

**IN THE MATTER OF THE APPLICATIONS OF
GNOC, CORP. T/A GOLDEN NUGGET, FOR
RENEWAL OF A CASINO LICENSE AND
OF ATLANDIA DESIGN AND
FURNISHINGS, INC. FOR RENEWAL OF A
CASINO SERVICE INDUSTRY LICENSE**

OPINION*

New Jersey Casino Control Commission:

Walter N. Read, Chair

Valerie H. Armstrong, Vice-Chair

Carl Zeitz, Commissioner

E. Kenneth Burdge, Commissioner

Appearances

For GNOC, CORP., and Atlandia Design and Furnishings,
Inc.:

Martin L. Greenberg, Esq.

Marilu Marshall, Esq. (*Pro Hac Vice*)

For the Division of Gaming Enforcement:

Anthony J. Parrillo, Director

Thomas N. Auriemma, Deputy Director

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For the Casino Control Commission:

John R. Zimmerman, Deputy Director

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I. Introduction

This matter is before the Commission pursuant to the applications of GNOC, CORP. (GNOC) for a renewal of its casino li-

* Transcripts referred to in this opinion are available through the Casino Control Commission, Princeton Pike Office Park, Building No. 5, CN-208, Trenton, New Jersey 08625.

cense and of Atlandia Design and Furnishings, Inc. for a renewal of its casino service industry license. The qualification criteria pertinent to this license renewal proceeding are set forth in the Chairman's Instruction to the Commission and need not be repeated at length here. After the parties were given an opportunity to review and comment on that Instruction, it has been distributed to the Commissioners as a part of the record of this renewal hearing and is incorporated by reference in this Opinion.

This Opinion concerns itself only with those areas which were the subject of significant attention at the hearing in this case. Pertinent findings with regard to other licensing criteria will be contained in a separate license resolution.

The evidence presented at this hearing relates to three general topics, namely, the Stardust and Fremont obligations, the Castelbuono affair, and the Golden Nugget's hiring and marketing practices.

II. Stardust and Freemont Obligations

The first of these topics concerns GNI's purchase and eventual sale of notes originally held by the trustees of the Central States, Southeast and Southwest Areas Teamster Pension Fund. The notes were secured by a mortgage obligation on the Stardust and Fremont Hotels in Las Vegas.

The colorful and sordid history of the Pension Fund and the two hotels in question need not be described in detail because GNI did not deal with any of these entities. GNI purchased the notes from Victor Palmieri and Company, the federally appointed trustee for the Fund. Subsequently, GNI accepted prepayment of the notes, and thus obtained a sizeable profit, in connection with the purchase of the hotels by the California Hotel and Casino. The evidence indicates that GNI accepted prepayment at the behest of Nevada gaming officials.

The Fund has sued GNI, claiming that it is entitled to share in the profits realized by GNI on the sale of the notes. This Commission should not presume to predict the outcome of that litigation, although GNI's counsel has expressed unguarded optimism that the suit will be resolved favorably to it.

The Division's post-hearing brief indicates that the primary relevance of this issue is to demonstrate the failure of the GNI

board to oversee the affairs of the company. While the board might have been more involved, it suffices to say that the entire matter is a very minor part of this case.

III. Anthony Castelbouno

The Castelbuono affair cannot be so quickly dismissed. However, the facts are largely undisputed, and can be briefly summarized.

On November 26, 1982, Charles Meyerson, in connection with his duties as a host at the Golden Nugget, received a telephone call from Gus Lauro, whom he knew as a patron. Lauro called from the Tropicana and advised Meyerson that he would be sending a substantial cash player to the Golden Nugget.

In the early morning hours of November 27, Anthony Castelbuono arrived and was immediately shown the Golden Nugget's penthouse suite. Upon finding the accommodations satisfactory, he determined to stay. D. Boone Wayson, who was then serving as casino marketing vice president, had left word for Meyerson to bring Castelbuono to the casino manager's office. As the party approached the office, Castelbuono was introduced to Wayson as "Tony Cakes," the name he told Meyerson he wished to adopt in order to reduce the risk of kidnapping.

Upon entering the casino manager's office, Wayson and the Golden Nugget support staff proceeded to clear off the manager's desk. Ben Valenza, Castelbuono's body guard, then opened the first of several suitcases containing a total of \$1,187,450 in mostly small bills, and the contents were dumped on the desk.

According to Wayson, he was uncomfortable with the situation primarily because of the number of small bills involved. He determined to segregate the money in order that the same small bills could be returned to the customer in the event suitable gaming play did not occur. Wayson also contacted Sabino Carone, Director of Surveillance, at approximately 8:00 a.m. on November 27, 1982, and instructed him to investigate Castelbuono. By that time, Meyerson, based on a conversation with Lauro, had advised Wayson as to Castelbuono's true identity.

Because of the enormous volume of money involved, the actual counting of the cash in the manager's office took about five

hours. By 3:38 a.m. on November 27, 1982, at least \$300,000 had been counted, and a deposit of that amount was made at the cage. Within five minutes, Castelbuono went to a baccarat table, withdrew \$300,000 and began playing at a furious pace. According to the Golden Nugget's records, Castelbuono played for approximately one hour and forty-five minutes and lost \$295,000 on an average bet of \$50,000.

Just about the time that Castelbuono completed his initial play at the tables, another \$600,000 had been counted in the casino manager's office. At 5:30 a.m., that amount was deposited in the cage. Almost immediately thereafter, Castelbuono made two customer deposit withdrawals totalling \$10,050 in cash which was given in large bills with Wayson's approval.

By 6:06 a.m., the remaining portion of the amount Castelbuono brought with him was counted, and a deposit of \$287,450 was made at the cage. At that point, Castelbuono had lost \$295,000, his balance at the cage was \$877,400, he had been given \$10,050 in cash and he apparently had \$5,000 in chips.

Around 7:00 a.m., Golden Nugget was scheduled to make a regular cash deposit at a local commercial bank. Wayson had been contacted sometime after the end of Castelbuono's play that morning and authorized the deposit of \$300,000 of the segregated money received from Castelbuono to relieve space limitations in the cage. According to Wayson, depositing an amount of Castelbuono's segregated money approximately equal to the amount he had lost would still preserve the Golden Nugget's ability to return small bills to him. However, we have been told that according to Golden Nugget's records, almost \$400,000 was initially deposited from the segregated funds.

By approximately 11:30 a.m. on November 27, 1982, Carone reported to Wayson that Castelbuono was a Harvard-educated lawyer with a limousine business, and that he had no known ties to organized crime.

At 9:31 p.m. on November 27, 1982, Castelbuono returned to the baccarat table. He immediately withdrew \$850,000 and began playing at the same pace as before. According to the Golden Nugget's records, he lost \$14,000 in 45 minutes, making average bets of \$50,000.

Upon ceasing play, Castelbuono instructed Valenza to go to

the cage to make a chip deposit. When he arrived at the cage, Valenza was advised that he could not deposit the chips in Castelbuono's account, and he therefore opened an account and deposited \$800,000 under his own name. At this point, Castelbuono had lost \$309,000, there was a cage deposit balance of \$827,400 between Castelbuono and Valenza, \$41,000 in chips was unaccounted for, and \$10,050 in large bills was already in Castelbuono's possession.

