

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COMMONWEALTH OF PENNSYLVANIA  
SENATE COMMITTEE ON COMMUNITY, ECONOMIC AND  
RECREATIONAL DEVELOPMENT  
AND THE  
HOUSE COMMITTEE ON GAMING OVERSIGHT

In re: Joint Public Hearing on Gaming

\*\*\*\*

Stenographic report of public hearing  
held in Hearing Room 1, North Office  
Building, Capitol Complex, Harrisburg,  
Pennsylvania, on

Tuesday  
February 2, 2010  
9:00 a.m

SENATOR JANE M. EARLL, CO-CHAIRMAN  
REPRESENTATIVE DANTE SANTONI, JR., CO-CHAIRMAN

MEMBERS OF JOINT SENATE/HOUSE COMMITTEE

- |                       |                            |
|-----------------------|----------------------------|
| Sen. James Ferlo      | Rep. Bryan Barbin          |
| Sen. Jane Orie        | Rep. Thomas R. Caltagirone |
| Sen. Robert Tomlinson | Rep. Paul I. Clymer        |
| Sen. Don White        | Rep. Michael H. O'Brien    |
| Sen. John N. Wozniak  | Rep. Eddie Day Pashinski   |
|                       | Rep. Curt Schroder         |
|                       | Rep. RoseMarie Swanger     |
|                       | Rep. Mike Vereb            |
|                       | Rep. James Wansacz         |

Reported by:  
Ann-Marie P. Sweeney  
Chief Official Reporter  
Senate of Pennsylvania

INDEX TO TESTIFIERS

<u>TESTIFIERS:</u>	<u>PAGE</u>
Chet Harhut, Commissioner, Bureau of Commissions, Elections and Legislation (Division of Campaign Finance and Lobbying Disclosure within the Bureau)	8
Barry Kauffman, Executive Director, Pennsylvania Common Cause	12
Peter N. Calcara, President, Pennsylvania Assn. for Government Relations	15
Richard A. Sprague, Esq., Counsel for PCA; Member, PCA Board of Directors on behalf of The SugarHouse Casino; Counsel, The SugarHouse Casino and Mt. Airy Casino Resort; Part-Owner, The SugarHouse Casino	38
Chief Justice Emeritus Stephen A. Zappala, Sr., Chairman, PCA Board of Directors; former Executive Director, PCA	53
Lisa DeNaples, Member, PCA Board of Directors on be- half of Mt. Airy Casino Resort; Trustee/Executor/ Beneficiary Owner, Mt. Airy Casino Resort; Chief Operating Officer, Mt. Airy Casino Resort	94
Charles J. Hardy, Esq., Member, PCA Board of Directors on behalf of Rivers Casino; Attorney with Sprague & Sprague; Counsel, The SugarHouse	72
Ken Smukler, Executive Director, PCA	50
Michele Zappala Peck, Director of Operations, PCA	72

1           CHAIRMAN EARLL: Good morning. I would like to call  
2 this joint hearing to order and welcome everyone and offer my  
3 thanks to everyone who is making themselves available to  
4 testify this morning. I recognize that it was on relatively  
5 short notice, and I do appreciate everyone's cooperation.

6           As you know, this is a joint hearing of the House  
7 Gaming Oversight Committee along with the Senate Committee on  
8 Community, Economic and Recreational Development, and the  
9 purpose of the hearing is actually quite concise. We are going  
10 to revisit the Lobbying Disclosure Law, the Pennsylvania  
11 Lobbying Disclosure Law, and reorient ourselves, and probably  
12 reeducate ourselves, as to the provisions of that law. And we  
13 will be hearing from three people who I will introduce in a  
14 moment.

15           Secondly, we are going to then take testimony from  
16 the Pennsylvania Casino Association and its members in order to  
17 determine or to learn exactly what the makeup of that  
18 association is, what their mission is, and what the activities  
19 are that they've engaged in over the past couple years. So I  
20 would like to encourage the Members of the joint hearing panel  
21 to kind of conform our questioning to questions that are  
22 probative of those two issues.

23           A couple housekeeping matters. Since this is a joint  
24 hearing, we're going to kind of alternate back and forth  
25 between Senate Members asking questions and House Members

1 asking questions. I would ask the Members to be mindful that,  
2 you know, we do have some time constraints. We're not going to  
3 be here all day, so to please keep your questioning concise,  
4 and I would ask that of the testifiers as well, to please make  
5 sure that your answers are responsive to the question, and  
6 we're all going to try to keep this moving.

7 So with that, I would welcome again our House  
8 colleagues and ask my co-chair, Representative Santoni, if he  
9 has any remarks for us.

10 REPRESENTATIVE SANTONI: Thank you, Madam Chair.  
11 Good morning, everyone. I just want to thank you and commend  
12 you and your staff for helping to put this together. We worked  
13 very closely on this issue, and I hope that today can provide  
14 us with some answers to some of the questions that have been  
15 posed.

