enterprises, Ltd. Bahama Amusements, Ltd. had been, since January 1, 1964, operating the Monte Carlo Casino in the Lucayan Beach Hotel on Grand Bahama Island.

There was a great deal of testimony presented at the hearing concerning the Monte Carlo Casino which Bahama Amusements, Ltd. operated from January 1, 1964 until June 30, 1967. It is important to point out that neither the Mary Carter Paint Company nor any of its principals ever had any interest in, participation in, or control over the Monte Carlo Casino.

Bahama Amusements, Ltd. was incorporated on March 20, 1963 and obtained a Certificate of Exemption to operate casinos on Grand Bahama Island on April 1, 1963. Wallace Groves (through his wife Georgette) and Louis Chesler originally formed this company. Robert Peloquin testified that prior to the opening of the Monte Carlo Casino in 1964, Louis Chesler had sought the advice of Meyer Lansky concerning operation of that casino. Present during a meeting between Chesler and Lansky in Miami were Dino Cellini, Max Courtney, Frank Ritter, and Charles Brudner, persons who subsequently obtained various management positions within the Monte Carlo Casino. The Commission is satisfied from the evidence presented that Dino Cellini, Max Courtney, Frank Ritter and Charles Brudner were associates of Meyer Lansky and were persons of unsuitable character. It was through Louis Chesler that these unsuitable persons insinuated themselves into the Monte Carlo Casino.

However, by early 1964, shortly after the opening of the Monte Carlo Casino, Chesler and Wallace Groves were at odds. Chesler resigned his position as president of Grand Bahama Development Company by April 1964. In May of 1964, Groves' bought out Chesler's interests in Bahama Amusements, Ltd. By early 1966 when Mary Carter Paint Company entered into a business association with the Groves' interests, Chesler was no longer involved. The business association between Mary Carter Paint and the Groves' interests lasted for less than twenty months. During that period, from February 1966 until August 1967, the Groves' interests operated the Bahamian Club.

By virtue of the election in the Bahamas on January 10, 1967, the Progressive Liberal Party achieved power and Lynden O. Pindling became the Premier. As a result of public allegations concerning Sir Stafford Sands and concerning the presence of unsuitable persons in management positions at the Monte Carlo Casino operated by the Groves' interests, James Crosby went to the new Premier in February 1967 and requested permission to buy out Groves' interests in the Bahamian Club. Premier Pindling indicated that this would be acceptable to the government.

Crosby then negotiated through Gerald Goldsmith to purchase the Groves' interests. This transaction was completed by August 1967. In the interim, Crosby sought to find a new casino operator to take over the Bahamian Club, and ultimately the Paradise Island Casino which was scheduled to open by the end of 1967. Crosby went to the United States Justice Department in Washington, D.C. and asked for a recommendation from the law enforcement authorities. He met there with Assistant Attorney General Fred Vison, who introduced him to Robert D. Peloquin, then associated with the Organized Crime and Racketeering Section. The Justice Department officials suggested that Mary Carter Paint operate the casino itself. Crosby was reluctant because the company lacked the experience. A few days after the meeting at the Justice Department, Crosby contacted Peloquin and offered him the job of managing the casino. Peloquin declined this offer, and Crosby thereafter delegated the task of finding a casino operator to I.G. Davis.

The business association between Mary Carter Paint Company and the Groves' interests appears to have been an arrangement negotiated at arm's length. The actual contact during the twenty-month partnership was not extensive, since the Groves' interests operated the Bahamian Club exclusively from approximately February 1966 until August of 1967. The source of the unsuitable persons working in the Monte Carlo Casino operated by the Groves' interests appears to have been Louis Chesler, Groves' former partner, whom Groves had bought out one and one-half years *before* Mary Carter Paint became involved with Groves. And, most significantly, when James Crosby learned, nearly twelve years ago, of the character and reputation of some of the persons working for the Groves' interests in its Monte Carlo Casino, he acted decisively to terminate the association. For these reasons, the Commission finds that the association of Mary Carter Paint Company with the Groves' interests does not reflect adversely on the good character, honesty, and integrity of James Crosby or the applicant corporation.

The fifth exception concerns the financing of the Mary Carter Paint Company's casino operations in the Bahamas. During the period between July 1966 and January 1969, \$24,810,000 in equity capital was raised. The Division has suggested that a substantial amount of these funds were received by or through the efforts of persons or organizations of unsuitable character and nature. James Crosby testified that he was personally responsible for arranging most of this financing, and that at the time when he dealt with the individuals and enterprises involved, their reputation for good character, honesty, and integrity was above reproach.

The Fiduciary Trust Company, a Bahamian bank, was responsible for investments in Mary Carter Paint Company in July 1966 and in May 1967. The principals of the Fiduciary Trust Company were Samuel Clapp, William Sayad, and Edward Cowett. In 1968, *after* having invested in Mary Carter Paint, Clapp, a Bahamian resident, and Sayad, a Miami attorney, entered consent decrees with the SEC for trading in unregistered shares of Mary Carter Paint stock. Subsequently, on March 1, 1971, Cowett, a principal in Investors Overseas Service (I.O.S.), was barred by the SEC from engaging in the business of a broker-dealer for actions unrelated to Mary Carter Paint Company stock.

William Mellon Hitchcock, whose family was the beneficiary of a trust for which the Fiduciary Trust Company had invested in Mary Carter Paint stock on May 10, 1967, was *later* (in 1969) suspended as a broker by the SEC for ten days, and was in 1973 convicted of violating the federal banking laws.

Seymour Lazar, who invested in Mary Carter Paint as part of the Mary Carter Paint bonds in the July 1966 placement, *later* entered consent judgments with the SEC in 1973 as a result of securities violations unrelated to Mary Carter Paint Company.

Frank Mace, who was not an investor himself but who acted as a registered securities representative for the brokerage firm of Delafield and Delafield, handled placements of Mary Carter Paint stock with investment companies owned by the Goulandris family on November 1 to 3, 1967 and January 10, 1968. Mace also handled the January 10, 1968 placement with Sol Oppenheim, Jr., a German banker. *Subsequently*, in June 1969, Mace was barred from acting as a broker-dealer by the SEC.

Richard Gitlin, a limited partner in the brokerage firm of Kleiner, Bell and Company, received a fee from Mary Carter Paint Company in July 1967 in connection with his role in securing the agreement of the American National Insurance Company to exercise its conversion option. According to an Intertel internal memorandum dated October 27, 1971, Gitlin was rumored to be an associate of Meyer Lansky—a rumor which could not be substantiated.

With regard to J.J. Frankel, an alleged associate of unsuitable persons, the evidence establishes that Messrs. Crosby, Davis, Murphy, and Peloquin had no business dealings with Mr. Frankel. Moreover, the fact that Joel Mallin, an attorney who was convicted of federal banking violations in 1973 relating to the 1968 sale of stolen securities, may have represented Samuel Clapp, Fred Alger, Seymour Lazar, and William Mellon Hitchcock who had *earlier* in May and June 1967 been involved in

private placements of Mary Carter Paint Company stock, does not reflect adversely on the good character, honesty, and integrity of James Crosby or the applicant corporation.

Virtually all of these consent decrees and violations occurred at a point in time *after* these persons had invested in the Mary Carter Paint Company.