After concluding his play on November 27, 1982, Castelbuono advised Wayson that he was through playing but that he would be staying at the Golden Nugget, possibly through November 29. This information caused Wayson concern, and prompted him to advise Castelbuono that the Golden Nugget would not in the future accept a small bill transaction from him. Castelbuono assured Wayson that such a transaction would not occur in the future.

At 11:00 a.m. on November 29, 1982, Castelbuono and his party left the Golden Nugget, after receiving the \$800,000 in Valenza's account in large bills. Wayson made the decision to give Castelbuono large bills primarily because: (1) Castelbuono had demonstrated he was a gambler; (2) there was no adverse information disclosed in the background check; (3) Castelbuono had promised that he would not return with small bills; and (4) Castelbuono left \$27,400 on deposit with the Golden Nugget.

Castelbuono returned to the Golden Nugget in December 1982 and in January 1983, with large bills which he used to gamble, suffering large losses. There were other contacts between Golden Nugget and Castelbuono subsequent to the initial Thanksgiving weekend involving marker collection procedures, a car purchase, a ski trip, and trips to Atlantic City and Las Vegas, to name a few. However, we must focus on the events of November 26, 27, 28 and 29, 1982.

During those four days Castelbuono arrived at the Golden Nugget with \$1,187,450, primarily in denominations of \$5, \$10 and \$20, lost over \$300,000 and left with \$800,000 in large bills. Subsequent indictments and convictions in federal court have established that the money originated from the importation into this country and sale of heroin, and that, as part of a criminal conspiracy, Castelbuono was assigned to convert the small bills to large bills at Atlantic City casinos.

Based on the evidence presented, the Golden Nugget made reasonable attempts to investigate Castelbuono's background, and found evidence that he was a legitimate businessman. On November 27 Golden Nugget segregated his money in its cage, and later that evening Wayson told Castelbuono that he would not accept future transactions involving small bills. Clearly, these steps were to the good.

However, one might question whether Golden Nugget acted too quickly to accept Castelbuono's money, with no idea of its origin other than for his obviously false claim that it came from restaurants. One might also question whether Golden Nugget was too willing to return \$800,000 in large bills to Castelbuono and was too quick to deposit some of his money in the bank, particularly since Wayson's explanation for doing so necessarily assumes that Castelbuono either was not going to gamble any more or was going to continue to lose.

Golden Nugget has complained that this affair has exacted a great toll on its resources and on its reputation. If the company had displayed slightly less concern for the bottom line, and a bit more concern for the policies on which the Casino Control Act is founded, it might have saved itself, and the Commission and the Division, much time and turmoil.

Considering this affair as a whole, Golden Nugget could have proceeded with greater prudence and circumspection. However, the matter does not seriously impugn the good character, honesty and integrity of the licensee, or of Wayson or any other qualifiers. Although not controlling at the time, the later adopted federal rule, requiring currency transaction reports to be filed for cash transactions over \$10,000, should reduce the likelihood that anyone will in the future come to a casino with large amounts of cash for money laundering. More importantly, Golden Nugget has represented that, in the future, any patron who comes to the casino with a large sum of money in small bills will have those same bills returned to him, regardless of the amount or result of his play. It should also be noted that a factor in Golden Nugget's favor is its contemporaneous reporting of this incident to the Division and the Commission. It is expected that, if a patron should appear in the future with funds which, under all of the circumstances, appear to be of illegitimate origin,

the agencies will be notified simultaneously with the processing of the transaction.

IV. Marketing and Hiring Practices

Introduction

The most substantial issues in this case are those relating to Golden Nugget's hiring and marketing practices.

There has been much discussion about whether the Golden Nugget is marketed to high rollers. Its industry leadership in win-per-square-foot is a clear indication of such a marketing strategy. However, the testimony demonstrates that Golden Nugget also seeks patrons who gamble at a more moderate rate. More to the point, Golden Nugget has convincingly demonstrated that it does not make a conscious effort to attract that class of high roller comprised of members of the criminal underworld. If such were not the case, Golden Nugget's fitness for licensure would be far different than it currently is.

There has also been much discussion at this hearing concerning Golden Nugget's efforts to carry out the specific mandate of section 71(d), *N.J.S.A. 5:12-71(d)*, that it exclude from its facility persons not on the exclusion list but nonetheless known to it to come within the criteria for placement on that list. It has not been demonstrated that Golden Nugget is a significantly greater offender than the other casinos in this regard, or that this is a matter reflecting negatively on its suitability for relicensure. Accordingly, further comment regarding section 71(d) is unnecessary in the context of this hearing.

Yet another area that has attracted much attention at this hearing involves Golden Nugget's policies regarding the granting of credit and complimentaries. Again, this is not a matter which calls Golden Nugget's fitness for licensure into question, nor is it a problem unique to Golden Nugget. This issue, like the one previously discussed, is best left for more deliberate reflection on another day. But until that day, Golden Nugget and the entire casino industry should strive to initiate voluntary cooperative efforts to reduce or eliminate obvious problems.

Mel Edward Harris

Turning now to issues which require immediate resolution,

at this hearing we have heard the names of many allegedly unsavory individuals with whom the Golden Nugget has dealt. It seems clear that the most serious questions are raised by the company's association with Mel Edward Harris.

Mel Harris has been known to Stephen Wynn since the 1960's, and was a high school friend of Elaine Wynn. Wynn testified that he had seen Harris sporadically during the 1970's and early 1980's. In 1984 the two men met at the Golden Nugget, and Harris' accomplishments in the business world became a topic of conversation. Wynn was impressed with Harris' achievements, and with what he perceived to be his leadership ability. Despite Harris' complete lack of experience in the gaming industry, Wynn broached the subject of his possible employment with the Golden Nugget.

Thereafter, the two men engaged in increasingly serious negotiations. On August 16, 1984, GNOC filed Harris' Personal History Disclosure Form with this Commission. Thereafter, GNOC filed a petition seeking permission for Harris to perform the duties of a director of GNI and GNOC and Vice President of Marketing of GNI, prior to his qualification under the Casino Control Act. The Division consented to the petition, and the Commission granted approval for Harris to exercise the duties of those positions from September 21 to December 20, 1984. On September 21, 1984, Harris was elected a director of GNI and GNOC. He had already been named to the board of GNLV in August 1984.

On November 5, 1984, the employment agreement between Harris and Golden Nugget was formally executed. The contract was for five years, at an annual salary of \$400,000. More significant, at least to Harris, were a stock purchase agreement for 250,000 shares of GNI convertible preferred stock, with the purchase of the stock to be funded by an annual bonus, and a stock option agreement for 500,000 shares of GNI common stock at a price equal to 75% of the stock exchange price on November 5, 1984.

In addition to these positions, Wynn foresaw the possibility of Harris becoming the chief operating officer of GNI, and advised Harris of that possibility.

From the outset of their discussions, Wynn was aware that

Harris was the son of Allie Harris, a notorious Miami bookmaker and reputed associate of various organized crime figures, and that Harris had been the son-in-law of Lou Chesler, who had developed a casino hotel in the Bahamas, reputedly on behalf of Meyer Lansky. Wynn was also aware that Harris had met, through his father, a variety of disreputable individuals.