16 Just as a -- very quickly, just as some history, back  
17 in November of 2009, in the midst of negotiations on best of  
18 how to shape Act 1, it came to my attention that the  
19 Pennsylvania Casino Association, an organization that had not  
20 registered as a lobbying interest, had made public statements,  
21 communicated with Members of the General Assembly, and invested  
22 money in an advertising campaign that appeared to be intended  
23 to influence the outcome and the final provisions of what would  
24 become Act 1. I set out my concerns in a letter to the  
25 chairman of the PCA that month. I appreciate the responses I

1 received. I was -- I did receive a response from every  
2 organization that I sent to, including one this morning from  
3 Mt. Airy. I do appreciate those responses, but I do share  
4 Chairman Earll's point of view that further questions must be  
5 asked and answered.

6 In the process of today's hearing, I hope to learn  
7 more about PCA, what its purpose is and was, and precisely what  
8 activities it engaged in. I also look forward to hearing  
9 testimony from those who are experts in Pennsylvania's lobbying  
10 disclosure laws. These issues are complex, and we want to  
11 eliminate as many gray areas as possible. It is absolutely  
12 vital that we come out of this hearing with a clear  
13 understanding of the law and the Casino Association's adherence  
14 to or exemption from it.

15 I understand that this discussion will be  
16 far-reaching and will touch on many issues that are tangential  
17 to the central purpose of the hearing. I ask that all  
18 Members--I agree with the Chairman--please refrain from keeping  
19 this -- pontificating, and keeping it to the point, but I also  
20 ask Members to please refrain from turning this responsibility  
21 into an opportunity to make personal observations about the  
22 gaming industry or to give into the temptation to score points  
23 by attacking testifiers or other figures in the industry.

24 Our singular goal today must be to get answers and  
25 find solutions. I believe we are all in agreement that the

1 Pennsylvania gaming industry must be above reproach. I am  
2 confident that today's hearing will give us the answers we need  
3 to either confirm that no wrongdoing has occurred, or to begin  
4 taking corrective measures to guarantee that our lobbying  
5 procedures are transparent and that those who violate the law  
6 are held accountable.

7 Thank you, Madam Chair.

8 CHAIRMAN EARLL: You're welcome.

9 And now I would invite the Minority Chair of the  
10 House Gaming Oversight Committee, Representative Schroder, if  
11 you have any remarks.

12 REPRESENTATIVE SCHRODER: Thank you, Chairman Earll.

13 Good morning. First of all, I would just like to  
14 say, I appreciate the efforts of Chairman Earll and Chairman  
15 Santoni to convene this joint hearing this morning on the issue  
16 of lobbyist disclosure and the adherence of the PCA to the  
17 lobbyist disclosure statute. As someone who sat on the  
18 drafting committee of the regulations for the Lobbyist  
19 Disclosure Act, it is a very involved act, and those of us who  
20 drafted the regulations took our call very seriously and tried  
21 to draft the best regulations that we could in order to fulfill  
22 the intent of the General Assembly and make sure that the  
23 correct interpretations, you know, were offered in the  
24 regulation.

25 So I look forward to hearing responses today,

1 particularly to -- involving the letter that was sent by  
2 Attorney Sprague to Chairman Santoni. I think the explanations  
3 do raise some questions regarding adherence to the lobbyist  
4 disclosure law, and I look forward to drilling down into that  
5 and hopefully getting those answers and getting issues cleared  
6 up here today.

7 Before we move on, I just had two brief questions,  
8 Madam Chair. Is there a stenographer with us today?

9 CHAIRMAN EARLL: Yes, there is, and thank you for  
10 reminding me. I would appreciate if, since we do have a  
11 stenographer here, if when, before you begin your questioning,  
12 if the Members would introduce yourself, state your name for  
13 the record to make sure that we get that on the record.

14 REPRESENTATIVE SCHRODER: Point well-taken. Thank  
15 you. And will the witnesses and those testifying be sworn  
16 today at the hearing?

17 CHAIRMAN EARLL: Yes. Not these first witnesses, but  
18 the second set of witnesses will be sworn.

19 REPRESENTATIVE SCHRODER: Thank you very much.

20 CHAIRMAN EARLL: You're welcome.

21 With that, any other opening remarks by any Members?

22 (No response.)

23 CHAIRMAN EARLL: Okay, now I would introduce our  
24 first panel of testifiers. We have Mr. Chet Harhut, who is a  
25 Commissioner of the Bureau of Commissions, Elections and

1 Legislation, which is a division of the Campaign Finance and  
2 Lobbying Disclosure Bureau within the Department of State.

3 With him is Barry Kauffman, who is the Executive  
4 Director of Pennsylvania Common Cause.

5 And also on the panel is Peter Calcara, who is with  
6 the Pennsylvania Association for Government Relations.

7 We have invited all three of these groups to testify.  
8 And gentlemen, I appreciate your -- the time and effort that  
9 you've put into your testimony. But we've invited these three  
10 groups because they obviously were stakeholders when the  
11 original law was enacted and probably have more insights into  
12 various provisions of that law. So again, I do appreciate your  
13 testimony, and we're ready whenever you are.

