

BEFORE THE STATE GAMING CONTROL BOARD

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FEBRUARY 1984 AGENDA

VOLUME I OF III

1150 EAST WILLIAM STREET

CARSON CITY, NEVADA

WEDNESDAY, FEBRUARY 8, 1984

9:18 A.M.

COPY

REPORTED BY: ERIC V. NELSON, CSR NO. 57

BOARD MEMBERS PRESENT

JAMES AVANCE, CHAIRMAN
RICHARD G. HYTE
PATRICIA BECKER

ACTING EXECUTIVE SECRETARY

ELSIE McCAW

APPEARANCES

FOR THE BOARD:

MICHAEL WILSON
Deputy Attorney General

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NONRESTRICTED

1. (83-85)
CHEYENNE GAMBLING HALL, INC.

ACTING SECRETARY McCRAW: On page 12 of your agenda in the category of Nonrestricted applications -- Mr. Chairman, do I read this into the record as item 1?

CHAIRMAN AVANCE: Read item 1 in, but the indication over there on the recommendation is incorrect. We adjourned that meeting, and this is recalendared for today.

ACTING SECRETARY McCRAW: This is the application of Frank P. Silver to own 100 percent of Cheyenne Gambling Hall, Inc., dba Cheyenne Gambling Hall and Saloon. As you indicated, Mr. Chairman, this application will be deferred to the end of the agenda?

CHAIRMAN AVANCE: No. This one is right now. Item 11, the Plantation, will be the last item on the agenda.

MR. PECCOLE: Mr. Chairman, for the record, Bob Peccole, appearing with the licensee, and also present is Dr. Silver, the applicant for licensing.

CHAIRMAN AVANCE: We need to have Mr. Silver sworn.

(One witness sworn: Dr. Silver.)

CHAIRMAN AVANCE: We left off in Las Vegas

1 after two days of hearings a week ago with Mr. Hyte having
2 some questions he wanted to go into. Dick, are you ready at
3 this time?

4 MEMBER HYTE: Yes.

5 DR. SILVER: Mr. Hyte, I'd like to bring to
6 your attention to make this part of the record, one of the
7 areas that you brought up at the last meeting as we finished
8 was the fact that 70 employees were terminated. Do you
9 recall that?

10 MEMBER HYTE: Right.

11 DR. SILVER: The question I have is where did
12 you get that number of 70?

13 MEMBER HYTE: We just had that information in
14 your investigative files.

15 DR. SILVER: It is incorrect, Mr. Hyte. What I
16 have done is reviewed everyone terminated for the last five
17 years at the Crystal Palace, and there was never at any time
18 during the entire course of that five-year period that 70
19 employees were ever terminated at one time.

20 I think more importantly is that the general
21 turnover in employees has been roughly over 300 a year,
22 every year. So, that said that there were at least 30
23 employees turning over every month.

24 Interestingly enough, the month that you
25 related to, which was the month that Mr. Newman was not

1 there, there was a turnover of 39 employees, of which
2 Mr. Newman personally signed the termination slip for 19.

3 Interestingly enough, when Mr. Newman returned
4 in April of 1979, there were 60 terminations, not 70, and
5 Mr. Newman personally signed 57 of those 60 himself.

6 CHAIRMAN AVANCE: Do you have documentation on
7 that that you want to present?

8 MR. PECCOLE: Mr. Chairman, I would like to
9 introduce this as an exhibit. I don't know where we are at
10 on our exhibit numbers. I will have to rely on the
11 secretary.

12 CHAIRMAN AVANCE: We will have to get to them.
13 Let's mark them A, B, and C for today, since the others were
14 numbered, and they will come in on numbers in order. We
15 will mark this as Exhibit A for today.

16 MR. PECCOLE: I believe we used letters.

17 CHAIRMAN AVANCE: Did we? This will be No. 1
18 then.

19 (Exhibit 1 marked.)

20 MEMBER HYTE: Mr. Silver, what were the reasons
21 on the termination slips for these dismissals?

22 DR. SILVER: Most of them were either they were
23 going to another casino to work or changing over staff,
24 reduction of staff.

25 MEMBER HYTE: They were going to other casinos?

1 DR. SILVER: Yes.

2 MEMBER HYTE: So they were voluntary
3 terminations.

4 DR. SILVER: Some were, yes.

5 MEMBER HYTE: How many?

6 DR. SILVER: That I don't know. Mr. Newman
7 terminated them.

8 MEMBER HYTE: But usually it says that on a
9 termination slip whether it is voluntary or not.

10 DR. SILVER: I didn't go and review every
11 application for every employee that left the Crystal Palace.
12 All I was making a point of is your fact is incorrect, that
13 there were not 70 terminated and that out of the 60 that
14 were terminated, 57 of them were terminated by Newman
15 himself. That's the only fact I tried to make or point I
16 tried to make.

17 I have a second document here. I think it is a
18 document of some importance.

19 You reviewed the earnings statement or computer
20 printout March 1, '79, through March 31, '79, where I stated
21 for the record that that was our largest gross month in the
22 absence of Mr. Newman at the time he was in the hospital.

23 MR. PECCOLE: Let me interrupt right here and I
24 will introduce these as Exhibit 2 and 3.

25 CHAIRMAN AVANCE: These are additions to the

1 exhibit you gave us last time; right?

2 MR. PECCOLE: Yes.

3 (Exhibits 2 and 3 marked.)

4 DR. SILVER: At that particular time what we
5 stated was that the gross was \$418,000, and there was a
6 bottom line net of \$46,000. That was our best winning
7 month, and that particular time Mr. Newman was in the
8 hospital.

9 Going to the next statement there, which is an
10 unaudited printout, computer printout, March 1 through 31,
11 during the time Mr. Newman was there totally by himself --
12 this is where no -- none of the owners were in the casino at
13 all -- the gross was \$321,000, but as we said, the
14 controller, who is now married to Mr. Newman, who was living
15 with him at the time, if you will look down on the printout
16 statement, you will notice that conveniently depreciation is
17 absent from the 1980 statement. And depreciation was
18 approximately \$7,000. We have that outlined there for you.

19 Also, if you come further down and you look
20 under department expenses, you will see that, on page 2, our
21 utility bill for the year of 1979 was \$11,000. You will
22 also see as we turn the page that they show utility bill of
23 \$883. We never had an eight -- we have never had a utility
24 bill that's been under seven or eight thousand dollars.

25 So, they show a net of \$16,000. If you add in

1 DR. SILVER: Yes.

2 MEMBER HYTE: So they were voluntary
3 terminations.

4 DR. SILVER: Some were, yes.

5 MEMBER HYTE: How many?

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7 terminated them.

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23 \$883. We never had an eight -- we have never had a utility
24 bill that's been under seven or eight thousand dollars.

25 So, they show a net of \$16,000. If you add in

1 \$7,000 for -- Joe, the first number that you gave me for
2 utilites of 11,000 --

3 MR. PECCOLE: I have right here. That should
4 be Exhibit 2 and this should be Exhibit 3.

5 MEMBER HYTE: Would you change those?

6 DR. SILVER: Do you have 1980 now?

7 MEMBER HYTE: Yes.

8 DR. SILVER: Well, on 3, on Exhibit 3, utilites
9 are shown as \$883, and on page 1, there is no depreciation
10 listed.

11 My only reason for bringing this up is that if
12 you look at this, this was tried -- this was presented to
13 the federal bankruptcy court I think with deception, and the
14 deception that it tried to show was there was a \$16,000
15 bottom line. But if you add in the depreciation and you add
16 in the true utility cost, you probably have a \$2,000 loss
17 for the month, and that was on a \$321,000 gross revenue, and
18 that was when none of the, quotes, "trusted friends," were
19 around to watch what was going on that month. I only bring
20 that up as documented fact. I think it should be an
21 important part of the record.

22 You also had asked a question as to why did the
23 revenue in general seem to fall off over the last several
24 years. We went out and did a survey and we found that in
25 1980 there were approximately total number of gaming

1 revenues and devices, there were 1195, and in 1984, there is
2 approximately 3,000.

3 So that the population base has been divided
4 into a much thinner slice of an enlarging pie. We have that
5 piece of material.

6 MEMBER HYTE: Mr. Silver, I'd like to point out
7 to you that the year to date figures on these two financial
8 statements that you presented to me show a \$98,000 profit
9 year to date for the period July 1, 1978, through March 31,
10 '79, which was the first ten months of operation at the
11 location.

12 In 1980, for the period --

13 DR. SILVER: That is incorrect, Mr. Hyte. That
14 is the second ten months of operation. The first ten months
15 would have gone from fiscal '78 to '79. You are now looking
16 at --

17 MEMBER HYTE: From July 1, 1978. The property
18 opened in June or July, didn't it?

19 DR. SILVER: Yes.

20 MEMBER HYTE: So the very first year when
21 Mr. Newman was there, year to date profit was \$98,209, and
22 by the way, that is the statement that does contain the
23 depreciation and the proper utilites.

