

STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION

COMMISSION MEETING EXCERPT:

DIAMOND JIM'S CASINO

WIZARD GAMING, INC.

ORIGINAL

Thursday, March 26, 2009

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Sacramento, California 95833



Northern California Court Reporters

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1 MR. ISAACMAN: Thank you. It's more
2 comfortable to stand.

3 CHAIRMAN SHELTON: Okay.

4 MR. ISAACMAN: Thank you. My name is Allen
5 Isaacman, I represent Wizard Gaming, Inc. Good morning
6 Commissioner Shelton -- Chairman Shelton, Commissioner
7 Vuksich, Commissioner Shimazu.

8 CHAIRMAN SHELTON: Sir, would you please spell
9 your last name for the record?

10 MR. ISAACMAN: Sure.

11 CHAIRMAN SHELTON: I can't spell the last
12 name.

13 MR. ISAACMAN: It is I-S-A-A-C-M-A-N. I am
14 here in opposition to the application for licensing of
15 Zephyr Intervivalist (phonetic) Trust and his
16 beneficiary, George Hardy, Junior and George Deitch
17 (phonetic) as the trustee of the trust. And I would
18 like to kind of start out by basically saying something
19 that we know from the Legislature and that is that an
20 application for a license is a request for determination
21 of the applicant's character, integrity and ability to
22 engage in controlled gambling. We also know that a
23 person is not qualified to be a licensed -- to receive a
24 license if he is an owner of a gambling establishment
25 that has gains that are unlawful under Penal Code

1 Section 330. And with that kind of background, I'd like
2 to kind of talk about the factual background of this
3 matter here.

4 This matter starts, really from our view, back
5 in the 1990's when George Hardy, Senior had an
6 enforcement proceeding brought against him and he
7 surrendered his license or agreed to surrender his
8 license during that proceeding, paid a fine, and agreed
9 that if he applied for a license again the allegations
10 of misconduct that were alleged would be deemed proven.
11 He was ordered, as part of the deal, he agreed as part
12 of the deal that he would not apply for a license for a
13 three year period, before three years, after he got rid
14 of his interest in the Bicycle (phonetic) Club and he
15 got rid of his interest in the Bicycle Club around 1999.
16 So for the next three years he wasn't even allowed to
17 apply for a license.

18 Nevertheless, he went out with the Wizard
19 Group that he headed up and he found Diamond Jim's and
20 the acquired Diamond Jim's. And most of the money that
21 went into the financing of Diamond Jim's came from
22 George Hardy, Senior. He lent Diamond Jim's over the
23 next few years about \$860,000 and then because he
24 himself could not be licensed, he started a trust. He
25 funded the trust entirely with his own money and that's

1 the Zephyr Intervivalist Trust. He put in \$325,000,
2 phenomenal trustor and the beneficiary is George Hardy,
3 Junior. But George Hardy, Junior was unable to produce
4 any records of income, any tax returns for a number of
5 years, no bank statements, nothing to show that he had
6 any assets or liabilities and he was totally financially
7 dependant on his father during this application process
8 which went on for a long time. It went on for six
9 years. The license wasn't issued until the end of --
10 until December 2006, although the application process
11 started in 2000.

12 So George Hardy, Senior, despite the fact that
13 he wasn't licensed, went out and got this Diamond Jim's
14 Casino. The \$325,000 that he put into the trust was
15 used to buy shares in Wizard. Now, for the other
16 shareholders, that would have constituted about 32% of
17 the shares. Instead, he ended up with 42% of the
18 shares, 41.95%. So Hardy was able to get, Senior, was
19 able to get another 10%, approximate 10% of the shares
20 just by grabbing it because he was in a control
21 position. So because of his efforts, because he was
22 really the head person here, he ended up getting the
23 shares cheaper than anybody else because he's the one
24 that put it together.

25 Now, he got around the licensing requirement

1 that would normally be imposed on somebody in the
2 situation by setting up this trust. He said, I want to
3 take care of my son. Now, you wonder why it is a trust
4 would be set up in the first place. George Hardy,
5 today, Junior, is in his 40's. He was in his 30's at
6 the time the trust was set up. It wasn't that he was a
7 minor child, he was an adult. The question is why would
8 Senior ever set up a trust in the first place. Well, I
9 think the answer is obvious, he sets up a trust because
10 he wants to control things. It's his casino in his mind
11 and he wants to be able to make sure that those shares,
12 which is the largest block of shares in the casino, gets
13 voted the way Senior wants.

14 Now, during this licensing process, if you go
15 back and look at the correspondence in the file, and by
16 the way, we submitted and I understand it hasn't gotten
17 to the Commissioners, we submitted on the 13th or 14th of
18 March, this brief and we did it, which has a lot of
19 exhibits, a lot of documentation, that support all the
20 things that I'm saying today, and it says a few other
21 things, and we did it in a way that we were led to
22 believe was a timely way. We were told that if we got
23 it in by the date that we got it in by that it would be
24 considered. I'm told this morning that it has not been
25 considered, and that the Commissioners not only have not

1 received it, but have not been informed of its contents.
2 We also more recently submitted a declaration of Chander
3 Joshi with exhibits which is in opposition or in comment
4 on the report that was provided by the staff. We
5 understand that hasn't been considered either. But
6 getting back to the background of this, throughout this
7 application process, if you look at who was the one
8 who's out front trying to get the license issued to
9 Zephyr Intervivalist Trust, it's always Senior. Senior
10 is writing letters to the Commission, he's writing
11 letters to the Division, he's writing letters to the
12 trustee of the trust, and he writes a letter to Harlan
13 Goodson who was he director of the gambling enforcement
14 at the time, complaining about the request that Junior
15 be interviewed. Senior thought it was outrageous that
16 Junior, this trustee, this beneficiary, excuse me, this
17 beneficiary would be interviewed by the Commission as
18 part of this process of issuing a license. And he ends
19 up saying how can some of you people sleep at night.

20 Now, the point I make is that all these
21 comments are always from Senior because it's really his
22 interest that he's looking at. And I think it's clear
23 as time goes on and it becomes more and more clear that
24 what we're dealing with here is a situation of form over
25 substance. We're dealing with a man that doesn't want

1 to reapply for a license, wasn't eligible to apply at
2 the time, still wanted to have a card club in
3 California, and a man who, by the way now, is even less
4 eligible than he was a few years ago because now he
5 admits to owning a club and casino in Belize (phonetic)
6 that has gains that are unlawful under Penal Code
7 section 330. So he is disqualified for that reason if
8 he were to apply. By the way, Junior is listed either
9 as vice president or executive vice president of that
10 casino, he's one of the two directors of the club that
11 owns that casino. Junior and Senior are the two
12 directors of El Dorado Investment, Inc., which is listed
13 as the owner of the George Hardy Las Vegas Casino in
14 Belize.

15 Now, whether or not Junior owns a direct or
16 indirect financial interest I cannot speak to. I don't
17 know, I think it's a great line of inquiry and ought to
18 be made. I do know that George Hardy Junior has no
19 visible source of income and apparently has told the
20 Commission through his counsel that his income comes
21 from his father to the extent that he's not getting
22 anything from Zephyr, his income comes from his father.
23 And when he applied for a license during the years up to
24 December 2006, he said, well, I don't have any job
25 because I take care of my dad. My dad's not well, my

1 dad supports me. And since December 2006, we know he's
2 come back in January 2008 and told the Commission that
3 he is working for his dad, I think Mr. Goodson told the
4 Commission this, that Junior is in Belize working for
5 his dad developing a property and that his dad supports
6 him but that Junior doesn't get any pay or any
7 compensation. So Junior is totally dependant on his
8 father. We also know for the last eight or nine months
9 Junior has not been able to earn any money because of
10 his situation down in Mexico, and I'll go into that in
11 a little while to.

12 But just let me say from a factual background,
13 all the money that's gone into Zephyr came from Senior.
14 The money that was paid to Zephyr by Diamond Jim's, the
15 bulk of that money has gone to Senior to pay this loan
16 back to Senior, so the beneficiary, so far, the one
17 who's really received the bulk of the profits that would
18 go to that 42% interest has been George Hardy, Senior.

19 Now, the Commission was very reluctant to
20 grant a license to the trust for obvious reasons, and
21 one of the things the Commission was concerned about, of
22 course, was this presence of Senior all over this thing,
23 so the Commission laid down conditions on this license
24 brand. It said that Junior may not be involved, may not
25 have any input, influence or involvement in the

1 operation of Diamond Jim's, and for the next six months
2 or so, we didn't see much sign of Junior or Senior for
3 that matter except that Senior started contacting the
4 management and in this case, Ms. Quickie, Emily Jean
5 Quickie, who was also the trustee of the trust having
6 taken over that position from her husband who passed
7 away, and she was the principle managing executive and
8 is today at Diamond Jim's. Senior started contacting
9 her and said, you're not paying out enough of the
10 profits, you're holding back your reserve, you should
11 pay out almost all the profits. Now, she says to him,
12 we need to hold a reserve, we need to have money for
13 improvements, for emergencies, we need to have a fund
14 here, and by the way, you're not supposed to be involved
15 in the operation of this. And he doesn't like that.
16 The next thing that happens is there's a letter from his
17 lawyer saying that the casino is in default of its loan
18 agreement with me. You haven't made the payments you're
19 required to under the loan. So she comes to us and we
20 contact the lawyer and say we believe we've made every
21 payment required, show us the loan agreement, show us
22 where we've breached it. We get no response. We ask
23 again.

24 COMMISSIONER SHIMAZU: Is it the loan from the
25 loan for the trust who are gaining or -- I'm not sure

1 what you're talking about.

2 MR. ISAACMAN: Thank you for asking that. The
3 loan is from Senior directly to Diamond Jim's.

4 COMMISSIONER SHIMAZU: Okay.

5 MR. ISAACMAN: There are two loans, there's a
6 loan to the trust of \$325,000, which ballooned to over
7 \$500,000 because of interest. And then there's a loan
8 to Diamond Jim's of \$860,000, and that was the loan he
9 was complaining about after being told that we're not
10 going to distribute 100% of the profits. The response
11 to the request for the loan papers ultimately, after we
12 kept asking for them, was, well, we can't find them, we
13 don't have them. So that issue went away. But
14 clearly --

15 COMMISSIONER SHIMAZU: So isn't that \$860,000,
16 is that still an outstanding loan?

17 MR. ISAACMAN: It's still an outstanding loan.

18 COMMISSIONER SHIMAZU: Okay.

19 MR. ISAACMAN: It's the balances paid down to
20 some extent, I don't know what the number is off the top
21 of my head, we can supply that.

22 COMMISSIONER SHIMAZU: Yeah, I'm just worried
23 do you know what the terms were of the loan or the terms
24 of payback, I mean, when it should have been paid off?