14 MR. HARHUT: I'll start, then.

15 CHAIRMAN EARLL: And I would point out for the  
16 Members, I do think that all three panelists have provided  
17 written statements that you should have copies of, so.

18 MR. HARHUT: I'll go through that.

19 Chairwoman Earll, Chairmen Santoni and Schroder, and  
20 distinguished Members of the House Gaming Oversight, Senate  
21 Community, Economic and Recreational Development Committees,  
22 good morning. Thank you for the invitation to appear here  
23 before you to discuss lobbying disclosure. For the record, my  
24 name is Chet Harhut, and I am the Commissioner of the  
25 Department of State's Bureau of Commissions, Elections and



1 Legislation. In this capacity, I am responsible for the  
2 supervision of the bureau which oversees lobbying disclosure;  
3 notaries public; commissions; legislation; Commonwealth's  
4 electoral process, which includes the Statewide Uniform  
5 Registry of Electors; voter registration; and campaign finance.

6 The Lobbying Disclosure Act was passed unanimously by  
7 the General Assembly and was signed by Governor Rendell on  
8 November 1, 2006. It is very important to explain that the  
9 Lobbying Disclosure Act assigns the responsibilities for  
10 administration and enforcement of the act to three State  
11 agencies and the Disciplinary Board of the Supreme Court of  
12 Pennsylvania.

13 The Department of State is solely responsible for the  
14 administration of the act. We oversee registration, the filing  
15 of quarterly expense reports, and conduct independent audits in  
16 accordance with the act. The department is also required to  
17 make all filed registrations and quarterly expense reports  
18 available to the public. The act does not, however, provide  
19 the department with any enforcement powers. The legislature  
20 designated the enforcement responsibilities to the State Ethics  
21 Commission, the Attorney General, and the Disciplinary Board of  
22 the Supreme Court of Pennsylvania.

23 Under the act, the State Ethics Commission's  
24 responsibilities include both enforcement and issuing advisory  
25 opinions. The Commission is the only agency given the

1 authority to issue an opinion regarding compliance with the  
2 act. An opinion may be issued upon written request by a  
3 lobbyist, lobbying firm, principal, the Department of State,  
4 the Disciplinary Board, or a State official or employee. These  
5 opinions can be very helpful in that they can answer questions  
6 as to whether or not certain specific factual activity  
7 constitutes lobbying under the act.

8 Criminal enforcement of the act is designated to the  
9 Attorney General. The Disciplinary Board of the Pennsylvania  
10 Supreme Court is responsible for enforcement of the act as it  
11 pertains to lobbyists and principals who are also attorneys.

12 The Rendell administration believes in making the  
13 lobbying process transparent, and registering lobbyists is a  
14 key step towards open disclosure. As of January 1, 2007, all  
15 lobbyists, lobbying firms, and principals have been required to  
16 register biennially with the Department of State within 10 days  
17 of acting in any capacity as a lobbyist, lobbying firm, or  
18 principal, unless exempted under the act. A person may be  
19 exempt from registration and reporting if, for example, the  
20 person does not receive economic consideration for lobbying, or  
21 a person limits their lobbying to testifying before a committee  
22 or agency. A list of all the exemptions can be found in  
23 section 13A(0)6 of the act.

24 To register, each individual lobbyist must submit a  
25 registration statement, recent photograph, and a \$100 biennial

1 registration fee. Lobbying firms and principals must submit a  
2 registration statement and a \$100 biennial registration fee.

3 The act defines lobbying as an "individual,  
4 association, corporation, partnership, business trust or other  
5 entity that engages in lobbying on behalf of a principal for  
6 economic consideration." The definition "includes an attorney  
7 at law while engag[ing] in lobbying." A lobbying firm is  
8 defined as "an entity that engages in lobbying for economic  
9 consideration on behalf of a principal other than the entity  
10 itself." A principal is defined as "an individual,  
11 association, corporation, partnership, business trust or other  
12 entity (1) on whose behalf a lobbying firm or lobbyist engages  
13 in lobbying; or (2) that engages in lobbying on the principal's  
14 own behalf."

15 Registered principals are also required to file  
16 quarterly expense reports with the Department of State, which  
17 must include the total costs of all lobbying for the reporting  
18 period. Lobbying costs include office expenses, personnel  
19 expenses, expenditures related to gifts, hospitality,  
20 transportation, and lodging of State officials or employees.  
21 Additionally, a lobbying firm or lobbyist not associated with a  
22 lobbying firm must submit a report if, during the reporting  
23 period, the lobbying firm or lobbyist engaged in lobbying which  
24 was not contained in the expense report filed by a principal or  
25 principals represented.

1           Guidance for how to comply with the act can be found  
2 in the lobbying disclosure regulations that became effective on  
3 April 11, 2009. These regulations were drafted by the Lobbying  
4 Disclosure Regulations Committee, of which I am a member, as a  
5 designee of Secretary Pedro A. Cortes. Additionally, the  
6 committee published a manual in the Pennsylvania Bulletin on  
7 January 9, 2010, to give further guidance on accounting and  
8 reporting requirements of the act.