James Power, GNI's director of Corporate Security, Sabino Carone, then Director of Surveillance for GNOC, and Alfred Luciani, Vice President of GNAC, quickly became aware of Harris' background, and an internal investigation was commenced. According to Luciani's testimony:

The ultimate issue that was presented for consideration was whether or not the son and son-in-law, respectively, Mr. Mel Harris, if he had no associations of his own, direct associations of his own, was licensable in the State of New Jersey. [T1681-19 to 23].¹

It is clear from the testimony of Luciani, Wynn and others that Golden Nugget concluded from its investigation that Harris had no direct associations with organized crime figures, but that he could not be licensed in New Jersey unless this was established at a hearing.

The record indicates that Wynn, Powers and Luciani all had extensive discussions with Mel Harris about his background and his relationships with underworld figures, but that no one inquired specifically into whether these relationships had continued after the death of Harris' father in late 1983.

At its deposition of Harris in December 1984, the Division did engage in this rather obvious line of inquiry. Harris stated that, after his father's death, John Tronolone told him that Anthony Salerno wished to see him. We have evidence before us that Tronolone is an associate of organized crime, and the United States Government has identified Salerno as the boss of organized crime in New York.

Harris told the Division that in March 1984 he travelled from Miami and visited Salerno at a club on the upper east side of New York City. In his Division interview, Harris testified that he visited

¹ "T" refers to the several volumes of transcripts from the license renewal hearing.

Salerno alone, and that they merely engaged in small talk concerning Harris' later father.

At a debriefing after the Division deposition, Luciani learned that Harris had revealed the Salerno meeting. Luciani reported this information to Stephen Wynn, and they were both of the view that the Golden Nugget could no longer sponsor Harris' application to this Commission for qualification. The application was withdrawn and, on December 17, 1984, Harris resigned from all positions with GNI and both of its operating subsidiaries.

The record at this hearing establishes that the information Harris gave to the Division at his deposition was inaccurate and incomplete, at least insofar as his relationship with Salerno is concerned. We have viewed videotapes, obtained through FBI surveillance, showing Harris entering a club frequented by Salerno on March 6, 1984, in the company of Sam Spiegel, and on March 20, 1984, in the company of Milton Parness. The tapes demonstrate that the former meeting lasted about 24 minutes and that the latter consumed about 49 minutes. There is evidence before us that Spiegel is alleged to be an associate of organized crime, and that Parness has a series of convictions for racketeering and interstate transportation of stolen securities, has spent time in jail with Salerno, and had been identified by Carone as a member of organized crime.

At this hearing, Harris testified that the first meeting was the one to which he referred during the Division deposition. He continued to contend that the only purpose for that meeting was an exchange of pleasantries concerning his late father. He claimed to have no recollection of the subjects discussed at the second meeting. He also contended that at the time of the Division deposition he had forgotten the second meeting.

The Division presented testimony of Joseph Coffey, a principal investigator for the New York State Organized Crime Task Force. Coffey's credentials as an expert on organized crime are beyond question, as is his credibility as a witness. He said that the "social clubs" of the kind Harris was seen visiting in the videotapes are "citadels" where organized crime leaders are secure to conduct their business meetings. T2171-2 to 14. He testified that Harris' acquaintance with Salerno through his father would not be sufficient to enable Harris to gain entrance to such a club, and that only a business associate could gain entrance. In his view, it is unlikely that Harris would go to such a club to exchange pleasantries, because

the clubs were places where underworld figures conduct their businesses.

The qualifications of Mel Harris for licensure are not at issue in this case. It is nonetheless appropriate to comment that his testimony at the deposition and during the hearing clearly lacks credibility. It is not necessary to detail all of the reasons for this conclusion, but some of those reasons must be obvious from the foregoing discussion. It should also be unnecessary to describe the seriousness with which this Commission views this matter. However, at the risk of belaboring the obvious, the prospect of a person having uncontested access to Anthony Salerno sitting as an officer and director of a casino enterprise is, to say the least, frightening. Such a situation carries with it the potential to undo all of the past efforts of the Commission, the Division and the industry to foster and protect public trust and confidence in the casino industry.

However, the question before us is not what we should conclude about the qualifications of Mel Harris, but rather what should we conclude about the handling of this matter by the Golden Nugget.

In this respect, it is difficult to understand why no representative of Golden Nugget questioned Harris more closely concerning continuing associations with underworld figures, in view of the fact that the company knew that a hearing involving this very matter would be necessary before he could be licensed, and in view of the further fact that the company clearly considered the existence of any dealings with Salerno to preclude its continuing sponsorship of Harris.

It is equally perplexing that Powers and Luciani, both of whom knew that Harris was acquainted with Salerno, apparently never imparted this knowledge to the GNI board or its Chairman, Stephen Wynn. This information was likewise not included in Powers' written report, and, at any rate, as a matter of corporate practice security reports are not given to board members. In this case, the corporate practice resulted in the board having to discharge its responsibilities based on a rather summary oral report from management, a report which did not include even the specific information which the security department was aware of.

It is simply unacceptable for a company functioning in this most highly regulated of all industries to place a person of Harris' known

background in its highest operational and policy-making echelons on the basis of hit-or-miss investigations, and haphazard and conclusory oral reporting to the board and its chairman.

In making these comments, it is not our intention to assign to casino licensees and their holding companies the investigatory job of the Division or the licensing function of the Commission. Obviously, licensees must submit their officials to the licensing process and rely upon the conclusions reached by the regulatory authorities who in turn here reached their conclusions based on the investigatory work of perhaps half a dozen people who were so good that Mr. Wynn would have us believe that he thought there were 800 of them. Nonetheless, licensees are and must remain the first line of defense against underworld incursion into the casino industry, and against erosion of public trust and confidence in that industry.

This Commission has, in judging applications for initial licensure, always carefully examined the applicant's associations. The Commission must apply the same standard to applications for relicensure. It is not too much to expect that licensees, in admitting persons to their corporate hierarchy and representing such persons for qualification, will act with caution and will guard against untoward relationship.

Indeed, any corporation interested in preserving its good character and good reputation would be circumspect in choosing a candidate to be a director and a potential chief operating officer. Any such corporation would heighten its circumspection in dealing with a candidate known to have acquaintances, familial or otherwise, in the world of organized crime. For an experienced casino operator to fail to exercise utmost care in this regard cannot be countenanced.

Irving "Ash" Resnick

Before attempting to reach any conclusion as to what remedial action may be appropriate as a result of the Harris affair, we must consider Golden Nugget's actions with respect to several other individuals, most notably Irving "Ash" Resnick.

In an opinion dated December 12, 1984, this Commission found Ash Resnick to be an "unsavory individual", J-2-119,

p.15,² and found Edward Doumani to be lacking in good character due, among other things, to his association with Resnick. However, that opinion was issued after the Golden Nugget had ended its relationship with Resnick. In order to judge Golden Nugget's conduct with respect to Resnick, we must examine what Golden Nugget knew, or should have known, at the time of the relationship.

The relationship began in January 1983, when Stephen Wynn recruited and hired Ash Resnick to develop the Hawaiian market for GNLV. On January 21, Wynn requested James Powers to conduct a background investigation of Resnick. Resnick was hired on January 27, at a salary of \$200,000 a year. He was also given 10,000 stock appreciation rights, which resulted in his receiving \$237,500 in May 1983.