In light of this, in light of the technical nature of most of these violations and in light of the fact that James Crosby could not reasonably have been expected to have known about these matters when he dealt with these investors, the Commission finds no adverse reflection on the good character, honesty, and integrity of James Crosby or the applicant corporation. This finding is amply buttressed by the testimony of Arthur Mathews, who testified at the hearing as an expert in SEC matters.

The fourth exception concerns itself with the fact that it was only because of the glare of widespread adverse publicity commencing in October 1966 and February 1967 (in American periodicals the Wall Street Journal, Life Magazine, and Saturday Evening Post) concerning the Bahamian casino activities of Wallace Groves, Louis Chesler, Meyer Lansky, and Bahama Amusements, Ltd., that the Mary Carter Paint Company attempted to disassociate itself from any connections with such persons in the operation of its then existing Bahamian Club casino or its then planned Paradise Island Casino by acquiring the financial interests of the Groves' group in these casinos.

The corporation thus assumed for the first time the responsibility for the actual operation of a casino. It retained, virtually intact, the Bahamian Club staff to operate the Bahamian Club for five months and to, thereafter, operate its new Paradise Island Casino. This exception is also critical of the fact that the Bahamian Club staff, which had been assembled by the disreputable prior operators of that casino, was continued by the corporation in its casino operations.

Consideration, however, must also be given to the following facts:

1. That Groves had bought out the Chesler interest in Bahamas Amusement, Ltd. more than three years earlier and that Groves himself had been suggested to the corporation as the casino operator by Sir Stafford Sands more than two years earlier while the United Bahamian Party and Sands were still in power in the Colony;

2. That the Certificate of Exemption then in force as to the Bahamian Club expressly provided for an employee screening process whereby the Commissioner of Police had to be furnished with all information

reasonably necessary to satisfy him as to the suitability of all casino employees;

3. That Mr. Crosby had consulted with Prime Minister Pindling on the acquisition almost six months earlier in February or March;

4. That Mr. Crosby had visited Assistant U.S. Attorney Fred Vinson of the Criminal Division of the U.S. Justice Department in Washington, D.C. as to the purchase some three or four months earlier;

5. That the acquisition was made during the pendency (from March to October 1967) of the Commission of Inquiry's investigation and almost four months prior to the November issuance of its Report;

6. That the acquisition occurred less than two months prior to the retaining of former Assistant U.S. Attorney Robert D. Peloquin in October 1967 to screen associations that the casino might then have or in the future become involved with;

7. That the acquisition was two full years prior to the enactment of the Bahamas Lotteries and Gaming Act in July 1969 and the establishment of the Bahamian Gaming Board in August 1969; and,

8. That the corporation's decision to retain the Bahamian Club staff was made almost twelve years ago at a time prior to the existence of strict government controls as to casinos in the Bahamas and at a time when the corporation had virtually no experience in the casino gaming industry and was itself attempting to evolve its own security and internal control skills.

In the context of these facts, it is difficult to criticize the corporation for having, in August 1967, retained virtually intact the Bahamian Club casino staff.

The sixth exception criticizes the parent corporation's associations in its operation of first the Bahamian Club in Nassau (from August to December 1967) and then the Paradise Island Casino (from December 1967 to the present) through the use both of casino staff and junketeers "who they knew to be or should have known to be persons of unsuitable reputation, character and nature." Four such casino employees and five such junketeers were specifically named. Exceptions 7, 8, 9, 10, and 11 expand on these criticisms.

Eduardo ("Eddie") Cellini was born in Steubenville, Ohio and apparently worked both in illegal casinos in Ohio and Kentucky and, in the late 1950's, in Cuban casinos in Havana with his brothers Dino, Robert, and Godfreddo prior to their being closed by Premier Fidel Castro in 1959. In 1970, Meyer Lansky had reportedly offered Sir Stafford Sands \$1 million for the right to operate a casino in the Bahamas but, according to

Sands, was refused. In 1963, Louis Chesler of Miami, then a partner of Wallace Groves in Bahamas Amusements, Ltd., reportedly met with Meyer Lansky, Dino Cellini, and others in Miami for advice as to how to open a casino. When in January 1964, Bahamas Amusements, Ltd., opened its Monte Carlo Casino at that hotel in Freeport, it employed among others, Eduardo Cellini and known New York gamblers Frank Ritter, Max Courtney, and Charles Brudner in its top management.

In April 1964, Dino Cellini was placed on the Bahamian "stop list" but apparently was then in London recruiting and training croupiers for employ at the Monte Carlo Casino. In May 1964, the Groves' group bought out the Chesler interest in Bahamas Amusements, Ltd. In January 1966, when the Groves' group took over the operations of the Bahamian Club in Nassau in anticipation of the development of Paradise Island, Eduardo Cellini became an employee of the Bahamian Club under manager Jack Metler and, in January 1967, himself became its manager.

In February 1967, Dino, who apparently then was again conducting a croupier school in London, was placed upon the United Kingdom "stop list" and directed to leave England. In June 1967, Ritter, Courtney, and Brudner were placed on the Bahamian "stop list" and ordered to leave the Colony.

Between April and August 1967, the Mary Carter Paint Company negotiated for and acquired the Groves' interest in the Bahamian Club and assumed responsibility for its operation, continuing Eduardo as its manager.

Between October and December 1967, Mr. Peloquin, on behalf of the parent corporation, conducted a background investigation of Eduardo and concluded that, although his brother Dino was an associate of Meyer Lansky, Eduardo was not an associate of organized crime. In November 1967, pursuant to a 1964 verbal agreement between Dino and the Bally Manufacturing Corporation, the latter paid Dino a commission of \$28,200 on the sale of 188 slot machines to the Paradise Island Casino which had been ordered by Mr. Davis and Eduardo. No evidence directly indicates, however, that either knew of the association of Dino with the sale.

On January 1, 1968, Eduardo was given a three-year contract as general manager of the Paradise Island Casino over its staff of approximately 120 employees and was to be compensated at the rate of 2% of the casino profit with a guaranteed minimum of \$50,000 per year. In fact, he received in excess of \$100,000 for 1968, \$150,000 for 1969, and \$150,000 to \$200,000 for 1970. From December 1967 to May 1969, Eduardo actively managed the Paradise Island Casino.

In May 1969, however, because of persistent adverse publicity to the casino because of the reputation of Eduardo's brother, Dino, Mr. Crosby directed that he be assigned to work on junket matters from Resorts International's Miami office and that he be replaced as casino manager. Thereafter, except for two weeks that August, Eduardo apparently never returned to the Bahamas. In July 1969, he was placed on the United Kingdom "stop list" and, four months later, in November, was "stop listed" in the Bahamas.

On November 22, 1969, Resorts International notified the Bahamian Immigration Department that Eduardo's "services have been terminated." On November 26 and again on December 23, the then recently established Bahamian Gaming Board directed the company to terminate his services in any capacity or locality even as an employee or agent of any affiliated company. On October 19, 1971, two years later, Mr. Davis informed the Bahamian Gaming Board that Eduardo had performed no services for the company since December 23, 1969.