9           Thank you for the opportunity to present this  
10 testimony to you. I could take questions now or wait until the  
11 other panel members are done, and we can -- it's up to you.

12           CHAIRMAN EARLL: Thank you. We're going to wait  
13 until all of the panelists have offered their remarks and then  
14 open it up for questions.

15           Mr. Kauffman.

16           MR. KAUFFMAN: Good morning, Chairlady Earll and  
17 Chairman Santoni. I am Barry Kauffman, Executive Director of  
18 Common Cause Pennsylvania. Common Cause is a citizen's  
19 government integrity advocacy organization with over 5,000  
20 members and affiliates throughout Pennsylvania. We have over  
21 35 years' experience in working for more open, accountable, and  
22 responsive government.

23           I was invited here today to comment on what Common  
24 Cause believes Act 134 of 2006 requires with regard to the  
25 registration and financial disclosure of lobbyists and those

1 who hire or contract lobbyists. As you probably know, Common  
2 Cause Pennsylvania worked for over 30 years to achieve the  
3 passage of this law and was involved in nearly every phase of  
4 its development. It is our belief that the Lobbyist Disclosure  
5 Law must mean what it clearly states and that it must be  
6 interpreted and enforced in that manner.

7           Therefore, in our view, the law concerning  
8 registration contains three specific triggers, all three of  
9 which must be accomplished to require registration and  
10 disclosure. First, the person, organization, or company must  
11 be engaged in an activity that is intended to have an impact on  
12 the creation, modification, or preservation of a State law or  
13 regulation or official policy, the promotion or hindrance of  
14 the appointment of a person to public office, or the securing  
15 of a contract from a legislative or executive branch agency of  
16 State government.

17           And, second, the person, organization, or company  
18 engaged in the activity in number one, which I just described,  
19 must be compensated to engage in this activity or spend money  
20 on the above activities, and/or provide gifts, meals,  
21 entertainment, travel, and other hospitality to engender the  
22 good will of or achieve access to public officials.

23           And the third trigger is the person, organization, or  
24 company must expend funds, utilize resources, or receive  
25 compensation for activities which I just mentioned in an

1 aggregate amount of more than \$2,500 in a calendar quarter.  
2 This includes salaries, benefits, expenses, support staff,  
3 offices, consultants, equipment, supplies, telephone and  
4 communication services, and other support services in that  
5 \$2,500.

6 If all three of the conditions I just mentioned are  
7 met, then the person, organization, or company expending those  
8 resources, as well as the person being compensated to obtain  
9 the benefit of the affected public policy or contract, must  
10 register and begin to file quarterly disclosure reports for the  
11 remainder of that legislative Session.

12 These are the general rules. And there are a variety  
13 of exceptions that could excuse a person or organization from  
14 filing or reporting. When I am asked for advice from lobbyists  
15 and organizations with regard to how to comply with  
16 registration reporting, we have always urged people to err on  
17 the side of disclosure. We believe it is much better to  
18 protect one's reputation and ability to continue lobbying than  
19 to discredit or diminish one's integrity and ability to lobby  
20 by failing to register and report. We have encouraged people  
21 to register and report at the point at which they realize they  
22 are likely to hit the threshold triggers for the quarter, even  
23 if they have not yet formally reached that threshold.

24 We believe the General Assembly and the special  
25 committee assigned to draft lobbying-related regulations have

1 done a pretty good job of establishing the registration  
2 reporting requirements in a clear, understandable, and  
3 enforceable language, although we do contend certain standards  
4 should be more comprehensive and rigorous, although I've been  
5 asked not to comment on those at this particular session.

6 In the event that there is ambiguity or lack of  
7 clarity, a registrant or potential registrant has the ability  
8 to receive advice and guidance from the State Ethics  
9 Commission.

10 This concludes my formal comments, and I would be  
11 happy to respond to any of your questions, if I can, at the  
12 appropriate time. Thank you.

13 CHAIRMAN EARLL: Thank you, Mr. Kauffman.

14 And next, we will hear from the Pennsylvania  
15 Association for Government Relations. Mr. Calcara.

16 MR. CALCARA: Senator Earll, Representative Santoni,  
17 Members of the committee, Senators, Representatives, good  
18 morning. My name is Peter Calcara. I'm President of the  
19 Pennsylvania Association for Government Relations, otherwise  
20 known as PAGR. PAGR's mission is to promote the purpose and  
21 effectiveness of the lobbying profession consistent with the  
22 public interest. Although we encourage our members to follow  
23 the law and regulations, it's not part of PAGR's mission to  
24 determine whether our members should register under the  
25 Lobbying Disclosure Act.

1           Our association and its members encourage high  
2 standards of personal and professional conduct among all  
3 lobbyists. Currently, there are approximately 200 members of  
4 PAGR, while the number of registered lobbyists in the  
5 Commonwealth is slightly over 1,000, I think exactly 1,174.  
6 PAGR's membership is vast and diverse. We have members who are  
7 association lobbyists like myself, corporate lobbyists,  
8 independent lobbyists, lawyer lobbyists, associate members, and  
9 legislative liaisons.