January 27, 1983, the day Wynn hired Resnick, is also the date of a memo from Powers to his file concerning his investigation. The memo, which Powers apparently discussed with Wynn but did not provide to him or anyone else in the company, noted that Resnick had been arrested and convicted of bookmaking on two occasions in 1946. The report also noted an instance in which Resnick received securities as collateral for markers and, instead of holding the securities, cashed them in. It noted another instance in which Resnick had discounted a marker, taken the payment in cash and converted it to his own use, and then written off the marker as uncollectible. Powers described each instance as constituting a "prosecutable case," but noted that in each instance the witnesses did not "hold up." J-1-118, p.3.

In the January 27 memo, Powers concluded:

The general theme regarding Resnick is that everyone knew he was stealing money both from marker collection and the baccarat pit but no one could ever prove it. [J-1-118, p.4]

Finally, Powers noted that Resorts in Atlantic City had considered hiring Resnick, but declined to do so because of questions concerning his licensability, a "very adverse investigative report," and "a very real concern as to the basic honesty and integrity of Resnick based on numerous allegations, although not proven, against Resnick down through the years." J-1-118, p.4. We have also been sup-

² "J" refers to the joint exhibits marked in evidence; "C" refers to Commission exhibits; "D" refers to Division exhibits; and "A" refers to applicant exhibits.

plied with a handwritten memorandum from Golden Nugget's file on Resnick, which states:

Has a reputation as a low-class type of guy. Associate of Meyer Lansky and was bag man for Fat Tony Salerno. Was a target on two occasions for bad gambling debts, once they tried to dynamite his automobile, the other, they tried to shoot him. [A-5-26].

Wynn testified that had he been aware of this information about Resnick's alleged ties to organized crime, he would have questioned Resnick. However, he was not made aware of the information.

Powers filed a written report of his investigation on February 17, 1983, after Resnick was hired. The report described Resnick as "a prominent and sometimes controversial Nevada gaming figure," who had unquestioned talents, but had to be "strictly controlled." A-5-26. The report further describes Resnick as "arrogant, unscrupulous, and devious [*sic*] in a team-concept casino operation." *Id.* The report also states that Resnick does not enjoy a good reputation in the law enforcement community.

The report reveals that Resnick refused to testify in a civil action brought by the SEC against the Desert Palace, and that he was indicted in 1974 for income tax evasion, found guilty, and acquitted on appeal. The report also states that in 1978 Resnick's application for a gaming license in Nevada was denied by the Gaming Control Board because of an alleged hidden interest in the Tropicana through fraudulent accounts, a careless attitude toward personal record keeping, and a general reputation for association with organized crime, but that the Board's decision was overridden and he was licensed by the Nevada Gaming Commission. Powers concluded in the memorandum that if Resnick were hired, his responsibilities and authority should be strictly spelled out and "stringent internal controls," *id.*, should be established to assure his separation from other casino functions, including credit.

On February 18, Wynn responded with a memorandum to Powers, stating that Resnick would not be given authority to grant credit or settle collections during his employment with Golden Nugget. Wynn further noted that none of the allegations against Resnick had been proven but, nonetheless opined that the Golden Nugget "should be very circumspect" with regard to Resnick. *Id.*

Powers' files describe a number of incidents which occurred while Resnick was in the employ of GNLV, and which cast doubt on

his integrity. In one instance Resnick cashed a \$10,000 check at GNLV and the check was dishonored. He claimed to have reimbursed GNLV's cage for the \$10,000, but he could not produce a receipt evidencing reimbursement. In another incident he cashed a \$4,000 check at the cage, and it was also dishonored. GNLV contacted the maker of the check, who advised that he had given the check to Resnick some time ago in payment of a marker owed to the Aladdin.

Resnick was fired on November 13, 1983, because the Hawaiian market which he was assigned to develop was not proving profitable, and because, in Wynn's words, officials of GNLV complained: "We are breaking our neck arguing with this guy and keeping track of him all the time." T2120-9 to 11.

In assessing the Resnick situation, we cannot overlook the fact that he was licensed in the jurisdiction in which he was hired, but neither can we deem that fact dispositive of all issues.

Where this Commission has found individuals at the highest levels of a holding company to be unqualified, it has required, as a condition of licensure in New Jersey, their removal from any involvement in the corporate structure, in New Jersey, Nevada and elsewhere. We have done so in order to insure the integrity of gaming operations in this State. We, of course, have never taken the position that a corporation operating in both jurisdictions can only hire people in Nevada who are licensed or licensable in New Jersey. Nonetheless, it is not too much to expect that companies which engage in gaming activities in this State will be sensitive to our licensing standards and to our desire to foster not only the reality, but the public perception, that our licensees and their holding and affiliated companies maintain the highest standards in all of their activities.

In his summation, Director Parrillo described the hiring of Resnick as "a most arrogant choice of business concerns over regulatory interests." T2404-11 to 13. We agree with the Director's characterization and with his analysis that the Resnick affair evidences a lack of proper corporate governance. Like the Director, we are distressed by the absence of a system which requires complete investigation before a person in Resnick's position is hired, as well as the filing of a complete written report of such an investigation with appropriate corporate officials.

Although Harris and Resnick are the primary examples of

Golden Nugget's willingness to allow concern for the bottom line to override regulatory considerations, they are not the only examples.

Julius Weintraub

We have heard testimony at this hearing about Julius Weintraub, to whom we recently denied a junket representative license, and who has associated with alleged members of organized crime. One such individual, Mattie Ianniello, was described by Carone as a reputedly high-ranking member of the Genovese crime family. This information may not have been known by Golden Nugget officials when they dealt with Weintraub. However, the company conducted no background investigation of Weintraub before contracting with him for personal services and for the purchase, for \$900,000, of a list of his junket customers. The Golden Nugget dispensed with a background check on Weintraub primarily because Wynn knew him for approximately 19 years. However, Wynn was not aware that the Nevada gaming authorities had on two occasions denied Weintraub permission to purchase an interest in the Dunes because of his associations.

Inexplicably, Golden Nugget failed to include in its agreements with Weintraub a condition precedent requiring his licensure. Eventually, Golden Nugget aborted its relationship with Weintraub because of what it describes as its sensitivity to regulatory concerns. However, Golden Nugget paid \$585,000 to Weintraub in order to settle a lawsuit he brought against it for failing to pay for his list. Had the agreements been conditioned on his licensure, it is doubtful that Golden Nugget would have had to make any payment.

It must also be noted that Golden Nugget recently provided \$2,000 in complimentaries to Weintraub. This occurred after our pronouncement regarding Weintraub's unsuitability for licensure.

Paul Perles, Alexander Katz and John Coury

There are at least three other instances of Golden Nugget's hiring practices which are of concern. In Miami, Golden Nugget hired Paul Perles and Alexander Katz, and in Columbus, Ohio it employed John Coury. While each of these men obtained a tem-

porary junket representative license, such licensure precedes a full investigation by the Division and a finding of suitability by the Commission.

One cannot ignore Wynn's decision to hire Perles despite internal reports citing his bookmaking background and alleged associations with reputed underworld figures. Nor is it possible to dismiss lightly Katz' bookmaking activities.