The criticism of exception number 6 is that the corporation's three-year association with Eduardo Cellini from mid-1967 to mid-1970 was wrongful because of his "unsuitable reputation, character, and nature." Although apparently he was an effective casino manager and although no credible evidence has been presented suggesting any improper conduct by him as an employee of the company, it is unlikely that Eduardo Cellini would today qualify for a casino employee license in this jurisdiction. However, twelve years ago when this corporation was new to the casino gaming business and had inherited Eduardo as its casino manager, after having conducted a substantial investigation of his background, it did conclude that Eduardo Cellini was a man of good character despite the associations and activities of his brother Dino and in spite of the fact that he had worked in illegal American casinos and in allegedly corrupt Cuban casinos. Ultimately, upon being directed to do so by the Bahamian government, the corporation terminated his services, although admittedly not as quickly or as completely as it should have done. In such a context, the association should not be held to have been a disqualifying one.

The evidence, however, suggests that Eduardo Cellini did, at least through mid-1970, perform occasional and limited services for the company outside the Bahamas, although it could not be fairly said that he was "employed" after November 26, 1969. A fair analysis of the record does not support the conclusion that the company materially violated any government directive (exception number 7) or materially misrepresented facts to the government (exception number 8).

Casino supervisor Robert Manes and casino inspector Lawrence Biggio had admittedly previously worked in the Riveria Casino in Havana, Cuba prior to 1959 and had associated with both Eduardo Cellini and his brother Dino. Casino supervisors Raymond Duddy and Charles Martin had admittedly previously worked in illegal casinos as associates of Eduardo Cellini. These facts, standing alone, however, do not establish that the corporation's association with these men through employment is an association inimical to the policies of the Act or to gaming operations.

The evidence disclosed that during the twenty-two months from April 1968 to January 1970, 309 junkets were run by twenty-three persons from at least thirteen different cities to the Paradise Island Casino and, after a twenty-four month hiatus, during the three months from January to March 1972, an additional forty-one junkets were run by twelve persons from at least eight different cities to that casino. Both Mr. Davis and Mr. Peloquin indicated that the junket program was initially terminated in January 1970 because of a then recent change in the Bahamian tax structure and was again and finally terminated in March 1972, primarily because its profitability was not substantial enough to justify the intense security effort required to adequately police it. Mr. Peloquin noted that the Bahamian Gaming Board began its regulation of junketeers in 1971. It thus appears that Resorts International, Inc. has not been involved in any junket arrangements during the last seven years.

Joseph "Joe Black" Lamattina, Daniel Mondavano, Carlo Mastrototaro, and Vincent Teresa, all of whom enjoy federal convictions with substantial prison sentences, apparently associated together in the Boston area in the Esquire Sporting Club to run junkets from the area during or about 1968. Teresa, in a civil deposition in 1978 (and after admitting to having had a long career in organized crime in New England, to then being a participant in the Federal Witness Immunity and Relocation Programs, and to having authored two books about organized crime activity) stated that Lamattina had hosted two junkets for him to the Paradise Island Casino through the Esquire Sporting Club. One of these junkets was allegedly run in July or August of 1968 and a second in September of 1968, pursuant to arrangements personally made by Teresa in Miami with Meyer Lansky and Dino Cellini, whereby both Teresa's group and Lansky's group participated in a credit skim from casino profits in the collection of "markers" given by their junketeers to the casino. Allegedly, the "skim" had at least the tacit consent of Paradise Island Casino manager Eduardo Cellini. In statements presented in evidence, Messrs. Lamattina, Mondavano, and Mastrototaro flatly deny that any

such junkets or skim ever occurred. Teresa's deposition in this regard, when evaluated in its total context and viewed in the light of Teresa's long criminal background, simply cannot be accepted as credible. The further allegation that the twelve junkets run to the casino by Arthur Levey of New York in January, February, and March 1972 were actually run on behalf of the Esquire Sporting Club does not appear to be supported in the record.

The evidence did establish that, in late 1969, known gambler Murray Goodman of New York ran eight junkets to the Paradise Island Casino prior to his being rejected by Intertel in March of 1972 and that, during that same period, known gambler David Brill of New York ran fifteen such junkets prior to his being similarly rejected in September of 1971. Ernest Bracker of New York also appears to have run three such junkets in early 1972 as a "front" for Brill prior to his being similarly rejected in March of 1972.

Further evidence showed that James "Loia" Neal of Miami, Florida utilized the North Miami offices of Resorts International, Inc. during late 1971 and early 1972 in the operation of his Good Time Tours firm, that Neal was a close friend of both Eduardo and Dino Cellini, and that, at the time, Neal was an associate of reputed Toronto racketeer Albert Volpe. It also appeared, however, that Intertel finally severed all contact between Neal and Resorts International on June 23, 1972. Although Neal himself apparently never ran a single junket to the casino, three junkets in early 1972 were run by Ralph Sherrill of Miami, an associate of Neal's Good Time Tours. Evidence also showed that one Peter Hayes was, in mid-1974, also an associate of Albert Volpe and a person through whom Mr. Volpe was attempting to run junkets to the casino. Hayes worked for Resorts International as an assistant collections agent in its New York office from before 1972 to December 1978. As previously noted, of course, the evidence presented indicated that no junkets were made to the casino after March of 1972. Mr. Hayes was terminated from this employment by Intertel both because of his association in 1974 with Volpe and because he falsely denied knowing Volpe in July 1978 when being interviewed by the Division of Gaming Enforcement.

Exceptions number 9 and 10 criticize Resorts International, Inc. for not readily disassociating itself from Neal or Hayes, both of whom it knew as associates of Albert Volpe. As to Neal, the concern was the fact that only the threat of publicity as to its association moved Resorts to sever its relationship, and as to Hayes, it took more than four years and the criticism of the Division of Gaming Enforcement's report to cause Resorts

to act to disassociate itself. However, no evidence establishes that Hayes, Neal, or Volpe ever, in fact, ran a junket to Paradise Island. Moreover, at present no such associations exist.

In summary, Resorts International, Inc. appears to have tried to properly police its junket operations but, finding effective control difficult to maintain, discontinued its junket program almost seven years ago. The New Jersey Casino Control Act recognizes junket activities as an area requiring close scrutiny and government regulation but also recognizes that effective policing is possible. After evaluating the evidence presented in relation to the parent corporation's junket programs, the Commission can here find no basis for disqualifying the applicant.

As a final comment, however, it should be noted that the applicant was somewhat deficient in providing at an appropriately early time its full records relating to its past junket activity.

The evidence indicated that during the years 1969, 1970, 1971, 1972, 1976, and 1977, Bahamian subsidiaries of Resorts International, Inc. made contributions to political parties and to individual candidates for office in the Bahamas aggregating nearly \$700,000. All of these contributions were made under the direction of James Crosby.

While a total of \$175,000 of these political contributions was made in cash, receipts were obtained for the vast majority of this amount. With regard to virtually all of the contributions, a contemporaneous record of each transaction was made on the company books. Although some of the contributions were made indirectly, for example, through the law firm utilized by the Bahamian subsidiary, the need to maintain the confidentiality of these contributions is apparent.

Prior to the general election in 1972, such contributions were made to both of the two principal political parties. Mr. Crosby testified that such contributions were traditional in the Bahamas for good will and to preserve the two-party system. However, after 1972, Mr. Crosby made a policy determination to contribute only to the party in power.

Mr. Crosby testified at the hearing that all of these political contributions were bona fide and were legal in the Bahamas. His testimony is supported by the written legal opinion rendered by the Bahamian law firm to Charles Murphy on March 25, 1976 and admitted in evidence. Further corroboration of the legality of such contributions was supplied by Colin Callendar, the Bahamian attorney, who testified at the hearing as an expert on the law of the Bahamas. No evidence has been offered to suggest that these contributions violated the law of the Bahamas or any other jurisdiction.