10           In order to make its members more effective  
11 lobbyists, PAGR has undertaken the initiative to educate its  
12 members about issues affecting the lobbying profession. And  
13 this includes the newly enacted Lobbying Disclosure Law and its  
14 accompanying regulations and manual. Every year, PAGR holds a  
15 one-day conference entitled Lobbypalooza, where issues and  
16 topics important to PAGR's membership are discussed and  
17 debated. Just this past October, one of the topics discussed  
18 dealt with the Lobbying Disclosure Act's final regulations,  
19 which were promulgated in April of 2009.

20           PAGR's bimonthly membership meetings and newsletters  
21 also serve as a great resource for the membership by providing  
22 members with both an oral and written forum to discuss issues  
23 related to the lobbying profession.

24           When discussing the Lobbying Disclosure Act, we  
25 typically invite Members and staff of the legislature, as well



1 as individuals from the Department of State and the Ethics  
2 Commission, to address our membership. They provide guidance  
3 to our membership regarding both the act and the regulations.  
4 Please be assured that PAGR will continue to educate its  
5 members about the Lobbying Disclosure Act and its accompanying  
6 regulations and manual.

7 It's my understanding that one of the purposes of  
8 today's meeting is to explore and clarify relevant provisions  
9 of the Lobbying Disclosure Act. Please know that I am not an  
10 attorney, and so I am not in a position to offer guidance to  
11 this committee on what certain words mean based on case law or  
12 statutory interpretation. My fellow panelists, however, may be  
13 in a more suitable position to offer this kind of advice and  
14 guidance to the committee. We believe, however, that the  
15 Lobbying Disclosure Act, its regulations, and manual speak for  
16 themselves.

17 Again, thank you for this opportunity, and I would be  
18 happy to try and answer any questions that you may have.

19 REPRESENTATIVE SANTONI: Thank you, gentlemen, for  
20 your testimony. We'll start with questions, and we'll start  
21 with Chairman Schroder.

22 REPRESENTATIVE SCHRODER: Thank you. This question  
23 will be directed to Mr. Calcara of PAGR. Pete, if you know, is  
24 the PCA a member of PAGR?

25 MR. CALCARA: To my knowledge, they are not a member

1 of PAGR. We are in the process of renewing our membership now.  
2 They were not a member in 2009. They may have, in the last day  
3 or week or so, renewed, but to my knowledge, they are not  
4 members.

5 REPRESENTATIVE SCHRODER: Are any of the individuals  
6 involved with PAGR, as principals, members of the PCA, to your  
7 knowledge?

8 MR. CALCARA: Not to my knowledge.

9 REPRESENTATIVE SCHRODER: Okay. Are all lobbyists in  
10 Pennsylvania members of PAGR?

11 MR. CALCARA: No. As I indicated, there are over  
12 1,100 registered lobbyists, and there are only approximately  
13 200 members of PAGR.

14 REPRESENTATIVE SCHRODER: So the vast majority, then,  
15 are not members of PAGR.

16 MR. CALCARA: Correct. Correct.

17 REPRESENTATIVE SCHRODER: Okay. Thank you.

18 CHAIRMAN EARLL: Senator Orie.

19 SENATOR ORIE: I just have a few questions for Peter  
20 Calcara in regards to the Pennsylvania Institute of Certified  
21 Public Accountants, which you operate. How would a CPA firm or  
22 an individual join that association?

23 MR. CALCARA: Through a regular application process.  
24 There's a membership fee. We're a -- PICPA, the Pennsylvania  
25 Institute of CPAs, is an individual-based membership

1 organization as well.

2 SENATOR ORIE: So would there be an agreement  
3 outlining dues and services, et cetera, that they provide?

4 MR. CALCARA: Yes.

5 SENATOR ORIE: And do members pay different amounts  
6 in regards to these dues?

7 MR. CALCARA: It varies. There is a tiered structure  
8 for PICPA. If you're a practicing CPA with over 5 years'  
9 experience, there's one dues level--I think it's \$260--and then  
10 if you have less experience, it's a lower fee, and if you're a  
11 student, there's a fee below that as well.

12 SENATOR ORIE: The information you just provided us  
13 in regards to the Pennsylvania Institute of Certified Public  
14 Accountants -- is that the norm for how most associations  
15 function?

16 MR. CALCARA: I can't really say. I think it  
17 probably is. I know for PAGR, however, we just have one fee  
18 structure, and it's also a membership. It's on an individual  
19 basis. But I don't know if I -- as far as other organizations,  
20 I'm not sure. I think we're probably very similar. But I  
21 don't know if Barry has anything to add.

22 MR. KAUFFMAN: Common Cause is a similar tiered  
23 structure for family members, individual members, and students,  
24 and it does appear fairly common among various organizations.

25 SENATOR ORIE: And Commissioner Harhut -- is that the

1 right pronunciation?

2 MR. HARHUT: (Indicating in the affirmative.)

3 SENATOR ORIE: I just have one question. You said  
4 that by a written request, the Department of State can file  
5 something with a written request to the Ethics Commission. Has  
6 anything been filed, to date, on the Pennsylvania Casino  
7 Association by your department?

