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STATE OF NEW JERSEY

CASINO CONTROL COMMISSION

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IN THE MATTER OF THE PETITION OF
500 BROADWAY, LLC, FOR DECLARATORY RULING
UNDER NJSA 5:12-82

- - - - -

Tuesday, January 31, 2017
Atlantic City Commission Offices
Joseph P. Lordi Public Meeting Room - First Floor
Tennessee Avenue and Boardwalk
Atlantic City, New Jersey 08401
10:30 a.m. to 1:20 p.m.

Certified Court Reporter: Darlene Sillitoe

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Special Meeting, 500 Broadway, LLC January 31, 2017

2	<p>1 B E F O R E :</p> <p>2 CASINO CONTROL COMMISSION:</p> <p> MATTHEW B. LEVINSON, CHAIR</p> <p>3 SHARON ANNE HARRINGTON, VICE CHAIR</p> <p> ALISA COOPER, COMMISSIONER</p> <p>4</p> <p> PRESENT FOR THE CASINO CONTROL COMMISSION:</p> <p>5 DARYL W. NANCE, ADMINISTRATIVE ANALYST</p> <p> DANIEL J. HENEGHAN, PUBLIC INFORMATION OFFICER</p> <p>6</p> <p> OFFICE OF THE GENERAL COUNSEL:</p> <p>7 DIANNA W. FAUNTLEROY, GENERAL COUNSEL/EXECUTIVE</p> <p> SECRETARY</p> <p>8 ELIZABETH F. CASEY, SENIOR COUNSEL</p> <p>9 DIVISION OF GAMING ENFORCEMENT:</p> <p> DAVID REBUCK, DIRECTOR</p> <p>10 MARY JO FLAHERTY, ASSISTANT ATTORNEY GENERAL</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	4
3	<p>1 A P P E A R A N C E S :</p> <p>2 ITEM NO. 1 DIANNA W. FAUNTLEROY,</p> <p> GENERAL COUNSEL/EXECUTIVE SECRETARY</p> <p>3 ELIZABETH F. CASEY, SENIOR COUNSEL</p> <p> DAVID REBUCK, DIRECTOR</p> <p>4 MARY JO FLAHERTY, ASSISTANT ATTORNEY</p> <p> GENERAL</p> <p>5 COOPER LEVENSON</p> <p> LLOYD D. LEVENSON, ESQ.</p> <p>6 LYNNE KAUFMAN, ESQ.</p> <p> FOR: 500 BROADWAY, LLC</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p align="center">AGENDA</p> <p align="center">SPECIAL PUBLIC MEETING NO. 17-01-31</p> <p align="center">JANUARY 31, 2017, 10:30 a.m.</p> <p>2</p> <p>3 ITEM PAGE VOTE</p> <p>4 1 Petition of 500 Broadway, LLC, for 8 72</p> <p align="center">Declaratory Ruling</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
5	<p>1 PETITIONER EXHIBITS</p> <p>2 NUMBER DESCRIPTION ID EVD</p> <p>3 P-1 Amendment to Amended and Restated Revel X</p> <p> Hotel & Casino Lease Agreement dated</p> <p>4 January 11, 2017</p> <p>5</p> <p align="center">DIVISION EXHIBITS</p> <p>6 NUMBER DESCRIPTION ID EVD</p> <p>7 D-1 Amendment to Amended and Restated Revel X</p> <p> Hotel & Casino Lease Agreement dated</p> <p>8 January 11, 2017</p> <p>9 (Due to the Premarking system, D-2</p> <p> through D-5 has not been assigned)</p> <p>10</p> <p>D-6 Revel Hotel and Casino Lease Agreement X</p> <p>11 (Original Lease) - May 26, 2016</p> <p> (Redacted - No. 17-01-11-12)</p> <p>12</p> <p>D-7 Amended and Restated Revel Hotel and X</p> <p>13 Casino Lease Agreement (Amended Lease) -</p> <p> May 26, 2016 (Received June 16, 2017</p> <p> (Redacted - No. 17-01-11-12)</p> <p>14</p> <p>D-8 Amended and Restated Lease Agreement X</p> <p>15 (Hotel and Casino) - May 26, 2016,</p> <p> (Received September 8, 2016)</p> <p>16 (Redacted - No. 17-01-11-12)</p> <p>17</p> <p>D-9(a) Letter dated April, 2015, from Lloyd D. X</p> <p>18 Levenson to Kevin Garvey re: Polo</p> <p> North/Glenn Straub</p> <p>19 (Sealed - No. 17-01-11-12)</p> <p>20 D-9(b) Division of Gaming Enforcement Invoice X</p> <p> No. 046185 dated July 25, 2016</p> <p>21 (Sealed - No. 17-01-11-12)</p> <p>22 D-9(c) E-mail dated August 10, 2016, from Edward X</p> <p> Sysol to Lloyd Levenson re: 500</p> <p>23 Broadway, LLC</p> <p> (Sealed - No. 17-01-11-12)</p> <p>24</p> <p>25</p>	5

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<p>1 DIVISION EXHIBITS CONTINUED</p> <p>2 NUMBER DESCRIPTION ID EVD</p> <p>3 D-9(d) Division of Gaming Enforcement Invoice X No. 046332 dated August 18, 2016 (Sealed - No. 17-01-11-12)</p> <p>4</p> <p>5 D-9(e) E-mail dated September 6, 2016, from X Edward Sysol to April Caswell re: 500 6 Broadway, LLC/Copy of Invoices/Invoice No.046185 (Sealed - No. 17-01-11-12)</p> <p>7</p> <p>8 D-9(f) Letter dated September 8, 2016, from X Lynne Levin Kaufman to Edward J. Sysol 9 re: Polo North Country Club, Inc. (Sealed - No. 17-01-11-12)</p> <p>10</p> <p>11 D-9(g) Letter dated September 23, 2016, from X Edward J. Sysol to Lynne Levin Kaufman re: 500 Broadway, LLC (Sealed - No. 17-01-11-12)</p> <p>12</p> <p>13 D-9(h) E-mail dated September 26, 2016, from X Edward Sysol to April Caswell with 14 Attachment (Sealed - No. 17-01-11-12)</p> <p>15</p> <p>16 D-9(i) Letter dated October 9, 2016, from X Glenn F. Straub to the Division of Gaming Enforcement re: Invoice No. 17 04684, Account No. 77-00 with Attachments (Sealed - No. 17-01-11-12)</p> <p>18</p> <p>19 D-9(j) Letter dated October 18, 2016, from X Edward J. Sysol to Mr. Glenn F. Straub, 20 Manager, Lloyd Levenson, Esq., and Lynne Levin Kaufman, Esq. re: 500 21 Broadway, LLC (Sealed - No. 17-01-11-12)</p> <p>22</p> <p>23 D-9(k) Letter dated October 19, 2016, from X Lynne Levin Kaufman to Edward J. Sysol re: 500 Broadway, LLC (Sealed - No. 17-01-11-12)</p> <p>24</p> <p>25</p>	<p>1 (Public Meeting 17-01-31 was commenced</p> <p>2 at 10:30 a.m.)</p> <p>3 MR. NANCE: Good morning. I'd like to</p> <p>4 read an opening statement:</p> <p>5 This is to advise the general public</p> <p>6 that in compliance with Chapter 231 of the</p> <p>7 public laws of 1975 entitled "Senator Bryon M.</p> <p>8 Baer Open Public Meeting Act," the New Jersey</p> <p>9 Casino Control Commission on January 26th,</p> <p>10 filed with the Secretary of State at the State</p> <p>11 House in Trenton an annual meeting schedule.</p> <p>12 On January 26, 2017, copies were mailed to</p> <p>13 subscribers.</p> <p>14 Members of the press will be permitted</p> <p>15 to take photographs. We ask that this be done</p> <p>16 in a manner which is not disruptive or</p> <p>17 distracting to the Commission.</p> <p>18 The use of cell phones in the public</p> <p>19 meeting room is prohibited.</p> <p>20 Any member of the public who wish to</p> <p>21 address the Commission will be given the</p> <p>22 opportunity to do so before the Commission</p> <p>23 adjourns for the day.</p> <p>24 Please stand for the Pledge of</p> <p>25 Allegiance.</p>
7	9
<p>1 DIVISION EXHIBITS CONTINUED</p> <p>2 NUMBER DESCRIPTION ID EVD</p> <p>3 D-9(l) Division of Gaming Enforcement Invoice X No. 046646 dated October 24, 2016, with 4 Attachment (Sealed - No. 17-01-11-12)</p> <p>5</p> <p>6 D-9(m) Letter dated October 31, 2016, from X Edward J. Sysol to Lynne Levin Kaufman, Esq., re: 500 Broadway, LLC (Sealed - No. 17-01-11-12)</p> <p>7</p> <p>8 D-9(n) Letter dated November 29, 2016, from X Edward J. Sysol to Mr. Glenn Straub 9 re: 500 Broadway, LLC, with Attachments (Sealed - No. 17-01-11-12)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 ITEM NO. 1</p> <p>2 (The Flag Salute was recited.)</p> <p>3 MS. FAUNTLEROY: Good morning.</p> <p>4 When I call your name, please answer for</p> <p>5 the record, please.</p> <p>6 Commissioner Cooper?</p> <p>7 COMMISSIONER COOPER: Present.</p> <p>8 MS. FAUNTLEROY: Vice Chair Harrington?</p> <p>9 VICE CHAIR HARRINGTON: Here.</p> <p>10 MS. FAUNTLEROY: And Chairman Levinson?</p> <p>11 CHAIR LEVINSON: Here.</p> <p>12 MS. FAUNTLEROY: Item No. 1 on the</p> <p>13 agenda for your consideration for the Special</p> <p>14 Meeting is the matter of the Petition of 500</p> <p>15 Broadway, LLC, for Declaratory Ruling under</p> <p>16 NJSA 5:12-82.</p> <p>17 Senior Counsel Liz Casey will review</p> <p>18 that matter with you to take you through it.</p> <p>19 MS. CASEY: Good morning, Chairman and</p> <p>20 Commissioners.</p> <p>21 CHAIR LEVINSON: Good morning.</p> <p>22 MS. CASEY: As Miss Fauntleroy just</p> <p>23 stated, we are here today regarding the</p> <p>24 Petition of 500 Broadway, LLC, for a</p> <p>25 Declaratory Ruling under NJSA 5:12-82.</p>