Similarly, one must question Golden Nugget's decision to employ Coury, based in part on Perles' recommendation. Further, pre-employment Golden Nugget internal reports indicated that Coury was arrested for wagering stamp violations and was classified by the Nevada Gaming Control Board as uncooperative and undesirable. Golden Nugget eventually terminated Coury, based on his failure to advise the company that federal search warrants seeking illegal gambling records were executed against its Columbus office within two months of his employment.

V. Conclusion

The Commission is satisfied that GNOC, CORP., Atlandia Design and Furnishings, Inc. and their affiliated entities have met all applicable statutory requirements. Accordingly, a one-year casino license and a gaming-related casino service industry license shall issue to GNOC, CORP. and Atlandia Design and Furnishings, Inc., respectively. However, in light of all the evidence before us, the Division has requested that we append ten conditions to Golden Nugget's relicensure. Although we will renew the license, it is clear that an unconditional grant of relicensure is most inappropriate under the circumstances. Accordingly, we will now review the specific proposals and counter-proposals which have been advanced.

The Division first requests that GNI establishe a compliance committee consisting of three new, independent and outside board members. The GNI, GNOC and GNLV boards now consist of the same nine persons, five of whom are considered management directors, and four of whom are deemed by the companies to be outside, independent directors. The latter group comprises the GNI audit committee. The applicant has represented that an additional outside director will be named to

the three boards, in order to create an equality of management and outside directors.

This Commission has never had occasion to determine whether any of Golden Nugget's directors are outside and independent as we have defined those terms in connection with conditions originally imposed upon Bally Manufacturing Corporation. What is essential here is that there be a committee composed of at least three outside and independent directors, as we have defined those terms. There is no need for this committee to be separate from the audit committee. Once the new director has been appointed and the continuing makeup of the GNI audit committee has been determined, the applicant should file a petition for a ruling that the members of the committee are outside and independent directors as those terms are defined in the Bally case. The petition should be filed within the next 90 days.

Once this first condition has been implemented, we will have the comfort of having a truly independent audit committee in place. However, as suggested by the Division, we should go further and specify what the functions of that committee should be.

The Division requests that the new committee insure compliance with gaming regulations; that it oversee employment and marketing practices, as well as policies regarding credit and complimentaries, of GNI and its gaming subsidiaries; and also that it assure that GNI and its gaming subsidiaries are not dealing with persons lacking integrity and that internal controls are functioning properly and in compliance with all license conditions. In its response to the suggested conditions, the applicant essentially states that the GNI audit committee already performs some of these duties, and will expand its functions to encompass the remainder. As a condition of GNOC, CORP.'s relicensure, the GNI audit committee will be required to perform these functions and to report directly to the entire GNI board.

The Division next suggests that each GNI gaming subsidiary create a new vice presidential position responsible for surveillance department oversight. It is not our function to dictate the staffing of GNLV. GNOC notes that it presently has a director of surveillance who reports to its board of directors. GNOC argues, and we agree, that imposing an extra layer of corporate bureaucracy would not serve any regulatory purpose.

The Division next suggests that the boards of GNI and its gaming subsidiaries require background investigations of all proposed officers or directors, that the results of the investigations be in writing and filed with the compliance committee of GNI and with the appropriate board, and that no new officer or director assume his duties before the report is filed. The applicant objects to the condition, but essentially agrees to implement all of its provisions. The condition will be imposed with the understanding that reports can be filed with the GNI audit committee rather than a separate compliance committee.

The Division next proposes a similar condition with respect to employees to be hired at a salary over \$100,000 per year. The applicant states that all prospective employees are and will continue to be investigated, with the scope of the investigation being proportional to the sensitivity of the proposed position. The applicant agrees that investigative reports will be reduced to writing, and further agrees to adopt a policy of providing a written report to the appropriate board if management seeks to hire an employee over an objection of the surveillance department. However, the applicant objects to routinely filing investigative reports with any board committee, and argues that this would shift a management hiring function to the outside directors.

As with most of the other conditions, there is not a great deal of difference between the Division's proposal and the applicant's statement of its present and intended policies. Once again we will impose the condition, so as to require written investigative reports on prospective employees to be paid \$100,000 per year or more, and to require that the written reports be filed with the audit committee and the appropriate company president when the investigation uncovers derogatory information.

The Division next requests that GNI's gaming subsidiaries each be required to maintain an adequately and competently staffed surveillance department responsible for conducting complete background investigations of proposed officers, directors, or employees with salaries of \$100,000 or more. It is not within our province to specify staffing levels for a Nevada gaming corporation. However, we have no problem requiring that GNOC maintain an adequately and competently staffed surveillance department. Nevertheless, we note that GNOC contends that its

present surveillance department is adequately and competently staffed, and that the Division does not assert the contrary.

The Division next requests that GNI create a new vice presidential position for corporate security, with responsibility for conducting background investigations of proposed officers, directors or employees with salaries of \$100,000 or more. The applicant responds by noting that GNI has a vice president of security, and that a policy is in place for conducting investigations of proposed officers, directors and employees of GNI. Thus, we see no reason to impose this condition.

The Division next suggests that GNI and each gaming subsidiary promulgate and implement, through the GNI compliance committee, written policies and procedures regarding the issuance of credit and complimentary services which are designed to advance the public policies of the Casino Control Act. The applicant objects, noting that the promulgation and implementation of such policies is a managerial function. The applicant also states that such policies already exist, and that they will be subject to review and oversight by the audit committee. The applicant further contends that the establishment and implementation of additional policies with respect to persons of unsavory reputations requires guidance from the regulatory authorities. We agree with the applicant's position, and, as has been noted already, this is an issue which is best left to an industry-wide solution. Accordingly, there is no reason to impose this condition.

The Division next urges that reports of the compliance committee of GNI should be in writing and filed with the board, and that reports of the vice president of corporate security of GNI and vice presidents of surveillance of the casino subsidiaries shall be in writing and filed with the compliance committee.

The applicant contends that the audit committee presently files written reports with the GNI board. The applicant further contends that the GNOC director of surveillance presently files written reports with the board, through its designee, and agrees to establish a policy requiring the GNI vice president of corporate security to file written reports with its board.

We have already ruled that we will not require the creation of new vice presidential positions or of a compliance committee separate from the GNI audit committee. However, the GNOC

director of surveillance and the GNI vice president of corporate security will be required to file written reports with the audit committee, and the audit committee will be required to file written reports with the GNI board.

The Division next suggests that GNI and its subsidiaries be prohibited from engaging in direct or indirect business transactions with Mel Harris, Irving Resnick or Julius Weintraub. While the applicant objects to this condition, we will impose the condition, subject to further order of the Commission.

Finally, the Division requests that it and the Commission be promptly informed in writing of any formal appearances by officials of GNI or its gaming subsidiaries before governmental or investigative bodies where the subject of the inquiry may affect the respective company's reputation as to regulatory compliance. The applicant does not object to the principle, but feels the condition should be industry-wide. While such a condition should perhaps be imposed on other licensees, it is clear from the evidence that it is justified in this case, and it will be imposed here.

Walter N. Read
Chair

Valerie H. Armstrong
Vice-Chair

Carl Zeitz
Commissioner

E. Kenneth Burdge
Commissioner

VI. *Separate Opinion of Vice-Chair Valerie H. Armstrong*

While I join in the opinion of the majority, I write separately for several reasons.