25 MR. ISAACMAN: There was an installment

1 payment plan put into effect, which, I believe, started
2 once the licensing was completed, and there had been
3 payments made but I just don't know the exact amount at
4 this time.

5 MS. MACHUCHI: Excuse me. It's our
6 understanding that the loan is about \$150,000.

7 COMMISSIONER SHIMAZU: Okay.

8 MR. ISAACMAN: So at this point, Senior's ire
9 had been aroused and so the next thing that happened
10 within a month or two after this is that there was a
11 January 10th Commission hearing. And at that hearing,
12 Senior was there, Junior was there, and George Deitch
13 was there, and Mr. Goodson on behalf of the Hardy's
14 stood up and asked that the conditions be removed on
15 Junior. And the Commission said, why do you want them
16 removed? And I think the answer is significant. It's
17 significant for what's omitted as well.

18 The answer was that, well, Junior just wants
19 to be able to know what's going on, he wants to be able
20 to listen in on meetings of the shareholders, he wants
21 to be able to review papers, and that's it. He's not
22 looking to run things, he just wants to know what's
23 going on with his asset.

24 Now, what wasn't said, and a perfect
25 opportunity to be said, was, well, Junior wants the

1 conditions removed because the management is ripping off
2 or engaging in some unfair practices or improper
3 business practices at the casino. That wasn't said,
4 that would have been the perfect opportunity to say that
5 if that was something they were concerned about. And
6 what also wasn't said was that our trustee, my trustee,
7 was breaching her fiduciary duties. He could have said,
8 Ms. Quickie wasn't doing what she was supposed to be
9 doing, and for that reason I want the conditions
10 removed. That wasn't said.

11 He just wants to have a little more
12 information about what's going on supposedly. The
13 Commission said, you know, when we decided to give you a
14 license we were on the fence, I'm paraphrasing, we were
15 on the fence about this, and had we had to make a choice
16 between giving you a license with no conditions and
17 giving you no license, we probably wouldn't have given
18 you a license so the conditions were very important to
19 us and we're denying that and if you want to go through
20 the application process, you know, go ahead and do that.
21 Within an hour, and I think from the same location as
22 the Commission hearing, a fax was sent to Jean Quickie,
23 you're fired as trustee. The new trustee is George
24 Deitch. And within four days of that, a letter goes out
25 from George Deitch to all the shareholders saying as the

1 trustee of the Zephyr Intervivalist Trust and now
2 controlling over 25% of the shares, which is what the
3 bylaws require, I'm calling a special shareholders
4 meeting. And the purpose of the meeting is to replace
5 the Board of Directors. So this is a clear attempt to
6 take over Diamond Jim's. So the Hardys and Deitch
7 having been frustrated by the independence of the
8 existing trustee and by the management said we're going
9 to take over Diamond Jim's. And having been frustrated
10 by the Commission saying we're not going to lift he
11 conditions, this is the end run that they do.

12 Now, the notice was responded to by the
13 management and the management recognized that Mr. Deitch
14 wasn't authorized by law to vote those shares and
15 brought a declaratory relief action asking the court to
16 confirm that the shares did not need to be transferred
17 and that money that would otherwise go to the trust did
18 not at that point have to be paid out to Mr. Deitch
19 since he was not licensed as a trustee and did not
20 otherwise comply with the requirements of law as a
21 trustee. And the Commission issued a letter saying that
22 you're not to pay out the money and don't transfer the
23 share until and unless Mr. Deitch is licensed.

24 Nevertheless, there were four or five, I think
25 five, different attempts to get the Superior Court in

1 Los Angeles and different departments to order that the
2 money be transferred, despite what the law requires and
3 despite what the Commission's letter. So this is just
4 another instance that, you know, Hardy Senior isn't
5 going to stop at nothing to get control over this
6 casino.

7 I think that kind of brings us up to the
8 current events really, the most recent things, and that
9 is, is there any reason to think today that George
10 Hardy, Junior has satisfied his burden of proving that
11 he's really entitled to have his license renewed, has he
12 demonstrated his good character.

13 Now, I know there's a sensitivity about
14 mentioning somebody has been arrested. But the reality
15 is that George Hardy, Junior is in jail for attempted
16 murder and undisputedly, undisputedly, crossed
17 international borders with a gun and with his guards
18 chasing patrons of the casino in Las Vegas. Now, one of
19 the patrons got shot four times, there's no dispute
20 about this. You may have, you know, questions, is he
21 going to get convicted or not of the offense and I'm not
22 here to argue that. But there is no dispute about the
23 fact that there was a shoot out and that he led a group
24 of people from the casino in hot pursuit of two Mexican
25 nationals across the border from Belize in Mexico and

1 for the last almost nine months he's been sitting in a
2 jail in Mexico. His trial is ongoing. I know this
3 because Hardy Senior has told that to Kern County. He
4 told it to the sheriff and told it the Deputy City
5 Attorney John Irvy (phonetic) that the trial is ongoing
6 now. And one of the things that we think should be
7 asked is we think the parties should be asked to produce
8 information about what happened there. We think that
9 Hardy should be asked to produce information about the
10 real ownership of this casino down there and what
11 ownership, direct or indirect, we know that he knows how
12 to set up trusts, that Hardy knows how to set up trusts,
13 what indirect ownership does Junior have in this?

14 But any event, we know that because of his
15 present circumstances, Junior hasn't earned any money
16 since last July. So what's the point of that? The
17 point of that is what we have from the beginning in this
18 process is a beneficiary who is totally financially
19 dependant on Hardy Senior, and yet Hardy Senior [sic]
20 doesn't have to come forward to be licenced. He's
21 totally financially dependant and presumably under the
22 control of Hardy Senior. And he has the largest
23 interest in Diamond Jim's through this trust and he's
24 demonstrated by this letter that they sent calling for a
25 special shareholders meeting that as soon as he gets the

1 chance he's going to take over Diamond Jim's, which
2 means that Hardy Senior will then control Diamond Jim's.

3 Now, if the Commission wants Hardy Senior to
4 control Diamond Jim's, let him come forward, let Senior
5 come forward and go through the licensing process. I
6 mean, he put most of the money in, you know, one can
7 understand why he wants to control it because it is
8 largely his money. But he shouldn't be able to get
9 around the licensing requirements simply by setting up a
10 trust where his totally dependant son who lives with
11 him, who gets money from him, and according to him,
12 doesn't even get a paycheck, according to Junior's
13 representative, Junior doesn't even get a paycheck, he's
14 just supported by his father. There was no evidence of
15 income and who has this ownership interest through a
16 trust, he shouldn't be able to get around the licencing
17 requirements through this kind of sham. I mean,
18 somebody involved in Las Vegas gaming should not be able
19 to come and set up a trust for his child, adult child no
20 less, in California, fund it, and end up owning a card
21 club that way.

22 Finally, we think that the Commission ought to
23 consider that, and as I say it's undisputed, somebody
24 who is operating a casino like Junior was doing down in
25 Belize and chases with firearms some patrons across the

1 border is not suitable to engage in controlled gambling
2 in California. So he shouldn't be licensed at all
3 either with restrictions or without restrictions.

4 Now, just a couple of things and I'll finish,
5 and I appreciate the time that you've given me. This
6 staff has made recommendations in the report and as I've
7 mentioned we've submitted a declaration to explain why
8 we think there are at least mischaracterizations in
9 there, and one of the things it says that the staff
10 states is that restrictions were imposed because there
11 were concerns regarding Hardy, Junior's failure to file
12 tax returns and because Ms. Quickie testified that
13 Junior had no business sense, in effect. So it kind of
14 puts it on Ms. Quickie as the one who is kind of pushing
15 for these restrictions, and that is a mantra by the way,
16 that is a theme that the Hardys say. They say that
17 these conditions were imposed because Chander Joshi
18 (phonetic) who was here and Ms. Quickie got together and
19 got the Commission to put these conditions on.

20 And they, in fact, Hardy, Senior went and
21 visited John Irvy, the Deputy City Attorney, and the
22 sheriff a couple of weeks ago, and there's a tape of his
23 conversation and we have the tape and we can make it
24 available, the city attorney might have already made it
25 available. And during that, he said that Chander Joshi,

1 because of his connections in his past working at the
2 Department of Justice was able to poison the well with
3 the Commission, and that's why the conditions were
4 imposed on Junior.

5 Now, we know that that's not true at all. The
6 conditions were imposed because he has somebody for a
7 six year process wasn't able to show any income, any
8 assets, any liabilities, totally dependant on his father
9 who was somebody whose license was removed at an
10 enforcement proceeding, or required to be removed, and
11 there was just a great hesitation about licensing him.

12 And incidently, one of the other things that
13 kind of struck us as reporting, and I'll leave that, is
14 that the report does say that Mr. Goodson's letter
15 implies questionable business practices associated with
16 Emily Quickie and Chander Joshi and that this
17 information has been forwarded to the Bureau for
18 investigation. What's striking to us is that in
19 contrast there's absolutely no mention of Junior's
20 traveling across in this hot pursuit with guns blazing
21 the border into Mexico, there's no mention of that at
22 all, there's no mention about his active involvement at
23 the casino in Belize, they even have a picture that they
24 put up there in Belize, and it's in our exhibit book by
25 the way, of Junior giving an award to somebody who won a

1 jackpot or something, and Junior is mentioned as an
2 owner of the casino. Now, I don't know if he's really
3 an owner or not, but that's what the picture says. But
4 the point is that that's no even mentioned and nobody is
5 even asking for an investigation of that, as far as we
6 know. Maybe there's things going on we don't know, but
7 as far as we know that's it.

8 So it kind of leaves us with these open
9 questions really, and one of the questions is, why was
10 the trust even formed. As I've mentioned before, you're
11 talking about an adult. Why would you form a trust for
12 a person in his 30's and now his 40's unless you're
13 trying to control. And of course, who really formed it,
14 it's Senior who formed it, it's his money. And why
15 doesn't the conduct of Junior warrant at least an
16 investigation. And if it's true as Hardy Senior has
17 told the sheriff that the trial is ongoing, and as i
18 understand it, in Mexico the trial goes on for a period
19 of time, the people can submit things in writing rather
20 than come in and testify, if that's really ongoing, why
21 would you want to issue a license at this time when in a
22 matter of days or weeks he could end up being convicted
23 for something that would be disqualifying, either a
24 felony or either a misdemeanor involving a firearm.
25 Either one of which, under section 12236 of the

1 Regulations, makes a person ineligible for a license.

2 And I guess, oh, by the way, one other thing
3 which I should mention is there was some concern, in
4 fact even it looked like a recommendation of the people
5 writing the reports to the Commission back in, I think
6 most recently in 2006, saying that the way the trust is
7 set up the successor beneficiary to Junior is the Hardy
8 Foundation, owner of the trust. And the Hardy
9 Foundation is run by George Hardy, and that's not
10 acceptable so the trust should have to give up its
11 shares. Now, I may be confusing 2000 and 2006, well,
12 this issue stayed that entire time. But in any event, I
13 know that in 2006 there is a report that refers to that
14 from the Department of Justice as I recall. And so the
15 trust apparently was amended. And the amendment was
16 that the successor beneficiaries would be Jennifer
17 Hardy, Junior's sister, and Robert Quickie remaining as
18 a successor beneficiary.