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10	1 ITEM NO. 1 2 This is a continuation from our meeting 3 on January 11th of this year. 4 The parties are present and represented 5 by counsel, and I would ask that they enter 6 their appearance. 7 CHAIR LEVINSON: Thank you. 8 Please enter. 9 MR. LEVENSON: Hi. Lloyd Levenson on 10 behalf of the Petitioner. 11 MS. KAUFMAN: Lynne Kaufman on behalf of 12 the Petitioner. 13 CHAIR LEVINSON: Thank you. 14 MR. REBUCK: Dave Rebeck on behalf of 15 the State, Division of Gaming Enforcement. 16 MS. FLAHERTY: Mary Jo Flaherty, 17 Assistant Attorney General, for the Division of 18 Gaming Enforcement. 19 Thank you. 20 CHAIR LEVINSON: Thank you. 21 During the January 11th, 2017, 22 proceeding, we determined that exhibits and 23 portions of certain exhibits relevant to our 24 consideration of this matter. 25 Daryl, can you please list the premarked	12	1 ITEM NO. 1 2 sealed. D-6, D-7, and D-8 have been redacted. 3 And D-9(a) through D-9(o) have been sealed with 4 the consent of the Petitioner and the Division 5 subject to a reservation by the Division of the 6 right to request that they be unsealed. 7 Do both parties agree with the portion 8 of D-1 that had been sealed and portions of 9 D-6, 7, and 8 that have been redacted, that 10 they actually reflect the Division -- the 11 decision of the Commission in our January 11th 12 Order? 13 Do you guys agree that -- 14 MS. KAUFMAN: Yeah. 15 CHAIR LEVINSON: -- the redaction is -- 16 MS. CASEY: Mr. Chairman? 17 CHAIR LEVINSON: Yes. 18 MS. CASEY: There has been some 19 discussion about that minor changes to D-1 that 20 we were going to address at the -- if we 21 recess. 22 CHAIR LEVINSON: Okay. But nothing 23 that -- 24 MS. CASEY: Nothing substantive. 25 Correct.
11	1 ITEM NO. 1 2 exhibits for identification? 3 MR. NANCE: Chair, the Commission has 4 premarked exhibits as follows: 5 The Petitioners submitted one exhibit 6 premarked as P-1. P-1 is an Amendment to 7 Amended and Restated Revel Hotel & Casino Lease 8 Agreement dated January the 11th, 2017. 9 The Division of Gaming Enforcement 10 submitted 19 exhibits premarked as D-1 and D-6 11 through D-9(o). D-1 is a Response to the 12 Petition of 500 Broadway, LLC, for Declaratory 13 Ruling under NISA 5:12-82 dated January 3rd, 14 2017. D-6 is a Revel Hotel & Casino Lease 15 Agreement, Original Lease, dated May 26, 2016. 16 D-7 is an Amended and Restated Revel Hotel & 17 Casino Lease Agreement, Amended Lease, dated 18 May 26, 2017, received June 16, 2016. D-8 is 19 an Amended and Restated Lease Agreement dated 20 May 26, 2016, received September 8th, 2016. 21 And Exhibits D-9(a) through D-9(o) as listed on 22 the exhibit list. 23 CHAIR LEVINSON: Thank you. 24 For the record, in accordance with our 25 January 11th Order, portions of D-1 have been	13	1 ITEM NO. 1 2 CHAIR LEVINSON: Both agree to the 3 changes? 4 MR. LEVENSON: I believe so. Yes. 5 MS. FLAHERTY: Let me address -- 6 CHAIR LEVINSON: Thank you. 7 MS. FLAHERTY: Yes. With regard to all 8 of these exhibits, D-1, D-6, D-7, D-8, and 9 D-9(a) through 9(o) goes into admission subject 10 to the Commission's Order, and we have argued 11 with regard to their admissibility and 12 nonsealing, but we will abide by the 13 Commission's Order for purposes of this matter. 14 There are some very technical matters, 15 very minor technical matters which we have, you 16 know, brought to the attention of the 17 Petitioner and Commission counsel. And there 18 are just some very few refinements. And with 19 those, we are willing to proceed today. 20 CHAIR LEVINSON: Okay. Thank you. 21 MS. KAUFMAN: Yes. Chair, we discussed 22 some potential refinements which we intend to 23 agree to. I think all the parties will be in 24 agreement. Obviously we need to see exactly 25 what they are going to be before I can give

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14	<p>1 ITEM NO. 1 2 final agreement. 3 CHAIR LEVINSON: Okay. Other than that, 4 is there anything further to add to any 5 exhibits? For this hearing? For this -- 6 MS. FLAHERTY: Not at this time. 7 Thank you, Chair. 8 MS. KAUFMAN: No. 9 CHAIR LEVINSON: Okay. Commissioners, 10 do you have any questions regarding the 11 markings of these exhibits? 12 VICE CHAIR HARRINGTON: I do not. 13 CHAIR LEVINSON: Okay. If there's not 14 any objection to the admission of the marked 15 exhibits into evidence, no further objections? 16 Everything good? 17 I'll entertain a motion to admit P-1 and 18 D-1 as sealed; D-6, D-7, and D-8 as redacted; 19 and D-9(a) through D-9(o) as sealed into 20 evidence. 21 Do I have a second? 22 COMMISSIONER COOPER: I'll second that. 23 CHAIR LEVINSON: Any discussion on 24 those? 25 (No response.)</p>	16	<p>1 ITEM NO. 1 2 and I have a job to do, along with Miss 3 Kaufman, so. 4 As was stated in the beginning, 500 5 Broadway, LLC, which is wholly owned by Polo 6 North Country Club, the current lessor of the 7 property known as Ten, filed a Petition for 8 Declaratory Ruling that 500 Broadway as the 9 lessor of Ten does not need a casino license or 10 a casino service industry license. 11 We first need to look at Section 82b, 12 B-like-ball, of the Act, which is entitled 13 "Casino License" and very importantly goes on 14 the title to call it, to say "Applicant 15 Eligibility." And goes on to in the beginning 16 talks about the terms to be included in the 17 written lease or management agreement, 18 corporate applicants, limitations upon issuance 19 due to undue economic concentration. 20 But the portion I want to bring to your 21 attention in the title talks about casino 22 license, applicant eligibility. So per its 23 title, Section 82b sets forth generally who is 24 eligible to hold a casino license prior to the 25 operation of a casino.</p>
15	<p>1 ITEM NO. 1 2 CHAIR LEVINSON: All those in favor? 3 (Ayes.) 4 CHAIR LEVINSON: Opposed? 5 (No response.) 6 CHAIR LEVINSON: Motion carries. 7 Now, are there any preliminary matters 8 that we want to address on this matter at all 9 before we get -- Mr. Levenson, can you please 10 start? Or Miss Kaufman? 11 MR. LEVENSON: I just want to say first 12 this is my bad side, so. 13 (Laughter.) 14 MR. LEVENSON: The problem is my wife is 15 teaching now, so she didn't hear what I just 16 said, so too bad. 17 Mr. Chairman, Ms. Vice Chair, Ms. 18 Cooper, appreciate the opportunity to be here 19 this morning. It's been a bit of an arduous 20 process, but we are -- we are here. 21 And I just want to say first that 22 certainly respect the Director of the Division 23 and the people that work for him. And no 24 matter how this comes out, that respect will 25 not -- not diminish. They have a job to do,</p>	17	<p>1 ITEM NO. 1 2 Section 82b also sets up the framework 3 that permits the Commission to determine with 4 the concurrence of the Attorney General, which 5 shall not be unreasonably withheld, that 6 certain persons who are eligible to hold a 7 casino license are not required to hold a 8 casino license. 9 One such person, we submitted, who is 10 eligible to hold a license is a lessor of an 11 approved casino hotel; in this case, Ten. 12 Another such person who is eligible to hold a 13 license is a person who has control over either 14 an approved casino hotel or the land thereunder 15 or the -- over the operation of a casino. 16 The framework established in Section 82b 17 that certain persons are not required to hold a 18 casino license is refined in Section 82c, which 19 lists several specific circumstances where the 20 Casino Control Commission can determine a 21 person is not required to obtain a casino 22 license. 23 One such circumstance is set forth in 24 Section 82c(1) which provides that the 25 Commission with the concurrence of the Attorney</p>