As has been noted, there were two issues which emerged during this hearing which are inapplicable to Golden Nugget but which are also relevant to the rest of the industry.

Specifically, I am referring to the mandate of section 71(d) of the Casino Control Act, *N.J.S.A. 5:12-71(d)*, which requires a licensee to keep from its premises persons not on the exclusion list, but known to the licensee to fall within the criteria for placement on the list. The second issue is whether the granting or denial of credit and complimentaries should, in some way, relate to a patron's character, reputation or associations.

I agree that those issues cannot be resolved as part of this hearing, but their significance warrants further comment. A resolution of those issues should apply uniformly to the industry. The Casino Control Act is silent as to the issuance of credit and complimentaries as that issue arose in the context of this hearing. While it may be easy for some people to conclude that patrons with unsavory backgrounds should not receive credit and comps, the institution of such policy should be pursuant to appropriate legislation and regulations. Because this involves an integrity issue directly related to marketing, industry-wide uniformity and consistency is essential, so that all casinos have the same competitive advantage.

Section 71(d) presents another dilemma. While the legislation requires a casino to exclude certain individuals from its premises, no guidance is provided either in the Casino Control Act or by regulation as to the procedures a licensee is to utilize in excluding a person from its premises.

Since a hearing is required before the Commission may place a person's name on the exclusion list, presumably some kind of hearing should be required before a licensee must exclude a person pursuant to the guidelines set forth in Section 71. However, no such hearing process is provided. Furthermore, our regulations provide a mechanism by which a person named to the exclusion list may subsequently apply to have his name removed from the list. No such procedures exist for a person

whom a licensee is required to exclude pursuant to Section 71(d).

The section 71(d) issue is further complicated by the common law and case law dealing with access to public places. Our licensees need guidance on this section 71(d) issue in order to minimize their vulnerability to expensive and time-consuming lawsuits, frivolous or otherwise.

Before we address the licensee's responsibilities pursuant to section 71(d), I feel that we need to first reevaluate the procedural and substantive issues involving the exclusion list. We must reexamine our regulations in order to clarify the standards for exclusion. Current regulations repeat the statutory exclusion list language without providing clear guidance as to what specific behavior or criminal offenses warrant placement of a person's name on the list.

It is important to define what we are trying to protect by maintaining an exclusion list. Exclusion proceedings are not licensing proceedings. Obviously, a patron does not have to prove he possesses good character before entering a casino. We must evaluate which patrons truly threaten the integrity of the industry or safety of other patrons. Exclusion by any state agency of persons from premises open to the public is serious business. Nevertheless, ensuring that organized crime does not infiltrate the casino industry is a top priority. Once the exclusion list standards are more clearly defined, we can then address the section 71(d) problem.

With regard to all of the issues I have mentioned, we need to first determine the proper forum in which to address them. We need substantially more information than could be presented at this hearing before any recommendations can be made regarding changes in legislation or regulations. These are issues which are extremely complex and which may impact on law enforcement concerns, public perception and the economic viability of the industry. It may well be that solutions to some of these major issues and some of the collateral issues which will inevitably arise

are not practically feasible. However, we need to put them to rest, industry-wide, one way or the other.

Valerie H. Armstrong
Vice-Chair

VII. Separate Opinion of Commissioner Carl Zeitz

We are at the end of a long but by no means the longest hearing conducted by this commission concerning the initial plenary or annual renewal license of an Atlantic City casino hotel. For the Golden Nugget this was the fifth annual renewal hearing following its initial license proceeding in 1981, the facility having opened for business in December 1980 under the now defunct temporary permit system.

Interestingly, the Casino Control Commission this year proposed to the legislature that the New Jersey Casino Control Act be amended to phase in a permissive biennial casino licensing system subject to the discretion of the commission, based on information provided by the Division of Gaming Enforcement, to call any licensee forward for a hearing during the pendency of a two-year license. The Atlantic City Casino Association avidly endorsed that proposal with a significant difference. The Association's version would make a two-year license mandatory and would place on the state a burden of justifying the call for a hearing to review a license during the interim two years.

This hearing demonstrates why that concept fails. Having discovered significant information, the DGE brought it to the Commission where it has been aired in public. Had that information been collected during the pendency of a two-year license under the association's scheme, the state would have had the burden of showing why it should be subject to hearing prior to the expiration of such a license. That simply would not have done in this instance. The law says it is the burden of the licensee to show clearly and convincingly why it should remain licensed in the face of negative information. The Golden Nugget shouldered that burden in this hearing but it would not do for information as weighty as this to sit unattended for up to two years. I speak for the Commission when I say the Commission

favors two-year casino licenses but under terms set forth by the Commission to assure the state is protected.

Let us turn now to the hearing, its contents, evidence and meaning. First, I join the majority opinion and support the factual findings and legal conclusions on which it is based and agree that GNOC should be relicensed subject to the proposed conditions.

Still I would like to offer some observations about certain issues that were central to this proceeding and about other issues which consumed a great amount of time and raise difficult questions. These other issues, though closely revealing of the industry, remain peripheral to the key question, indeed the only question before the Commission now, whether to renew the license of GNOC. As noted, my response to that is yes.

In my view there were four of those central issues as the hearing began, Castelbuono, Harris, Resnick and to a lesser extent Stardust-Fremont.

Castelbuono

I agree with the findings of fact outlined in the majority opinion. In addition I should say that by my calculation, either treating Castelbuono's visits to the Golden Nugget in November and December 1982 as a series of three separate events or as one cumulative event, he lost about \$900,000. However, his first visit was and is the critical moment. On that occasion he brought \$1,187,450 in small denominations, deposited it, withdrew and gambled with a substantial amount of it, lost \$309,000 of it and departed the casino hotel with \$800,000 in currency in large denominations, leaving \$27,400 behind on deposit.

Which says what? Which says that a gambling casino received a cash customer; scrutinized his play; checked his background in a limited way and seemed to find it legitimate; kept his money separate from the money of its other customers and itself; and, observing that most basic indication of a gambler—the loss of a substantial amount of money—returned to Castelbuono the money he did not lose in the larger denomination bills he requested.

The casino acted within the law, acted prudently from a business standpoint, and should not now be examined in the pene-

trating light of hindsight or by selective general moral judgments that do not attach to specific legal violations because there were none. Casinos are not churches or towers of theological construction. They are businesses. In New Jersey they are legal businesses and they must act within the law. There was then and is now no crime called money laundering. There is now but was not then a federal casino cash transaction report regulation. Castebuono is charged with breaking the law. GNOC did not. Castebuono's alleged intention was to violate the law in a conspiracy to hide and send out of the country the proceeds of illegal narcotics trade. The Golden Nugget's intention was to win his money and it did.

Mel Harris

Mel Edward Harris brings to mind a Churchillian expression uttered in the context of far more momentous events. I do not mean to demean that remark, but Harris is "a riddle wrapped in a mystery inside an enigma." In this hearing that is the best Harris is.

Why, knowing all there is to know about his background but less than he told anyone at any given time, probably including this Commission on the occasion of his testimony here, did Mel Harris accept Stephen Wynn's invitation to join his company? Surely Harris, who is clearly a man of experience and had been warned he would be closely examined, knew at some keen level that the regulatory oversight of legal casinos is a boiling cauldron. Yet he chose to do more than test the heat; he chose to immerse himself in it.