19 The situation is that both Jennifer and Robert
20 Quickie are deceased. So now we have a situation where,
21 apparently under the law, the heir to Junior would be
22 his father, and in that situation you're back where we
23 were before and if it wasn't acceptable then for Senior
24 to be a successor beneficiary, why is it acceptable now.

25 But, you know, having said all these things

1 and I think they're all important, well, one thing that
2 is clear from all this is that the picture that's
3 painted is a picture of George Hardy Junior wanting to
4 own a card club, despite the fact that he wasn't even
5 allowed to apply for a license at the time, he went out
6 and acquired one, he set up a trust for his son, his son
7 is totally under his control, there's no real division
8 of assets or income there. His son is dependant on his
9 financially, money going to the trust is in fact under
10 the control of Senior, and it should not be tolerated.
11 If he's going to be allowed to be involved, Senior
12 should have to submit for a license. Thank you very
13 much for your attention.

14 CHAIRMAN SHELTON: Thank you.

15 MR. GOODSON: Mr. Chairman, Commissioners, my
16 name is Harlan Goodson, I'm here on behalf of George
17 Hardy, Junior, beneficiary the Zephyr Intervivalist
18 Trust, the trust itself, and George Deitch, the trustee.

19 I'm going to cover some of these points
20 backwards just to take care of some of the comments made
21 by Mr Isaacman.

22 With respect to mentioning of the incident in
23 Mexico, I object to any mention of that whatsoever on
24 the basis of the California Decisional Law which
25 specifically says that arrest information alone cannot

1 be used for licensing purposes, and that's a Central
2 Valley case as counsel is aware of, and so I will object
3 to the use any of that information as part of the
4 decision making process here.

5 Going back, we've covered this a number of
6 times, and I don't want to occupy too much of the
7 Commission's time on this, but I do want to address some
8 very specific points, and I'd like to begin with the
9 history.

10 First of all, the application that was filed
11 by Mr. Hardy, Junior was filed in 2003, not 2000. In
12 2006, after three years of investigation, the Department
13 of Justice sent its recommendation to this Commission.
14 And in that recommendation, the Department of Justice
15 specifically said that they found no information that
16 would lead the Commission, or the Department of Justice
17 to believe that any of the applicants, any, including
18 Mr. Hardy, Junior, was unsuitable to hold a state
19 gambling license.

20 In their investigation, the Department of
21 Justice considered all of these points that Mr. Isaacman
22 made and allegations about the involvement of Mr. Hardy.
23 Action of its investigation, the Department of Justice
24 was satisfied there was no evidence, there was no
25 documentary evidence, there was no proof that Mr. Hardy,

1 Senior had any involvement in Diamond Jim's Casino or
2 Wizard Gaming. At that time, they considered the loans
3 and they considered the true facts which is that Wizard
4 Gaming went to Mr. Hardy, Senior and asked him for the
5 \$896,000 loan because they couldn't secure money from a
6 commercial source. And there was an amortization
7 schedule that was set up, a payment plan, and it was not
8 based upon the revenues of the casino, it was based upon
9 the schedule itself. In other words, X amount of
10 dollars to be paid out over a period of time to satisfy
11 the loan, no interest. This is exactly the same
12 analysis that this body uses in determining whether or
13 not a landlord has an interest in a gambling operation.
14 It's the same kind of analysis. There's no involvement
15 whatsoever by Mr. Hardy, Senior.

16 Now, this body considered the licenses of
17 Wizard Gaming, Hardy, Junior and the shareholders of
18 Wizard Gaming in August of 2006. At that time, it was
19 former Commissioner Cruz that brought up the question
20 whether or not the arrangement that Mr. Hardy, Junior
21 had with his father wherein he was living at home,
22 caring for his father and he was caring for his then
23 alive but drug addicted sister, whether or not that
24 constituted a taxable event, whether that was bartering
25 for services, and whether or not bartering constituted a

1 taxable event and if it did, then did Mr. Hardy, Junior
2 violate tax laws by failing to file income tax reports.
3 That question went unanswered, and it went unanswered
4 because there was nobody available at the time to speak
5 on Mr. Hardy, Junior. In fact, it was not when we met
6 in San Diego, it was still on the table. Well, since
7 then, Mr. Hardy, Junior's accountant has written a
8 letter which is in your file informing us that under the
9 arrangement that Mr. Hardy, Junior had with his father
10 did not constitute a taxable event, there was no
11 requirement to file income tax. And so the question
12 that was raised by former Commissioner Cruz has not been
13 answered.

14 There was a question that was asked in San
15 Diego, and it was you, Commissioner Vuksich, that asked
16 the question and it had to do with capacity, Mr. Hardy,
17 Junior's capacity. And I believe the question came
18 about because of the testimony of Emily Quickie. It
19 wasn't that anybody was suggesting that Emily Quickie
20 had gotten and there forced a decision to impose the
21 condition, it was that her testimony and the
22 characterizations that she made caused the Commissioners
23 to question whether or not Mr. Hardy, Junior had the
24 capacity to be licensed under the Gambling Control Act.
25 Was he one who had demonstrated the ability to be

1 associated with controlled gaming, a gambling
2 establishment.

3 At that time, Mr. Chairman, I committed to you
4 and the Commissioners to work closely with your staff
5 and we have met and we have communicated and we have
6 provided your staff with documentary evidence of every
7 single question that's been asked of us, including the
8 question that you, Commissioner Vuksich, had asked about
9 capacity. And we have shown that Mr. Hardy, Junior has
10 held positions. He was in the United States Air Force,
11 he has an honorable discharge. He occupied positions of
12 trust management and supervision at the Bicycle Club
13 when his father owned the club. He now occupies the
14 position of management in Belize. In fact, in a
15 communication received that was given out by Ms. Quickie
16 to the shareholders of Wizard Gaming, when it looked
17 like Mr. Hardy, Junior was going to have the conditions
18 removed from his license, she said, finally, we're going
19 to have somebody that knows how to run a casino. Her
20 own words prove the capacity of Mr. Hardy and meeting
21 the standard on the Gambling Control Act.

22 COMMISSIONER VUKSICH: Mr. Goodson, if I
23 might.

24 MR. GOODSON: Yes, please.

25 COMMISSIONER VUKSICH: I think I need to

1 clarify. My arrival at the question was not based on
2 Ms. Quickie's testimony at all.

3 MR. GOODSON: Okay.

4 COMMISSIONER VUKSICH: It was based on other
5 patterns and behavior that were made apparent in
6 materials I had before me for the meetings in 2006 and
7 2008. And in fact, her testimony in 2006 is what
8 actually softened this Commissioner into considering the
9 conditions that were proposed by Commissioner Cruz to
10 allow Mr. Hardy, Junior to receive passive income from
11 the trust. Otherwise, I would have been in a different
12 position on my vote.

13 MR. GOODSON: Okay, and I stand corrected on
14 that. You know, we're trying to reconstruct things
15 based upon conversations we had --

16 COMMISSIONER VUKSICH: Yeah, luckily I was
17 there.

18 MR. GOODSON: And you're right, and I stand
19 corrected on that.

20 COMMISSIONER VUKSICH: Okay.

21 MR. GOODSON: But the point being, the
22 questions that were asked of us and the responses we
23 gave were in an attempt to satisfy the notion that
24 somehow he was -- he did not have capacity to be
25 licensed under the Gambling Control Act. The reasons,

1 obviously, he didn't know all of them. Thank you for
2 clarifying that.

3 There has been a lot of testimony about
4 whether or not Mr. Hardy, Senior is behind all of this,
5 and there has been a question raised as to why somebody
6 would create a trust for the benefit of an adult child.
7 Family planning, the same as you would do or I would do.
8 It makes no difference what the age of my children are.
9 If I want to plan for their future and want to ensure
10 that they have something after my passing, the trust is
11 the vehicle I would use and I'll leave it at that.

12 COMMISSIONER VUKSICH: May I ask another here.

13 MR. GOODSON: Sure.

14 COMMISSIONER VUKSICH: On that point. At that
15 time, there was a daughter, and I'm unclear as to the
16 relationship or status, it sounds like she's current
17 deceased.

18 MR. GOODSON: She's current deceased. Mr.
19 Hardy had two living children.

20 COMMISSIONER VUKSICH: Right.

21 MR. GOODSON: She was a beneficiary originally
22 and the Bureau said --

23 COMMISSIONER VUKSICH: Under Zephyr?

24 MR. GOODSON: Under Zephyr, exactly.

25 COMMISSIONER VUKSICH: Okay.

1 MR. GOODSON: And what the Bureau said was
2 that because of her status she would have to apply for
3 licensing too. And so the trust and its beneficiary was
4 changed. Mr. Isaacman is correct that a contingent
5 beneficiary was the Hardy Fund and that was taken out,
6 you know, that was -- the document was created and then
7 it was provided to the Bureau, or I believe the Division
8 at the time for investigation. The Division came back
9 and said, if you're going to do it this way you're going
10 to have to be licenced, they said, no, you know, we
11 don't need to be licensed, we're not going to be
12 involved in gambling so they changed the trust document.
13 The same as any other applicant does when -- now the
14 Bureau finds issues that trigger licensing events, and
15 it's no different than any other application.

16 Getting to the report, and, you know, and I'm
17 just, you know, I'm going to leave a lot of that stuff
18 out there because you've dealt with it now for going on
19 how many ever years, three years, four years, whatever
20 it is. And a lot of what has been said has been said in
21 the past. And we provided responses, you have our
22 documentary evidence, you have all of our reports and
23 our responses, we've been working with the County of
24 Kern, Mr. Irvy, who actually is Deputy County Counsel,
25 not city attorney, is well aware of everything that is

1 going on. We're aware of the meeting that county
2 counsel and sheriff's Department of Kern County had with
3 Mr. Hardy, Senior, not involved in it, he's not our
4 client, that's for him to deal with. He has no interest
5 in this gambling establishment and so we're not involved
6 in that. Mr. Irvy was kind enough to inform me and
7 provide me with the same copy of the taped conversation
8 that Mr. Blackman and Mr. Isaacman has. You know, it
9 has no bearing on what we're doing here.

10 We have before us an application for licensure
11 for renewal licensure and a recommendation to remove the
12 conditions based upon your staff's own conclusion after
13 reviewing all of the documents that were presented to
14 them, all of the evidence including declarations from
15 Mr. Deitch, the trustee of the Zephyr Trust. After
16 reviewing all of that and considering all of the
17 information that has gone before and presented by the
18 opposition, concluding that the basis for the conditions
19 no longer exist. We concur. We think the conditions
20 should be removed.