Based on these facts, the Commission finds that these political contributions were legal under existing law at the time when they were made. No automatic disqualification of the applicant arises here even though such political contributions would not be lawful if made in New Jersey at the present time. Additionally, especially in light of the legality and the tradition of such contributions in the Bahamas and in light of the fact that records thereof were maintained, on the whole these contributions do not reflect adversely upon the good character, honesty, and integrity of James Crosby and the applicant corporation. However, this is not meant to condone some of the practices utilized by Resorts in the past, including such practices as cash payments and "indirect" payments by check. Although corporate contributions to political parties and to candidates for political office may be traditional and perfectly legal in the Bahamas, the only way to avoid the appearance of a potential diversion of funds is to adequately document all such payments. Mr. Crosby apparently recognized this in 1972 when, according to the testimony, he directed that from that time on, all political contributions were to be made by check directly payable to the recipient party or candidate.

Exception number 17 concerns the business relationships between Resorts International, Inc. and David P. Probinsky. Probinsky, who was born in Philadelphia in 1919, lived in the Wildwood, New Jersey area until the mid-1950's, when he went to Florida. He became associated with the Sir John Hotel in Miami, until that establishment went bankrupt in the mid-1960's. In 1966, Probinsky learned of the impending election in the Bahamas and, through acquaintances he had made during his years at the Sir John, he became active in raising funds for the then opposition P.L.P. and its leader, Lynden O. Pindling. After the P.L.P. won a narrow victory in the election of January 10, 1967, Pindling became the Premier. By virtue of his efforts during the campaign, Probinsky had gained Pindling's confidence.

Probinsky remained in the Bahamas doing public relations work for Diversified Services, a firm in which he held an interest. In June or July 1967, Probinsky met I.G. Davis and he began to do some public relations work for Resorts' subsidiary, Paradise Island, Ltd.

Probinsky testified that by 1972, Resorts had alienated Pindling's P.L.P. which had solidified its power in the Bahamian elections of that year. Several factors contributed to this. Resorts had been associated with the old U.B.P. of Sir Stafford Sands when it acquired Paradise Island in 1966. President Davis and Vice-President Norton were friendly with many of the members of the U.B.P. and were not looked upon with favor by the

Pindling government. Perhaps most importantly, during the years 1969-1972, at the direction of Chairman Crosby, political contributions had been made to both parties, but primarily to the opposition.

The ten-year Certificate of Exemption issued for the Paradise Island Casino was due to expire on December 31, 1977. Pindling had expressed an intention to nationalize the Bahamian casinos after their Certificates of Exemption expired. Pindling also mentioned the possibility of another competing casino on Cable Beach. Previously he had publicly warned foreign investors in the Bahamas that they would either "bend or break" in granting Bahamian citizens better economic benefits. Independence for the Bahamas from Great Britain was achieved in 1973.

Mr. Crosby enlisted Probinsky's aid in establishing a dialogue with Pindling with the aim of seeking assurances of a renewal of the Certificate of Exemption to operate the Paradise Island Casino. Probinsky arranged several meetings between Pindling and Crosby and succeeded in establishing the dialogue. During the years 1973-1975, Probinsky spent most of his time working with members of the Bahamian government in an effort to obtain a renewal of the Certificate of Exemption.

During the first week of April 1976, Probinsky heard of the possibility of casino gaming in Atlantic City. Probinsky contacted his old friend, attorney Marvin Perskie, who advised Probinsky to come to New Jersey and examine the situation. Probinsky traveled to New Jersey on behalf of Resorts in April 1976, spent two to three weeks here and then returned to the Bahamas and reviewed his findings with Mr. Crosby. As a result of Probinsky's recommendation, Crosby, Davis, Peloquin, and Seymour Alter came to Atlantic City with Probinsky around the end of April or beginning of May 1976. They stayed for three or four days, and as a result both Crosby and Davis became enthusiastic about investing in Atlantic City. In early May 1976, Probinsky took up residence in the Atlantic City area to continue his efforts on behalf of Resorts.

Probinsky was being paid a monthly consulting fee by Resorts. For some time, however, he had been asking Crosby for a written contract providing for compensation for his services in New Jersey. Both Probinsky and Crosby testified that Probinsky was responsible for establishing the rapport between Pindling and Crosby which ultimately led to the renewal of the Certificate of Exemption for the Paradise Island Casino. And both Probinsky and Crosby testified that it was Probinsky who was primarily responsible for Resorts coming to Atlantic City at an early date and being in a position to make investments that have proved to be extremely successful.

By June 1976, Probinsky was having serious differences with Davis, Peloquin, and Patrick McGahn, one of Resorts' New Jersey attorneys. At Crosby's instruction, a contract between Resorts International, Inc. and Probinsky was prepared which was signed on July 1, 1976, four months prior to the November 1976 referendum authorizing casino gaming in Atlantic City. This contract (A-42 in evidence) provided in essence that Probinsky was to be paid \$60,000 in monthly installments between July 1, 1976 and December 31, 1977. In consideration of Probinsky's services in connection with Resorts' efforts to renew its casino license in the Bahamas, if the Bahamian government renewed that license by December 31, 1977, Probinsky was to receive \$30,000 per year for ten years plus a four-year option to purchase 12,500 shares of Resorts Class A common stock at book value (approximately \$13.50 per share). The stock was then selling at about \$4 per share. In consideration of Probinsky's services in connection with Resorts' efforts to obtain a casino license in Atlantic City, if Resorts got its license by December 31, 1977, Probinsky was to receive \$35,000 per year for ten years plus a four-year option to purchase an additional 12,500 shares of Resorts stock at book value. In return, Probinsky was to use his best efforts to enhance the reputation and goodwill of Resorts and its principals and was not to have any contact with or within the State of New Jersey until after December 31, 1977. The contract provided that neither Resorts nor Probinsky were to utter any statements privately or publicly, adverse to or critical of the other.

Two years and four months later, on November 11, 1978, Resorts and Probinsky entered into a second contract. The purposes of this contract (A-43 in evidence) were to make explicit Probinsky's obligation to cooperate in providing information to the Division of Gaming Enforcement and to resolve a dispute as to what Probinsky was entitled to under the first contract. Prior to the second contract, Resorts had received a renewal of its casino license in the Bahamas. So this contract provided that he receive \$30,000 per year for the nine remaining years, plus, upon payment of the book value price, the equivalent number of shares of Resorts common stock as per the first contract. Additionally, Probinsky was given a new contingency with regard to the Atlantic City casino. Under this second contract, if Resorts obtained a plenary casino license by June 30, 1979, Probinsky was to receive \$35,000 per year for ten years plus a four-year option to purchase at book value the equivalent number of shares of Resorts stock as per the first contract.

On January 6, 1978, approximately one month after the Division of Gaming Enforcement rendered its Report to this Commission and its

Statement of Exceptions, Resorts gave Probinsky a third contract (A-44 in evidence) in an effort to assure the Division that Probinsky was not, as of that time, required to perform any services for Resorts and that Probinsky was not limited by Resorts in his movements or his comments. In lieu of the consideration Probinsky was to receive under the second contract for his work in the Bahamas, he now received \$400,000 plus two-thirds the amount of Resorts common stock. In lieu of the consideration Probinsky was to receive under the second contract for bringing Resorts to Atlantic City, he now was to receive \$85,000 plus the equivalent number of shares of Resorts common stock, in the event that Resorts was granted its plenary casino license in New Jersey.