8 MR. HARHUT: No, we have not.

9 SENATOR ORIE: Thank you.

10 REPRESENTATIVE SANTONI: I just have some brief  
11 questions, and you might have answered the one. But I know in  
12 my opening remarks, I indicated we try to get rid of all the  
13 gray areas, but inevitably there are when we pass legislation.  
14 So if I'm looking to start a lobbying firm or I want to come to  
15 talk to Members of the legislature, and I'm not sure if I meet  
16 the requirements, I can go to the State Ethics Commission and  
17 ask them whether I'm going to do 1, 2, 3, A, B, C, and they're  
18 going to let me know whether I need to file or not?

19 MR. HARHUT: Yeah. You would file an official  
20 advisory opinion with the Ethics Commission, and they would  
21 advise you whether you should or should not register as a  
22 lobbyist.

23 REPRESENTATIVE SANTONI: And Peter, do you recommend  
24 -- if someone comes to you as an organization, and they want to  
25 be a lobbyist, and -- same thing? Do you make recommendations

1 to them on whether they should file or not?

2 MR. CALCARA: No. PAGR will not make that kind of  
3 recommendation. We would defer -- we would refer the  
4 individual or group to the State Ethics Commission.

5 REPRESENTATIVE SANTONI: Okay. And my final  
6 question, I guess to the Department of State -- is there an  
7 investigator, I know the Attorney General has part, oversees  
8 some of it, but is there someone out there that's sort of -- I  
9 don't want to call it lobbying police, maybe, for want of a  
10 better term, that's out there looking for people that are not  
11 adhering to the law? Is there someone that's -- or do you just  
12 respond to complaints?

13 MR. HARHUT: We don't have any enforcement authority  
14 with the lobbying law. It all falls on the Ethics Commission.  
15 They do investigations. They have a complaint procedure, which  
16 any individual can complain, do a sworn complaint. Or -- I  
17 don't want to speak for them and their methodology, but they do  
18 investigate all aspects of the law.

19 REPRESENTATIVE SANTONI: Thank you, Madam Chair.

20 CHAIRMAN EARLL: Senator Wozniak.

21 SENATOR WOZNIAK: Just a quick question. Down here,  
22 we have a plethora of professional lobbying organizations.  
23 Does anything preclude the association, the Casino Association,  
24 from hiring these particular lobbying groups to lobby for them?  
25 And if they do, do they have to register with you, or is it

1 something that the lobbying firm that they hired has to  
2 register?

3 MR. HARHUT: Well, in most cases, everybody then  
4 would have to register, because they would be a principal under  
5 that firm, if they're spending the threshold amount, if they're  
6 spending \$2,500 per quarter.

7 SENATOR WOZNIAK: Thank you.

8 REPRESENTATIVE SANTONI: Representative Vereb.

9 REPRESENTATIVE VEREB: Thank you, Mr. Chairman.

10 My first question is to Mr. Kauffman. You indicated  
11 in your -- the three pieces of criteria you see as trips for  
12 the obligation to report. You also suggested that people come  
13 to you. I mean, Barry, you're no stranger to the Capitol. Has  
14 anyone from PCA or any of their members ever come to you and  
15 asked you for an opinion or advice on what to do with the  
16 organization?

17 MR. KAUFFMAN: No.

18 REPRESENTATIVE VEREB: Okay. My next question, for  
19 Mr. Harhut. You said when someone violates the Lobbyist  
20 Disclosure Act or any form of the act, it goes to your office?  
21 No?

22 MR. HARHUT: No, Ethics.

23 REPRESENTATIVE VEREB: State Ethics Commission.

24 MR. HARHUT: Yes. Attorney General also has criminal  
25 enforcement of the act for intentional criminal violations, but

1 the Ethics Commission investigates issues related to  
2 registration and reporting and things of that nature.

3 REPRESENTATIVE VEREB: Okay, so you brought up an  
4 important point. Criminal intent is a pretty strong term. In  
5 your interpretation of our current law, because obviously we're  
6 looking to potentially make changes, you know, how you define  
7 criminal intent versus misunderstanding versus ignorance to the  
8 law? I mean, it seems to be--

9 MR. HARHUT: And unfortunately, since we don't  
10 involve ourselves with enforcement issues, I really don't have  
11 an opinion on that differentiation. I mean, the Ethics  
12 Commission would probably give you an example of an intentional  
13 criminal violation, but I can't -- I'm not in a position to do  
14 that.

15 REPRESENTATIVE VEREB: Is it your understanding that  
16 a well-represented association should be able to read our act  
17 and understand it clearly?

18 MR. HARHUT: (No response.)

19 CHAIRMAN EARLL: Senator Ferlo.

20 SENATOR FERLO: I'm Senator Ferlo. Good morning,  
21 everybody. I feel like I'm at a high school dance, first of  
22 all.