21 I note that in staff's report that there is an
22 in the alternative recommendation to refine the
23 conditions. We suggest that that leaves Mr. Hardy,
24 Junior in no better situation. Under statutory law and
25 decisional law in California, the trust beneficiary has

1 an absolute right to, for lack of better terms, a
2 friendly trustee. Mr. Hardy, Junior has already been
3 prejudiced by the failings of the former trustee. To
4 now put additional or modified conditions on his license
5 just puts him in the same place.

6 The whole purpose behind asking to have the
7 conditions removed, as I said in San Diego, was to allow
8 the trust beneficiary to protect the trust interest, to
9 protect his own interest. The way to do it is to make
10 sure that things like an unsecured \$300,000 non-gaming
11 related loan isn't made. Forty-two percent of that
12 money should have gone to the trust to make sure that a
13 consulting contract for another \$300,000 with a poisoned
14 pill in it that allows for the first \$300,000 loan to be
15 forgiven in the event the current president of Wizard
16 Gaming is removed to mean that those kinds of things
17 don't occur, to protect the interest of the trust,
18 protect the interest of the beneficiary, and the
19 conditions and even the alternative conditions put
20 shackles on Mr. Hardy, Junior.

21 We had conversations with legal and with
22 licensing staff. We have waived the notice requirement
23 for consideration of an alternative, which is that
24 conditions be placed on the trust to satisfy the loan.
25 I understand there's a cloud and the cloud is called

1 George Hardy, Senior. His prior conduct permeate this
2 room and every conversation we have about Wizard Gaming
3 and about his son. We understand that. We don't deny
4 that. But the son should not be required to pay for the
5 sins of the father. We wouldn't do that to our own
6 children, why would we do it to Mr. Hardy, Junior? And
7 so what we are suggesting, in consultation with counsel
8 and with your licensing staff, is that notion that let's
9 get Mr. Hardy, Senior out of the picture totally. And
10 how do you do it, pay off the loans. We think that's a
11 reasonable request on the part of the Commission.

12 Having said that, we don't want to set up a
13 scenario where we can't comply with the condition. And
14 so we would ask that if conditions are going to be
15 placed on the trust, calling for repayment of the loan
16 back to Hardy, Senior's trust, that one, Wizard be
17 required to make all distributions due to the trust.
18 That two, Wizard provide the trust and the Commission
19 with a full accounting. That three, Wizard provide the
20 trust with all records, documentary records including
21 drop box accounts, financial statements, profit and loss
22 statements, all the kinds of things so that we can test,
23 independently test the voracity of the information that
24 Wizard provides us. Clearly, we don't have a whole lot
25 of trust in them right now.

1 We also suggest that once these first
2 precatory steps are satisfied, that there be a period of
3 time to allow Zephyr and allow the Commission to
4 evaluate the solvency of the trust to make sure the
5 repayment of the loan doesn't bankrupt the trust, it
6 doesn't put the trust in a worse position. The trust
7 has an obligation to the beneficiary but the trust also
8 wants -- the trust wants to get rid of that loan. So we
9 want to make sure that there's enough money to do it and
10 if there isn't enough money, then allow us the
11 opportunity to come back to the Commission so that we
12 can figure out some sort of repayment schedule. We
13 don't want this to go on (inaudible), we don't think the
14 loan should be there forever, we understand your
15 feelings about Mr. Hardy, Senior and the cloud that
16 hover over this little casino in the Central Valley, we
17 get that, we want to remove that.

18 We think that it's also appropriate to put a
19 condition on Wizard's license. Wizard owes money to Mr.
20 Hardy, Senior too. Wizard knew in 2003 whether or not
21 Mr. Hardy, Senior had any involvement in that casino
22 because Wizard took out the loan. If Wizard believed
23 that Mr. Hardy, Senior was involved in Wizard Gaming or
24 the casino, they had an obligation to tell you. They
25 had an obligation to tell the Bureau and they had an

1 obligation to tell the county and they did not do so
2 because he wasn't involved. Having said that, the loan
3 still exists, it's \$150,000 or thereabout. We believe
4 it's appropriate to put a condition on Wizard's license
5 calling for the repayment of the loan.

6 At the moment when those two loans are
7 satisfied, there is no Mr. Hardy, Senior to talk about
8 with respect to this little casino. Thank you very much
9 for your time.

10 MR. ISAACMAN: Can I have just 25 seconds to
11 respond?

12 CHAIRMEN SHELTON: Do the Commissioners have
13 an opportunity to talk later? Please, I'm being
14 factitious. I'm sorry.

15 MR. ISAACMAN: Thank you, Mr. Chairman. Just
16 really quickly, first of all, let me make it clear we're
17 not asking that any conclusions be drawn by virtue of an
18 arrest, and we're not saying that an arrest alone should
19 be used for anything. We're all saying that it's absurd
20 to say we have to hide our heads in the sand when
21 there's undisputed evidence that Hardy, Junior was
22 crossing an international border with guns. There's no
23 question about that. And that should at least be looked
24 into. We should at least look into that.

25 The comment was made by my friend, Mr.

1 Goodson, that the Department of Justice considered all
2 the points raised by me. In fact, that's not correct
3 because I was just told this morning that our brief
4 wasn't considered at all. So the recommendation was
5 written without considering our brief, before they got
6 our brief and there's been no supplement. And as you
7 can see through the thickness of this, there's a lot of
8 in material here.

9 CHAIRMAN SHELTON: Well, there is a lot of
10 material. My question would be why is it a last minute
11 submission?

12 MR. ISAACMAN: Good question, Mr. Chairman,
13 because we called and we said when do we have to have it
14 in by, we were given a date, we got it in by that date,
15 and we're told today that --

16 CHAIRMAN SHELTON: What was the date that you
17 surrendered it to the Commission?

18 MR. ISAACMAN: I think it was the -- I think
19 we sent that out on the 13th, I think, or 14th of March.

20 CHAIRMAN SHELTON: Of March?

21 MR. ISAACMAN: Of March, and we were never
22 told that it had to be any time before that. I'm sorry,
23 I mean, I apologize because I understand --

24 CHAIRMAN SHELTON: Well, I can tell you now
25 for educational purposes, documents of this nature go to

1 the Commissioners for review and we ask for four to six
2 weeks or so after everyone has looked at licensing and
3 it's gone through the Department of Justice. So these
4 are not quick reviews we do. They're very thorough.
5 There would be no way a document of that nature we would
6 review in less than four weeks.

7 MR. ISAACMAN: I understand that.

8 CHAIRMAN SHELTON: So I'm sorry if you were
9 misinformed.

10 MR. ISAACMAN: Yeah. And in terms of this
11 trust business, the idea that this was kind of family
12 planning maybe for tax reasons or whatever, I think you
13 can find out quickly enough that the kinds of
14 intervalist trusts that are set up to keep property out
15 of one's estate is not this kind of a situation. That's
16 not what this kind of trust is. And I think that's just
17 the wrong explanation for why this trust is set up.

18 This trust is clearly set up so that the
19 person setting it up can keep control over it, and Mr.
20 Goodson is right that there is a cloud over Senior --
21 over this proceeding because of Senior, but it's Senior
22 whose money has been involved, it's Senior who is making
23 appearances and complaining about things, it's Senior
24 who met with the county counsel. And you're not going
25 to get Senior out of the picture completely in any way

1 other than not having the trust be licensed. The only
2 way to get Senior in a legitimate form and have form
3 match reality as to require Senior to come in and be
4 licensed. Because even if the loans are paid off,
5 Junior is still with Senior, Junior is still under
6 Senior's thumb, and Senior still calls the shots. It
7 wasn't Junior who met with county counsel this year, it
8 was Senior. Thank you.

9 CHAIRMAN SHELTON: Thank you. Commissioner?

10 COMMISSIONER SHIMAZU: Yeah, Mr. Isaacman, can
11 I ask you some questions?

12 MR. ISAACMAN: Oh, I'm sorry.

13 COMMISSIONER SHIMAZU: Yeah. I think Mr.
14 Goodson touched it, when you were talking I was thinking
15 of this too, but you represent Wizard Gaming and, I
16 mean, they knew about all these financial transactions
17 in the beginning, what changed then? I mean, it sounded
18 like they were okay with it at one time.

19 MR. ISAACMAN: That's a good question, and I
20 think that probably the fairest explanation is that
21 there was a bit of naivety, we're not dealing with
22 lawyers when we're talking about Jean Quickie, it was
23 actually Bob Quickie who was running things at the time,
24 he passed away. He was a good friend. He was a good
25 friend of Mr. -- of Senior, of Mr. Hardy, Senior. And

1 maybe there wouldn't be any problem today if he hadn't
2 passed away. But what happened is that Mr. Quickie
3 passed away and Ms. Quickie took over and she was
4 independent.

5 And of course, nobody was licenced other than
6 Bob Quickie and Mr. Levinson (phonetic) in the early
7 years. So Mr. Quickie passes away in 2005, Ms. Quickie
8 takes over, everybody gets licensed at the end of 2006,
9 everybody in September except of Junior who gets
10 licensed in December 2007, is the first year we see
11 what's going to happen with everybody being licensed.
12 And here you have Ms. Quickie being independent, not
13 taking direction from Senior, and that's when the
14 problems arose. That's when it became clear to Ms.
15 Quickie that Senior isn't somebody who is just making a
16 loan, Senior is trying to control the shots. Senior
17 says you have to pay out the distributions, you can't
18 hold a reserve. You have to pay this loan faster.
19 That's what happened.

20 And so it became clear from the accumulation
21 of events in 2007 and then in January of 2008 when they
22 come in there and ask to get the conditions lifted and
23 then fire her as a trustee and say we're going to take
24 it over, that's when it became clear that what they
25 thought, maybe in a naive fashion, was really -- there's

1 going to be a real trust with the past beneficiary isn't
2 the case. Any other questions?

3 COMMISSIONER SHIMAZU: Yeah, what would happen
4 then if we did not license the trust, what would happen
5 to the shares?

6 MR. ISAACMAN: What would happen to the shares
7 is that, first of all, the monies allocable to the
8 shares would continue to be kept in a separate account
9 so that they would go to whoever was -- ended up being
10 entitled to own those shares, those shares could be
11 offered for sale, they could be sold at an appropriate
12 time, the money would continue to build up. The Hardy
13 people would get the benefit of that over time by
14 selling the shares to somebody who's qualified to be
15 licenced, and you'd have a licensed person. And if it
16 wanted to be Hardy, Senior, let Hardy, Senior come in
17 and get licensed, but a real person, not a figure.