A review of the evidence indicates that these contractual arrangements do not reflect adversely on the good character, honesty, and integrity of James Crosby or the applicant corporation. Although the consideration flowing to Probinsky is great, it is not inordinate in light of the value of his services. It can fairly be said from this record that without Probinsky's efforts in the Bahamas in establishing the Pindling-Crosby dialogue, Resorts might very well not have had its casino license renewed. And without Probinsky's actions in bringing Crosby to Atlantic City in April 1976, seven months prior to the referendum, Resorts might not have been able to make the investments which enabled it to open its casino in Atlantic City. Under the circumstances presented by the evidence, it does not appear that this contingency contract was drawn to buy Probinsky's silence.

However, this *type* of contract is somewhat troublesome. An agreement contingent upon the granting of a casino license creates the *potential* incentive for inhibiting the full and complete disclosure of information to this Commission. The Commission shall give consideration as to whether it has the authority to prohibit such contracts, and if so, whether they should in the future be prohibited.

The evidence relating to exception number 16 established that I. G. Davis Jr., as President, personally maintained a "special fund" of corporate monies during the period from 1970 to 1976, from which \$26,098 was paid under his direction to provide gifts and entertainment to Bahamian government employees, primarily lower-echelon employees in the Customs Department. Of these monies, \$14,155 was properly recorded in the corporate books in its "travel," "donations," or "dues and subscriptions" accounts. However, \$11,843 was falsely recorded from 1970 to 1973 as if it were salary paid to a corporate employee and charged against the corporation's "salary and wages" account. Finally, it was established that

these gifts were sometimes paid to officials out of monies borrowed by Mr. Davis or Mr. Norton from the Paradise Island Casino cage after either officer had given his "marker" for the monies to the cage cashier.

The first issue these facts raise, of course, is whether the payments were illegally made with an intent to influence the official conduct of the public employee. Mr. Davis insisted that his intent was merely to promote, in Custom Department workers, goodwill toward the company and to reward those in that government office who had handled such a large volume of goods imported by the corporation into the Bahamas. He pointed to the relatively modest amount of money expended for this purpose over a six-year period as supportive of his position. On at least three occasions, however, the funds were used to finance trips for those officials to Las Vegas, Nevada, and Acapulco, Mexico which were hosted by Seymour Alter, who had been an associate of Resorts International since 1965.

A second area of concern, suggested by the method in which these corporate funds were recorded, was the fact that the true nature and character of these expenditures were concealed by false entries in its books and records. Such entries both tend to undermine the overall credibility of the records of the company and raise the suspicion that the actual expenditures may have been for other than legal purposes.

A final area to be evaluated relates to the simple uncontrolled borrowing of corporate funds from the casino cage by corporate officers Davis and Norton by use of their personal "markers" to the casino cashier—a practice that would not be in compliance with the internal control requirements of this jurisdiction.

The practices engaged in by Mr. Davis and the corporation in the administration of this special fund would not be tolerated in this jurisdiction. These were practices as to which Mr. Crosby has indicated he is not proud. In the total context, however, the \$26,000 actually is a relatively modest sum when spread over the six years of its existence and the practice appears to have been discontinued in mid-1976, almost three years ago.

After considering the amount of money involved, the fact that most of the expenditures were accurately accounted for and the absence of any evidence demonstrating any corrupt intent on the part of Mr. Davis or the parent corporation, the Commission finds that these payments from the special fund were not illegally made and do not disqualify Davis, Crosby, or the applicant corporation. Nor do they reflect so adversely upon the good character, honesty, and integrity or financial stability, responsibility, or integrity of Davis, Crosby, or the applicant corporation as to warrant a

finding that the applicant has failed to satisfy its burden of establishing these criteria.

In exception number 16 the parent corporation was criticized for its more than thirteen year association with Seymour Alter (who was born in New York in 1921). Evidence presented suggested that in mid-1962 while operating a retail liquor store in Manhattan's upper east side, Mr. Alter conspired to pay a bribe of \$10,000 or more to a government official to improperly expunge certain fair-trade price and credit sale violations then about to be lodged by the New York State Liquor Authority against his store's retail liquor license. In April 1963, in exchange for his testimony before a New York County Grand Jury, Mr. Alter was granted immunity. In 1964, the government official who apparently was to receive the bribe pleaded guilty to the indictment.

Further evidence suggested that in a 1969 or 1970 "goodwill" trip financed by the corporation to Las Vegas for certain lower-echelon Bahamian customs officials, Mr. Alter assisted in procuring girls for his guests although they apparently were not paid for with corporate funds.

Prior to Resorts International's acquisition of Paradise Island in January of 1966, Mr. Alter had been a personal employee of Huntington Hartford, from whom Paradise Island was purchased. Mr. Alter stayed on as an associate of Resorts International and, among other things, operated the Paradise Island Bridge Company, Ltd. which is privately owned by Mr. Crosby.

Recently, Mr. Alter has been employed by Resorts International Hotel, Inc. as its Director of Retail Stores in its Atlantic City Casino Hotel and as having some responsibility for the interviewing of cocktail waitresses to be employed at that hotel. At the time of the hearing, he also was half-owner, together with I. G. Davis, Jr., of the gift shop in the hotel lobby. However, the evidence further established that Mr. Alter was suspended from his employment with the applicant without pay in December 1978 and intended to close on the sale of the hotel gift shop by April 1, 1979. As a pending applicant for a casino employee license, Mr. Alter's qualifications will be separately considered by the Commission when the Division of Gaming Enforcement's final report is submitted on that application. Counsel for the corporate applicant has represented that Mr. Alter will have absolutely no association with Resorts International unless and until he is granted such an employee license. In light of his present status, Mr. Alter would not appear to be a person who must himself be qualified for this casino license to issue. His past association

with Resorts International would not appear to have been such as would serve as a basis for its present disqualification.

Exception number 12 relates to the accounting and internal control system used at the Paradise Island Casino. The Division's report asserted that several significant deficiencies were found to exist in the system when Division investigators reviewed the casino operation in February and August 1978. The Division contended that these alleged deficiencies reflected adversely not only on the casino experience and business ability of Resorts International but also on the motives of the company. The Division claimed that this conclusion was bolstered by the existence of an unsigned memorandum dated June 23, 1970, which was discovered in Intertel's files and which commented that deficiencies in the marker procedures create a "wide open area for theft." A subsequent memo from Fen Richards dated November 1, 1970 to Robert Peloquin, with copies to Messrs. Davis, Norton, Rice, and Gore, noted an apparent weakness in marker control due to failure to maintain numerical sequence records. According to the Division, Resorts made no effort to respond to this criticism and, as of the last Division inspection, the Paradise Island Casino continued to employ the same marker procedure.

One of the affirmative qualification criteria to be established by the applicant is sufficient business ability and casino experience to demonstrate the likelihood of a "successful, efficient casino operation." The concern under this standard is, of course, the applicant's ability to create and maintain such a casino operation in Atlantic City and, in particular, to conform to the strict New Jersey system of internal and accounting controls. This applicant has now operated casinos both in New Jersey and in the Bahamas. While both operations are relevant to assessing the applicant's ability to properly, efficiently, and securely operate a casino, the applicant's experience during the past nine months while operating in Atlantic City under the Commissions' regulations must be the primary factor in assessing its ability to operate under the New Jersey scheme in the future. The applicant's New Jersey casino experience will be discussed in relation to the next exception. The point here is that the quality of the Bahamian operation is far less significant and that evaluation of that operation must take into account the governmental controls and regulations in effect there.