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18	<p>1 ITEM NO. 1</p> <p>2 General, which shall not be unreasonably</p> <p>3 withheld, may determine that any person who</p> <p>4 does not have the ability to exercise any</p> <p>5 significant control over either the approved</p> <p>6 casino hotel or the operation of the casino</p> <p>7 shall not be required to hold a casino license.</p> <p>8 In order to show that the lessor meets</p> <p>9 the requirements for no licensure under Section</p> <p>10 82c(1), it will first be necessary for us to</p> <p>11 show that the tenant holds the interests and</p> <p>12 rights to operate what could constitute an</p> <p>13 approved casino hotel under the Act. It will</p> <p>14 then be necessary for us to show that the</p> <p>15 lessor does not have significant control over</p> <p>16 the approved casino hotel or the operation of</p> <p>17 the casino.</p> <p>18 Let's first address the approved casino</p> <p>19 hotel issue starting with the statutory</p> <p>20 definition. In Section 5:12-83 of the Act an</p> <p>21 approved casino hotel contains at least 500</p> <p>22 sleeping units and a casino with certain square</p> <p>23 footage, depending upon the number of hotel</p> <p>24 rooms. As you all know, for 500 rooms, you get</p> <p>25 60,000 square feet of casino space. And as you</p>	20
19	<p>1 ITEM NO. 1</p> <p>2 go up every hundred rooms, you get 10,000 more</p> <p>3 feet of casino space.</p> <p>4 Under the statute as a backdrop, along</p> <p>5 with some of the requirements in the</p> <p>6 regulations, we can demonstrate that the</p> <p>7 interests and rights of the tenant under the</p> <p>8 lease can constitute an approved casino hotel</p> <p>9 because our casino hotel under the lease</p> <p>10 contains all of the following: 900 hotel</p> <p>11 rooms, 100,000 square feet of casino space, a</p> <p>12 front desk check-in. The casino space includes</p> <p>13 back-of-the-house areas such as security and</p> <p>14 surveillance offices, slot tech areas, cages</p> <p>15 and count rooms, DGE offices, monitor rooms,</p> <p>16 chip and card storage areas and destruction</p> <p>17 rooms. Associated elevator and hallway areas,</p> <p>18 including those to armored car bays. And a</p> <p>19 call-center related space. In sum, everything</p> <p>20 that's necessary to operate a casino, including</p> <p>21 a self-park garage -- parking garage -- and</p> <p>22 valet parking. And the tenant also has the</p> <p>23 irrevocable license to use all common space</p> <p>24 necessary to conduct casino operations and to</p> <p>25 function and operate the proposed casino hotel.</p>	21
	<p>1 ITEM NO. 1</p> <p>2 Thus, clearly the tenant will have the</p> <p>3 interests and rights to have everything</p> <p>4 required to have an approved casino hotel.</p> <p>5 In sum, he's got the casino space. He's</p> <p>6 got the back-of-the-house items that supports</p> <p>7 the casino space. He's got 900 hotel rooms.</p> <p>8 He's got a front desk check-in. He's got</p> <p>9 parking facilities. He's got restaurant space.</p> <p>10 The issue of an approved hotel facility</p> <p>11 contained within a larger structure, like Ten</p> <p>12 is, is not prohibited by the Act, but as the</p> <p>13 Division has rightly noted, it has not yet come</p> <p>14 before the Commission. The reason this is a</p> <p>15 new issue is, historically our legislature and</p> <p>16 our regulators had to grapple with the opposite</p> <p>17 fact pattern. The question of how broadly the</p> <p>18 definition of "hotel" or "approved hotel" could</p> <p>19 be construed. Because way back when, when</p> <p>20 Atlantic City was thriving, the casinos were</p> <p>21 always looking for ways to have more casino</p> <p>22 space without having to necessarily build new</p> <p>23 hotel rooms. So we lived in a vastly different</p> <p>24 economic climate at that time in Atlantic City,</p> <p>25 and they were sent -- the arguments by the</p>	

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<p style="text-align: right;">22</p> <p>1 ITEM NO. 1 2 building wasn't even contemplated at that time, 3 let alone prohibited. 4 Furthermore, the fact that the entire 5 building was once deemed an approved casino 6 hotel should not control a present 7 determination of what constitutes an approved 8 casino hotel for the tenant in our case. 9 Currently, nothing in the Act precludes a new 10 determination. 11 Since the tenant clearly has all the 12 interests and rights to what would be the 13 approved casino hotel, we now must demonstrate 14 that we meet the second prong of 82c(1), which 15 is the lessor does not have the ability to 16 exercise significant control over either the 17 approved casino hotel or the operation of the 18 casino. 19 So does the lessor have significant 20 control over operation of the casino? Not only 21 will lessor not have significant control over 22 the operation of the casino, the lessor will 23 have no control over casino operations. The 24 tenant will exclusively operate the 100,000 25 square foot related casino space, including the</p>	<p style="text-align: right;">24</p> <p>1 ITEM NO. 1 2 casino hotel or the operation of the casino. 3 In fact, the tenant has exclusive control over 4 all gaming operations, including 100,000 square 5 feet of casino-related space. In fact, the 6 tenant has exclusive control over the parking 7 facilities, 900 rooms, the front desk area, and 8 restaurant space. In fact, the tenant has an 9 irrevocable license with respect to common 10 areas in order to function as a casino hotel as 11 anticipated under the lease. Finally, all 12 employees of the casino will be employees of 13 the tenant. 14 In sum, from the time a patron of Ten 15 drives up to the building, parks in valet or 16 self-parks, checks in at the front desk, goes 17 to his or her room, grabs a bite to eat, 18 gambles, maybe even buys some forgotten 19 toiletries, and goes to sleep, that patron is 20 having an experience provided by the tenant, 21 not controlled in any way by the landlord. 22 We request that you approve our 23 petition. 24 Thank you. 25 CHAIR LEVINSON: Thank you.</p>
<p style="text-align: right;">23</p> <p>1 ITEM NO. 1 2 back of the house and support areas. The 3 tenant will obtain all the licenses needed 4 including casino licensure in order to operate 5 the casino hotel. All the employees having 6 anything to do with the operation of the casino 7 will be employees of the tenant. 8 In connection with such casino 9 operations, all gaming and all gaming-related 10 equipment will be owned by the tenant, and if 11 not owned by the tenant, it will be leased from 12 a licensed third party unrelated to the lessor 13 in the ordinary course of business of the third 14 party. 15 Tenant has control over and will be 16 exclusive operating 900 rooms and the check-in 17 area. Tenant has exclusive control over the 18 restaurant and other areas in order to function 19 as a first-class facility. Tenant will be 20 exclusively operating the parking facilities 21 which comprise 47 percent, of which was -- of 22 what was previously the Revel footprint. 23 In closing, the lessor does not have 24 anything close to the statutory standard of 25 significant control over either the approved</p>	<p style="text-align: right;">25</p> <p>1 ITEM NO. 1 2 Commissioners, any questions for the 3 Petitioner? 4 VICE CHAIR HARRINGTON: So the ownership 5 interest is 100 percent Polo North? But the 6 Petitioner is 500 Broadway? 7 MR. LEVENSON: 500 Broadway is the 8 Petitioner because that's the company that 9 filed for the -- well, initially filed for a 10 casino license and now has, based on the fact 11 that the tenancy came upon us well after the 12 application for a casino license, 500 Broadway 13 is asking for a declaratory ruling that it does 14 not need to file or continue to have processed 15 a casino license or even a casino service 16 industry license. 17 MS. KAUFMAN: We do recognize that there 18 may be some changes that need to be made to 19 technically comply with some of the provisions 20 of the Act in terms of the ownership. However, 21 we do not do it at this time. We're waiting to 22 have this hearing and to -- with regard to our 23 petition, but we ask that that not preclude any 24 decision. 25 MR. LEVENSON: And I would also ask, you</p>

26	<p>1 ITEM NO. 1</p> <p>2 know, there's certainly not a game of gotcha.</p> <p>3 VICE CHAIR HARRINGTON: Uh-hum.</p> <p>4 MR. LEVENSON: That, you know, we're</p> <p>5 all -- and I'm not saying that the Commission</p> <p>6 is doing that or even the Division is doing</p> <p>7 that. What I'm saying is, if there's a</p> <p>8 provision of this lease that could be changed</p> <p>9 and Mr. Straub and Mr. Landino would agree to</p> <p>10 that change which would cause you to grant this</p> <p>11 petition, you know, certainly we would like to</p> <p>12 know it. We're not, you know, omni --</p> <p>13 omnipresent, if that's the right word.</p> <p>14 Clairvoyant or whatever. There could be --</p> <p>15 this is a long document, and we could have</p> <p>16 missed something. Like the last time, we did</p> <p>17 miss the parking facility, and we missed the</p> <p>18 ownership of the gaming equipment. And we took</p> <p>19 care of that before the last hearing. I</p> <p>20 wouldn't be surprised that maybe there is a</p> <p>21 sentence or more in here that you might say,</p> <p>22 you know what? Because Mr. Straub still has</p> <p>23 that, you know, that -- the right to do</p> <p>24 something that that will cause you to deny our</p> <p>25 petition, because I think we should have the</p>	28	<p>1 ITEM NO. 1</p> <p>2 Furthermore, the Division has consistent</p> <p>3 and continually addressed with the Petition and</p> <p>4 his representatives the needs for licensure for</p> <p>5 almost two years.</p> <p>6 For the benefit of the Commission and</p> <p>7 the general public, I want to place on the</p> <p>8 record in chronological order the events that</p> <p>9 has brought the parties before you today.</p> <p>10 On February 3rd, 2015, Petitioner filed</p> <p>11 an incomplete application for a casino license</p> <p>12 with the Division in anticipation of acquiring</p> <p>13 the former Revel Casino Hotel facility during</p> <p>14 bankruptcy proceedings. The Division advised</p> <p>15 the Petitioner's representatives at that time</p> <p>16 it could not commence an investigation based</p> <p>17 upon its partially complete application.</p> <p>18 On April 7th, 2015, Petitioner purchased</p> <p>19 the Revel's property and certain other assets,</p> <p>20 including the entire inventory of gaming</p> <p>21 equipment, through bankruptcy proceedings under</p> <p>22 what was referenced as an Asset Purchase</p> <p>23 Agreement.</p> <p>24 Immediately thereafter, the Division</p> <p>25 filed an objection to an attempt by the parties</p>
27	<p>1 ITEM NO. 1</p> <p>2 opportunity for the sake of 3,000 employees</p> <p>3 that are potentially going to be hired there,</p> <p>4 for the sake of Atlantic City, for the sake of</p> <p>5 the taxes that, you know, would be -- would be</p> <p>6 paid to the State. I mean, there's -- I can go</p> <p>7 through 50 different reasons why we should get</p> <p>8 this building open. So I would ask that if</p> <p>9 there is something that we could change in this</p> <p>10 lease that would make you grant this petition</p> <p>11 that's not in there that you advise us of that,</p> <p>12 and then we can make a determination whether</p> <p>13 that makes business sense.</p> <p>14 VICE CHAIR HARRINGTON: Okay. Just to</p> <p>15 clarify. So Mr. Straub controls Polo North and</p> <p>16 controls 500 Broadway.</p> <p>17 MR. LEVENSON: Right.</p> <p>18 VICE CHAIR HARRINGTON: One and the</p> <p>19 same.</p> <p>20 Thank you.</p> <p>21 CHAIR LEVINSON: Any further questions?</p> <p>22 Division?</p> <p>23 MR. REBUCK: Chairman and Commissioners,</p> <p>24 the Division of Gaming Enforcement strongly</p> <p>25 opposes the relief requested by the Petitioner.</p>	29	<p>1 ITEM NO. 1</p> <p>2 in the bankruptcy proceeding to transfer and</p> <p>3 assign to the Petitioner Revel's casino gaming</p> <p>4 license, its service industry gaming licenses,</p> <p>5 its casino operation certificate and license,</p> <p>6 and its casino alcoholic beverage licenses.</p> <p>7 The Division opined that the new owner would be</p> <p>8 required to apply for these licenses and be</p> <p>9 vetted under investigation for approval.</p> <p>10 The parties to the sale agreed to remove</p> <p>11 these licenses from that transaction. The</p> <p>12 bankruptcy court approved the sale without</p> <p>13 those licenses included in the asset</p> <p>14 transactions.</p> <p>15 Furthermore, the Division then entered</p> <p>16 into an agreement on May 7th, 2015, with the</p> <p>17 Petitioner allowing it to store, secure, and</p> <p>18 disable all gaming equipment within the</p> <p>19 property without a casino license, without any</p> <p>20 license until such time as the facility was</p> <p>21 reopened to the general public and while it</p> <p>22 applied for licenses.</p> <p>23 The Division, in taking this unique</p> <p>24 action, recognized the value placed on the</p> <p>25 gaming equipment by the parties to the</p>