18 COMMISSIONER SHIMAZU: Okay, I have one more.
19 Okay, the last time we were here it was about Mr. Deitch
20 being the trustee and we had gotten some information, I
21 think Mr. Blackman was here and testified, and I went
22 back and looked at them because it caused me some
23 concern about what Mr. Hardy, Senior was doing in terms
24 of influencing, but when I went back and looked, a lot
25 of it looked like it went back to the financial

1 situations with -- I know there was a parking lot and
2 some rent and there was also the repayment of the loan
3 and the repayment to the trust, it wasn't so much that I
4 saw him trying to influence the trustee, the son, he
5 just wanted his money paid back. If all that money was
6 paid back, wouldn't all of his, I don't want to say
7 meddling, but his inquiries and those things, wouldn't
8 those go away?

9 MR. ISAACMAN: Well --

10 COMMISSIONER SHIMAZU: It looked like a lot of
11 it was tied to the financial and just getting the
12 payment back and, you know, going on.

13 MR. ISAACMAN: Issues did come about the
14 parking lot, there's no question about it, and he did
15 get paid the rent he was required to get paid. Then he
16 offered to sell it for \$500,000 and Ms. Quickie and the
17 Board said no and Mr. Deitch said, no, go ahead and sell
18 it and try to get the other shareholders to accept
19 Hardy, Senior's, offer, it's all true. But the reality
20 of this thing is, you know, there isn't any question,
21 you can't get a clear contrast between Junior and
22 Senior. Junior is somebody who apparently doesn't work
23 at all other than what his father -- does what his
24 father tells him to do. This is a lifetime. He came in
25 here with no assets and no liabilities, no bank

1 accounts. He's worked for his father at the Bicycle
2 Club, and now he works down at the Belize Casino when
3 he, you know, when he's out of custody, he's working
4 down there. He's one of the two directors with his
5 father. His father controls him. Hardy, Senior looks
6 at this casino as his casino. That's the reality of it
7 and the problems didn't surface really until Jean
8 Quickie said, you know, it's not your casino, it isn't,
9 you know, you don't own the 42%, you don't control that.
10 That's when the problems came up.

11 Even if he gets paid back the money that the
12 trust owes him and that the casino owes him, he's still
13 going to view it as his business, and maybe he'll be
14 more subtle and maybe he won't be, but you can be sure
15 that whoever is a trustee is going to be doing Senior's
16 bidding. And it's foolish to think otherwise, I mean,
17 we're fooling ourselves if we try to pretend that's not
18 the case.

19 COMMISSIONER SHIMAZU: Well, was there any
20 incidents then where he was trying to urge him to take
21 on, I don't know, to do something other than just
22 repaying him the money that was owed to him?

23 MR. ISAACMAN: Yes. Yes, he demanded of Jean
24 Quickie that she pay out close 100% of the profits of
25 Wizard, of Diamond Jim's.

1 COMMISSIONER SHIMAZU: Okay.
2 MR. ISAACMAN: Okay, now, a lender doesn't
3 have any right to make that kind of demand, a
4 shareholder has that kind right. If I owned shares and
5 I'm not getting as much of the profits as I think I'm
6 entitled to, but the company is holding back money, I
7 have a right to make that demand. I understand his
8 demand. He disagrees. He doesn't think that whoever is
9 running it should be holding back that money for
10 improvements or emergencies or whatever. He wants it
11 all paid out and he said I ran the Bicycle Club and I
12 paid out close to 100%, you should be paying that out.
13 That's what got him angry.

14 COMMISSIONER SHIMAZU: But that went back too
15 because he wants to have his loan paid off. I'm asking
16 was there any like business, we should be running this
17 game, or we should be, you know, contracting with that
18 vendor or we -- those other things. I agree he should
19 not be in there and asking all those questions, but it
20 kind of seems like it's all connected to pay me the
21 money and I'm thinking if you pay me the money then
22 he'll go away and then he won't have all those inquiries
23 and you could not be so worried about it.

24 MR. ISAACMAN: There was a person hired to
25 manage or consult, a guy named Indy Turner. He

1 complained about that. He came in and complained to Ms.
2 Quickie about that, you shouldn't hire this guy, he's
3 not the right guy, get rid of him. So this was in 2005
4 I think it was, maybe 2006, one of the two.

5 COMMISSIONER SHIMAZU: Okay.

6 MR. ISAACMAN: So he's been on the scene the
7 whole time. He's always telling what he thinks.

8 CHAIRMAN SHELTON: There's a lot of hearsay
9 here.

10 COMMISSIONER SHIMAZU: Sure.

11 MR. ISAACMAN: All you have to do is look at
12 your own correspondence and see who's the one that's
13 stepping forward.

14 CHAIRMAN SHELTON: Yeah, I don't want to bust
15 any balloons here, but I want things that have been
16 looked at, reported, they're on paper, been
17 investigated. You can go field and say anything you
18 want to, until it's verified, we don't know if it's true
19 or not. So for the Commissioner to try and make a
20 decision on hearsay is -- we're not going to do that.
21 We're just not going to do it.

22 MR. ISAACMAN: Sure, and I understand -

23 CHAIRMAN SHELTON: So only address what's in
24 the reports and before the Commission, please.

25 MR. ISAACMAN: I understand. And that's why

1 we submitted our brief and our --

2 CHAIRMAN SHELTON: I understand that.

3 MR. ISAACMAN: Thank you, Mr. Chairman.

4 COMMISSIONER VUKSICH: May I ask a question, a
5 quick one?

6 CHAIRMAN SHELTON: Go ahead.

7 COMMISSIONER VUKSICH: May I ask a quick
8 question, any of you. Had these requests for payment of
9 the loan, etcetera, etcetera, been made by the trustee
10 of the Zephyr Trust as shareholder? Or only by a Hardy?
11 Mr. Goodson?

12 MR. GOODSON: Commissioner Vuksich, which
13 payments are you talking about, because there's more
14 than one loan here?

15 COMMISSIONER VUKSICH: These issues that Mr.
16 Isaacman has been bringing up.

17 MR. GOODSON: The one request for payment on a
18 loan that I'm aware of is a request from Mr. Hardy,
19 Senior to Emily Quickie for payment on the loan that he
20 made to Wizard Gaming, this was the original \$826,000 or
21 96, I don't remember the exact figure. That loan, which
22 Mr. Hardy, Senior gave to Wizard Gaming at the moment
23 when Wizard was unable to secure funding from a
24 commercial source, that's the only communication I'm
25 aware of for repayment on a loan.

1 COMMISSIONER VUKSICH: Okay.

2 MR. GOODSON: The issue of repayment of the
3 loan to the trust is one that I have personally had
4 conversations about with your staff as well as the
5 County of Kern.

6 COMMISSIONER VUKSICH: Okay.

7 MR. GOODSON: This is not a new idea, this is
8 something that we --

9 COMMISSIONER VUKSICH: Have any payments been
10 made on that loan at all?

11 MR. GOODSON: Payments been made on it?

12 COMMISSIONER VUKSICH: Um-hmm.

13 MR. GOODSON: I believe there has been one
14 payment on it. I believe that the loan amount was
15 originally for \$325,000 and then it ballooned up because
16 of interest and a payment was made. I don't know what
17 the outstanding balance is as of this date.

18 COMMISSIONER VUKSICH: Has Mr. Hardy, Junior
19 been receiving regular income from the Zephyr Trust?

20 MR. GOODSON: From the Zephyr Trust, no.

21 COMMISSIONER VUKSICH: What are the assets in
22 the trust?

23 MR. GOODSON: That's a question that we don't
24 have an answer to. We have been blocked from learning
25 that information. We don't know whether the --

1 COMMISSIONER VUKSICH: But that's the
2 trustee's issue, not Wizard's --

3 MR. GOODSON: That is the trustee's issue,
4 you're right. That's the trust issue and the trustee's
5 issue.

6 COMMISSIONER VUKSICH: So that's Mr. Deitch?

7 MR. GOODSON: That's Mr. Deitch. But the
8 beneficiary also has an interest in that --

9 COMMISSIONER VUKSICH: But that's a
10 conversation with he and the trustee.

11 MR. GOODSON: And that's a different
12 conversation, right, but the issue as to whether or not
13 distributions have been made into the trust,
14 representations have been made, the money is being held
15 in a separate account to the benefit of the trust but we
16 have no proof of that.

17 COMMISSIONER VUKSICH: But that's the function
18 of the trustee to pursue that?

19 MR. GOODSON: Precisely.

20 COMMISSIONER VUKSICH: Okay.

21 MR. GOODSON: Precisely. Exactly, yeah. And
22 just to speak briefly to your question, Commissioner
23 Shimazu, I think the answer to your question is
24 absolutely yes, that Mr. Hardy is out of the picture
25 once the loans are taken care of because it is about

1 this money and whether money somehow maneuvers some sort
2 of control mechanism to the person that the money is
3 owed to. And clearly that's the cloud, and I get that
4 and we get that. And, you know, that's the thing that
5 kind of stick in the craw of a lot of people and we
6 understand that. And it's a conversation that I've had
7 not only at the state level but at the county level.
8 The county counsel has asked the same question and we've
9 come up with the same resolution that if in all other
10 respects the trust is suitable, the trustee is suitable,
11 the trust beneficiary is suitable, and the only issue
12 has to do with, is because of the money, get rid of it.
13 Pay off the loans. Get rid of it. You're not going to
14 sever the father/son relationship. Mr. Hardy, Senior is
15 the father of Mr. Hardy, Junior. Mr. Hardy, Senior has
16 gambling running through his blood. It's all he's
17 known. He does it in Las Vegas and he does it in
18 Belize. He has no business in California.

19 Mr. Hardy, Junior works for his father. We
20 have provided staff with most recent tax filings of
21 behalf of Mr. Hardy, Junior that demonstrates he claims
22 the benefit of that work in Belize, the food, the
23 housing and the stipend. He claims it as taxable
24 income. He's an open book. There is no reason here, as
25 your own staff pointed out, the basis for the conditions

1 no longer exist.

2 COMMISSIONER VUKSICH: Excuse me, does he also
3 claim the 510 day exemption?

4 MR. GOODSON: I'm sorry?

5 COMMISSIONER VUKSICH: There's a --

6 MR. GOODSON: The housing exemption?

7 COMMISSIONER VUKSICH: No, there's a 510, if I
8 live outside of the country for 510 continuous days, I
9 don't pay taxes to a certain amount and then everything
10 over that I do.