During the hearing, Raymond M. Gore, Senior Vice-President of Resorts International, Inc. and its chief financial officer, testified regarding the internal and accounting controls in the Paradise Island Casino. Mr.

Gore was questioned as to each of the alleged deficiencies in the controls. He responded that the controls were in full accord with Bahamian law and that, in his experience, they were adequate to meet the needs of the Paradise Island Casino, a much smaller casino than the Atlantic City operation. Specifically, Mr. Gore addressed the questions raised about the marker controls. He testified that due to the size of the casino, any effort to substitute false markers or to withhold a marker would be easily spotted by supervisory personnel. Moreover, Mr. Gore disclosed that in ten years of operation, the casino has never had missing markers or discrepancies in the markers. Notwithstanding his position that the existing controls were satisfactory for the Paradise Island Casino, Mr. Gore stated that the recommendations of the Division would be implemented.

Mr. Gore's assertion that the previous controls were generally adequate is supported by other evidence in the record. Mr. Lincoln Hercules, chief security officer of the Paradise Island Casino, related that on February 8, 1978, several investigators from the Division of Gaming Enforcement appeared without notice at the casino and requested to audit the cage. Although it violated Bahamian regulations for unauthorized individuals to enter the cage, the Division investigators were admitted. The result of the audit was that the cage assets balanced to within a few hundred dollars which the Division indicated was quite satisfactory. Additional support for the general adequacy of the controls appears in the November 1, 1978 report on the casino controls proposed by Laventhol & Horwath. That report states that, while improvements in certain areas would provide more effective control, the "study of the system did not disclose any evidence of theft, fraud, significant error or other irregularities."

Based on the record, especially the testimony of Messrs. Gore and Hercules, any deficiencies in the Paradise Island Casino controls when considered in the context of the Bahamian gaming rules, do not indicate any lack of business or management ability by Resorts International, Inc. It should be further noted that, although Resorts has never been cited for a violation of Bahamian gaming law, it has begun moving toward implementation of the Division recommendations. As to the allegation that the operations in Paradise Island reflect adversely on the motives of the company, there is simply no evidence to support that claim. The existence of the unsigned June 23, 1970 memorandum which indicated that marker procedures were "wide open for theft" hardly evinces an attitude or motive to purposely retain lax controls for improper purposes. So, too, the

November 2, 1970 memorandum from Fen Richards to various key Resorts personnel is not consistent with a motive to exploit the very inadequacy which was confessed in the memorandum. In sum, the system of internal and accounting controls utilized by the Paradise Island Casino were undoubtedly less than perfect. However, they were not so significant under all the circumstances as to cast serious doubt on the motives or management ability of Resorts International, Inc.

The report prepared by the Commission staff's Division of Financial Evaluation & Control (C-1 in evidence) reviewed and analyzed the operation of the applicant's Atlantic City casino, especially its compliance with accounting and internal control regulations. The applicant's New Jersey casino operations are directly relevant to two of the affirmative qualification criteria in section 84 of the Act. First, the applicant's ability to operate within an approved system of security and management controls reflects upon its "financial responsibility," that is, its care and prudence in the protection, conservation, and enhancement of assets. Second, the applicant's performance during the period of the temporary casino permit is perhaps the best indication of whether the applicant possesses "sufficient business ability and casino experience" to assure a "successful, efficient casino operation."

The staff report indicated that, when the casino opened on May 26, 1978, the operation failed to comply with several areas of the internal and accounting control regulations. These early deviations were the result of three factors: (1) the unexpectedly large crowds which descended upon the casino; (2) the inability of the applicant to utilize many trained employees because they had not yet been licensed; and (3) a lack of adequate instruction of existing employees regarding the regulations. Problems caused by initial understaffing were most severe in the slot change booths, count rooms, and cashiers' cage. This understaffing required use of management officers, Intertel personnel, and licensed dealers to assist in these areas. As a result, the dealers were pressed into service for nine or ten hours a day, seven days a week, a condition which further hindered compliance.

Significant movement toward full compliance began in mid-July 1978. Several factors contributed to this improvement. On July 12, 1978, the Commission, recognizing the congestion and overcrowding in the casino, permitted expansion of the casino floor space from 33,735 square feet to 54,768 square feet. The expanded casino area helped to alleviate much of the pressure on the slot booths and an increase in the size of the

cashiers' cage. Licensing of additional casino employees also began to have its effect. The situation was further aided by the appointment of David Belisle as Inspector General by I. G. Davis and by an increase in the number of Commission inspectors to monitor internal controls on the casino floor. Mr. Belisle's appointment was soon followed by a precipitous decline in the number of patron complaints due to implementation of more effective controls and grievance procedures.

A statistical analysis of the daily questionnaire filed by the Commission inspectors and on-site review by members of the Division of Financial Evaluation & Control demonstrated that the applicant has steadily improved its operation. For the first three weeks of December 1978, the inspectors reported thirty-seven alleged deviations which related to only eight separate internal and accounting control regulations. Although the report noted the existence of some continuing problems, it is fair to state that as of the time of the hearing the casino was in virtually full compliance with the regulations. This conclusion is bolstered by the report of Price Waterhouse & Co., dated January 5, 1979, and the report of Laven-thol & Horwath, dated December 13, 1978. Although both reports noted areas for improvement, Price Waterhouse found the applicant's control system to be "generally adequate" and Laven-thol & Horwath concluded that the "system follows most of the control practices found in other well-controlled casinos."

While the applicant has been adjudicated in violation of several regulations, those complaints related for the most part to the first few weeks of operation when the problems associated with the start-up of the casino under the new and complex regulations were most severe. In sum, the applicant has demonstrated its ability to properly operate a casino in conformance with the strict New Jersey regulations.

The Commission staff report, prepared by the Division of Financial Evaluation & Control, also dealt with the financial qualifications of the applicant and its holding company. That report (Item C-1 in evidence) addressed, among other things, the financial stability of these corporate entities. There appears to be no dispute regarding satisfaction of the financial stability qualification criterion; the Commission has reviewed the staff report and is satisfied that its conclusions are well-founded.

The report analyzed the 1978 operations of the applicant through October 1, 1978 and also reviewed the interim report of the Division of Gaming Enforcement on the operations of the holding company for the five-year period ending in December 1977. In addition, the supplemental portion of the report assessed predicted financial stability based on projec-

tions for the next three years, prepared and submitted by the applicant.

In brief, the data collected in the staff report indicated that, prior to 1978, the parent corporation had performed in a manner comparable to other companies and that it possessed an acceptable degree of solvency and liquidity. The commencement of casino operations by the applicant had such a material impact on the parent corporation that analysis of the applicant's operations are sufficient to indicate the current financial strength of both applicant and parent corporation. Basically, the applicant's operations have been enormously successful. In fact, it is expected that after a full year of operation, the casino would be the most productive in the world. The applicant has exhibited a very high degree of short-term profitability and a strong short-term solvency. As to the future, it appears that, based on the rather conservative projections submitted by the applicant, there will be little difficulty for the applicant to undertake its planned expansion and additional investments in Atlantic City, despite the entry of competitor casinos over the next few years.