24 The statement that you claim did not contain
25 depreciation and proper utilites shows a loss of a hundred

1 nine, almost a hundred ten thousand for the period July 1,
2 '79, through March 31, 1980, which is the same ten months,
3 obviously a year later.

4 DR. SILVER: Year later, yes, that is correct.

5 MEMBER HYTE: It would be interesting to point
6 out that Mr. Newman was responsible for all ten months on
7 operating this property with a profit of 9,000 and that
8 Mr. Newman was not involved with -- well, he was involved in
9 the next month.

10 DR. SILVER: That is incorrect, Mr. Hyte. He
11 was involved. Everything that you have in front of you
12 Mr. Newman is involved with.

13 MEMBER HYTE: He was involved in the next year
14 up through March.

15 DR. SILVER: Exactly. This is all Mr. Newman,
16 Mr. Hyte.

17 MEMBER HYTE: Okay. However, I can point out
18 also that the revenues in the first year were much higher
19 than the revenues in the second year and the third year and
20 fourth year and fifth year they decreased and you are going
21 to address that in a minute.

22 I would also put forth the theory that perhaps
23 one of the reasons that we have greater expense here is
24 because revenues began to drop, and the fixed expenses
25 remained somewhat stable, and perhaps with the intensity of

1 the internal bickering between the partners and things at
2 this location, that that may have affected the operations.

3 So, I think it would be unfair to say that
4 Mr. Newman is totally responsible for all of this decrease
5 between 1979 and 1980.

6 I should point out that the first year, 1978
7 through '79, is the only year that that property experienced
8 a profit.

9 DR. SILVER: Yes, very sad, too. One percent
10 on four million.

11 MEMBER HYTE: Well, there was a profit, and it
12 also was the highest year for revenues for that property.

13 DR. SILVER: You, of course, know there were
14 many reasons why that was so.

15 MEMBER HYTE: Are you going to address those
16 now?

17 DR. SILVER: I would love to. The first reason
18 is that we were the newest casino there. There were two
19 other casinos at the time, the Riverside and the Nevada
20 Club, and at the time we took the Crystal Palace, we redid
21 the entire interior and therefore we were the new place.
22 That made us fashionable.

23 Also there was a lot of internal problems going
24 on over at one of the other clubs where people would come in
25 and say they were very uncomfortable there. They liked our

1 place.

2 That went for the first year. Now, you, I am
3 sure, remember that a gas crisis came somewhere in the
4 summer of 1979. And most of our business comes from out of
5 the area, either Phoenix or Southern California. And it is
6 pretty tough to get to Laughlin and back to Southern
7 California on one tank of gas.

8 We also had a recession type summer, along with
9 the gas crisis, but the major problem was the gas crisis.

10 I had contemplated opening a gas station there
11 and trying to guarantee having the people be able to get a
12 tank of gas to get back to Southern California if they came
13 to Laughlin.

14 In any event, that was the major reason for the
15 dip in the revenue.

16 The second reason is obviously two more casinos
17 opened, they became fashionable. We were less fashionable.
18 You know we are not on the river. We have no boat. We have
19 no ferry. And all of our people have to drive. The gas
20 even for local people affected us because they wouldn't
21 drive around.

22 It is still even 18 miles to come to our place
23 from Bullhead City and 30 miles from Needles and 55 miles
24 from Lake Havasu. So, if you can get there without using
25 gas, that was the way to go.

1 I think that was the major reason, the two new
2 casinos, but the big overwhelming problem was gas.

3 MEMBER HYTE: What about the following years?

4 DR. SILVER: Well, as the following years went
5 on, 1980, when the bankruptcy occurred, we were then unable
6 to improve the place. So we could not stay within the
7 mainstream of marketing. I mean, here there are brand new
8 places coming yp, providing new facilities, new rooms. We
9 have 21 shabby rooms. You weren't even allowed to put new
10 carpet into it.

11 MEMBER HYTE: Where would your property be now,
12 your guess, if there was no bankruptcy and no internal
13 fighting in this partnership?

14 DR. SILVER: I had planned six months after we
15 had opened, I had contacted Brunswick, I was going to put in
16 72 bowling lanes. The Edgewater has done it now. They are
17 packed. You can't get a place to bowl.

18 I had the financing set up to do that. I was
19 going to build a hundred forty more rooms. We would have
20 had the largest number of rooms in Laughlin at the time.

21 MEMBER HYTE: So you would be competitive, very
22 competitive?

23 DR. SILVER: I think we might have had one of
24 the major places there, yes.

25 MEMBER HYTE: Why did that not happen?

1 DR. SILVER: Because I had a partner who would
2 not sign personally for anything.

3 MEMBER HYTE: And then you also chose to do
4 what, file for bankruptcy. You and the other partners chose
5 to file for bankruptcy?

6 DR. SILVER: No, again misquotation. I hired
7 an attorney who is considered to be an expert, and he
8 advised us to file a Chapter 11. Do you feel that that was
9 bad information?

10 MEMBER HYTE: Yes, I do. Who made the
11 decision?

12 DR. SILVER: The attorney.

13 MEMBER HYTE: You let attorneys make decisions
14 for you?

15 DR. SILVER: When I hire them I do. I may have
16 to make the final statement for the decision, but what I am
17 saying is my decision --

18 MEMBER HYTE: You made the final statement?

19 DR. SILVER: My decision was predicated on the
20 advice of who I considered to be an expert.

21 MEMBER HYTE: You're placing the
22 responsibilities of going into bankruptcy on that attorney?

23 DR. SILVER: Yes, I did exactly what he told me
24 would be the best move for the creditors and the company.

25 MEMBER HYTE: So you take no responsibility for

1 that decision?

2 DR. SILVER: Well, I guess I am one of the
3 owners of the place. I have to take some responsibility for
4 it.

5 MR. PECCOLE: Mr. Hyte.

6 MEMBER HYTE: Will you take all of the
7 responsibility for it?

8 DR. SILVER: If I did that I wouldn't have
9 needed an attorney, Mr. Hyte.

10 MR. PECCOLE: Mr. Hyte, under the
11 circumstances, as you will recall, Mr. Swartzner, the
12 attorney involved, told this Board why that decision was
13 made. It was to keep the place open so it wouldn't be
14 closed as a result of a receivership that was taking place,
15 receivership action taking place in district court.

16 MEMBER HYTE: There was another alternative
17 that was available.

18 MR. PECCOLE: But that we don't know. That was
19 a questionable alternative.

20 MEMBER HYTE: There was another alternative.

21 MR. PECCOLE: What was that?

22 MEMBER HYTE: To allow the receiver to be
23 appointed other than come to the Commission for emergency
24 approval.

25 MR. PECCOLE: Well, but the Commission and

1 Board don't act that quickly, as you well know.

2 MEMBER HYTE: The Commission can act --

3 MR. PECCOLE: Another thing is you already had,
4 as I recall it, investigators saying, "Close the place."
5 What would you have done then?

6 MEMBER HYTE: The issue was that you knew the
7 Commission may not cooperate and so, you operated not to
8 take that route. Although you knew that there were some
9 problems at that location.

10 DR. SILVER: I knew there were problems but
11 I --

12 CHAIRMAN AVANCE: Could we cover new ground?
13 We covered this very thoroughly in Las Vegas.

14 MR. PECCOLE: What is bothering us though right
15 now, it seems that Mr. Hyte is saying that a Chapter 11 is a
16 bad thing, and yet, we have got how many major hotels in
17 Chapter 11?

18 MEMBER HYTE: Chapter 11 generally, although
19 it's not required, Chapter 11 is opted for because of
20 insolvency, and that was not the case here.

21 MR. PECCOLE: Well, so, why does it make it
22 worse now in his case? If you are insolvent it means you
23 were not caring for your business; right?

24 CHAIRMAN AVANCE: Mr. Hyte is not going to
25 answer your questions. We are here to ask you questions so

1 that we can get the answers.

2 MR. PECCOLE: I understand that. But let's get
3 to it.

4 CHAIRMAN AVANCE: Yes. We will get to it.

5 MEMBER HYTE: I have a reason for discussing
6 this.

7 CHAIRMAN AVANCE: All right.

8 MEMBER HYTE: Mr. Chairman.

9 MR. PECCOLE: He is implying that the Chapter
10 11 was a bad thing.

11 CHAIRMAN AVANCE: All right.

12 MEMBER HYTE: The owners opted to go into a
13 Chapter 11 in order to avoid a receivership, in order to
14 avoid what they thought in their minds at that time was an
15 inevitable closure by the Commission because of all the
16 problems that they were having at that time with the gaming
17 authorities. And then put the creditors into a less
18 desirable position. In fact, to this day there are some
19 creditors who have not been paid for any debts that occurred
20 at that filing, four-and-a-half years later.