11 MR. GOODSON: You know, I don't know the
12 answer to that question, I'm not a tax attorney or an
13 accountant. I did see the --

14 COMMISSIONER VUKSICH: And then my other
15 question would be what is his legal status in Belize?

16 MR. GOODSON: His --

17 COMMISSIONER VUKSICH: And does he pay Belize
18 taxes?

19 MR. GOODSON: And I don't know the answer to
20 that, but I can certainly find out. If those are
21 documents that you need and questions --

22 COMMISSIONER VUKSICH: Well, that would go to
23 income.

24 MR. GOODSON: Clearly. But we did provide
25 staff with the federal and state filing, well, no, not

1 state because he's a Nevada resident, so the federal
2 filings that showed for an income earned and it was
3 filed as for an income earned and it was less than
4 \$100,000 per year. But to answer your question about
5 the exemption, I don't know the answer to that. But his
6 accountant is a telephone call away and we can certainly
7 find that out for you.

8 COMMISSIONER VUKSICH: If the purpose of the
9 trust is to provide Mr. Hardy, Junior with income, and
10 that is the total purpose of this trust, what are the
11 objections to the continuation of the conditions?
12 Because the relationship, shareholder wise, is between
13 the trust and Wizard.

14 MR. GOODSON: And the problem is that after
15 Mr. Deitch found some troubling information out about
16 the way Wizard's money was being spent, he alerted Mr.
17 Hardy, Junior that perhaps the duty to the trust had
18 been breached. In order to ensure that Mr. Hardy,
19 Junior as the beneficiary doesn't run that risk again,
20 we believe that the conditions need to be removed so
21 that he can -- not that he wants to come to California,
22 and not that he wants to have any involvement in hiring
23 or firing, but see what's going on.

24 And here's the issue, Commissioner, a \$300,000
25 loan was made, a non-gaming related loan, non-secured,

1 out of Wizard funds, 42% of that is trust money.
2 Shouldn't the trustee and the trust beneficiary at least
3 be able to review that to see whether or not that's in
4 the interest of the trust?

5 COMMISSIONER VUKSICH: It's the trustee's duty
6 not the beneficiary.

7 MR. GOODSON: The problem is that it was the
8 trustee that made the loan. And the trustee used --

9 COMMISSIONER VUKSICH: But they changed the
10 trustee, now you have a new trustee.

11 MR. GOODSON: The trustee used, and you know
12 what, and this underscores the point that there is no
13 relationship between Deitch and Hardy. There is no
14 (inaudible) kind of conspiracy to take over this club.
15 Mr. Hardy, Junior is putting his trust in Mr. Deitch the
16 same as they did with Mr. Quickie and then Mrs. Quickie.
17 He has no way of knowing, notwithstanding the fact that
18 Mr. Deitch has the same legal obligation. As we all
19 know, legal obligations can be breached. And just to be
20 able to see documents, to at least, not to come in and
21 control, not to come in and hire, not to fire, not to do
22 any of that sort of thing, but at least know what's
23 happening with the money that's supposed to be coming
24 into the trust. You know, what's happening with it? He
25 has no way of having those questions answered if he's

1 blocked off from the knowledge. If the information
2 stops and can never get to him, then once again he's put
3 in a position of blind faith. He has already seen what
4 that can do. A person who is a family friend, a long
5 time business associate of his father, breached her duty
6 to him. He has no guarantee it won't happen again.

7 Now, I am not suggesting that Mr. Deitch is
8 going to breach his duty, but here on behalf of the
9 trust beneficiary, I'm saying that to put these kinds of
10 conditions on his license puts him in a box where he
11 can't see what's going on.

12 Now, once again, like your own staff said,
13 there's no basis for the conditions.

14 MR. ISAACMAN: Let me just say that we deny
15 that Ms. Quickie breached any duties, but beyond that,
16 Mr. Goodson said it all when he said you're not going to
17 separate the father and son. As long as they're
18 together, Mr. Hardy, Senior is going to control things.

19 Mr. Joshi just had a couple of comments he
20 would like to make, Commission.

21 MR. JOSHI: I was going to say good morning,
22 but I don't know if it's afternoon or not right now.

23 COMMISSIONER VUKSICH: We're still in the
24 morning.

25 MR. JOSHI: We're still in the morning. Good

1 morning Chairman Shelton, Commissioners, I wanted to --

2 CHAIRMAN SHELTON: State your name and spell
3 the last name for me.

4 MR. JOSHI: Chander Joshi, J-O-S-H-I.

5 CHAIRMAN SHELTON: And a --?

6 MR. JOSHI: Designated agent for Wizard
7 Gaming.

8 CHAIRMAN SHELTON: Thank you.

9 MR. JOSHI: Sorry. I'm not as eloquent as
10 Mr. Isaacman or Mr. Goodson, so please forgive me. I'm
11 not a public speaker. The questions about Mr. Hardy,
12 Senior being involved, it's very naive to say if there's
13 a financial relationship and that's taken care of.
14 Therefore there will be no involvement.

15 I've been involved with Diamond Jim's Casino,
16 Wizard Gaming, since June 2000, before anybody else was
17 involved in this place. Commissioners, -- I guess,
18 Mr. Goodson was from the Division standpoint. For six
19 years we were put through hell. It was not involving
20 anybody else except for Mr. Hardy, Senior. In September
21 of '06, you know, we came and spoke, Ms. Quickie spoke,
22 she made the comment about, you know, lack of business
23 knowledge by Mr. Hardy, Junior. This was a lady who was
24 speaking on behalf of the beneficiary, speaking from her
25 heart, but that was similar verbiage that he gave her in

1 an email that I'm glad, Mrs. Quickie, you're taking over
2 for your husband because I don't have business
3 knowledge, something to that affect, I'm paraphrasing
4 here. We would be more than happy to provide that as
5 evidence.

6 I have a copy of the audio tape between Mr.
7 John Irvy, the sheriff's department of Kern County and
8 George Hardy, Senior as well as the staff, I mean,
9 attorney, Mr. McGonicle (phonetic), it's about a 50
10 minute hearing. If you listen to the audio, all he's
11 talking about is I'm not involved, however, this is my
12 opinion. I'm not involved, however, they shouldn't have
13 done the renovations. I'm not involved, however, why
14 did they make that \$300,000 note. I'm not involved,
15 however, how can they pay a consultant \$13,500 a month
16 and yet he's never on premises. Is that just worrying
17 about the loan? There's more to it, in his own words.
18 This isn't something we're creating as a document. It's
19 one thing to get a transcript of this, it's another
20 thing if you really listen to this.

21 I don't know if John Irvy or Mr. Goodson have
22 provided a copy, I don't know if you're interested in
23 listening to it, but it is interesting reading. There's
24 a lot of negative said on here, mainly about me, mainly
25 about Mrs. Quickie, the improprieties as they're

1 reported and in the report. In looking at two documents
2 in an attorney, whether it be our attorneys or their
3 attorneys presenting something doesn't necessarily make
4 it so without a lot of the back up.

5 If there was an investigation done regarding
6 Mr. Hardy, Junior's conditions being removed, nobody
7 contacted me for a guy who has been involved for six
8 years, or I'm sorry, nine years now. If there was going
9 to be a reason why the conditions should be removed, I
10 would think somebody from the Bureau or the Commission
11 would have contacted me and said, you were there in
12 September of '06, you were there in December of '06.

13 Mr. Goodson, I don't know if -- I'm pretty
14 sure you didn't do it on purpose, that the other side
15 never got an opportunity to contest the conditions,
16 completely inaccurate.

17 I have emails from Debbie Youngblood after
18 Commissioner Cruz asked for some clarification, we had a
19 conference call, I spoke with both Hardy, Junior and
20 Senior, this is October, November of '06, before the
21 conditions were going to be placed. On this tape as Mr.
22 Isaacman stated, he says that I poisoned the well.
23 That's an insult saying that I can go to Debbie
24 Youngblood, Terri Cio, those are the two individuals I
25 had the conversation with, and through them, the

1 Commissioners can be influenced to put conditions on an
2 individual's license. This is Hardy, Senior saying
3 that. It's not even Junior.

4 So the reason I wanted to come up here, and
5 again, I'm a very bad public speaker, I hope I'm making
6 myself clear. I sometimes start rambling, but to hear
7 his own words, for six, or technically nine years now,
8 I've used myself, I'm sorry, I wanted to say one of the
9 questions was, well, if the financial conditions are
10 removed, there's no involvement. Asked me for my phone
11 records from June or technically December '99 on, asked
12 Mr. Hardy, Senior, ask Mr. Hardy, Junior for their phone
13 records and see where the phone conversations always
14 ended up. It was always between me and Senior.

15 Somebody can sit here and say well, Chander,
16 you helped mislead the Commission. No, I use myself as
17 a buffer whenever he wanted to have influence over the
18 operations. I clearly identified to him that that's not
19 his role. Nobody knows better than I do the six years
20 of hell we had to go through.

21 Mr. Deitch, In Jean Quickie's home in I
22 believe May of 2005, after Bob Quickie passed away,
23 wanted the Zephyr Trust pulled out, there's no record of
24 this, this was a conversation, and I know Chairman
25 Shelton said we can only base it on fact not hearsay,

1 the reality is there's a lot of conversations that I'm
2 privy to that Mr. Hardy, Senior is, Deitch is.

3 If we're going to do an investigation, maybe
4 some of those conversations should be addressed. I'd be
5 more than happy to. I realize, you know, as I said I
6 use myself as a buffer. The 60% being distributed and
7 not 100% or 80%, he had that conversation with me as
8 well in May of '07, I believe. I don't know if it was
9 before he spoke to Mrs. Quickie or after.

10 The renovations that we're talking about, what
11 is it of his concern? He's a lender. If he's truly a
12 lender, whether Wizard Gaming wastes a million dollars
13 or it wastes ten dollars, it's not his place to say.
14 He's saying it because he a father. You know, as Allen
15 said and Mr. Goodson said, you can't separate the father
16 from the son. I said that to Mr. Cruz, different words,
17 but I said the same thing.

18 CHAIRMAN SHELTON: You know, I'm having a very
19 difficult time with this conversation and I'll tell you
20 why. If I loaned you money and you were supposed to go
21 buy groceries and you went out and bought a new car, as
22 a lender, you don't think I wouldn't have some concerns
23 and ask some questions?

24 MR. JOSHI: Absolutely.

25 CHAIRMAN SHELTON: I would ask questions and I

1 think any lender would, and I don't think that's what
2 this hearing is about. Our hearing is about Junior and
3 whether he should be licenced or have conditions removed
4 or not. So I'd like to move away from that and that
5 closure if you don't mind.

6 MR. JOSHI: Fair enough.

7 CHAIRMAN SHELTON: I even have my hearing aid
8 squealing.

9 MR. JOSHI: I apologize, it's probably me.
10 Any way, I wanted to make sure that I'm available, a lot
11 of mud is going to be thrown at me, it has been, but
12 that's fine.

13 CHAIRMAN SHELTON: I believe the Bureau is
14 here and if they have questions and feel that they need
15 to do follow up, they'd do that. I know the Commission
16 employees would do the same thing. There is a lot of
17 information laid out here that's been before us before
18 and some is new, some is not. But I think now it's time
19 for Commissioners to move on and make some decisions
20 here.