23 Mr. Kauffman, you represent an organization that has  
24 a strong advocacy history of advocating for public disclosure,  
25 and I'm reading your testimony, and I hear your words. You've

1 delineated three specific criteria. You suggest that all three  
2 have to be met as the means test. So what's your conclusion?  
3 Has the PA Casino organization either violated or not  
4 maintained the spirit of the law? Did they engage in the  
5 appearance of impropriety? What's your conclusion? I  
6 appreciate your highly politicized, well-rounded, carefully  
7 tactic, diplomatic commentary. What are you saying?

8 MR. KAUFFMAN: Well, since the legislature has not  
9 given Common Cause subpoena power, it's kind of difficult for  
10 me to answer that. I have looked through the materials sent  
11 out by Senator Earll and Representative Santoni's staff.  
12 There's not a lot of clarity in that, but I guess I would go  
13 back to what the language of the law is, and the definition of  
14 lobbying is "an effort to influence legislative action." And  
15 then there is a definition for legislative action, and there  
16 was certainly legislation in play at the various points in time  
17 of which the Casino Association appears to have been active.

18 There was apparently a radio advertisement. On its  
19 face, the radio advertisement does not appear to cross the line  
20 of what was considered to be lobbying. However, I think you  
21 also have to take into account the intent. You know, what was  
22 the timing of it? How often did the radio ad run? Where was  
23 it run? Was it run in districts where there were legislators  
24 they wanted to influence?

25 Like I said, we encourage registrants and those who



1 probably should be registered to fully disclose and take a  
2 fairly broad view of what they're required to do. I probably  
3 take the broadest view of what is considered lobbying in my  
4 reporting. The letter from Mr. Sprague indicates that part of  
5 their mission is to, quote, "create a better understanding of  
6 the gaming industry by the general public, elected officials,"  
7 and the "decision makers," and then goes on to some other  
8 categories. They do acknowledge--

9 CHAIRMAN EARLL: Mr. Kauffman, what letter are you  
10 referencing?

11 MR. KAUFFMAN: I'm looking at the December 1, 2009,  
12 letter to Representative Santoni. The first paragraph on the  
13 second page outlines what their mission is. They do indicate  
14 they did three mailings to the General Assembly, which took an  
15 hour and a half of staff time on each mailing, at a cost of  
16 roughly \$450.

17 They claim they've never met with a Member of the  
18 General Assembly on pending legislation as of that December 1st  
19 letter. I have no reason to contradict that. I mean, I know I  
20 have to meet with legislators quite often to get my point of  
21 view across or make telephone calls or send e-mails or have my  
22 volunteers go and talk to people, but maybe they have some  
23 better strategies and tactics which I don't know about.

24 So it seems like they have certainly walked up to the  
25 edge of the precipice. Whether they have stepped over or not,

1 I am not in a position to make that determination.

2 SENATOR FERLO: And Mr. Calcara, President Calcara,  
3 you suggest that the Disclosure Act, its regulations, and  
4 manual clearly speak for themselves. So what does that mean in  
5 your observation of this specific group that has, by all  
6 indication, basically met the means test of being lobbying and  
7 required to file appropriately with the State?

8 MR. CALCARA: Senator, I appreciate your question,  
9 but I don't think PAGR is in a position to opine whether or not  
10 an organization has met the requirements under the law. I  
11 think the Ethics Commission is probably the better organization  
12 to ask that question to.

13 SENATOR FERLO: Okay. Thank you.

14 CHAIRMAN EARLL: Senator Orié.

15 SENATOR ORIE: Mr. Kauffman, have you had the  
16 opportunity to look at the IRS statements that were filed by  
17 PCA in 2007 and 2008?

18 MR. KAUFFMAN: Yes. I looked at them last night.

19 SENATOR ORIE: And when you saw the office expenses,  
20 for example, salaries in the amount -- in 2008 -- in the amount  
21 of \$410,000 on salaries and benefits, \$46,000 on rent and  
22 utilities, and \$9,000 on telephones, would you agree that has  
23 an impact in regards to whether or not they are engaged in  
24 lobbying or have passed the \$2,500 threshold?

25 MR. KAUFFMAN: You know, again, I don't have subpoena

1 power. I can't call them in. I don't know what they do, per  
2 se. In Mr. Sprague's letter, they claim the only thing they  
3 did lobbying-related was to send out three pieces of  
4 correspondence by e-mail. If that is, in fact, the only thing  
5 they did, if they did not have any travel expenses coming to  
6 Harrisburg to talk to public officials, if they did not have  
7 any telephone conversations, if they did not have any other  
8 correspondence or strategy sessions among their members to  
9 determine legislative strategy, then perhaps they didn't.

10 SENATOR ORIE: When you take into account the letter  
11 that you just referred to and the radio ads, the e-mails, and  
12 you look at the definition of lobbying under the Lobbying  
13 Disclosure Act, and it says that one of the items is also  
14 office expenses, when you look at this holistically, is this  
15 lobbying, under your expertise?