21 MR. PECCOLE: Your analysis of what happened,
22 Mr. Hyte, is not what the record reflects now. Mr. Swartzner
23 testified as to why the Chapter 11 was used, and I believe
24 at one point in his testimony he said it actually protected
25 the creditors in that the place was not closed.

1 DR. SILVER: That is exactly a fact and that is
2 exactly true.

3 MEMBER HYTE: There was no guarantee that the
4 place had to close because there was another alternative.

5 DR. SILVER: You are saying to me now,
6 Mr. Hyte, that I go out and I get an attorney and the
7 attorney gives me bad information and I follow the advice of
8 the attorney. Now, I agree, if the attorney gave me bad
9 information, I can address that later.

10 But what I am saying to you is I looked at him
11 as an expert. If you come to me and you need an operation,
12 you are going to look to me as an expert, too. If someone
13 down the street says that is not the way to to do it, I
14 don't think you are going to do that.

15 I listened to an expert and I followed the
16 direction of an expert, and the direction of the expert said
17 that the creditors would be protected and that this was not
18 an insolvency problem and the place would be kept open.
19 Now, I can't do any more than follow the advice of an
20 expert.

21 MEMBER HYTE: Why was Mr. Newman fired,
22 Mr. Silver?

23 DR. SILVER: Why was he fired?

24 MEMBER HYTE: Yes.

25 DR. SILVER: The judge dismissed him. When the

1 judge found out that he was writing checks to people under
2 bogus names, that he was borrowing money out of the cage for
3 himself, he was lending money to people to purchase real
4 estate out of the cage, and he was sleeping with the
5 controller, who he is now married to, the judge -- and they
6 could not report on any financial -- they made a hundred six
7 thousand dollar mistake as they sat explaining to the
8 creditors how much money we had in the cage. And the judge
9 was very nervous over that.

10 MEMBER HYTE: Mr. Silver, I went back and
11 researched the record on that, and looked at any official
12 pronouncements that were made on that matter, and nowhere
13 did I see any statement made in any final decision or reason
14 for any final decision that was similar to what you just
15 said.

16 MR. PECCOLE: Mr. Hyte, we will defer to
17 Mr. Swartzter's testimony. He testified that it was done in
18 chambers. All three of the partners agreed that Mr. Newman
19 had to go. And it was done in chambers for the purpose that
20 they didn't want Mr. Newman to know that he wasn't going to
21 be there, and I believe there was another defendant they
22 didn't want the employees to know that he was going.

23 MEMBER HYTE: Jeff Silver somewhere in his
24 testimony indicated that Newman was replaced by all three
25 owners because he could not communicate dollars or amounts

1 to the bankruptcy court, not, and I emphasize this, not
2 because of incompetency. That is his quote.

3 MR. PECCOLE: But Mr. Swartzner is the one that
4 handled it all. Mr. Silver only came in to pick a new
5 person to take over as the manager. You got to keep it in
6 context.

7 MEMBER HYTE: What conversations and agreements
8 took place surrounding Marge Friedman's removal in March of
9 1980?

10 DR. SILVER: Mr. Newman didn't want anyone
11 there who might be able to watch what was going on and
12 transmit the information to any of the owners. My
13 understanding is that termination just occurred.

14 MEMBER HYTE: Was there an agreement on the
15 part of all three of you?

16 DR. SILVER: We had nothing to say about it.

17 MEMBER HYTE: Nothing to say about it. How
18 long -- is Miss Friedman at the Cheyenne now?

19 DR. SILVER: She is bookkeeper, yeah.

20 MEMBER HYTE: Where was she before that?

21 DR. SILVER: Well, she lives in Toledo. She's
22 been back and forth. She has a sick mother. She spends
23 most of her time either in Las Vegas or in Toledo.

24 MEMBER HYTE: So she lives in Toledo but she
25 works for you?

1 DR. SILVER: No, no. She lives here in Las
2 Vegas. But over the last two years she's been back and
3 forth several months out of the year in Toledo.

4 MEMBER HYTE: Is she on a salary?

5 DR. SILVER: She is now since she started
6 working at the Cheyenne.

7 MEMBER HYTE: Is she full time there?

8 DR. SILVER: Yes.

9 MEMBER HYTE: Is she spending time in Toledo?

10 DR. SILVER: Well, she just came back. She was
11 there for six weeks.

12 MEMBER HYTE: Did you pay her for the time that
13 she was out of town?

14 DR. SILVER: No.

15 MEMBER HYTE: How much do you pay her?

16 DR. SILVER: A thousand dollars a month.

17 MEMBER HYTE: Mr. Silver, do you take any
18 responsibility for this whole chain of events at the Crystal
19 Palace?

20 DR. SILVER: I have to take some, I suppose.

21 MEMBER HYTE: Do you accept any responsibility
22 for the problems that have occurred at the Red Rock
23 partnership before it diminished in size?

24 DR. SILVER: Well, I think it worked out
25 excellently. We have nine partners or 11 partners -- nine

1 partners who did exactly what they wanted to. They sold out
2 their investment, made 50 percent on it in less than two
3 years.

4 We bought the remaining part of their
5 partnership and we have it now.

6 MEMBER HYTE: How many lie detector tests have
7 you taken voluntarily?

8 DR. SILVER: Well, I just took another one last
9 week.

10 MEMBER HYTE: How many have you taken?

11 DR. SILVER: Half a dozen.

12 MEMBER HYTE: How many exactly?

13 DR. SILVER: Well, rather than be caught in a
14 lie -- you have all of them and I have one here today. If
15 you want to count them I will go through them with you. But
16 at least half a dozen.

17 MEMBER HYTE: Have you taken any that you have
18 not told us about?

19 DR. SILVER: No. I have never taken one before
20 I took one here.

21 MEMBER HYTE: Okay. But have you taken any in
22 relation to this licensing?

23 DR. SILVER: I have never taken a lie detector
24 test.

25 MEMBER HYTE: Have you taken any since you

1 started this hearing that you have not told us about?

2 DR. SILVER: No.

3 MEMBER HYTE: Are there any results of any of
4 those tests that you have not told us about or made
5 available to us?

6 DR. SILVER: To my knowledge, you have all the
7 lie detector tests.

8 MEMBER HYTE: The complete reports?

9 DR. SILVER: With the exception of this one
10 here.

11 MEMBER HYTE: Will you present that now?

12 MR. PECCOLE: Yes, I will. This will be
13 Exhibit 4. I would like to read into the record what it is.
14 This was a polygraph examination dated February 2nd, '84.
15 The purpose of the examination was to determine if
16 Mr. Silver thought he had intent to deceive or mislead the
17 Gaming Commission when he neglected to include information
18 given to the Commission that a conviction of Gordon Ellis
19 for battery upon the premises of the Crystal Palace was
20 later appealed.

21 The pre-test interview included Mr. Silver
22 stating he felt that he was adequately defending himself
23 from allegations that he had instructed a customer to be
24 beaten when he stated that the customer who was allegedly
25 beaten on the property was taken into custody, fined and

1 convicted the following day. He stated his initial purpose
2 of defending himself of the allegation was suitably met by
3 revealing the details of the incident and to have further
4 elaboration upon the efforts of another owner, Dr. Myer, to
5 appeal that conviction in order that their own casino might
6 become financially liable, would further confront the
7 Commission with facts not necessarily related to his defense
8 in the primary issue of having a customer beaten. He denied
9 any wilfull attempt to mislead the Commission and stated he
10 had never instructed any person, including Gordon Ellis, to
11 be beaten up. The following relevant questions were asked
12 during the examination, along with the selected control
13 questions to protect the truthful person. Mr. Silver's
14 vocal responses were as follows.

15 "Question 2: Regarding your forthrightness in
16 knowingly withholding information from the Gaming
17 Commission, do you intend to answer my questions about that
18 truthfully?

19 "Answer: Yes.

20 "5: Did you have intent to mislead the
21 Commission by withholding information about the Ellis
22 appeal?

23 "Answer: No.

24 "Number 7: Do you think the appeal relates to
25 your defense that you did not have Mr. Ellis beaten up?

1 "Answer: Yes.

2 "Number 9: Did you have Mr. Ellis beaten up?

3 "Answer: No.

4 "Analysis: After careful analysis of the
5 polygraph data, no deception is indicated. In the opinion
6 of this examiner Mr. Silver was truthful in the above noted
7 statements."

8 We introduce that as Exhibit 4.

9 MEMBER HYTE: Do they give the levels of
10 deception there or truthfulness?

11 There is no scales referred to in this report.

12 (Exhibit 4 marked.)