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30	<p>1 ITEM NO. 1</p> <p>2 transaction in the bankruptcy court, its desire</p> <p>3 of the parties to execute a timely sale of the</p> <p>4 bankruptcy proceedings, and we balanced it</p> <p>5 against the Division's needs that mandate and</p> <p>6 ensure that persons who own gaming equipment</p> <p>7 are properly licensed. This agreement is still</p> <p>8 in effect.</p> <p>9 Despite numerous efforts by the Division</p> <p>10 to urge the Petitioner to complete his February</p> <p>11 2015 casino application, no attempt was made to</p> <p>12 do so until almost a year later. And we have</p> <p>13 filed with us a completed application for a</p> <p>14 casino license on March 9th, 2016.</p> <p>15 Understanding the urgency of reopening</p> <p>16 the facility as soon as possible, the Division</p> <p>17 committed to complete its investigation on that</p> <p>18 report and report to you, to the Commission,</p> <p>19 within six months. That's an accelerated time</p> <p>20 frame that was unprecedented in past</p> <p>21 applications before you.</p> <p>22 On May 26, 2016, the Petitioner</p> <p>23 presented its proposed Lease Agreement that</p> <p>24 we're here before you today. It identified a</p> <p>25 new party to operate the casino and other</p>	32	<p>1 ITEM NO. 1</p> <p>2 On March -- on September 9th, 2016, six</p> <p>3 months to the day, as promised, the Division</p> <p>4 investigative report was filed with the</p> <p>5 Commission.</p> <p>6 January 11th of this year, a third lease</p> <p>7 revision was presented to the Division. The</p> <p>8 terms contained in the Amended Lease do not</p> <p>9 change the Division's position today.</p> <p>10 Sadly, the matter before you is not even</p> <p>11 emergent. The Petitioner has indicated that</p> <p>12 the lessee under the lease will obtain a casino</p> <p>13 license. However, although the Division has</p> <p>14 engaged in discussions with the proposed lessee</p> <p>15 since May 2016 for the requirements of the</p> <p>16 filing of an application for licensure by the</p> <p>17 lessee, almost nine months has transpired. The</p> <p>18 Division does not have a completed casino</p> <p>19 license application from the lessee.</p> <p>20 Therefore, the reopening of this facility for</p> <p>21 casino operations is not even remotely imminent</p> <p>22 at this time.</p> <p>23 In closing, it is the opinion of the</p> <p>24 Division that the Petitioner's arguments are</p> <p>25 frivolous and without merit.</p>
31	<p>1 ITEM NO. 1</p> <p>2 portions of the facility. The Petitioner's</p> <p>3 representatives were advised at that time that</p> <p>4 both parties to the lease required licensure.</p> <p>5 The Division was presented with an</p> <p>6 Amended Lease on June 16th, 2016, and the</p> <p>7 Petitioner was advised both parties required</p> <p>8 licensure.</p> <p>9 On August 30th, 2016, the Petitioner</p> <p>10 filed the Petition with you seeking a</p> <p>11 determination that no casino license or any</p> <p>12 other gaming license is required to be obtained</p> <p>13 by the Petitioner if casino operations were to</p> <p>14 be held in the property, in the facility,</p> <p>15 pursuant to the terms of the lease.</p> <p>16 It's important to note that at no time</p> <p>17 prior to or subsequent to the August -- that</p> <p>18 May 26 Lease or the August 30th filing as the</p> <p>19 Petitioner sought to withdraw -- withdraw,</p> <p>20 amend, rescind its March 9th application.</p> <p>21 On September 8th the Petitioner filed a</p> <p>22 second Amended Lease Agreement. The Petitioner</p> <p>23 was advised again that the revisions did not</p> <p>24 change the Division's decision that licensure</p> <p>25 was required by both parties.</p>	33	<p>1 ITEM NO. 1</p> <p>2 Assistant Attorney General Mary Jo</p> <p>3 Flaherty will present for the record the</p> <p>4 Division's legal arguments based on those</p> <p>5 points.</p> <p>6 I'm happy to take any questions from the</p> <p>7 Commissioners as it relates to the matters that</p> <p>8 I've brought to your attention.</p> <p>9 CHAIR LEVINSON: Thank you.</p> <p>10 Commissioners, any questions for Mr.</p> <p>11 Rebuck?</p> <p>12 (No response.)</p> <p>13 CHAIR LEVINSON: Hearing none, go ahead.</p> <p>14 MS. FLAHERTY: Thank you, Chairman and</p> <p>15 Commissioners. Good morning.</p> <p>16 Pursuant to Section 82, the Division is</p> <p>17 recommending that the Commission determine and</p> <p>18 rule on the pending Petition that the</p> <p>19 Petitioner is not eligible for any waiver of</p> <p>20 licensure, and that it is required to hold a</p> <p>21 license based on its ownership of the casino</p> <p>22 hotel facility, the land thereunder, and the</p> <p>23 lease arrangement.</p> <p>24 Under NJSA 5:12-82b, the persons</p> <p>25 required to hold a casino license include the</p>

<p style="text-align: right;">34</p> <p>1 ITEM NO. 1 2 owner of a casino hotel, both the lessor and 3 lessee of a casino hotel, and any other person 4 who has control over an approved casino hotel 5 or the land thereunder or the operation of a 6 casino. Casino licensure is required for the 7 owner and lessor of a casino hotel pursuant to 8 Sections 82b(1), (2), and (4) of the Act. 9 A waiver of this casino licensing 10 requirement is subject to Section 82c(1) which 11 provides that a waiver may only be granted to a 12 person that is determined not to have the 13 ability to exercise significant control over 14 either the approved casino hotel or the 15 operation of the casino. 16 Petitioner has contended in its papers 17 that the legislature intended that Section 18 82c(1) as a waiver be granted under normal 19 circumstances. Its argument is in error, 20 without a legal basis, and contrary to 21 Commission interpretation and precedent. 22 The language of Section 82c(1) was 23 written in tandem with the provisions of 24 Section 82b which sets forth the requirements 25 for the persons who must hold a casino license.</p>	<p style="text-align: right;">36</p> <p>1 ITEM NO. 1 2 Broadway because it owns the entirety of all 3 those premises and properties. Therefore, in 4 any event, under Section 82c(2), no license 5 waiver would be available to 500 Broadway, and 6 it would be required to hold a license. 7 Beyond these points, the type of lease 8 arrangement and arrangement proposed by 9 Petitioner is unique and unprecedented, as Mr. 10 Levenson has said, in New Jersey gaming 11 history. Prior lease agreements approved by 12 the Commission related to long-term leases of 13 land parcels underlying a casino which may have 14 been extremely small and had set in even simple 15 terms and were at times owned and controlled by 16 an affiliate of the casino licensee. The 17 landlords had virtually no control over the 18 building, and even those lessors were required 19 to have a type of license. 20 The lease in this matter, however, 21 includes ownership of the casino hotel 22 facility, the underlying land by Petitioner. 23 It provides for significant control of the 24 building by the landlord, and it far from an 25 even normal circumstance which in and of itself</p>
<p style="text-align: right;">35</p> <p>1 ITEM NO. 1 2 If a person is addressed in Section 82b, the 3 language of Section 82c(1) generally is not 4 applicable. Section 82c(1) merely ensures 5 merely that extraneous and irrelevant persons 6 cannot force their investigation and licensure 7 for a casino operation. 8 For example, if a determination is made 9 that the statement-of-compliance process is not 10 available, a person cannot proceed under 11 Sections 82b and 82c(1). Historically, other 12 cases which occurred in the early '80s under 13 Section 82c(1) and 82c(2) are related to 14 persons with minor land lease interests, at 15 times entered into before the advent of 16 Atlantic City casino gaming. And those persons 17 were still determined to require service 18 industry licensure. 19 Similarly, Section 82c(2) provides that 20 a waiver may be granted to an owner, lessee, or 21 lessor of an approved casino hotel or the land 22 thereunder who does not own or lease a 23 significant portion of an approved casino 24 hotel. 25 This provision does not apply to 500</p>	<p style="text-align: right;">37</p> <p>1 ITEM NO. 1 2 would require licensure. It is only in the 3 absolutely rare and extraordinary circumstance 4 where Section 82c(1) comes into play. 5 This current situation of an owner and 6 lessor of a casino hotel facility and all the 7 land thereunder, as well as its stand-alone 8 energy plant, seeking a complete waiver from 9 licensure is unprecedented in the history of 10 gaming in New Jersey. 11 As stated, past lease agreements and 12 bona fide management agreements provide for far 13 less control by an entity and have all resulted 14 in licensure. As such, a status of no 15 licensure for Petitioner is impermissible. 16 The lease deals with the premises. 17 Petitioner retains the remainder of the 18 facility. The leased premises do not include 19 any common areas or other areas controlled by 20 the landlord. Thus, the premises do not 21 include the whole casino hotel facility. 22 An "approved casino hotel" refers to the 23 entire facility. In this matter, the proposed 24 casino hotel is the facility in order to 25 actually function and conduct its operation.</p>