And why, having made that decision, did Harris reveal to his new employer some, but not all, of his background and then turn about and reveal the most troubling and immediately present aspect of it to the Division of Gaming Enforcement? And why, having told the DGE that he had visited Anthony Salerno, did he carelessly misplace the time of that visit. It occurred, he said, very soon after his father's death in late September or early October 1983. It occurred in fact in March 1984. It occurred in fact five months after the death of his father. It occurred in fact a mere four months before his encounter with Mr. Wynn produced an offer of employment. Fortunately, but still defying explana-

tion, Harris revealed this visit to Salerno to the Division just at the end of the same year in which it occurred.

Even then he neglected to mention that there were not one, but two visits. And he neglected to mention that on each occasion he went in the company of another individual, in one instance that of Milton Parness and on another with one Sammy Spiegel.

Why, knowing all that, even if he thought we did not, or could not, or would not, and by then either knowing that the United States had committed his visits to Salerno to a permanent video record or imagining there never would be such a filmed record, did Harris come to New Jersey at long last to confront this information?

I have no certain answers to these questions. I do know it is not sound practice to associate with Anthony Salerno, not because of the truth or not of what is said about him but because it may be true, and at this moment in a federal court in New York the United States is attempting to prove it is true beyond a reasonable doubt. I do know that Mr. Harris' explanation of one visit was nearly and seductively convincing. But the concrete evidence of two visits in the company of two individuals who suffer the same reputational infirmity as Salerno is alarming and portends worse. We know Harris now by some of the company he keeps some of the time, but because of the New Jersey Division of Gaming Enforcement he no longer keeps the company of the Golden Nugget.

If Harris did not lie in the sense that he spoke falsely, still he dissembled. His memory was at all times, even in this hearing room, selective and reluctant.

We are not here to judge the suitability of Harris to be licensed or qualified in New Jersey for participation in the casino industry. Suffice it to say that Harris' selective memory and deliberate omissions impeach him, impeach his sworn investigative interview by the DGE on December 12, 1984, and in hindsight, but only in hindsight, impeach the decision by Stephen Wynn to offer Harris employment and a directorship with the Golden Nugget family of companies. Mr. Wynn and the Golden Nugget may be thankful that the regulatory system did its job, found out these disturbing facts and caused the removal of Harris from

Golden Nugget. Mr. Wynn has complained inexactly and with hyperbole about the cost of this investigation and hearing. Here, as to Harris, he got value for his company's money.

Irving Resnick

Irving "Ash" Resnick was hired by and for the Golden Nugget Las Vegas. He was never employed by or for GNOC. Then why should he be an issue in this hearing? Because a company doing casino business in both legal casino jurisdictions in the continental United States must bear in mind at all times the different standards as they may apply at any given time in both Nevada and New Jersey, and on every occasion must choose the higher standard. It must do that at least because it is the prudent thing to do from a hard-headed business standpoint. After all, no one can operate a casino in either state except under state license.

Neither we nor the licensees operating in both states need make value judgments about the differences in standards. That is not the point. The point is that the higher standard should be identified and should prevail. If it had, notwithstanding that Resnick was retained and dismissed before this Commission called him "unsavory," J-2-119, p. 15, he would not have been hired. Resnick had, according to the company's own security report, a bad reputation among certain law enforcement sources. Very much more and to the point, that report said Resnick had a reputation within the casino industry as a person who has stolen from casinos when they employed him. The fact that Golden Nugget says it instituted controls to guard against such theft from it by Resnick begs the issue. Casinos shouldn't hire a person when other people in their industry, with reason to know, say he is a thief.

Stardust-Fremont

The Stardust-Fremont deed of trust purchase was, as Golden Nugget maintains, a good business deal. It was entered into with a United States government approved overseer of the Central States Southeast and Southwest Areas Teamsters Pension Fund and at no time had any relation to the nefarious history of that

fund or the checkered background of the Stardust and Fremont casino hotels.

The only thing left to say is that Stephen Wynn testified in an investigative interview by the Division of Gaming Enforcement on August 2, 1985, and again here, that he discussed the transaction with the chairmen of the Nevada and New Jersey commissions, and hearing no objection construed those conversations as informal approvals to undertake the deal. In New Jersey, only a formal, public review and approval according to law constitutes Commission action, a point underscored by Chairman Read when he received the information about the Stardust-Fremont deal by telephone from Mr. Wynn in 1984 without reply or comment. None was requested here and none was required. Had there been anything untoward in the deal, and there was not, it would have been exposed at some time and dealt with by the Commission at some cost to the licensee. Recognizing it does not make the conduct of business easier, no one should leave here imagining that anything but formal, public Commission action constitutes a decision by this Commission in those instances where it is required.

We arrive now at what I have called the other peripheral issue or issues in this hearing. It is hard to know whether there are several of them or only one. In general they fall under the rubric of GNOC marketing, and concern (i) individuals hired to attract and cater to high stakes gamblers, (ii) certain of those gamblers or customers of the company in Atlantic City, (iii) the knowledge that company had about certain of those customers and (iv) what, if anything, it did about their patronage, or for that matter what it could do or should do.

As to the company employees engaged in this part of the company's business about whom the DGE raised questions, clearly Charles Meyerson is the most significant. He is also licensed and he is also facing a challenge from the Division of Gaming Enforcement to his relicensure based on the conduct of his performance as a casino marketing host. That matter is separate from this one and is pending trial in the administrative law court subject to final administrative review by this Commission. Among the other individuals whose retention by Golden Nugget has been called into question are Paul Perles, Alexander Katz, John Coury and Robert Grant.

While each is different—Grant, for instance, was an alias and under his true identity he had a criminal record in Great Britain unrelated to gambling—at least one thread seemed to stitch the others together. They had been, or associated with, bookmakers. However, so did Meyerson, from about 1946 to about 1961, and this Commission knew of his background when it granted him a license in May 1982 after the DGE reported that fact in March 1982 and concluded that his bookmaking activity and record were in the word appearing in its report to the Commission “insubstantial.” A-7-5, p.2. It seems reasonable that this determination of Meyerson’s past in illegal gambling could have become the yardstick for Golden Nugget in measuring whether these other individuals would offend the regulatory system because of similar problematic pasts. However, as noted in the majority opinion, that was not the extent of the problems in their individual backgrounds.

Meyerson was cross-examined at length in this hearing but also in three sworn investigative interviews in January 1984 where he did not have the benefit of counsel immediately present. In any case Meyerson was examined closely about (i) how he came to know more than 70 Golden Nugget customers; (ii) what he knew about them; (iii) when he met them; and (iv) why they had become significant customers of the Golden Nugget. As to many of these customers there was a clear inference in the interrogation that they were or are persons reputed to be members of or associates of organized crime.

When Mr. Meyerson was asked a series of questions about an individual named Venero “Benny Eggs” Mangano, the interrogation in part went as follows:

Q And he introduced you to Benny Eggs?

A Yes.

Q And you are pretty sure he introduced you to Johnny Barbato, too?

A I have to check that, I don’t know. I am sure I met Benny Eggs through John Novak.