13 DR. SILVER: Scales?

14 MEMBER HYTE: You read the entire report?

15 DR. SILVER: That was it.

16 MEMBER HYTE: A question that relates to that.
17 Have you been honest and forthright in all comments or any
18 statements you have made to this Board?

19 DR. SILVER: To the best of my knowledge, I
20 have, Mr. Hyte.

21 MEMBER HYTE: Are you completely honest in all
22 your business dealings?

23 DR. SILVER: I try to be. Let's say this.
24 Right now I don't owe anybody any money. I have no unpaid
25 debts. I pay my income taxes every year and I go to work.

1 MEMBER HYTE: I will take a recess for a
2 minute.

3 CHAIRMAN AVANCE: Do you need a recess?

4 MEMBER HYTE: No, I will just sit back for a
5 minute and see if Patty has any questions.

6 MEMBER BECKER: I got a little confused on the
7 report that you submitted this morning, Dr. Silver. It says
8 in 1979 -- this is on the termination of employees -- it
9 says there is, and then you have a number for the months on
10 the terminations that were signed by Delbert Newman?

11 DR. SILVER: Yes.

12 MEMBER BECKER: Now, for some of those months
13 Mr. Newman wasn't working at the establishment.

14 DR. SILVER: Yes.

15 MEMBER BECKER: But his name somehow appears on
16 them.

17 DR. SILVER: Well, the month -- he wasn't there
18 for part of one month. I think that is in March where you
19 see someone else signed 20 of them. But then, every month
20 after that he signed virtually all of them.

21 MEMBER BECKER: Okay. And you went through the
22 records of the Crystal Palace and came up with people who
23 were terminated; is that correct?

24 DR. SILVER: Well, let's say people that
25 changed jobs. A comment was made, and I am just defending

1 the comment that was made that was an incorrect comment.
2 The comment was that 70 people quit at the Crystal Palace
3 during the time Mr. Newman was in the hospital. That is an
4 incorrect statement.

5 MR. PECCOLE: And that has been several times
6 that figure has come up from both the Board and the
7 Commission, 70 people. We are questioning your information
8 at this date.

9 MEMBER BECKER: Dr. Silver, you went through --

10 DR. SILVER: To set the record straight,
11 Mr. Finneran did all of this.

12 MEMBER BECKER: I am just trying to understand
13 what occurred. That's all.

14 So these are people that just left the Crystal
15 Palace during that time period?

16 DR. SILVER: These are employees that turned
17 over. If you look, we turn over 30 employees almost every
18 month. And we have other employees that turned over that
19 month.

20 MEMBER BECKER: Right. Now you went through
21 calendar months, January, February, March, or Mr. Finneran
22 did -- excuse me -- but in March and April, those obviously,
23 because that is when the documents were signed by other
24 people, are the months that Mr. Newman wasn't on the
25 premises, at least as consistently as he was during the

1 other months.

2 If you take other than a calendar month, total
3 of those two months are 99 people. So, there is a
4 possibility over a four-week period there were 70 employees
5 that came and left. I don't really think the number --

6 DR. SILVER: That is really not correct,
7 Miss Becker. That is not correct.

8 MR. PECCOLE: And it is not terminations --

9 DR. SILVER: We are looking at numbers now and
10 you are making up other things that are not what we are
11 looking at. We never ever, fact, we never -- and you stated
12 we had a turnover in one month of 70 employees. Now that's
13 on the record. That was mentioned here. It was mentioned
14 at the Commission.

15 MR. PECCOLE: And that was supposedly during a
16 period of time when Mr. Liddle had taken over, which was a
17 period I think like two weeks.

18 DR. SILVER: That is incorrect. All I am
19 trying to do is present correct information. Now this
20 information is available at the Crystal Palace. It's taken
21 from all of our employee jackets.

22 MEMBER BECKER: What I am saying in March you
23 had 40 individuals -- excuse me -- 39; correct?

24 DR. SILVER: 39 turnover?

25 MEMBER BECKER: And April it was 60; is that

1 correct?

2 DR. SILVER: Okay.

3 MEMBER BECKER: That's all.

4 MR. PECCOLE: Miss Becker, I think --

5 CHAIRMAN AVANCE: What is the level of
6 employees there? When we are talking about 30 employees in
7 one month, what is the total employment picture there?

8 DR. SILVER: Well, at this time we probably had
9 about 150 or 160. We were up to probably 200 in the busiest
10 months, and some of this also reflects that some of them go
11 because business starts to fall off also. The point is that
12 it was the statement was made that during Mr. Liddle --

13 CHAIRMAN AVANCE: We understand that.

14 DR. SILVER: Fine. The other thing about
15 Mr. Liddle that was not read into the record was the fact
16 that Mr. Liddle, who was accused and charged of illegal wire
17 tapping, the case was dismissed against him.

18 CHAIRMAN AVANCE: I just had one question in
19 regards to some previous testimony. You had hired a
20 security firm --

21 DR. SILVER: Griffith.

22 CHAIRMAN AVANCE: -- to go down and look at
23 problems, and you were going to be solving some of those.
24 What did they find out? Can you refresh my memory on that?

25 DR. SILVER: Okay. The general concept was

1 that the operation was loose. General concept was that the
2 bar was a loose operation, that the restaurant was a loose
3 operation, that we didn't have good reception of vendor
4 material, and also we didn't have a good handle on cards of
5 employees for hitting the time clock, and that there was a
6 question of how good our dealers were. But you know,
7 Laughlin is not a place where there is a tremendous
8 employment pool.

9 Anybody you fire in our place can go across the
10 street and get a job in another place. So what happens is
11 you have to deal with the employees in a little different
12 kind of level than you do up here, or in Vegas.

13 MR. PECCOLE: I think an important point, too,
14 Mr. Avance, is that from having read the Griffith report and
15 your having read the Doda letter back to us, they both reach
16 almost the same conclusion, which was that it was being
17 handled too loosely.

18 MEMBER BECKER: Dr. Silver, who did you share
19 that report with?

20 DR. SILVER: The three owners.

21 MEMBER BECKER: Did you share it with
22 Mr. Newman?

23 DR. SILVER: No.

24 MEMBER BECKER: How could he correct the
25 problems if you didn't tell him what they were?

1 DR. SILVER: Well, we helped him by telling him
2 there were problems here and problems here and problems
3 here.

4 MEMBER BECKER: Mr. Peccole's comment is
5 correct, but there was a six-month time frame in between the
6 two observations.

7 DR. SILVER: Oh, no. This was ongoing. This
8 was constantly ongoing.

9 MEMBER BECKER: Between the Griffith report and
10 our undercover operation there was a six months' time
11 difference, the Griffith report being prior to the
12 undercover operation. So obviously, it was not corrected.

13 DR. SILVER: That is not exactly true. It was
14 corrected. But unfortunately, as I just mentioned,
15 Mr. Avance, it is very difficult or it was very difficult to
16 get help in Laughlin. It takes you a while. In other
17 words, if you have got a poor dealer, it is sometimes better
18 to have a poor dealer than have the game closed. We were
19 faced with that situation many times.

20 We even started a school to try and get some
21 people to get into dealing so that we could get more dealers
22 because the employment pool is so poor down there. We have
23 changed three or four cooks within one shift in the
24 restaurant. How can you get three or four people to keep a
25 standard procedure going on reception, how many steaks did

1 you take out and cut, did you mark it down on this sheet?
2 It is just a very difficult thing to do, believe me, but we
3 did try, Miss Becker.

4 MEMBER BECKER: But you did not share the
5 report with Mr. Newman?

6 DR. SILVER: No. If I do an undercover
7 surveillance and I have a guy that is working for me, and I
8 don't really know him well, then I am not going to tell him
9 that I had an undercover person down there watching him.
10 That's all.

11 But I am going to go to those areas that the
12 undercover people came out because again, I like to hire
13 professionals. They came down and then said there is a
14 problem here and there is a problem there. We addressed
15 those problems.

16 We then started to use polygraphs on many of
17 the people there. Mr. Newman didn't like that. In fact,
18 Mr. Newman's son left the day Mr. Finneran took over,
19 stating that he might as well leave anyway, he'll never pass
20 the polygraph.

21 MEMBER BECKER: Chairman Avance, I don't have
22 any other questions.

23 CHAIRMAN AVANCE: Mr. Hyte.

24 MEMBER HYTE: I'd like to just clarify the
25 record on the terminations. How many employees did you have

1 DR. SILVER: Well, they didn't all want to
2 leave. We made a lot of them leave. And we had -- I mean,
3 we were hiring people that would drive in on motorcycles and
4 have their bags on the back of the motorcycle.