38	<p>1 ITEM NO. 1</p> <p>2 But Petitioner erroneously asserts that it is</p> <p>3 only the leased premises. Although, the entire</p> <p>4 facility comprises a casino hotel, the</p> <p>5 Petitioner claims that only the premises of Ten</p> <p>6 will be considered the casino hotel. Such</p> <p>7 logic is untenable and is in clear</p> <p>8 contradiction to reality and to the</p> <p>9 requirements of the Act.</p> <p>10 The Petitioner argues that under the</p> <p>11 lease, it does not maintain significant control</p> <p>12 over the casino hotel or the casino operations</p> <p>13 and is, therefore, eligible for a complete</p> <p>14 waiver of both the casino and service industry</p> <p>15 licensing requirements. The Division disagrees</p> <p>16 with the Petitioner's interpretation, and the</p> <p>17 Division maintains that no such waiver is a</p> <p>18 possibility under the Act.</p> <p>19 Contrary to Petitioner's assertion,</p> <p>20 Petitioner maintains significant control over</p> <p>21 the proposed casino hotel. The facility</p> <p>22 contains 1,399 hotel rooms, only 900 of which</p> <p>23 are leased to the tenant. Thus, Petitioner</p> <p>24 maintains control over the remaining 499 hotel</p> <p>25 rooms, which is approximately 36 percent of the</p>	40	<p>1 ITEM NO. 1</p> <p>2 over the premises, which are to included a</p> <p>3 casino.</p> <p>4 In addition to Petitioner's significant</p> <p>5 control over the approved casino hotel,</p> <p>6 Petitioner will also benefit financially from</p> <p>7 leasing space to the tenant. Those lease</p> <p>8 payments include base rent, annual rent for</p> <p>9 hotel rooms and the front desk area, monthly</p> <p>10 percentage rents for the spa, pool, restaurant,</p> <p>11 meeting room areas, and the area known as The</p> <p>12 Social and area known as Ovation Hall.</p> <p>13 Tenant must pay any and all sales and</p> <p>14 use taxes, including the luxury tax and the</p> <p>15 CRDA tax. Thus, Petitioner further financially</p> <p>16 benefits by having those taxes paid.</p> <p>17 Moreover, the existence of a casino</p> <p>18 operation inside the facility will undoubtedly</p> <p>19 attract more patrons and visitors using the</p> <p>20 facility, providing Petitioner with an</p> <p>21 additional financial benefit for any amenities</p> <p>22 and attractions which are not managed by the</p> <p>23 tenant. Petitioner will also benefit</p> <p>24 financially from increased patronage to the</p> <p>25 areas managed from the tenant where there is a</p>
39	<p>1 ITEM NO. 1</p> <p>2 total hotel rooms.</p> <p>3 Section 2.2 of the Lease requires that</p> <p>4 the landlord provide improvements which are</p> <p>5 controlled by the landlord. These areas,</p> <p>6 accorded to landlord, provide it with control</p> <p>7 over the facility and the premises, and the</p> <p>8 facility and the premises cannot operate</p> <p>9 without them.</p> <p>10 Further, Section 5.0 of the Lease</p> <p>11 specifically grants landlord exclusive control</p> <p>12 over all common areas, and the landlord must</p> <p>13 operate, maintain, or repair the common areas.</p> <p>14 Again, those areas are under landlord's</p> <p>15 authority and provided with control over the</p> <p>16 facility and the premises, and the facility and</p> <p>17 premises cannot operate without them.</p> <p>18 Moreover, pursuant to Section 9.0 of the</p> <p>19 Lease, landlord must maintain in good condition</p> <p>20 and repair all portions of the casino hotel.</p> <p>21 Such responsibility cedes control over the</p> <p>22 facility and the premises to the landlord.</p> <p>23 Finally, under Section 15 of the Lease,</p> <p>24 landlord specifically retains rights. Those</p> <p>25 rights further demonstrate Petitioner's control</p>	41	<p>1 ITEM NO. 1</p> <p>2 percentage rent. Overall, Petitioner clearly</p> <p>3 would benefit financially from the total</p> <p>4 ownership and the lease of a portion of the</p> <p>5 casino hotel facility.</p> <p>6 In summary, the amount of control over</p> <p>7 the casino hotel which is maintained by the</p> <p>8 Petitioner is significant. Under the lease,</p> <p>9 Petitioner controls 36 percent of the hotel</p> <p>10 rooms, all common areas, and various</p> <p>11 improvements. Petitioner also retains other</p> <p>12 rights with regard to access and maintenance</p> <p>13 which afford control.</p> <p>14 Accordingly, no waiver of the casino or</p> <p>15 service industry license requirement pursuant</p> <p>16 to Section 82c(1) is available to Petitioner as</p> <p>17 the owner and lessor and based on its control</p> <p>18 and benefit. No waiver pertains or can be</p> <p>19 applied.</p> <p>20 The Division also maintains that under</p> <p>21 Section 82b(4) as well as 82b(5) and 82 -- I'm</p> <p>22 sorry -- 82c(5) and 82c(7), that Petitioner is</p> <p>23 required to have a license.</p> <p>24 Accordingly, no waiver of the casino or</p> <p>25 service industry license requirements pursuant</p>

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42	<p>1 ITEM NO. 1</p> <p>2 to Section 82c(1) is available to Petitioner as</p> <p>3 the owner and lessor, and based on his control</p> <p>4 and benefit, no waiver pertains or can be</p> <p>5 applied. The Petitioner would benefit</p> <p>6 financially from full ownership and the lease</p> <p>7 of a portion of the casino hotel property.</p> <p>8 The Division disagrees with Petitioner's</p> <p>9 arguments, and the Division submits that</p> <p>10 Petitioner is required to hold a license</p> <p>11 pursuant to Section 82 in view of its control</p> <p>12 over and benefit from a potential casino hotel</p> <p>13 operation. A waiver or exemption from</p> <p>14 licensing in this instance in its entirety</p> <p>15 would be neither warranted nor permissible</p> <p>16 pursuant to the Act and the circumstances</p> <p>17 presented. In fact, such act would violate the</p> <p>18 essential premises of the Act.</p> <p>19 Accordingly, the Division recommends</p> <p>20 that the Commission deny 500 Broadway's request</p> <p>21 for a determination that no licensure is</p> <p>22 required.</p> <p>23 Thank you very much. And I'm available</p> <p>24 to answer questions.</p> <p>25 CHAIR LEVINSON: Thank you.</p>	44
43	<p>1 ITEM NO. 1</p> <p>2 Commissioners, any questions for the</p> <p>3 Division?</p> <p>4 (No response.)</p> <p>5 CHAIR LEVINSON: Mr. Levenson?</p> <p>6 MR. LEVENSON: Miss Flaherty talks very</p> <p>7 quickly, so I couldn't get all of it down. But</p> <p>8 some of the things that she said and Director</p> <p>9 Rebeck said need a -- need a followup.</p> <p>10 One of them was, Director Rebeck talked</p> <p>11 about with regard to the tenant and filing for</p> <p>12 a casino license. What the tenant did some</p> <p>13 time ago was file for a statement of compliance</p> <p>14 with regard to his and his company's</p> <p>15 qualifications. I submit that is and remains</p> <p>16 the appropriate way for him to proceed because</p> <p>17 in order to get a casino license -- I mean, a</p> <p>18 casino license is given to the building. And</p> <p>19 in order for the building to get a casino</p> <p>20 license, there's all kinds of particular</p> <p>21 employees required, employees in certain areas</p> <p>22 of the hotel casino that need to be in place.</p> <p>23 You need audit committees and all the rest of</p> <p>24 that.</p> <p>25 Although Mr. Landino has gone to the</p>	45
	<p>1 ITEM NO. 1</p> <p>2 extreme expense of hiring full-time employees,</p> <p>3 a CFO, a vice president of human resources, a</p> <p>4 vice president of casino operations, and he's</p> <p>5 paying them every day that goes by, we still</p> <p>6 don't have in place and we shouldn't have in</p> <p>7 place all the required employees because he's</p> <p>8 spending enough money now awaiting the result</p> <p>9 of this hearing and the resolution of our</p> <p>10 petition. Because, I mean, I sort of know it's</p> <p>11 certainly more than a million dollars a year</p> <p>12 and probably a lot more than that that he's</p> <p>13 paying. But he can't apply for -- he could</p> <p>14 apply for a casino license, but it would be</p> <p>15 basically unable to be handled because the same</p> <p>16 way, you know, there was an objection to Mr.</p> <p>17 Straub's application because he didn't have all</p> <p>18 of the required employees hired to get a casino</p> <p>19 license, the same thing would apply to Mr.</p> <p>20 Landino.</p> <p>21 So I don't want the Commission to come</p> <p>22 away with the thought that Mr. Landino is</p> <p>23 dragging his feet. What -- in fact, we had a</p> <p>24 meeting no more than a month ago with the</p> <p>25 Division with Mr. Landino with regard to what</p>	