21 MR. JOSHI: Thank you for your time, sir.

22 CHAIRMAN SHELTON: Is there any other public
23 input? You're not leaving yet.

24 MR. ISAACMAN: No, I'm just going to sit back
25 here unless you want me to sit --

1 CHAIRMAN SHELTON: No, I want you to stay
2 there in case we have other questions.

3 MR. ISAACMAN: I'm happy to do it.

4 CHAIRMAN SHELTON: Commissioners? My question
5 is to staff. No matter what happens here today, my
6 expectation is that we'll look into to see if there's
7 any ownership out of state of the gambling establishment
8 and whether or not I can consider the fact that somebody
9 has been arrested for a felony for licensing and goes to
10 character is debatable in my book. However, I would
11 expect a little background check on this arrest and the
12 outcome of that and if there's a conviction.

13 Knowing you folks, I know that if there's
14 something like that happens no matter what, you'd bring
15 it back before the Commission for the appropriate action
16 to be taken. Having said that, I can't remove father
17 from son, no matter what. And this case is so obvious
18 of the influence of the father over the son. I don't
19 know what the son has done to show any leadership
20 ability except kind of sit back and eyes and Belize and
21 what's happened in Belize or they're doing something in
22 Las Vegas.

23 If I go with this, the only thing I can go
24 with is to remove the existing conditions and accept the
25 conditions recommended by staff. So having said that,

1 starting the conversation, I'll go to my fellow
2 Commissioners.

3 COMMISSIONER VUKSICH: Actually, I was going
4 to ask about the incident in Mexico. I read about that
5 on the Internet. I habitually go to the Internet and
6 type people's names in and just see what's floating out
7 there and this readily popped up and I saw a news clip
8 and all sorts of other things. And, you know, I believe
9 that if part of our world has to do with discretion,
10 that if we read something, a publically available
11 document, I don't see why we can't pull that as a
12 consideration and keep it out there until a resolution
13 is brought forward.

14 So, Mr. Goodson, would you like to speak to
15 that? It's like reading news articles.

16 MR. GOODSON: Thank you, Commissioner. And
17 I'm not an expert of Mexican judicial system, but it was
18 my understand, as represented by Mr. Isaacman that the
19 Mexican courts do take a long time, and that the do give
20 people an opportunity to object or be heard or have
21 comments or that sort of thing.

22 My understanding is that the most recent
23 action that was taken by the Mexican court was to
24 announce that April 20th would be the day that Mr. Hardy,
25 Junior would be released from custody with no charges

1 brought forward and the court is bound by a statutory
2 time line to allow people to comment on that. And
3 that's my most recent knowledge.

4 CHAIRMAN SHELTON: Is that saying he was
5 convicted of something?

6 MR. GOODSON: Not convicted at all, no.
7 Released without charges.

8 CHAIRMAN SHELTON: And how long has he been in
9 jail?

10 MR. GOODSON: He's been in jail since --

11 MR. ISAACMAN: July.

12 MR. GOODSON: Is it July?

13 MR. ISAACMAN: Of last year.

14 MR. GOODSON: Yeah. But it's my understanding
15 that the court has announced that, you know, unless
16 absent new information, that it intends to release him
17 without bringing any charges, so there would be no
18 conviction.

19 COMMISSIONER VUKSICH: Does that include the
20 other gentleman that was with him?

21 MR. GOODSON: I can't comment on the other
22 gentleman, I don't know the answer to that. I don't
23 represent them.

24 COMMISSIONER VUKSICH: All right. I know, it
25 just seemed from the news story --

1 MR. GOODSON: Yeah, sure. Understood, and
2 I've read the same stories, yeah.

3 CHAIRMAN SHELTON: Don't leave yet. I'm
4 interested in Commissioner Shimazu's approach, if we
5 ordered this to be paid off, do you feel that would
6 sever relationships from Senior?

7 COMMISSIONER SHIMAZU: Well, I was going to
8 comment on Mr. Joshi's statement that, you know, I'm not
9 naive, I do understand that there are kind of two issues
10 but I look at them kind of separately to the financial
11 aspect of it. And there was so evidence or just paper
12 that we got about all these inquiries from Hardy,
13 Senior, and I thought, well, I understand why he's
14 asking about that, but I also understand that yes, you
15 can't separate the father and the son and that's fine,
16 it's not going to be the same with every father son
17 relationship. We're going to look at how much control
18 and how much influence the father actually has over this
19 son. So yes, he has been, I know he's been in the
20 military, I know he has worked, but then you have to go
21 back to that well, where has he worked? He's worked for
22 his father, he still works for his father, so those are
23 the kind of things that I look to see how much, you
24 know, is he really going to influence his son or --?

25 MR. GOODSON: And Commissioner, I understand

1 that. And, you know, I would like to clarify that. My
2 statement was you're not going to separate the father
3 from the son from a familial sense.

4 COMMISSIONER SHIMAZU: Sure.

5 MR. GOODSON: But when you're talking about
6 the actions in the business, clearly, removing
7 conditions from this license or granting full license
8 status to Mr. Hardy, Junior, does not obviate your power
9 under the Gambling Control Act to monitor the heck out
10 of this club. You've got the Bureau of Gambling Control
11 sitting right here chomping at the bits to go out there
12 and monitor for compliance. If there's no statutory
13 basis, if there's no factual basis for conditions, you
14 still have the tool of compliance.

15 The granting of the license doesn't take away
16 your power under the act, to make sure that one, Hardy,
17 Senior isn't involved, and two, Hardy, Junior doesn't do
18 something contrary to any law, not just the Gambling
19 Control Act, and three, Deitch doesn't just do something
20 to any law, not just the Gambling Control Act.

21 Remember, these are business people. As I
22 explained before, Mr. Deitch has over 35 years of
23 business experience. He is a very wealthy man in his
24 own right. He had held privileged licenses before. To
25 act on behalf of George Hardy, Senior puts his own

1 interest in this club at risk. It is a bad business
2 decision. It is contrary to 35 years of business
3 history.

4 COMMISSIONER SHIMAZU: Yeah, and I am not
5 looking at Mr. Deitch as the trustee or even not
6 licensing the trust, it's the issue of the conditions
7 and I think that you said that he really doesn't any
8 control over, he just -- and he's not going to be back
9 in the country, he's not going to be taking a role, so
10 what harm is it to have the conditions remain, or the
11 new conditions because I know they're tailored and
12 written a little better.

13 MR. GOODSON: And as I said before,
14 Commissioner Shimazu, the harm is he's been stung once,
15 he's had somebody sit in the capacity of a fiduciary and
16 he believes that duty was breached.

17 CHAIRMAN SHELTON: You know, Mr. Goodson, I
18 still have a problem with that because I have a family
19 trust. If my children don't like the way I spend my
20 money, tough. They don't get anything if I did if I
21 spend it all. And so I'm sitting here saying, why in
22 the world are we even licensing this guy? You know,
23 we're going back and reaching down into a trust and
24 bringing a dependant up and we're licensing him. I know
25 we've done it in the past and we've called for it,

1 but --

2 MR. GOODSON: But Chairman Shelton --

3 CHAIRMAN SHELTON: -- it brings up a lot of
4 questions in my mind.

5 MR. GOODSON: -- the duty of the trustee to
6 the trust is one of a fiduciary, and using it as your
7 own personal checkbook, in the context of this
8 particular event, may constitute a breach of that duty.

9 Now, it may be that you set up the trust, a
10 family trust, and put yourself in as the trustee with a
11 notion that you can use that trust money as you please
12 and that your heirs are the contingent beneficiaries
13 upon your passing and the passing of your wife, we have
14 a business arrangement here. This is the trust that was
15 set up as an estate planning mechanism, but it's asset
16 is an interest in a business. And to allow the trustee
17 to squander the revenues that would go into that trust
18 for his or her own personal benefit, is a breach of the
19 duty to that trust, and then to the trust beneficiary.
20 And that's where the difference is.

21 CHAIRMAN SHELTON: Well, you're giving me an
22 education, but I've got to tell you, at my house, I
23 don't have sole say on how the money is spent.

24 MR. GOODSON: And you're not alone there.

25 COMMISSIONER VUKSICH: He's on a control

1 system. But again, I go back to that. Mr. Hardy,
2 Junior has a course for remedy and that is to replace
3 the trustee which he has done, and he has a new -- it
4 doesn't go -- there's a firewall set up there, and he
5 still maintains his ability receive that benefit from
6 the trust as beneficiary --

7 MR. GOODSON: You know, Commissioner
8 Vuksich --

9 COMMISSIONER VUKSICH: -- having been a
10 beneficiary of that trust.

11 MR. GOODSON: And I understand what you're
12 saying. The problem that we have here is that in the
13 arrangement of the removed trustee and the duty to the
14 trust, the beneficiary didn't get that which he is
15 supposed to get. The distributions didn't flow down to
16 him. And so he has a remedy at law, or he has an
17 equitable remedy, but the harm is already done if you
18 don't get any money.

19 This past year, distributions weren't made and
20 yet the trust declared an income leaving the beneficiary
21 in a position of having to pay over \$400,000 in income
22 tax with no money to pay it. That's the problem. The
23 problem he has a remedy and now we're being attacked
24 because they exercised that remedy. We're being accused
25 of somehow of falling victims to something orchestrated

1 by Hardy, Senior because he exercised that remedy. But
2 the remedy doesn't give him the money that he needs to
3 pay his tax obligation. And so you're right, we have
4 this legal fix but the practical effect is devastating.

5 MR. JOSHI: Commissioners, can I say
6 something?

7 MR. ISAACMAN: I just have one quick response
8 here.

9 MR. JOSHI: Sorry.

10 MR. ISAACMAN: And that is that the -- Mr.
11 Goodson seems to suggest that let the conditions be
12 lifting, let the license go to Junior as the beneficiary
13 and as long as the casino is operating in accordance
14 with the law you can monitor that and there's no
15 problem. So the answer seems to be let Hardy, Senior
16 remain as a shadow owner, in effect, not be licensed, as
17 long as he's (inaudible) owner, he's not out front, he
18 doesn't announce from the rooftops that he's pulling the
19 strings, he just has his son tell the trustee what to do
20 and everything is okay as long as the casino doesn't
21 operate in violation of the law.

22 But the big problem we're having and everybody
23 is struggling with this thing because it's a very
24 difficult situation, is because the fundamentals of it
25 are misplaced. The fundamentals of it have problems in

1 it, there are defects in the structure, the basic
2 structure, and that is that we have a close father and
3 son, a son who is dependant only on the father, and this
4 father is not licensable, you just can't allow the son
5 to be there in a position where he is a beneficiary fo
6 42% in a card club trust. You can't do it. I mean,
7 even if you just change as a trustee, every time the
8 trustee, if the trustee doesn't do his bidding, he
9 changes him so he's controlling it.