5 MEMBER HYTE: You testified to me earlier you
6 did not know how many people left voluntarily and how many
7 left --

8 DR. SILVER: No, I don't know that exactly.

9 MEMBER HYTE: We can't dwell on that
10 information because we don't have that information before
11 us. All we can assume, the information that we have is that
12 we have had anywhere from 60 down to eight in November of
13 '79 employees leave in any one month.

14 Now I would like to point out in '79, there
15 were a total of 405 turnovers at that property.

16 MR. PECCOLE: Mr. Hyte, could I ask you a
17 question? Didn't you have this information available to you
18 when you made the accusation that 70 people were terminated
19 by Mr. Liddle?

20 MEMBER HYTE: The information that was
21 available was from our summary information. I am developing
22 new information here.

23 MR. PECCOLE: Well, supposedly, you shouldn't
24 be developing new information. This information should be
25 information that was available.

1 MEMBER HYTE: Mr. Peccole, your clients
2 provided me with this information. I am not going to ignore
3 it.

4 MR. PECCOLE: It was submitted for the purpose
5 that you said 70 were terminated by Mr. Liddle.

6 MEMBER HYTE: Fine. Assuming this information
7 is correct, I will concede on that issue. I am going to
8 develop some other issues here for a minute.

9 1980, there were 339 turnovers. 1981, 334.
10 1982, 340. 1983, 275.

11 Keep in mind, that in 1983, '82, '81 and 1980,
12 there were other properties that opened, and as indicated on
13 your schedule here, were potential reasons why you had many
14 employees leave. However, you don't have an indication like
15 that in '79.

16 The point I am going to make is that in 1979,
17 when there was no real draw of those employees because of
18 competition, you did have a high turnover. That was during
19 the period of time when there was a lot of internal fighting
20 in the property.

21 Since the receiver was appointed or since the
22 bankruptcy -- excuse me -- since the bankruptcy was filed,
23 all three partners have been removed from the location and
24 do not deal with the property on a day-to-day basis.

25 DR. SILVER: Let's look at one thing to make

1 your numbers not really speak correctly. Okay? What was
2 the total number of employees employed during the month of
3 February 1979?

4 MEMBER HYTE: Let me ask you that.

5 DR. SILVER: That's the point. How can you
6 make the statement without having that number?

7 MEMBER HYTE: You told me it is anywhere from a
8 hundred fifty to 200.

9 DR. SILVER: That is 25 percent different. Now
10 you are taking one number. If we take 36 against -- we had
11 more people employed in 1979, Mr. HYTE. Let's make the
12 numbers accurate now.

13 MEMBER HYTE: How many people were employed in
14 the year 1979?

15 DR. SILVER: I don't know exactly but we had
16 more people employed in '78 and '79 than we had in '80, '81,
17 '82 or right now. We right now have the lowest number.

18 MEMBER HYTE: Please don't argue with me,
19 Mr. Silver.

20 DR. SILVER: I am not arguing. Can't I give
21 correct information? Is that a problem?

22 MEMBER HYTE: I asked you how many employees
23 you had working there in 1979 on the average.

24 DR. SILVER: And I told you that I didn't know
25 exactly. But I did tell you an approximate amount. And

1 then you have extrapolated from that and you have come down
2 to get a number where you have started out with the number
3 that we don't know from the beginning. That's all I am
4 saying is I don't think that that's mathematics there.

5 MEMBER HYTE: I developed enough information in
6 this area. I don't need to ask any more questions in that
7 area. I am through asking questions.

8 CHAIRMAN AVANCE: Any other questions,
9 Miss Becker?

10 MEMBER BECKER: I don't have any.

11 DR. SILVER: Could I just make one statement,
12 Mr. Avance and I know we will be finished.

13 CHAIRMAN AVANCE: If you could make it brief.

14 DR. SILVER: I would like to make one
15 statement. Over the last year now we went out and we
16 worked, and this is really for you, Mr. Hyte, because I
17 think that one of the concerns we keep talking about is this
18 bankruptcy, but I was able to get six major saving and loan
19 institutions, federally insured saving and loan institutions
20 to come forward and to commit seven million dollars to me to
21 buy a place that is in bankruptcy in the State of Nevada
22 where there is a lot of bankruptcies going on and a lot of
23 insolvencies.

24 This was not a trust fund. This was not a
25 pension fund. But this was a plain old savings and loan,

1 federally insured, that would have provided another 400 jobs
2 down in Laughlin and would have paid all of these creditors
3 off, including interest to the unsecured creditors and also
4 would have opened this new place that we have over there.

5 Now, I think that's a hell of a wise man that
6 can do that in an atmosphere that we are having today. Last
7 week the Marina just also declared a problem because
8 apparently, it was a convenient thing for them to do because
9 of their situation with their landlord.

10 So I would just like -- that should go on
11 record that I think that was a wonderful business move. I
12 certainly hope that the Board views that as a thing that
13 would be a very positive thing for this state.

14 MEMBER BECKER: Dr. Silver, was part of that
15 money the money raised from the Hoover group, part of the
16 seven million you are talking about?

17 DR. SILVER: There was no money raised from the
18 Hoover group. Okay?

19 MEMBER BECKER: Is the commitment --

20 DR. SILVER: There was no money raised from the
21 Hoover group. There are six savings and loans who had
22 committed seven million dollars to me based on my personal
23 guarantee to buy the Crystal Palace. I have a travel lodge
24 franchise and I was going to build --

25 MEMBER BECKER: That is totally separate from

1 the Hoover group.

2 DR. SILVER: That has nothing to do with the
3 Hoover group.

4 MEMBER HYTE: How about Mr. Hoover?

5 DR. SILVER: That has nothing to do with him.

6 MEMBER HYTE: None of those savings and loans
7 were not associated with Mr. Hoover?

8 DR. SILVER: They are not associated with
9 Mr. Hoover.

10 MEMBER HYTE: Or any people in the Hoover
11 group?

12 DR. SILVER: Or none of the people in the
13 Hoover group.

14 MEMBER BECKER: Or introduced by them.

15 DR. SILVER: The only one, Mr. Hoover, who has
16 a title company, was able to go out and to put this package
17 out into a variety of these banks. These banks then had
18 their board of directors review it and determine whether or
19 not they thought it was a judicious and prudent business
20 investment.

21 MEMBER BECKER: So this is the package that
22 Mr. Hoover --

23 DR. SILVER: This is not a package that has
24 anything to do with Mr. Hoover other than Mr. Hoover acting
25 as a title company.

1 MEMBER BECKER: So he submitted it to obtain
2 the financing. I don't question that they approved you. I
3 am not at issue with you on that. I am just trying to
4 understand. This is the package he submitted.

5 DR. SILVER: Yes, ma'am., we are paying
6 Mr. Hoover as a financial finder or title company to go out
7 and try and put financing together for us. There are two
8 companies in California that we are also using and they
9 weren't quite as quick as he was.

10 CHAIRMAN AVANCE: Other questions or comments?

11 MEMBER BECKER: Does Mr. Peccole have a
12 statement?

13 CHAIRMAN AVANCE: Do you have anything,
14 Mr. Peccole?

15 MR. PECCOLE: I will try to be brief. Just in
16 the days of these hearings that we have had in this matter,
17 the things that I have seen raised here are just more or
18 less a recall of what had already been before the
19 Commission, and that they had put to rest. The bickering
20 between the partnership, that is admitted.

21 How do you get to be a good businessman in
22 gaming if you don't go through some trials and tribulations?
23 That's what happened here. It doesn't make him any less a
24 good businessman, and obviously, the implication has been he
25 doesn't know what he is doing.

1 But everybody that we brought forward, the
2 letters that you have, indicate that he is a solid
3 businessman. Not only that, he is honest and he has
4 integrity.

5 We have heard allegations thrown out here,
6 again, the Ellis matter. That was a gray herring as far as
7 I am concerned. The question was did Mr. Silver have
8 Mr. Ellis beat up in the club. That was the insinuation
9 that was left in the record.

10 So, we came forward and showed what had
11 happened. There was a fight that took place. It was
12 instituted by Mr. Ellis.

13 But aside from all that, got to come back to
14 the question: Is Dr. Silver capable of running a one owner
15 operation with a good manager. He doesn't have any
16 additional partners.

17 My opinion is he's very capable of doing that.
18 I would also point out that there is this insinuation that
19 keeps going around that his Red Rock medical partnership
20 didn't make it. Everything in the record indicates that it
21 did.

22 Now, I don't know how you guys do business, but
23 partnerships have problems all the way along. You just
24 learn from each individual partnership problem, and you go
25 to the next one.

1 It is just like I think even Jeff Silver said
2 it, Mr. Bible said it. It can be like a marriage that falls
3 apart. That doesn't mean that you are not capable of going
4 out and getting married again.

5 I know that the insinuation here has also been
6 that Dr. Silver has not been honest, and then all of a
7 sudden the question is how many polygraphs have you taken
8 and all that. He simply went to have those polygraphs taken
9 to try to show this Board that he is trying to be truthful
10 and honest with you people.