<p style="text-align: right;">46</p> <p>1 ITEM NO. 1 2 statement of compliance which -- 3 CHAIR LEVINSON: Just making sure. 4 MR. LEVENSON: -- basically is going to 5 determine whether Mr. Landino has the requisite 6 qualifications. 7 CHAIR LEVINSON: And that statement of 8 compliance is not complete. 9 MR. LEVENSON: Well, we thought it was 10 complete until we met with the Division, and 11 they would like further information. Which 12 they're entitled to that further information. 13 So we are compiling that further information, 14 and we'll submit it to the Division. 15 In other words, the Statement of 16 Compliance we submitted -- the Personal History 17 Disclosure Form, the New Jersey Supplement, the 18 Business Form. And we thought it was complete. 19 But I respect -- 20 MS. FLAHERTY: I don't believe there's 21 any business form that was submitted. 22 MR. LEVENSON: Okay. No business form. 23 CHAIR LEVINSON: Okay. 24 MR. LEVENSON: The reason why -- well, 25 there's no business --</p>	<p style="text-align: right;">48</p> <p>1 ITEM NO. 1 2 other 499 rooms and, you know, et cetera, et 3 cetera. You know, it reminds me of when Revel 4 was operating. Revel's executives, Mr. 5 DeSanctis and others, were actually negotiating 6 with a boutique hotel to come in and take the 7 remaining rooms at Revel that are not yet 8 completed. And the same thing goes on as, you 9 know, right now and has been for many years in 10 Las Vegas, in Nevada where there are boutique 11 hotels that are part of a casino hotel. 12 And what would happen here, and Mr. 13 Straub, if he decided to operate those 499 14 rooms, would be required to have his own 15 check-in area just like Revel, when they were 16 negotiating with a boutique hotel, was going to 17 have its own VIP check-in. It would have its 18 own restaurant for people to eat in. 19 That was -- it's very similar to -- I 20 don't know if you've been to the Wynn, and the 21 Wynn has the Wynn Tower Suites and Wynn. It's 22 got a separate elevators. It's got separate 23 everything. And they have that at the Four 24 Seasons. I think at Mandalay Bay. 25 So what we're trying to posit here is</p>
<p style="text-align: right;">47</p> <p>1 ITEM NO. 1 2 CHAIR LEVINSON: It's not complete, so. 3 MR. LEVENSON: I guess it's not. Okay. 4 But it's not -- it's not an intention 5 dragging of one's feet where they accuse Mr. 6 Straub of doing that when they recited the 7 chronology earlier on a couple years ago. So I 8 just wanted to make that clear. 9 CHAIR LEVINSON: Thank you. 10 Anything further? Miss Kaufman? 11 MS. KAUFMAN: Just to further clarify 12 what Mr. Levenson said, we only filed the 13 Personal History Disclosure Form and did not 14 file the Business Entity Disclosure Form for 15 the entity for the reasons that he stated and 16 that we knew that we would not be able to 17 complete -- to complete all the requirements at 18 this time. So in order to jump-start the 19 process of Mr. Landino's qualification, we 20 filed for his Statement of Compliance 21 personally. 22 MR. LEVENSON: Ms. Flaherty also talked 23 about, you know, the definition of "casino 24 hotel facility," and that it's the whole Revel, 25 and you can't separate out because there are</p>	<p style="text-align: right;">49</p> <p>1 ITEM NO. 1 2 that you can have a casino hotel facility, a 3 legal one, within this giant building that the 4 tenant has basically exclusive control over. 5 And in that building, Mr. Straub, if he decided 6 himself or go to a boutique hotel operator, 7 could lease out the remaining 499 rooms as a 8 boutique hotel. I don't think that's detracts 9 from our argument that when you have the 900 10 rooms, when you have the -- the restaurants 11 that he has, and all the things that I've, you 12 know -- the casino space and the 13 back-of-the-house space and the -- and the 14 entire, what is it? 8,000 car parking garage 15 and valet parking. And that, if you can 16 picture it, that would be a casino hotel. And 17 there's nothing that prohibits that from being 18 a casino hotel. Just because the whole thing 19 was a casino hotel facility before does not 20 mean that you can't have a casino hotel 21 facility within a larger building. 22 And that's why, you know, we have to -- 23 we have to think about what is happening in 24 Atlantic City in 2017. We can't look back -- I 25 wish we could -- to the glory days of Atlantic</p>

<p style="text-align: right;">50</p> <p>1 ITEM NO. 1 2 City. They are not here. And maybe they'll 3 never come back again. So we have to think a 4 little bit out of the box not to violate the 5 statute, not to violate any regulations, but to 6 think in a way where, well, how can we make 7 this work? Not how can we make it not work. 8 Okay. And so it can work. It can work 9 because the tenant has an irrevocable license 10 to use all common space necessary to conduct 11 casino operations and to function and operate 12 the proposed casino hotel. He's got the common 13 areas. He's got the 900 rooms. He's got 14 100,000 square feet of casino space. He's got 15 all the back of the house he needs. He's got 16 restaurants. He's got a first-class facility. 17 And anybody who's been to Revel, and now 18 Ten, knows that it's a first-class facility. 19 And if you go there today, it doesn't look any 20 different from the date that it closed. If you 21 go in the rooms, they still have the toiletries 22 that they had back then. That's how -- that's 23 how this place has not been touched in any way 24 negatively. So there's no reason why that 25 can't be -- that part of it can't be a licensed</p>	<p style="text-align: right;">52</p> <p>1 ITEM NO. 1 2 with regard to Wynn was only to say that they 3 have a separate entrance with elevator and 4 restaurant and check-in and whatever. The 5 example that's the most appropriate is Mandalay 6 Bay with the Four Seasons. The Four Seasons 7 doesn't have a casino license. It operates 8 right as part of -- I mean, you just -- you can 9 walk through the casino and go to the elevator 10 for the Four Seasons. They're not licensed. 11 That's what I'm trying to encourage the 12 Commission to look at, is what is happening in 13 Las Vegas. Four Seasons, I would submit, would 14 not be in Mandalay Bay if they had to file for 15 a full casino license in Nevada. I don't know 16 that, but you don't see them licensed anywhere 17 else in the country as a casino. 18 So the point is that there's no reason 19 why that portion of Ten that is not controlled 20 by Mr. Landino now cannot be controlled by 21 someone else, including Mr. Straub, because it 22 has nothing to do with the casino or the 23 operation of the casino. And it has nothing to 24 do with the casino hotel facility that I'm 25 trying to encourage you to think of as the</p>
<p style="text-align: right;">51</p> <p>1 ITEM NO. 1 2 and approved casino hotel facility. 3 MS. FLAHERTY: Can I just reply to that 4 quickly? 5 All the examples that Mr. Levenson has 6 given us are totally in opposite to this 7 situation. Mr. Wynn is licensed as a casino 8 operator in Nevada. Mandalay Bay is owned by 9 MGM which is licensed as a casino operator in 10 Nevada. They own and control that facility and 11 operate the casino, and they lease out some 12 rooms, as Revel was going to once do under Mr. 13 DeSanctis. Revel had a casino hotel. Mr. 14 DeSanctis was qualified, and he was looking to 15 rent out some of those buildings. That is 16 acceptable. That is fine. That is not what is 17 being done here. And here we have a landlord 18 who controls the air conditioning, the water, 19 the electricity, the cables, all the utilities, 20 the entire ability of this premises to operate. 21 And we're being asked to say that he does not 22 have control and that he doesn't need a 23 license. This can all work. This can all 24 happen. All that has to happen is licensure. 25 MR. LEVENSON: What I was trying to say</p>	<p style="text-align: right;">53</p> <p>1 ITEM NO. 1 2 property that is leased out to Mr. Landino. 3 CHAIR LEVINSON: Anything further? 4 MR. LEVENSON: Yeah. And the other 5 thing is that, you know, I hear all the 6 arguments about 82b(2), (4), (6). You know, it 7 sounds like the Super Bowl. You know, hike. 8 So many different sections. But, you know, she 9 says that you have to read them in tandem with 10 c(1). To me, c(1) is the one that controls 11 this case. It's -- the most specific part of 12 82 is 82c(1). 13 And, you know, when you look at case law 14 where, in a case that goes look at least to 15 1939, which is called "Ackley versus Norcross," 16 122 New Jersey Law 569, a Superior Court case 17 in 1939. It is an established proposition 18 that -- and I'll quote the part that I want to 19 have quoted: When there is a seeming conflict 20 between a general statute and a specific 21 statute covering a subject in a more minute and 22 definite way, the latter shall prevail over the 23 former and will be considered an exception to 24 the general statute. 25 That's what you have here. You have</p>

<p style="text-align: right;">54</p> <p>1 ITEM NO. 1 2 something that is so on point in 82c(1) where 3 it says that somebody who doesn't have the 4 ability to exercise any significant control 5 over either the approved casino hotel or the 6 operation of the casino contained therein shall 7 not be eligible to hold or required to hold a 8 casino license. 9 And that -- that basically is our 10 proposition. That -- 11 And I guess lastly, you know, I guess 12 when you can't sleep at night, you do things 13 like open the Casino Control Act and -- 14 (Laughter.) 15 MR. LEVENSON: What are you laughing at? 16 But I did that. And it's just 17 interesting to see how -- I hope I say this 18 word right -- prescient, p-r-e-s-c-i-e-n-t. 19 How prescient the -- those who were the 20 drafters of the Casino Control Act where back 21 in the mid '70s. Because in Article 1, 5:12-1, 22 you know, they talk about -- and I just want to 23 read it to you: The rehabilitation and 24 redevelopment of existing tourist and 25 convention facilities in Atlantic City and the</p>	<p style="text-align: right;">56</p> <p>1 ITEM NO. 1 2 blighted areas and the refurbishing and 3 expansion of existing hotel, convention, 4 tourist entertainment facilities and -- and 5 this part I really like -- encourage the 6 replacement of lost hospitality oriented 7 facilities, providing for the judicious use of 8 open space for leisure time and recreation 9 activities and attract new investment capital 10 to New Jersey in general and to Atlantic City 11 in particular. 12 That's what we got to do here, members 13 of the Commission. We have to attract that new 14 capital. Mr. Straub is the only one of all of 15 those people that kicked the tires of Revel -- 16 and I was involved in that, and it numbered the 17 hundreds. From all over. From China, I'm sure 18 you read about, and everybody else who came to 19 see, you know, what Revel was all about and did 20 some due diligence and whatever. There's only 21 one person that stood up and said, here's cash. 22 And I'll buy this place. And I'll buy it so 23 that people can get reemployed, so the State 24 can get -- so the State can make its taxes, the 25 real estate taxes in Atlantic City can be</p>
<p style="text-align: right;">55</p> <p>1 ITEM NO. 1 2 fostering and encouraging of new construction 3 and the replacement of lost convention, 4 tourist, entertainment, and cultural centers in 5 Atlantic City will offer a unique opportunity 6 for the inhabitants of the entire state to make 7 maximum use of the natural resources available 8 in Atlantic City for the expansion and 9 encouragement of New Jersey's hospitality 10 industry, and to that end, the restoration of 11 Atlantic City as the Playground of the World, 12 and the major hospitality center of the Eastern 13 United States is found to be a program of 14 critical concern and importance to the 15 inhabitants of the state of New Jersey. 16 Sounds like it could be written right 17 now. But then though go on, and they say: 18 Legalized casino gaming has been approved by 19 the citizens of New Jersey as a unique tool of 20 urban redevelopment for Atlantic City. In this 21 regard, the introduction of a limited number of 22 casino rooms and major hotel convention 23 complexes permitted as an additional element in 24 the hospitality industry of Atlantic City will 25 facilitate the redevelopment of existing</p>	<p style="text-align: right;">57</p> <p>1 ITEM NO. 1 2 adjusted appropriately. 3 You know, and he comes here and says -- 4 just like the Four Seasons -- and says, you 5 know what? I don't think I need to go through 6 this entire process of licensure. And I show 7 him 82c(1), and we talk about the significant 8 control over the casino hotel or the operation 9 of the casino. And he says I don't have any -- 10 any control over the operation of the casino. 11 And I will have no control over the part of the 12 casino hotel property that is leased to Mr. 13 Landino. 14 So consider me Four Seasons and allow 15 the project to move forward, Mr. Landino to get 16 his Statement of Compliance, then get licensed. 17 Employ thousands of people in addition to the 18 ten or so executives that he has already 19 employed there. In hopes that, you know, 20 someday this will be a casino hotel and grant 21 our petition. 22 I don't see how Atlantic City, New 23 Jersey, the regulatory world, how they get hurt 24 by this. I know they're used to having 25 everybody whose fingerprints are any way on a</p>