With respect to the future operations of the applicant and their effects on the Atlantic City economy, the applicant presented Mr. Frederick O'Reilly Hayes, a university professor of Public Management, who has served as a consultant to several federal and state agencies and who was formerly Director of the Budget for New York City. Mr. Hayes undertook an examination of the economic impact of the applicant's activities in Atlantic City and prepared a detailed report which has been admitted as A-233 in evidence. Mr. Hayes testified at the hearing that the unemployment rate for Atlantic City decreased from 14.3% to 8.5% from November 1977 to November 1978. This drop occurred despite a significant migration into the area of persons attracted by employment opportunities. Similarly, Mr. Hayes pointed out that other signs of economic resurgence existed such as a large increase in hotel rooms and alcoholic beverage sales throughout the city following a steady decline since 1968. Much of the increased hotel business came during the off-season months, portending more year-round visitors. The effect on the construction industry has also been dramatic. According to Mr. Hayes, the local economy is now in the twenty-first month of its recovery and Mr. Hayes attributed that recovery "almost entirely" to the applicant's resourcefulness and willingness to begin investing in Atlantic City.

Exception number 15 concerns the initial refusal of the Bank of Commerce, located in New York City, and the Bank of Nova Scotia, located in the Bahamas, to grant the Division of Gaming Enforcement access to all credit and correspondence files relating to Resorts Interna-

tional, Inc. and its subsidiaries. The Bank of Commerce had a \$2,000,000 participation in an \$11,000,000 loan made by the First National State Bank of New Jersey to finance the applicant's Atlantic City operations. The Bank of Nova Scotia loaned a total of almost \$15,000,000 to Bahamian subsidiaries of Resorts International, Inc., the proceeds of which were advanced to the applicant to finance the Atlantic City project.

In its December 4, 1978 Report to the Commission, the Division indicated that its investigation of the internal sources of funds had not revealed any undisclosed or undesirable sources of financing for the Atlantic City operations. With regard to the external debt financing for Atlantic City, the Division stated that its investigation had not discovered any undisclosed parties, guarantees, collateral, compensating balances, or finders' fees in the financing transaction. At the hearing, there was not one scintilla of evidence presented to suggest that any of the financing for Resorts' Atlantic City operation was tainted.

In the final analysis, there can be little question but that the Division was provided the information necessary to complete its investigation here. All of the requested affidavits were supplied. The Bank of Commerce did provide access to the correspondence and credit files with regard to the \$2,000,000 loan to Resorts for the Atlantic City project. Russell L. Weiss, President of the Bank of Commerce, answered all questions of the Division investigators concerning the requested information. Division Investigator James M. King testified that he believed that Resorts had exercised all reasonable efforts to obtain cooperation from the banks. In light of these circumstances, the Commission finds nothing which reflects adversely upon the financial integrity of the applicant corporation.

Based upon the testimony presented and upon the report entitled *Affirmative Action at Resorts International* (A-23 in evidence), the Commission finds that the applicant corporation has formulated for Commission approval and abided by an affirmative action program providing for equal employment opportunity. According to the evidence at the time of the hearing, Resorts International Hotel, Inc. employed 3,431 persons, including 1,545 female employees, which is 45% of the total, and 737 minority employees, which is 21.5% of the total. These figures exceeded the goals established by Commission regulation. The construction workforce has also been in compliance. Significant progress has been achieved in the advancement of female and minority employees toward the upper end of the job scale. This has been made possible largely by the successful recruitment efforts for Resorts International Dealers School and by the upward mobility program whereby training for the professional positions within the casino has been provided. Additionally, Resorts cre-

ated a scholarship program whereby twenty-two needy area residents were provided the funds to attend other gaming schools licensed by this Commission. Resorts has also implemented an employee discrimination grievance procedure to assure the fair treatment of employees. In this area Resorts is to be commended.

As previously indicated in the preliminary comments on the statutory standards for casino licensure, sections 85(c) and (d) of the Act require the qualification of officers, directors, lenders, underwriters, agents, and certain employees and securities holders of the applicant corporation and its holding company. The Division of Gaming Enforcement has informed the Commission that it believes there are twenty-three individuals who must be qualified pursuant to the foregoing sections. The Division has further suggested that no other shareholders and lenders, underwriters, and agents should be required to be qualified. The Commission accepted the Division's recommendation as to those individuals who must be qualified.

Turning next to the twenty-three individual qualifiers, it should be noted that this opinion has previously dwelt at length with three of them—James M. Crosby, I. G. Davis, Jr., and Robert D. Peloquin. The Commission finds them to be qualified. There is no need to repeat here the findings regarding these three. In addition to these three individuals, six of the twenty-three qualifiers are individuals whom the Commission has already licensed. The Division did not object to them. They were:

1. Edward H. Jordan, who is vice-president and resident manager of the applicant;
2. George K. Herdman, who is vice-president of sales and marketing for the applicant;
3. Raymond Palmer, who is assistant secretary and comptroller of the applicant;
4. Edward B. Michael, who is vice-president of finance for the applicant;
5. Richard V. Barbato, who is vice-president for personnel of the applicant; and,
6. Tibor Rudas, who is the director of entertainment for the applicant.

There was another group of four individual qualifiers to whom the Division interposed no objection:

1. *Anthony M. Rey* – Mr. Rey is president and managing director of the applicant. Prior thereto, he had long-term associations with the Leeds & Lippencott Company, and the Hotel Astor and Waldorf Astoria Hotel in New York City.

2. *Edward M. Mullin* – Mr. Mullin has been employed by Intertel since 1971 and is director of surveillance for the applicant. Prior to 1971,

he held several high level law enforcement positions with the federal government.

3. *Phillip R. Smith* – Mr. Smith has been employed by Intertel since April 1977 and is director of security for the applicant corporation. Prior to 1977, Mr. Smith was employed for many years as a supervisory criminal investigator for the Federal Drug Enforcement Administration.

4. *Elaine Murphy* – Mrs. Murphy is a housewife and is married to Henry B. Murphy, who is secretary and director of the holding company. She, along with her husband, have substantial stock holdings in that company.

There was another group of nine individuals with regard to which the Division did object, based solely on matters contained in the Division's report. They were:

1. *David G. Bowden* – Mr. Bowden has been employed by the holding company since 1969 and presently serves as assistant to the senior vice-president. From 1964 to 1969, Mr. Bowden worked as a senior auditor with Price Waterhouse & Company.

2. *David F. Edwards* – Mr. Edwards is a practicing attorney and is a director and assistant secretary of the holding company. He has held the latter position since 1961.

3. *John C. Miller* – Since 1967, Mr. Miller, a Florida resident, has been a director of the holding company and is a substantial shareholder in such company.

4. *William M. Crosby* – Mr. Crosby, a Florida resident, has been a vice-president and director of the holding company since 1959. In addition, Mr. Crosby is a substantial shareholder in the holding company.

5. *John F. Crosby* – Dr. Crosby is a practicing physician in Alabama; and, since 1960, he has been vice-chairman of the board and director of the holding company. He is also a substantial shareholder of the holding company's stock.

6. *Charles L. Rice* – Since 1967, Mr. Rice, a Florida resident, has been employed by the holding company as vice-president, controller, treasurer, and assistant secretary. He also serves in these capacities to the various subsidiaries of the holding company. From 1960 to 1967, Mr. Rice was employed by the holding company in lesser positions. He, too, is a substantial shareholder of the holding company.