11 For some reason, it is not getting through
12 because the implication keeps coming back in his face that
13 you are not being truthful with us.

14 Now, we haven't seen any of the evidence that
15 you say has been developed that would indicate that he
16 caused the problems at Crystal Palace. I think each of you
17 have to admit that it was a partnership problem. It wasn't
18 just Dr. Silver, as your initial '79 reports indicated.

19 I think that now that you have heard both
20 sides, I think that you cannot truthfully say that it wasn't
21 a partnership blowup, and that it worked itself out. It is
22 in Chapter 11. It could have even been more successful and
23 came out of the Chapter 11, depending on how this Board
24 handled it.

25 I think that you have a man that is capable of

1 being a licensee, and I would ask you to read the Jolcover
2 letter. Mr. Jolcover was an audit agent for this Board.
3 His letter is astounding because he is a licensee himself.
4 He is in accounting. And he says, "This man standing next
5 to me is highly capable and would be an actual benefit to
6 the gaming community."

7 I think that you have got to look at a
8 situation from the standpoint that hey, we are in a society
9 where you give a guy a chance to go out and give it the good
10 old college try. If he doesn't make it, then it goes under.

11 I also would ask the Board, if you have doubts,
12 then consider a limited license. He is not afraid to accept
13 the responsibility of a limited license.

14 He indicates that there may be some problem
15 with the Crystal Palace financing. But I think aside from
16 that --

17 CHAIRMAN AVANCE: That is a different question.

18 MR. PECCOLE: That is a different question
19 altogether.

20 DR. SILVER: Mr. Hyte, I'd just like to also
21 tell you we are negotiating with Caesars Palace to do their
22 health care and also with Centel to take care of all their
23 employees out at Red Rock. The viability of Red Rock is
24 just moving right forward.

25 CHAIRMAN AVANCE: Any other comments or

1 questions by the Board before we have a motion?

2 MEMBER HYTE: I have some comments that I'd
3 like to make just for the record.

4 CHAIRMAN AVANCE: Now is the time.

5 MEMBER HYTE: I feel that Mr. Silver has not
6 been completely honest in answering and setting the record
7 straight on several incidences that we have discussed here
8 today, particularly the Ellis incident.

9 I have reason to believe that Mr. Silver has
10 not been honest and forthright in answering questions during
11 the closed session relating to his professional practice. I
12 can't believe that Mr. Silver can honestly state that he's
13 blameless for the Crystal Palace situation.

14 Mr. Silver was a key partner who chose to fight
15 rather than take a mature look at the reality of things and
16 negotiate some solutions. All the partners are guilty. I
17 am not blaming Mr. Silver completely for this.

18 Collectively they failed. The property is run
19 smoothly only after they were removed. I put forth the fact
20 that it's not just because Mr. Newman was removed.

21 I think that all three had no intentions of
22 resolving their differences before two of them forced
23 themselves and voluntarily went into bankruptcy.

24 I think that Mr. Silver's repeated argument
25 that Mr. Myer and Newman is to blame is weak when the final

1 results are analyzed. The property experienced the highest
2 revenues during the time that they were there, the highest
3 they have ever achieved.

4 And the first year was the only year that the
5 property made any profit, which is good, I think,
6 considering the fact that the first year most properties
7 experience some start-up expenses and other inefficiencies.
8 Mr. Silver's unwillingness to accept the blame indicates in
9 my mind that he lacks the required level of business
10 maturity and business probity.

11 A key element of success in any business is to
12 recognize corporate and personal weaknesses and to make
13 plans to correct them. No one, and I repeat no one is
14 perfect. All humans err occasionally. Some more than
15 others. I think Mr. Silver has gone out of his way to show
16 this Board and the Commission that he can do no wrong.

17 Not a realistic and mature response in my mind.
18 I believe the decision by Mr. Silver and Brown to follow
19 counsel and to file bankruptcy only to avoid a perceived
20 closure by the Gaming Commission showed their unwillingness
21 to deal with the gaming authorities directly and the true
22 spirit of gaming.

23 It was obvious to them that the Board had some
24 problems with their actions, but they may have been
25 correctable after approval by the Commission of a court

1 appointed receiver, which I might add did not have to be
2 Mr. Newman. It could have been someone that all three of
3 them could have agreed on.

4 I think that the bankruptcy has hurt the
5 creditors, not because the company was insolvent, because it
6 wasn't. But because they needed to avoid a receivership
7 which would not have hurt the creditors if the Gaming
8 Commission had appointed the receiver.

9 Mr. Silver's attitude toward this Board and
10 prior Boards may make it difficult to deal with him as a
11 licensee in our regulatory responsibilities. And another
12 thing on the bankruptcy. I feel that they have unfairly
13 excluded one of the partners of their organization and the
14 receivership would have allowed all the partners equal
15 proportion at grounding.

16 I think that many of Mr. Silver's written
17 credit references were manufactured and not spontaneous on
18 the part of the referer. Those are some of my feelings.

19 CHAIRMAN AVANCE: Comments, Miss Becker?

20 MEMBER BECKER: Chairman Avance, I will spare
21 you comments because my motion is so lengthy.

22 CHAIRMAN AVANCE: Accept a motion.

23 MEMBER BECKER: Do you have comments first?

24 CHAIRMAN AVANCE: No, I have no comments.

25 MEMBER BECKER: Mr. Chairman, I would move,

1 pursuant to the Board's statutory authority under
2 NRS 463.1405, subsection (2), that we recommend denial of
3 Dr. Silver's application on the following grounds: Pursuant
4 to NRS 463.170, subsection (1), the applicant has failed to
5 meet his burden of proving to the Board that he is qualified
6 to receive a license, having due consideration for the
7 proper protection of the health, safety, morals, good order
8 and general welfare of the inhabitants of the State of
9 Nevada and declared policy of this state.

10 Pursuant to 463.170, subsection (3)(a), the
11 applicant has failed to satisfy the Board that he has
12 adequate business probity, competence and experience in
13 gaming or generally. Indeed, the applicant has only had a
14 short and unsuccessful prior gaming experience. While at
15 the Crystal Palace he would either hire individuals
16 unqualified for the positions he placed them in or else he
17 would not allow his manager to do his job. This directly
18 contributed to the constant and very high rate of changes in
19 personnel.

20 I would like it noted for the record that in
21 the response to the order to show cause filed by the Crystal
22 Palace attorney on June 28th, 1979, in response to the
23 Gaming Control Board's allegations that there was a large
24 turnover of employees, it states: "Our employment turnover
25 has amounted to 343 employees since January 1979. This

1 figure includes both those employees terminated and those
2 having resigned. The casino has had as many as 240
3 employees but due to adverse business conditions the casino
4 presently has approximately a hundred sixty-five employees."

5 Obviously, either the records presented today
6 or this were incorrect. Both were presented on behalf of
7 the Crystal Palace.

8 Dr. Silver was repeatedly questioned by the
9 Gaming Control Board, both in the order to show cause and at
10 the May 1979 hearing, and in my comments on the motion
11 today, any transcripts that are referred to, the entire
12 transcript will be presented to the Commission so that if I
13 excerpted just a portion, we will make sure the Commission
14 gets the entire transcript.

15 Dr. Silver was repeatedly questioned by the
16 Gaming Control Board in regard to Marge Friedman's
17 qualifications, yet she remained employed at the Crystal
18 Palace and was earning more than the assistant general
19 manager. Now she is employed at the Cheyenne Gambling Hall.

20 Pursuant to NRS 463.170, subsections (2)(a),
21 (b) and (c), this Board is not satisfied that the applicant
22 is a person of good character, honesty and integrity,
23 whereas he appears to the Board as a person who refuses to
24 accept responsibility for his own actions, but rather always
25 makes excuses.

1 For example, he now claims the previous manager
2 at the Crystal Palace was incompetent but testified before
3 the prior Gaming Control Board, two prior, I mean, it would
4 be the Trounday, Bunker, Stratton Board, in May of 1979 that
5 the manager was competent.

6 Dr. Silver did not allow the manager to do his
7 job. Also in interviews with individuals in the Laughlin
8 area, including members of the town council, the comments on
9 Del Newman were consistenly favorable while the comments in
10 regard to Dr. Silver and his ability in gaming were
11 consistently unfavorable.

12 The Board notes that the district judge
13 originally named Delbert Newman as manager, Delbert Newman
14 the manager as the receiver, but Mr. Newman refused the
15 offer.

16 Dr. Silver insists that all his problems with
17 the Gaming Control Board are related to Dr. Myer. But the
18 Board records revealed that information -- excuse me -- that
19 informant information led to an undercover operation at the
20 Crystal Palace. The reports of the agents of that
21 undercover operation are consistent and are not favorable to
22 Dr. Silver.