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<p style="text-align: right;">58</p> <p>1 ITEM NO. 1 2 casino hotel be licensed. But it's not 3 necessary. 4 And just because he's going to make some 5 money from the lease -- I don't know where in 6 the Casino Control Act or the regulations it 7 says that somebody who is going to make some 8 money has to get licensed. Doesn't say that. 9 I know historically we always thought of the 10 fact, well, you're going to profit from your 11 involvement in the casinos. We have to look at 12 you. It's not -- it's not part of the 13 requirements. It's history. 14 That's the problem here. It's 2017, and 15 the Division of Gaming Enforcement is talking 16 history. I'm talking the present and the 17 future. 18 Thanks. 19 CHAIR LEVINSON: Division response? 20 MS. FLAHERTY: Yes. Just a few 21 comments. 22 I know that the Commission is very well 23 aware of the policies that are set forth in the 24 Act, but I will just note that what Mr. 25 Levenson has referred to are all subject to a</p>	<p style="text-align: right;">60</p> <p>1 ITEM NO. 1 2 looking at you. 3 VICE CHAIR HARRINGTON: I was 4 considering it. 5 CHAIR LEVINSON: Go ahead. 6 VICE CHAIR HARRINGTON: So the tenant is 7 in control of all parking. 8 MR. LEVENSON: Yes. 9 VICE CHAIR HARRINGTON: All parking. 10 MR. LEVENSON: All parking. 11 VICE CHAIR HARRINGTON: So does the 12 other 36 percent rooms and common space, et 13 cetera, if they want to access, they use that 14 parking? 15 MR. LEVENSON: They could pay for 16 parking. It's public parking. 17 VICE CHAIR HARRINGTON: So it's paid 18 parking. 19 MR. LEVENSON: Yeah. It's parking like 20 every other casino. Most of them some have 21 free parking, but if you pay five bucks, you 22 can park there. 23 VICE CHAIR HARRINGTON: Okay. So Ten is 24 the whole entity? Or Ten is the casino? 25 MR. LEVENSON: No. Ten is the whole --</p>
<p style="text-align: right;">59</p> <p>1 ITEM NO. 1 2 preeminent requirement that none of the 3 rehabilitation aspects are to take precedent 4 over gaming regulation and gaming law and 5 enforcement and that the integrity of the 6 industry is the paramount concern. 7 We have made our arguments. They are 8 based on control and benefit. Benefit is 9 clearly within numerous Commission precedents. 10 We stand by our arguments, and we request that 11 the Commission rule that licensure is required 12 for this situation. 13 Thank you. 14 CHAIR LEVINSON: Thank you. 15 Commissioners, any further questions for 16 either party? 17 COMMISSIONER COOPER: No. 18 CHAIR LEVINSON: Okay. Hearing none, we 19 will enter a recess. 20 MS. FAUNTLEROY: Chair? 21 CHAIR LEVINSON: Yeah? Oh, yes. I'm 22 sorry. 23 VICE CHAIR HARRINGTON: No. I wasn't 24 going to ask this. 25 CHAIR LEVINSON: I'm sorry. I wasn't</p>	<p style="text-align: right;">61</p> <p>1 ITEM NO. 1 2 the whole place. 3 VICE CHAIR HARRINGTON: And then don't 4 sublet parking from Mr. Landino? 5 MR. LEVENSON: They -- they would 6 have -- Ten is -- 7 VICE CHAIR HARRINGTON: I -- 8 MR. LEVENSON: I'm sorry. Okay. Mr. -- 9 let's call it Mr. Straub's hotel or call it 10 Four Seasons. 11 VICE CHAIR HARRINGTON: Okay. 12 MR. LEVENSON: They would have the right 13 like anybody else, whether they stayed in the 14 hotel or didn't stay in the hotel, to go and 15 pay their five bucks or maybe Saturday nights 16 ten bucks or whatever to park in the parking 17 lot. Or use the valet parking. It's public. 18 VICE CHAIR HARRINGTON: Uh-hum. Okay. 19 And there's no benefit enured to the landlord? 20 MR. LEVENSON: There's no benefit to the 21 landlord. No. No. I mean, if I go in there 22 and pay \$5, Mr. Straub doesn't get any part of 23 that \$5. 24 VICE CHAIR HARRINGTON: Just the lease. 25 Overall lease.</p>

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62	1 ITEM NO. 1 2 MR. LEVENSON: The lease -- the leases, 3 the parking, and the self-parking and valet 4 parking to Mr. Landino's company. 5 VICE CHAIR HARRINGTON: Okay. Thank 6 you. 7 CHAIR LEVINSON: Any further questions? 8 Miss Cooper? 9 COMMISSIONER COOPER: No. Thank you. 10 CHAIR LEVINSON: Good? 11 VICE CHAIR HARRINGTON: Good. 12 CHAIR LEVINSON: Okay. We're going to 13 go into a recess. 14 Is that clock right? 15 MR. HENEGHAN: It's pretty close. 16 MS. CASEY: Yes. 17 MS. FAUNTLEROY: Yes. 18 CHAIR LEVINSON: 11:30, 11:35. 19 MS. FAUNTLEROY: 1:00, Mr. Chairman? 20 CHAIR LEVINSON: Be lack at 1:00. Okay? 21 Thank you. 22 MR. LEVENSON: Thank you. 23 (A recess was taken from 11:35 to 1:09 24 p.m.) 25 MR. LEVENSON: Pledge of the Allegiance	64	1 ITEM NO. 1 2 CHAIR LEVINSON: Okay. Hearing none, we 3 are -- we are again here today on the 4 application of 500 Broadway for a Declaratory 5 Ruling on whether it needs any kind of license 6 whatsoever since it leases part of the 7 formal -- former Revel building to a third 8 party. We are not here today to determine the 9 suitability of 500 Broadway, Polo North, or Mr. 10 Straub to hold any such license. 11 In my opinion, we could dismiss this 12 petition for several reasons. We were asked to 13 waive licensing for a landlord that doesn't own 14 the land in question. The company that does 15 own the land, Polo North, isn't a party to this 16 petition. Mr. Straub could have transferred 17 the property to 500 Broadway, but he failed to 18 do so. But rather than deny this petition on 19 procedural grounds and delay the process, I 20 will deal with the substance of the request by 21 Mr. Staub and his companies. 22 500 Broadway plans to lease portions of 23 the complex, including all of the gaming space, 24 to an unaffiliated company, Revel North Beach, 25 LLC, which does not currently hold a casino
63	1 ITEM NO. 1 2 again? 3 (Laughter.) 4 CHAIR LEVINSON: We're good. Everyone 5 sit down. I guess everyone is waiting on me 6 for that one. 7 Okay. Welcome back. 8 Miss Casey, can you just go over the 9 redacted parts and the changes that we talked 10 about before the meeting just so it's on the 11 record, please. 12 MS. CASEY: Yes. Mr. Chairman, the 13 Division asked that we include throughout the 14 documents, dollar signs, the word "dollar," the 15 word "percent," the percent sign. And we went 16 through D-1, D-8. D-6 and 7 are also being 17 done -- 18 CHAIR LEVINSON: Okay. 19 MS. CASEY: -- to conform with their 20 request. 21 CHAIR LEVINSON: All right. Thank you 22 very much. 23 Commissioners, any further and final 24 questions for counsel on this matter? 25 (No response.)	65	1 ITEM NO. 1 2 license. Under Section 82 of the Casino 3 Control Act, anyone who owns a casino hotel is 4 a lessor or lessee of a casino hotel, or who 5 has control over the casino hotel or the land 6 it sits on is required to hold some sort of 7 casino license. Mr. Straub and his companies 8 fit all those categories. 9 The question of a license status of a 10 landlord is not a new one. In fact, it's 11 something this commission considered for the 12 first time more than 35 years ago. In some 13 instances, the owner of the property was 14 required to get a casino license, while in 15 other cases, owners had to get a casino service 16 industry enterprise license. In this case, Mr. 17 Straub has not asked for a ruling on what kind 18 of licensure, if any, is required. He had that 19 option. Instead he asked for a ruling that no 20 license is required. 21 Given the extent of Mr. Straub's control 22 over the property and the State interests in 23 upholding the Casino Control Act, I find it 24 difficult to comprehend how Mr. Straub and his 25 attorneys could suggest that the State does not