Q What is Benny Eggs’ reputation?

A His reputation is only hearsay, that he is somebody important.

Q What does that mean?

A I don't know what he does.

Q What is his reputation? You said that he is somebody important. What does that mean?

A Somebody that the people respect.

Q What people?

A Everybody respects him.

Q What does it mean that he is important?

A I never pursued it to the point that he was important.

Q You have told me he is somebody important.

A That is right.

Q What does that mean?

A It means that he is a man you have to respect.

Q Why do you have to respect him?

A Because he's a big man.

Q In what?

A I don't know.

[J-3-3, pp. 79-80]

As the record in this hearing reflects, the DGE applied to the Commission to place Mangano in the casino exclusion list authorized by *N.J.S.A.* 5:12-71. The case received a preliminary hearing before this Commission. By a vote of three-to-two, based on the specific evidence before it, the Commission concluded the evidence insufficient under the legal standards applied to place Mangano's name on the list. But law enforcement agencies, including the DGE, assert that Mangano is an appropriate candidate for inclusion on the list, which is not to say that Mr. Meyerson knew then, though he knows now, that they make that assertion. Whether he did or didn't, or should or shouldn't have known is a central issue in his own pending case. But Mr. Meyerson, as indicated by the excerpt from his sworn testimony cited above, which was typical of his testimony in those interviews and before this Commission, was not a cooperative witness. He was evasive. He was not forthcoming.

Finally we come to what has been called the gray list, which I submit was a red herring in this case. In a nutshell it concerns action that can or should be taken by Atlantic City casino hotels in accepting the patronage of persons with known criminal backgrounds or reputations for criminal association, and encouraging that patronage by the extension to such persons of service com-

plimentaries and gambling credit when those individuals are not by legal enforcement barred from the casinos.

In so much as that is an issue it appears to be one not confined to the Golden Nugget but probably prevalent in most or all of the casino hotels.

The gray list was ill-advised, was an effort to deal cosmetically with a problem that has no present solution in New Jersey law. The only New Jersey law that deals with this kind of problem is *N.J.S.A. 5:12-71* which establishes the basis and mechanism for the DGE to apply to the Commission to place an individual on the casino exclusion list under certain defined terms. The law establishes the outline for such state action through administrative due process and instructs the Commission to flesh out that requirement in regulations, which the Commission has done. The law makes no mention of a limited form of exclusion such as the denial of service complimentaries or gambling credit to patrons, and from my best reading did not envision anything as sophisticated.

It does, in *N.J.S.A. 5:12-71(d)*, place an affirmative burden on casino hotels to exclude such persons when they have knowledge that the individuals fit the enumerated criteria upon which the state may exclude someone. But unlike the statutory text, in which the division and Commission are guided and instructed to adhere to due process, the law is silent as to what basis a private business may assert in seeking to enforce such exclusion by private action. And again it is absolutely silent as to any partial or limited exclusion from services and customs otherwise available to the general public.

It seems to me this question of what to do with people of whom it is said they are members of or associates of organized crime has no answer in the Casino Control Act, except as I have described the establishment and execution of the exclusion list.

The broadest allegations that police agencies may make, though they sweep tens, hundreds or even thousands of individuals into the description of organized crime, cannot be employed on an individual basis without due process where reputation is at stake; unless perhaps that reputation is such, as in the case of Meyer Lansky or Anthony Salerno, that it becomes so distinct and so widely known to the public that it becomes a truth in itself

so powerful and overwhelming that it tends to confirm the actual truth of the reputation asserted. Even then such an assertion at all times remains only that unless established in some forum which recognizes at least a residue of legal due process. We may notice it in the context of associational issues as to licenses but we cannot rely on it in individual cases unless there is due process. Otherwise the cure may become more dangerous than the disease. The worst, most notorious mobster must get the process due him in civil, criminal and administrative courts because if he does not, someday we may not. As Pastor Niemoeller said in part, "Then they came for me, and by that time no one was left to speak up."

This Commission is an administrative law agency. It must adhere to the law, apply it, and may interpret the one law under which it regulates casino gambling. But it cannot write the law and it cannot interpret what has not been written.

Presently, Section 71 is all there is and it means these matters must go forward on a case by case basis, under the due process requirements of the New Jersey Casino Control Act and the New Jersey Administrative Procedures Act, both of which reserve a right of appeal to the courts of New Jersey. That much about the gray list is clear in black and white.

Carl Zeitz
Commissioner

VIII. Separate Opinion of Commissioner E. Kenneth Burdge

Although I wholeheartedly endorse the majority opinion, there are two areas on which I would like to comment.

First, with respect to Mr. Mel Harris, I must candidly admit that I was impressed with Mr. Harris after reading his deposition and during his initial testimony. While I still am impressed with Mr. Harris, my final impression is dramatically different than my initial reaction.

In this regard, I note, for example, that Mr. Harris was at a restaurant in February 1984 when an altercation arose involving Mel Adler and Sam Spiegel, a friend of Mr. Harris who is alleged to be an associate of organized crime. There is evidence that James Powers, Director of Corporate Security for GNI, had heard

that Mr. Harris was also involved in the incident and indeed picked up a weapon that had been dropped during that altercation. But, more importantly, it is indisputable that, shortly after this incident, Mr. Harris, accompanied by Mr. Spiegel, went to a social club in New York which is frequented by Tony Salerno.

Although the timing of these two events may be nothing more than coincidental, I am content to allow others to draw such inferences as they may from this evidence. For my purposes, it is sufficient to note that I still have not heard a satisfactory explanation as to why Mr. Spiegel was with Mr. Harris at the social club on March 6 if all that was discussed at that time was Mel Harris' deceased father.

In addition to Mr. Harris, the other area that particularly concerns me involved Irving Resnick.

As we have been reminded at this hearing, Ash Resnick is a man not unknown to us. We found that Resnick was an unsavory individual in connection with our decision on the qualification of Edward Doumani. It is comforting to know that the evidence in this record confirms our prior determination.

Unfortunately, Golden Nugget did not have the benefit of our prior pronouncement when it hired Resnick. However, as clearly stated in the majority opinion, Golden Nugget surely had adequate guideposts which should have convinced it to steer clear of Resnick. What happened, however, was that Mr. Wynn, through his forceful and persuasive personality, hired Resnick without the GNI board receiving a full and complete disclosure of Resnick's background information.

To be sure, Mr. Wynn's dynamic personality is a major factor in the success the Golden Nugget has had in attracting competent staff. However, providing Resnick with stock appreciation rights troubles me. In my view, SARs were a substantial inducement the Golden Nugget used in order to keep key personnel. In bestowing those rights on Resnick, Mr. Wynn demonstrated a willingness to embrace, much too quickly, a man whose only apparent saving grace was his alleged ability to increase the bottom line. While hindsight is 20-20, Golden Nugget's own experience with Resnick demonstrates that this supposed virtue of his cannot be separated from his all too apparent vices.

In light of the foregoing, the Golden Nugget board must be

given the music sheets to allow it, in unison with Mr. Wynn, to sing "Our Way" through the offices of the Golden Nugget, with the renditions of "My Way" being left for the concert stage. Accordingly, it is appropriate for us to impose the conditions of relicensure stated in the majority opinion.

E. Kenneth Burdge
Commissioner