23 And Dr. Silver on a number of occasions over
24 the last two months, along with Dr. Brown, stated that
25 Dr. Myer created all of the problems. Yet in May 1979,

1 Mr. Bunker informed Dr. Silver that the problems were from
2 other areas other than Dr. Myer's complaints.

3 Dr. Silver was not accurate in filing his
4 personal history application with the Gaming Control Board
5 in that he failed to list 23 lawsuits. This becomes very
6 relevant in reviewing Dr. Silver's original licensing
7 hearing on April 12th, 1978, which beginning on page 82
8 states by Mr. Jeff Silver: "Did there ever come a time when
9 you filed your application for this gaming license that you
10 knew something about Garramone other than the fact he was a
11 bad risk as far as the loan is concerned? Did you learn
12 anything about him as far as his reputation in the law
13 enforcement community?"

14 "Dr. Silver: No. Had I known that he would
15 have never gotten the money. I mean, he had some very good
16 people that were in his company. He had several physicians
17 from town. He had Bob Maheu from Summa Corporation. And he
18 had some people that were big business people from L.A. that
19 were at this meeting when they were trying to get the
20 company off the ground and it is certainly a very legitimate
21 company. They sell health food and I guess if run properly
22 it should be a very successful company."

23 "Mr. Jeff Silver: Why did you leave the 15,000
24 obligation that Mr. Garramone received from you off of your
25 invested capital questionnaire?"

1 "Dr. Silver: Well, it is a bad debt. I don't
2 think it should be listed there, if I am writing it off as a
3 bad debt."

4 "Mr. Jeff Silver: You are not doing that. You
5 still have an expectation to collect it."

6 "Dr. Silver: That is only in my mind, sir.
7 That is not in material things."

8 "Mr. Jeff Silver: Has your accountant advised
9 you that this was a write-off item?"

10 "Dr. Silver: My accountant advised me I did
11 the wrong thing and my chances of getting the money back are
12 just about nil."

13 "Mr. Jeff Silver: How would you characterize
14 the omission of that item on your submission to us? Was it
15 purposeful or willful omission or a mistake?"

16 "Dr. Silver" --

17 MR. PECCOLE: Could I ask you, is that from a
18 hearing that took place where they voted and removed his
19 limited license condition?

20 MEMBER BECKER: Mr. Peccole, I would like to
21 finish the motion. It is April 12th.

22 MR. PECCOLE: There has got to be some kind of
23 res judicata, double jeopardy. We are going back into
24 stuff --

25 CHAIRMAN AVANCE: You can raise that at an

1 appropriate ti

2 Mi 12th, 1978, I will make
3 sure that the e ch is a public record is
4 submitted to th *OUT*

5 "Dr. Silver: I think it is a mistake in how it
6 is viewed. I mean, I have lent several thousands of dollars
7 to many people over the years that I have not gotten paid
8 on. I didn't list them in that application."

9 This is where it becomes pertinent.

10 "Mr. Jeff Silver: So, there are others that
11 may still be outstanding obligations that you have not
12 listed?"

13 "Dr. Silver: That is possible."

14 "Mr. Jeff Silver: Well, I don't know whether
15 you appreciate the importance of the information we receive,
16 but we have to be able to evaluate your application on your
17 best recollection of the truth and without any omissions so
18 that we can decide whether or not you are a proper person to
19 be licensed in the State of Nevada."

20 "Dr. Silver: That application was submitted to
21 the best of my recollection with no error in it. If there
22 is an error, it was a honest error of nonrecollection of
23 that."

24 "Mr. Jeff Silver: But there is an error in
25 that the item was not listed."

1 "Dr. Silver: It was not listed."

2 "Mr. Jeff Silver: So there is that one error."

3 "Chairman Trounday: You also did not list all
4 the lawsuits you have been involved with in the past" --
5 excuse me -- "Chairman Trounday: You also did not list all
6 the lawsuits you have been involved in your past; is that
7 correct?"

8 "Dr. Silver: Yes, that is true."

9 "Chairman Trounday: Why did you not list all
10 of those?"

11 "Dr. Silver: Well, they were lawsuits that
12 they seemed absolutely -- first of all, there is a large
13 block in there of medical malpractice suits which have been
14 filed. Many of them were filed and dropped. Okay?

15 "Now, some of them have been filed right now
16 and were supposed to have been dropped, which they have not
17 been, and if you find this incriminating, then I think that
18 it is important because there is one specific suit in there
19 which was filed by error. The attorneys filed it by error.
20 They called me and said it was a mistake. They were
21 withdrawing the suit.

22 "Now, you people are saying that this content
23 of not listing these things is very important, and I agree.
24 But under those terms, I did not know that that suit was not
25 withdrawn. Okay? That suit still stands. The

1 investigators told me that.

2 "Now, there are several other suits in there,
3 one when I moved to this state, a moving company moved me
4 and there was a discrepancy in how much the move cost. It
5 was twice as much as what they told me it would be. And
6 there were several thousands of dollars of damage done to
7 the things that were moved. They asked me to settle the
8 moving thing and I asked them to settle the damage problem.
9 And it all ended up by me just paying them. They filed the
10 suit, collected from me and that was the end of that. I
11 still haven't filed suit against them or not collected for
12 the damaged furniture."

13 "Chairman Trounday: The magnitudes of the
14 lawsuits you didn't list doesn't concern me other than the
15 fact you didn't list them. So we had to dig the material
16 out."

17 "Dr. Silver: I specifically told the
18 investigator that medical malpractice suits, there are many
19 doctors who have many of them filed against them. I use
20 them as one category, and if that was not sufficient, again,
21 that was my error in my thinking. They are all matters of
22 record. There was nothing trying to be hidden."

23 Then on this pending application Dr. Silver's
24 explanation to the Commission at the November 17th, 1983
25 hearing, beginning on page 76 reads, by Mr. Peccole: "Then

1 the next question I had posed was having to do with the
2 involvement of different lawsuits. Now that evidently was a
3 big concern to the Control Board and I would like Dr. Silver
4 to explain the situation concerning his litigations."

5 "Dr. Silver: Yes. The litigation is" --
6 excuse me -- "The litigious nature comment made by the
7 Control Board, over the course of 20 years almost of
8 practice I've been instructed by collecting agencies if we
9 perform a medical service we should be entitled to be paid
10 for it and if we are not paid for it we can institute some
11 kind of lawsuit.

12 "Several of these lawsuits represent my
13 collecting agency instituting a lawsuit for me to collect an
14 unpaid professional fee. Then there are several other
15 lawsuits involving a Rayco station that I purchased in
16 Needles, that the man who owned it fraudulently sold it."

17 MR. PECCOLE: That should have been radio.

18 MEMBER BECKER: "I thought using the good court
19 system and suing the man to try to get my down payment back
20 was the correct way to go about it. Apparently, Miss Becker
21 said that's being litigious.

22 "We also have a medical center on West
23 Charleston and the builder with the kind of materials he
24 used to build it and with trees that wouldn't grow, and we
25 refused pay him until he replanted our trees and made our

1 roof not leak and all of the various things that involved
2 this 45 million dollar building. Several other lawsuits
3 were filed.

4 "Needless to say I have also been -- right now
5 I have three medical malpractice suits of which two are
6 being summarily dismissed because they have no case.
7 Lawyers can file a lawsuit against a physician and after
8 finding out they do not have a case they can drop the
9 lawsuit.

10 Now, I have never had to pay a malpractice
11 claim that I was guilty of malpractice in my 20 years of
12 practice. However, I have been sued. That is the extent of
13 my being litigious.

14 "I would say that more than half of the suits
15 that you are talking about are lawsuits that I filed against
16 a variety of people."

17 "Commissioner Avansino: Would it be accurate
18 to characterize that as 33 different lawsuits?"

19 "Dr. Silver: An interesting comment, sir.
20 When I sat before the investigators they asked me how many
21 lawsuits I have filed. I said to them approximately 10 or
22 11. My answer was only based on the fact I was talking
23 about suits that were filed against me. I didn't even take
24 into consideration me suing someone else. I followed by
25 saying, 'however, if my answer is not correct, it is

1 certainly a matter of record to go down to the courthouse
2 and count them up.' I wasn't trying to be deceptive or --"

3 "Chairman Bible: Doctor, the concern, I
4 believe to be more precise, was on your personal history
5 record, which you completed and signed. You listed 10 and
6 our investigators revealed 33. So they felt -- it was a
7 feeling that there was a material deviation between the 10
8 you listed and the 33 that were found."

9 "Dr. Silver: But I did tell them when they
10 said how many, I was talking from the ones that I was sued
11 for, not the ones I had sued someone else, and I did follow
12 it by saying if I'm not correct it is obviously a matter of
13 record."