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<p style="text-align: right;">66</p> <p>1 ITEM NO. 1 2 need to determine if he qualifies for any level 3 of licensure. 4 Before us today is a different, a more 5 controlling lessor/lessee situation than this 6 commission has addressed in the past. Mr. 7 Straub will lease only a portion of the casino 8 hotel property to Revel North Beach, LLC, and 9 retain control over the rest of it. 10 This is not a lease of the entire casino 11 hotel property as envisioned under the Casino 12 Control Act. Mr. Straub proposes to maintain 13 control over a significant portion of the 14 facility. He created a proposal where the 15 approved casino hotel would not include a third 16 of the hotel rooms, retail stores, multiple 17 restaurants, and the public corridors 18 throughout the property. That simply defies 19 credulity. 20 We are not here to write this lease for 21 the Petitioner and say what terms would be 22 acceptable. We are here to deal with the lease 23 that the parties negotiated and submitted to 24 us. We are not talking about a shopping mall 25 where the landlord simply collects rent. This</p>	<p style="text-align: right;">68</p> <p>1 ITEM NO. 1 2 Jersey are good people of character, honesty, 3 and integrity. And to turn a blind eye on a 4 landlord who controls half of a casino hotel 5 complex and all the vital systems needed for a 6 casino hotel to operate would be to abrogate 7 the very oath I took when I became Chairman. 8 The conclusion here is inescapable, and 9 it's clear. 500 Broadway clearly has the 10 ability to exercise influence or control over 11 the proposed casino hotel per its lease 12 agreement. As a result, 500 Broadway needs a 13 casino license or a CSIE, and Mr. Straub must 14 be found qualified for that license. 15 The Applicant does not qualify for any 16 waiver of the license. It has not shown good 17 cause for a waiver, and the Attorney General 18 will not consent to an issue of any waiver. 19 Just to be clear, Mr. Straub does not 20 need any license from this commission to own a 21 hotel in Atlantic City. Mr. Straub does not 22 need any license from this commission to 23 operate a hotel in Atlantic City. But if Mr. 24 Straub wants to own a hotel with a casino with 25 these lease terms, he clearly needs a license.</p>
<p style="text-align: right;">67</p> <p>1 ITEM NO. 1 2 isn't a 99-year lease with a fixed rent. It is 3 a request from someone who shares control over 4 a property with a tenant with only a five-lease 5 that does not have a casino license. That is 6 control. That is why 500 Broadway's request 7 must be denied. We would turn the Casino 8 Control Act on its head if we permit this 9 applicant to avoid licensure. 10 The Petitioner does note that the 11 statute provides for a waiver of license 12 requirements for good cause. But the 13 Petitioner provides no argument whatsoever on 14 what the good cause is in this case. 15 I recognize the social and economic 16 benefits that reopening a casino hotel would 17 have. I want to see this property reopened and 18 see thousands of my neighbors put back to work. 19 But the environment in Atlantic City does not 20 change the requirements of the Casino Control 21 Act. We will not undermine the policies of the 22 Act for that end. I have a responsibility to 23 protect the public confidence in the gaming 24 industry and to ensure that the people who own 25 and operate casino hotels in the State of New</p>	<p style="text-align: right;">69</p> <p>1 ITEM NO. 1 2 As the Director aptly noted, Mr. Straub 3 still owns all the gaming equipment, which was 4 permitted only in anticipation of him filing 5 for a casino license. 6 Our decision today does not in any way 7 delay an opening of a casino. A license is 8 required to operate a casino in New Jersey, and 9 right now, no one has a license for that 10 property. 11 Unfortunately, Mr. Straub, on multiple 12 occasions, had mislead people as he suggested 13 he was ready to put thousands of people to work 14 and open the facility, but government 15 regulations were blocking progress and creating 16 red tape. To the contrary. Polo North 17 submitted an incomplete application with this 18 commission almost two years ago, and it took no 19 action to complete the application for an 20 entire year. That filing was superceded when 21 500 Broadway filed a complete application in 22 March of 2016 in which it indicated that 500 23 Broadway intended to own and operate a casino 24 at the property. 25 The Division of Gaming Enforcement then</p>

Special Meeting, 500 Broadway, LLC January 31, 2017

<p style="text-align: right;">70</p> <p>1 ITEM NO. 1 2 commenced its investigation, and the Applicant 3 urged the Division to complete it on an 4 expedited basis. The Division did so, and it 5 filed its report on the suitability of 500 6 Broadway and its qualifiers on September 9th, 7 2016. Ten days before the report was 8 submitted, almost 19 months after the first 9 application of license was filed, and almost 10 six months after the second license application 11 was filed, 500 Broadway submitted the Petition 12 before us. In it, the Petitioner states it 13 needs to license from us at all. No casino 14 license, no casino service industry enterprise 15 license, no license whatsoever. 16 In my opinion, this petition is another 17 delaying tactic by Mr. Straub. Speaking as one 18 Commissioner, if he didn't think he needed a 19 license, he should have filed his petition 20 almost two years ago. If he thought that as a 21 landlord he didn't need a license, he should 22 have filed eight months ago when he signed the 23 lease. Instead he waited until the casino 24 licensing investigation was finished, the 25 report nearly complete, and we were ready to</p>	<p style="text-align: right;">72</p> <p>1 ITEM NO. 1 2 first? 3 COMMISSIONER COOPER: Yeah. I'll second 4 it. 5 CHAIR LEVINSON: Any discussion? 6 COMMISSIONER COOPER: Yes. 7 CHAIR LEVINSON: Go ahead. 8 COMMISSIONER COOPER: I would just like 9 to thank the Director and his staff for 10 providing us a very, very specific and very 11 detailed timeline of events today and for your 12 efforts to facilitate Mr. Straub through this 13 process. 14 And I also strongly support the remarks 15 of our Chairman, and under the circumstances 16 presented to us today, I fully believe that a 17 license is required. And again I echo the 18 second the -- I'm seconding the motion. 19 CHAIR LEVINSON: Any further discussion? 20 VICE CHAIR HARRINGTON: Agreed. 21 CHAIR LEVINSON: Hearing none, all those 22 in favor? 23 (Ayes.) 24 CHAIR LEVINSON: Opposed? 25 (No response.)</p>
<p style="text-align: right;">71</p> <p>1 ITEM NO. 1 2 schedule a licensing hearing. 3 After 500 Broadway filed its Petition, 4 the Division of Gaming Enforcement reviewed it. 5 And despite the fact that regulatory charges 6 have not been paid, filed a Response with us on 7 January 3rd. Mr. Straub's attorneys filed a 8 Reply to that on January 5th, and we put on the 9 matter on the agenda on the January 11th 10 meeting. Less than two hours before that 11 meeting began, he caused further delay by 12 filing major changes to the lease that very 13 morning. Quite frankly, I take umbrage at his 14 claim that we in any way have delayed this 15 process. 16 I will make a motion to enter an order 17 denying the Petitioner's request and that we 18 set a date for a hearing on the plenary casino 19 license as requested as soon as possible. 20 Is there a second? 21 COMMISSIONER COOPER: Mr. Chairman -- 22 CHAIR LEVINSON: Any discussion first? 23 COMMISSIONER COOPER: Okay. I would 24 just like to make a comment. 25 CHAIR LEVINSON: Can I get a second</p>	<p style="text-align: right;">73</p> <p>1 ITEM NO. 1 2 CHAIR LEVINSON: Motion carries. 3 This the public participation portion -- 4 part of the meeting. If anyone from the public 5 issues to be heard. 6 Oh, I'm sorry. 7 MR. LEVENSON: I'm sorry. 8 Would you entertain, if you would, a 9 stay of this decision pending an interlocutory 10 application to the Appellate Division of the 11 Superior Court? 12 CHAIR LEVINSON: At this time I'm not 13 going to do that. You can put it in writing, 14 if you like. If you would like to put a stay 15 to our hearing. 16 MR. LEVENSON: Okay. 17 MS. FLAHERTY: I would just note, 18 Chairman, that there are specific criteria for 19 an interlocutory stay. I don't know that they 20 were met here, and we may oppose that. 21 Thank you. 22 CHAIR LEVINSON: Uh-hum. Thank you. 23 Anything further. 24 (No response.) 25 CHAIR LEVINSON: Hearing none, again</p>

1
2 this is the public participation portion of the
3 meeting. Anyone from the public wishing to be
4 heard?
5 (No response.)
6 CHAIR LEVINSON: Seeing none, that
7 portion is now closed.
8 Is there a motion to adjourn this
9 meeting?
10 VICE CHAIR HARRINGTON: So moved.
11 CHAIR LEVINSON: Second?
12 COMMISSIONER COOPER: Second.
13 CHAIR LEVINSON: All those in favor?
14 (Ayes.)
15 CHAIR LEVINSON: Opposed?
16 (No response.)
17 CHAIR LEVINSON: Meeting adjourned.
18 Thank you very much.
19 MS. FLAHERTY: Thank you, Chairman.
20 MR. LEVENSON: Thank you.
21 MS. KAUFMAN: Thank you.
22 (The public meeting was adjourned at
23 1:20 p.m.)
24
25

1
2 CERTIFICATE
3
4 I, DARLENE SILLITOE, a Certified Court
5 Reporter and Notary Public of the State of New
6 Jersey, certify that the foregoing is a true
7 and accurate transcript of the proceedings.
8
9 I further certify that I am neither
10 attorney, of counsel for, nor related to or
11 employed by any of the parties to the action;
12 further that I am not a relative or employee of
13 any attorney or counsel employed in this case;
14 nor am I financially interested in the action.
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21 
22 DARLENE SILLITOE, CCR
23 License No 30XI0102300
24 Dated: February 1, 2017
25 My Notary Commission Expires
December 9, 2019
ID No 50006932

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