10 And Mr. Goodson says, well, look, he doesn't
11 get the money in time to pay his taxes, but who said to
12 put a trust into a regulated business like this? He
13 doesn't have to do that. He can go do it somewhere
14 else.

15 The problem is that fundamentally, not matter
16 what you do, as long as you license this trust, there's
17 going to be a problem because Senior will be pulling the
18 strings and controlling the shots and there's no way
19 you're going to monitor that. You're never going to
20 find out. Thank you.

21 CHAIRMAN SHELTON: Commissioners?

22 MS. MACHUCHI: Commissioners, Evelyn Machuchi,
23 Chief Counsel. I just wanted to make a couple of
24 points. We did ask on these two loans what was owed.
25 We did get some information. Yesterday the Bureau

1 helped us get information from Emily Quickie.
2 Apparently, on the \$325,000 loan to the trust, \$374,447
3 has been paid on that. The loan was \$325,000 plus 10%
4 interest. The loan was originally from 2000 and was
5 supposed to be paid off in 2003 but was not paid off in
6 that time frame so there's a lot of interest that was
7 added on. And the total we have as being owed is
8 \$504,547. So \$374,000 has been paid, \$504,000 is owed
9 and that is information that was received from Emily
10 Quickie.

11 MR. ISAACMAN: I think there's a little bit of
12 a mistake. I think the total balance got to \$504,000,
13 374,000 was paid, the balance is somewhere under
14 \$200,000.

15 MS. MACHUCHI: Right, that's what I'm saying.

16 MR. ISAACMAN: Oh, I misunderstood.

17 MS. MACHUCHI: Three hundred and seventy-four
18 thousand has been paid on the loan, five hundred and
19 four thousand was owed, with interest owed. So whatever
20 the difference is between \$374,000 and \$504,000 is
21 what's owed on the \$325,000 original loan.

22 On the other loan was \$860,000 plus interest
23 and according to Mr. Blackman, Mr. Isaacman's partner,
24 \$164,115 is owed and that it's supposed to be paid off
25 by October of 2009. So \$164,000 is still owed on the

1 \$860,000 to Wizard Gaming.

2 And as the other question that Commissioner
3 Vuksich asked about the arrest, as you know, we've had
4 this discussion before and has come up before and we are
5 very concerned about the Commissioners taking into
6 consideration an arrest because you have no idea whether
7 or not, you know, it's a totally false arrest or in
8 particularly, I'm sorry to say this, but perhaps in
9 Mexico it's not quite the same standards that we have
10 here in the United States. So I would like you to be
11 careful about that.

12 We can consider character and conduct but the
13 problem with that is you have to have that proved here.
14 We would have to have people come testify here that in
15 fact this has occurred. Because all you're looking at
16 is the newspaper and we have no idea whether or not the
17 newspaper is reporting this correctly, you know, what
18 exactly happened here. So it's just a very fine line
19 that I caution you to be very careful.

20 COMMISSIONER VUKSICH: And that's my question.
21 It's not the arrest, per se, it's the knowledge of a
22 story that could lead to a question about character.

23 MS. MACHUCHI: Right. But I think we would
24 have to have, you know, actual testimony here to show
25 exactly what happened so that you could actually see, in

1 fact, was this conduct occurred or not. Because I did
2 go on the Internet too and it said that Mr. Hardy
3 crossed over the border, he had a gun in his possession
4 walked into the border patrol or whatever it is in
5 Mexico and handed over his gun.

6 So that's a totally different story than
7 running across the border with a gun and shooting at
8 someone. So, I mean, we really have to be very careful
9 about what exactly happened here. So I just wanted to
10 caution Commissioners on that.

11 MR. GOODSON: Can I ask, since the applicant
12 has the burden of proof, can't he be asked to come in
13 and answer the questions about what happened?

14 MS. MACHUCHI: Well, obviously that's a little
15 difficult if he's in jail in Mexico.

16 MR. GOODSON: Well, if he's asking for a
17 license and has to the burden of proof and he has good
18 character and you have this indication of this bad
19 conduct, can't he come in and say, look satisfy us
20 because it is your burden to prove that you have a
21 character?

22 MS. MACHUCHI: Well, again, we can't order him
23 here from Mexico and tell the Mexican court to release
24 him. You know, I don't think we have subpoena power
25 into Mexico.

1 MR. GOODSON: But he's asking for the license.
2 You can say we're not giving you the license until you
3 satisfy us, and in fact, you're not supposed to give a
4 license until he satisfies you in your discretion that
5 he has acted appropriately and he does have good general
6 character and he's been qualified to engage in a
7 controlled gambling operation. That's that statute.

8 MS. MACHUCHI: I understand that. And also
9 the section that you cited, Mr. Isaacman, doesn't apply
10 to licensee's that applies to gambling businesses. So
11 the section that you cited in the Regulations is not
12 applicable to this person on the firearms conviction,
13 that's a regulation that applies to third party prop
14 (phonetic) players and gambling businesses.

15 MR. ISAACMAN: Chairman Shelton, can I make
16 one little comment?

17 CHAIRMAN SHELTON: No, I've heard enough. I
18 have heard enough. I appreciate it.

19 MR. ISAACMAN: Well, it has to do with the
20 trustee issue that Mr. Goodson -- 30 seconds.

21 CHAIRMAN SHELTON: We've heard enough, thank
22 you.

23 MR. ISAACMAN: Okay.

24 CHAIRMAN SHELTON: If this Commission can't
25 make a decision on the information before it then we

1 shouldn't be sitting here.

2 And Legal, I want you to understand in the
3 five years plus I've sat here, we've never made a
4 decision based on anything but the legal information
5 before this Commissioner. Although we -- and have not
6 considered information we're not supposed to consider,
7 so I want that on record. I don't want anybody in this
8 room to think we have. In fact, we have not.

9 MS. MACHUCHI: Mr. Chair, I would want to
10 clarify I wasn't implying --

11 CHAIRMAN SHELTON: I understand that, but it's
12 on record and I have to make sure I verify the record
13 and what's being said, in my opinion. And that's some
14 leeway I take. I'm prepared to make a motion and if
15 anybody wants to amend that motion, I'm open to
16 amendment, but we can't beat this thing all day. I'm
17 making a motion to remove the recommendations or the
18 conditions that were originally on and to insert the
19 conditions recommended by legal. Now, if anybody wants
20 to talk financially and add payoffs to it, I'll
21 certainly consider that.

22 COMMISSIONER SHIMAZU: Okay, well, I'll second
23 it so we can talk about it. Yeah, originally, I was
24 thinking too, yeah, let's pay off these loans because,
25 let me back up to that. It wasn't the financial issues,

1 okay, I understand the whole why -- I understand why
2 George Hardy, Senior is asking about it. He just wants
3 his money. That's one thing you can eliminate all that
4 if he gets him money. But that does not go to any
5 conversations he has with his son, we can't monitor
6 that, the Bureau can't monitor that.

7 Normally, I would say I'm going to look at the
8 relationship, I'm going to look at the individuals. And
9 here, the -- Mr. Hardy, Junior seems to have a certain
10 dependance on his father. He lives with him, he works
11 for him and those were kind of issues, it doesn't seem
12 like he was out there doing his own thing, and that's
13 why I think he could be more easily influenced than
14 just, you know, I mean, looking at different father and
15 son relationships.

16 I would not vote to not license the trust. I
17 think it's been in place for a while and that that
18 should continue on and Hardy, Junior should continue to
19 get his money. I'm fine with that. But it does bring
20 up all the issues brought up about what if Hardy, Senior
21 is really controlling his son. And again, I don't -- I
22 can't tap into their phones and hear what they're
23 talking about. It's just looking at the facts and how
24 he does seem to rely on his father, so that's what
25 that's based on. I think it would eliminate, it would

1 be in everyone's best interest to pay off the loans so
2 that you don't have that additional, you know, where
3 he's calling all the time and bugging you about paying
4 it off because then it confuses the situation even more
5 and, yes, you, Wizard needs to, you know, have a wall
6 between you too. Having all those conversations with
7 them doesn't serve anyone any good, so getting him out
8 of the picture, I'm not going to ask for an additional
9 condition, I would just recommend very strongly that
10 that happen, those loans get paid off so we don't have
11 to keep hearing all this stuff again. That's me.

12 COMMISSIONER VUKSICH: I go back to the first
13 time I became familiar with this club which was in 2006,
14 and the granting of the license to Zephyr and putting
15 the conditions on that license, to me, accomplished what
16 I thought was a way for Mr. Hardy to provide for his son
17 and keep the integrity of the business relationships
18 here, and I think getting rid of these loans helps to
19 clarify those relationships and keep the fire walls
20 clear. And I would like to -- there is nothing about
21 Mr. Hardy, Junior, informationally, that is different
22 from 2006, when his name first crossed my paper. So
23 there are no changes there and I would like to give a
24 little space for these relationships and the
25 shareholders to shake out a little bit before we

1 consider taking these conditions off. And that would be
2 my only comment here.

3 COMMISSIONER SHIMAZU: You want the original
4 conditions or the --

5 COMMISSIONER VUKSICH: No, no, --

6 COMMISSIONER SHIMAZU: Okay.

7 COMMISSIONER VUKSICH: Yes, I'm sorry. The
8 new staff conditions.

9 COMMISSIONER SHIMAZU: Okay. I do want to
10 say, Mr. Goodson, you did address, I mean, I wasn't
11 here in 2006, so I looked at the transcript and those
12 seem to be the two issues that came up, the tax thing,
13 the mental capacity, the capability, whatever, and I
14 think you addressed those.

15 My whole thing was, separate from those two
16 issues, and that was just the influence of Hardy, Senior.
17 Everyone talks about the black cloud and it was hard --
18 it's hard to ignore given his history and the
19 relationship with his son.

20 CHAIRMAN SHELTON: Call for the vote.

21 CLERK: Excuse me, Chairman, could we go over
22 the motion again?

23 CHAIRMAN SHELTON: The motion is to strike the
24 existing conditions and add the conditions recommended
25 by legal.

1 CLERK: Okay. Commissioner Shimazu?
2 COMMISSIONER SHIMAZU: Aye.
3 CLERK: Commissioner Vuksich?
4 COMMISSIONER VUKSICH: Aye.
5 CLERK: Chairman Shelton?
6 CHAIRMAN SHELTON: Aye.
7 CLERK: Motion carries.
8 CHAIRMAN SHELTON: Thank you, gentlemen,
9 appreciate it. You both did an outstanding job.
10 MR. ISAACMAN: Thank you.
11 MR. GOODSON: Thank you.
12 END ITEM 4B
13 --oOo--

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Signed on March 31, 2009, at Sacramento,
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Michelle Wassum

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