14 The burden is not on Gaming Control Board
15 investigators to ascertain what lawsuits Dr. Silver is
16 involved in but on Dr. Silver to accurately file his
17 application.

18 Further, Dr. Silver did not share with his
19 attorney the fact that an order to show cause was filed
20 against the Crystal Palace. That order to show cause
21 outlined the Board's concerns but nothing was done to
22 correct those concerns.

23 Prior to the filing of the order to show cause,
24 Dr. Silver attended a Gaming Control Board hearing on May
25 9th, 1979, to evaluate his one-year limited license. At

1 that time Mr. Liddle, Mr. Kuchs and Miss Friedman's lack of
2 gaming experience were discussed with Dr. Silver. At the
3 end of that hearing the Board took a public vote to issue an
4 order to show cause, a very unusual act for a Gaming Control
5 Board.

6 At that meeting Dr. Silver stated in response
7 to a question from Chairman Trounday:

8 "Chairman Trounday: Let me pursue that for
9 just a moment. I think you stated, Dr. Silver, that you
10 were in fact running the place, particularly when -- I have
11 forgotten the name of the casino manager -- was ill. You
12 are the man that was in fact running the operation; is that
13 true?"

14 "Dr. Silver: Yes. Basically some of the
15 business decisions were made along with Dr. Brown, who is
16 another 17 percent shareholder, and combined we do control
17 the decisions made. On several occasions Dr. Myer was asked
18 to sign personally for some things which we needed to buy
19 and he refused to. And he has done everything to try and
20 impede anything we have tried to do in terms of expanding
21 the business operation."

22 Although Drs. Brown and Silver were voting to
23 control the company, the problems were not resolved. The
24 Griffith report was not shared with the general manager even
25 though it occurred in late 1978. The problems were still

1 ongoing in May of 1979.

2 In fact, Chairman Trounday stated at that
3 meeting that -- By Chairman Trounday: "Now, we are in the
4 posture of dealing with the extension of a one-year limited
5 license applicable to Dr. Frank Silver. My concern for you,
6 Dr. Silver, and as well as Mr. Bixler, is that I think you
7 have been the most active partner from all indications that
8 we have. Whatever problems that are there, we have heard a
9 good number, plus having our own observations there. So, in
10 essence, I somewhat have to hold you as being the most
11 responsible in this sense."

12 This Board is not satisfied that Dr. Silver is
13 a person whose prior activities and habits do not pose a
14 threat to the public interest of this state, or to the
15 effective regulation and control of gaming, or create or
16 enhance the -- excuse me -- to the effective regulation and
17 control of gaming or create or enhance the dangers of
18 unsuitable methods and activities in the conduct of gaming
19 or the carrying on of the business.

20 This is because of his dismal prior involvement
21 with gaming at the Crystal Palace, his litigious nature and
22 attempts to immunize himself from potential judgment
23 creditors by shielding his assets and not carrying
24 insurance.

25 Also, Dr. Silver made a determination to file

1 for reorganization under the protection of the federal
2 bankruptcy judge to the detriment of the Crystal Palace's
3 creditors -- to use the court as a shield against gaming
4 authorities.

5 Dr. Silver's attitude about the Ellis matter
6 deserves comment. Dr. Silver knowingly misled his attorney
7 and the Commission. First, there is no confusion about the
8 civil and the criminal cases. The Board relied upon the
9 fact the Crystal Palace had settled a civil lawsuit brought
10 by Mr. Ellis. Dr. Silver then presented to the Commission a
11 criminal conviction for Mr. Ellis, two separate issues,
12 civil, criminal.

13 The issue is not whether you asked to have
14 someone beat up. The issue is the fact that you presented a
15 conviction of battery by a justice of the peace to the
16 Commission, and failed to tell them that it had been
17 appealed and that the district judge after a full hearing, a
18 hearing in which, although you weren't present in the
19 courtroom, you were present outside the courtroom, and the
20 district attorney, there was a D.A. involved, chose not to
21 call you as a witness. Then that criminal conviction of
22 battery by a justice of the peace was reversed.

23 Mr. Ellis was found after a new trial, a full
24 trial on the merits, to be not guilty. That was not shared
25 with the Commission.

1 Dr. Silver's attitude is accurately reflected
2 in his comments to the Gaming Control Board made on May 9th,
3 1978.

4 "Dr. Silver: Fine. I am in it now." Talking
5 about the gaming business. "I am trying to learn. I am
6 trying to learn as much as I can about it. But
7 unfortunately, I do have a background in business. This is
8 another form of a business, I believe.

9 Now, right at this point, I was told last year
10 that the condition for that license was my association with
11 Mr. Garramone. I have not seen or spoken with
12 Mr. Garramone. I have had nothing to do with them. I have
13 carried out all of the particular directives this Board and
14 this Commission gave me. Now if there is a problem
15 involving this casino, it's not one of the casino making
16 money. It is doing very well.

17 "If we have a problem with a dissident
18 stockholder, that is true. He doesn't like the way the
19 majority of the people who have the majority of the money
20 are running it.

21 "Well, that is tough apples. That is a
22 business decision. If he doesn't like it, he will have to
23 take other methods to correct it.

24 "But I can't in any way see how that affects
25 why I am here today. I am here to remove the condition on a

1 license which has to do with Mr. Garramone. I have complied
2 in every way with this Board. I don't treat his wife
3 anymore. His father was operated on. I refuse to have
4 anything to do with their surgery.

5 Now I don't know what this Board wants me to do
6 regarding any other condition they didn't state last year."

7 "Chairman Trounday: Any time there is a
8 problem in a particular operation, we have a concern."

9 "Dr. Silver: Okay."

10 "Chairman Trounday: Just a moment. There has
11 been a problem brought to our attention that there is a
12 considerable amount of disagreement among the various
13 stockholders. We just want to find out what that is all
14 about."

15 "Dr. Silver: Let me say one thing,
16 Mr. Trounday. When we bought this place from Mr. Soper and
17 Mr. Rogers, there were 15 other shareholders who were quite
18 upset about the whole thing. I don't know if that was
19 brought to light at the time we bought it. Was it?"

20 "Mr. Bixler" -- who is Dr. Silver's attorney --

21 "No."

22 "Dr. Silver: But they were quite upset at the
23 time. I didn't feel that it was in the domain of a
24 licensing board to take a position with some of the
25 dissidence that goes on within the operation of the

1 business.

2 "The business was just checking out -- was just
3 checked out by the Control Board. They came in. They run
4 our cage down and they have done that several times. They
5 watched us through our soft and hard count, and we were told
6 that everything was fine:

7 "We are making money down there and we run a
8 pretty clean and honest establishment. I cannot for the
9 life of me understand what the problem is here today."

10 "Chairman Trounday: The problem is your year
11 is up and we want to talk to you about the problem that we
12 have heard that is taking place there. If you think we
13 don't have the prerogative to go into that area, that is
14 your business. But I am telling you right now, don't push
15 it too far because we have a serious concern about some of
16 the things that are taking place down there. And we have
17 some good solid information that didn't come from anybody
18 involved in the organization, period."

19 "Dr. Silver: Fine. We are ready to try and
20 defend that, if we can."

21 "Chairman Trounday: We just wanted to find out
22 from you what is happening, and that is why I asked the
23 question. I think Mr. Bunker has some questions. We want
24 some answers to the questions that have been brought up."

25 I do not believe that the polygraph

1 examinations overcome the facts as they have been presented.
2 Dr. Silver in his own mind may believe that he has not
3 misled anyone. But in fact, I think he has misled the
4 Commission and this Board. For these reasons I recommend
5 denial of his application.

6 MR. PECCOLE: I'd like to make one comment.
7 From the length --

8 CHAIRMAN AVANCE: Not at this point,
9 Mr. Peccole.

10 MR. PECCOLE: From the length, Miss Becker had
11 already made up her mind. It was not a meeting that would
12 have made any difference.

13 CHAIRMAN AVANCE: Mr. Peccole, next Thursday
14 will be your opportunity.

15 MEMBER BECKER: Mr. Peccole, this was a cut and
16 paste job that was done last night, which incorporated
17 Dr. Silver's comments today.

18 MR. PECCOLE: You made your decision last
19 night. Why did we have to come down here?

20 MEMBER BECKER: Which incorporated Dr. Silver's
21 comments today.

22 CHAIRMAN AVANCE: Any other comments, Mr. Hyte?

23 MEMBER HYTE: I have none.

24 CHAIRMAN AVANCE: Madam Secretary.

25 ROLLCALL

1 ACTING SECRETARY McCaw:

2 MISS BECKER: Aye.

3 MR. HYTE: Aye.

4 MR. AVANCE: Aye.

5 CHAIRMAN AVANCE: Next item, please.

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