7. *Henry B. Murphy* – Mr. Murphy, a licensed funeral director in New Jersey, has been secretary and a member of the Board of Directors of the holding company since 1958. He is vice-chairman of the Trenton Parking Authority and treasurer of the Trenton Mercer County Memorial

Building Commission. From 1962 to 1970, Mr. Murphy served as a councilman and a member of the Central Planning Board of the City of Trenton. He is a substantial shareholder of the holding company.

8. *H. Steven Norton* – Mr. Norton has served as a vice-president of the holding company since 1971. From 1967 to 1971, he served as vice-president and treasurer of Paradise Island, Ltd. Prior thereto, he worked as a hotel manager for several other hotels in the Bahamas and in Virginia. Mr. Norton also serves on the Board of Directors of various subsidiaries of the holding company. He and his wife own a significant amount of Resorts stock.

9. *Raymond M. Gore* – Mr. Gore of Florida has been associated with the holding company since 1968. He serves as a senior vice-president of the holding company and the applicant corporation and is also a director of the applicant. Mr. Gore owns a significant amount of stock of the holding company. In light of the findings of fact with regard to the applicant, there is no reason to question the qualifications of any of these individuals.

The last qualifier was Walter I. Rogers. The Division objected to Mr. Rogers because of his association with the holding company and because of Casino Control Commission Complaint Number 78-25 filed against Mr. Rogers alleging violations of casino regulations. Mr. Rogers is employed by the applicant as executive vice-president of casino operations. Prior to coming to Atlantic City, he worked as casino manager for the holding company in the Bahamas at the Paradise Island Casino. He also worked in the gaming industry in Las Vegas and Lake Tahoe.

With regard to the allegations contained in Complaint 78-25, it should be noted that they were adjudicated by the Commission in January 1979 and that Mr. Rogers was exonerated of the charge that he offered materially misleading misrepresentations to the Commission on July 12, 1978 regarding the slot booth operation in Resorts. However, he was assessed a civil penalty of \$2,000 for violating a Commission regulation by participating in the count of slot booth currency and a letter of censure was made a part of his permanent file because of his improper directing of wage increases for casino cage employees. While these violations which occurred during the early weeks of the casino operation are significant, they do not call for the harsh sanction of disqualification of Mr. Rogers at the present time.

As part of its investigation of the present matter, the Division submitted two reports on International Intelligence, Inc., also known as Intertel. One of the reports concerned itself with Intertel as a subsidiary of

the applicant, while the second one dealt with it as an applicant for a casino service industry license. The substance of these reports reveals that the Division conducted a thorough investigation of Intertel and objected to its licensure based solely upon the information submitted in its report on the casino applicant. The Division's investigation did not uncover any additional derogatory information concerning this entity.

Intertel is a Delaware corporation which was formed in 1970. Essentially, it is a security consulting organization. It supervises all aspects of security controls at the Resorts casino in Atlantic City and at the Paradise Island Casino.

The main office of Intertel is in Washington, D.C., but it has satellite offices in other U.S. cities as well as in Canada, the Bahamas, and England.

Until recently, Resorts International, Inc. owned 86.1% of Intertel's stock. Resorts International, Inc., however, has made an offer to purchase the outstanding stock of Intertel to make it a wholly-owned subsidiary. Robert Peloquin has agreed to sell his Intertel stock to Resorts. He testified that currently Resorts owns approximately 97% of Intertel's stock.

Exhibits A-215 and A-216 clearly show the organizational structure in general, as well as its Atlantic City make-up.

Mr. Robert Peloquin has been associated with Intertel as its President since its inception. In light of the fact that Mr. Peloquin has been found to be qualified and in light of the findings with regard to Resorts as set forth above, Intertel is qualified pursuant to the criteria of the Casino Control Act.

Conclusion

The Division investigated this corporate applicant and its affiliated companies for nearly a full year. After this comprehensive and in-depth investigation, with the exception of the four (4) witnesses called by the Division — three (3) of whom were Division investigators — virtually all of the evidence presented before this Commission at the hearing came from the records, files, and employees of the applicant itself. In light of the time and effort devoted to this case, it must be presumed that there simply was no other evidence adverse to licensure to present and no other facts which might bear adversely upon the applicant's fitness for licensure to be established.

In light of the Division's position the true import of the often mentioned Statement of Exceptions may be ascertained. The Division's Statement of Exceptions assisted the Commission by synthesizing and

enumerating those factual matters which the Division deemed most pertinent to the Commission's inquiry. However, in order that this matter be viewed in its proper perspective, it must be kept in mind that those exceptions designated only the areas which, in the Division's opinion, raised questions as to the qualification or disqualification of the applicant or other persons who must be found suitable. This negative emphasis, while necessary, tended to obscure the fact that the applicant provided the Division and the Commission with voluminous information which was not challenged and which supported the positive attributes of the applicant and the various persons required to be qualified. As a practical matter, the hearing focused almost entirely on the negative assertions contained in the exceptions. Nevertheless, the Commission has not taken a myopic view of the evidence. It bears repeating that following an exhaustive investigation the only areas of concern to the Division were those which were so extensively litigated at the hearing. In assessing these areas and their impact, if any, on the suitability of this applicant, the Commission must abide by the letter and spirit of the Casino Control Act. However, lest a distorted picture result, one should be mindful that the Division's investigation did not reveal any other questionable areas.

Viewing each of the seventeen (17) exceptions noted by the Division separately, the Commission has found no facts which suggest that this applicant is not qualified for licensure. Now viewing all of the exceptions collectively, the Commission is of a like opinion. While some of the practices engaged in by the applicant in the past and in another jurisdiction might not pass muster in this jurisdiction under the strict regulatory system established under our statute and regulations, the circumstances of prevailing law, custom, and environment must be considered in placing such practices in their proper perspective.

In the final analysis, three (3) factors are the keys to this case:

First, there is absolutely no evidence of present organized criminal involvement in the applicant corporation or its parent; second, all of the sources of funding for the Atlantic City operations of the applicant have been cleared as to integrity; and, third, with the experience gained during the past nine months of operation, the applicant is now running a well-controlled casino.

After all of the evidence had been presented at the hearing, the Division conceded these key points. In response to questions from Commissioner MacDonald, the Division stated that, based on the evidence in the record, the Division did not assert that there was any present connection between Messrs. Crosby, Davis, and Peloquin and organized crime.

(T8088-11 to 17)* The Division also indicated that, based on the evidence in the record, the Division did not assert that there was any impropriety in the financing of the Atlantic City investments of the corporate applicant or its parent corporation. (T8089-14 to 20) And finally, with regard to the present operation of the applicant's Atlantic City casino, the Division represented that the internal controls had improved to the point where they were adequate, in the Division's opinion. (T8090-3 to 15)

In light of these facts and in light of all of the facts and conclusions which have been found, the Commission is satisfied that the applicant, Resorts International Hotel, Inc., has established by clear and convincing evidence its financial stability, integrity, and responsibility; the integrity, and reputation of its financial backers; its good reputation for honesty and integrity; and its business ability and casino experience, so as to qualify it for a casino license.

* "T" refers to the transcript of the hearing in this matter conducted from January 8, 1979 to February 26, 1979.