16 MR. KAUFFMAN: Again, it's difficult for me to answer  
17 that question, because I don't know what they actually did. I  
18 can only say for myself, when I file my lobbyist disclosure  
19 reports, I look at our complete time on what we did on lobbying  
20 and lobbying-related activities, both direct lobbying and  
21 indirect, and then I prorate all of my expenses - my telephone  
22 costs, my office costs, my supply costs, my equipment costs -  
23 and I prorate that across all my expenses to make, to determine  
24 a calculation of what I have to report. Again, I don't know  
25 exactly what PCA did or does. I can only respond to how my

1 interpretation is and how I respond.

2 SENATOR ORIE: Thank you.

3 CHAIRMAN EARLL: I recognize the difficulty for all  
4 of you to be opining or commenting on what PCA did or didn't do  
5 and how that comports with the law, and that is part of the  
6 purpose of what we're here for this morning is to learn  
7 directly from PCA what they did or didn't do. But Mr.  
8 Kauffman, I would ask you, could you give us some clarification  
9 on what is meant by "direct" versus "indirect" communication?

10 MR. KAUFFMAN: Well, according to the law, in the  
11 definitions section, if you look at pages 67 and also on page  
12 66, in a nutshell, direct lobbying is an effort by a person or  
13 an organization to go directly to a public official and try to  
14 influence them in some way to take an action which would affect  
15 public policy. Indirect communication is taking some action to  
16 get other people to do the same thing. Either, you know, if a  
17 radio ad says, please call your legislator and do this, or if  
18 you send out a letter saying, here's what's happening, we need  
19 your help, please call your legislator, or an e-mail, that  
20 becomes indirect lobbying.

21 CHAIRMAN EARLL: Does the regulation require that it  
22 be that blatant, even if it's indirect lobbying, that you have  
23 to specifically say, contact your legislator, or is it indirect  
24 lobbying if the implication is there without the specific  
25 directive?

1           MR. KAUFFMAN: Well, the law states, if I can read  
2 it, "an effort, whether written, oral or by any other medium,  
3 to encourage others, including the general public, to take  
4 action, the purpose or foreseeable effect of which is to  
5 directly influence legislative action or administrative  
6 action." So, again, there is a gray area in the law as what  
7 their intent was. That is a question of intent.

8           The language, "the purpose or foreseeable effect of  
9 which," you know, I could look at the radio ad in two different  
10 ways. I could look at the radio ad as to say, hey, you know,  
11 we're a bunch of nice guys; look at all the money we bring to  
12 the State. The other way to look at it is, you know, again,  
13 depending on the timing and how many times it was run, when it  
14 was run, if it was targeted in certain legislative districts,  
15 then maybe the purpose or foreseeable effect was to direct  
16 people to contact their lawmakers. But there is not that level  
17 of clarity in that radio ad. So you can interpret it either  
18 way, I guess.

19           CHAIRMAN EARLL: Could you clarify for me what the  
20 obligations are of an association, for example, who might be  
21 lobbying, versus the principals or members of the association,  
22 and how do you distinguish whether one of them or all of them  
23 should be registered?

24           MR. KAUFFMAN: I believe, and I'm not positive, I  
25 believe there is language in the statute or the regs which

1 states that, you know, a member, just simply being a member of  
2 an organization and responding to an organization's entreaty to  
3 take action does not make you a lobbyist. I believe that  
4 language survived in law. I can't recall for sure. But  
5 certainly, if you are spending money, an amount which is over  
6 \$2,500 in a quarter, to influence legislative or executive  
7 action, then you're required to register a report. And that  
8 goes beyond organizations. If a person spent, out of his own  
9 pocket, an amount over that, he could possibly be required to  
10 register.

11 CHAIRMAN EARLL: Thank you.

12 Do any of the Members have any other questions for  
13 this panel?

14 REPRESENTATIVE SANTONI: Chairman Schroder.

15 REPRESENTATIVE SCHRODER: Just one follow-up.

16 Mr. Kauffman, I've read and reread and read again the  
17 text of the radio ad in question. It seems to me that it does  
18 a couple things. No, it does not exactly say, contact your  
19 legislator. It doesn't do anything like that. But wouldn't  
20 you agree that it certainly appears to be intended to educate  
21 the public, to inform the public on what the correct amount of  
22 taxation of table games should be, at least in the eyes of the  
23 association? Isn't that pretty obvious from reading the text  
24 of the radio ad?

25 MR. KAUFFMAN: Well, again, I think you have to go

1 back to the language of the law, and it states, for indirect  
2 communication, that an indirect communication could have "the  
3 purpose or foreseeable effect...." So if that is the dominant  
4 clause, then, yes, I think you could suggest -- you could come  
5 to the conclusion that the purpose of that radio ad was to  
6 influence people to take action.

7 REPRESENTATIVE SCHRODER: Thank you.

8 CHAIRMAN EARLL: Senator Wozniak.

9 SENATOR WOZNIAK: I hate to belabor this, but since  
10 the Supreme Court made this decision that corporations are an  
11 entity, and they can say whatever they want -- now, probably,  
12 what we're talking about happened before that Supreme Court  
13 decision -- how does that affect these corporations? I'm  
14 assuming these casinos are incorporated. How does it affect  
15 them now in doing their effort in communicating to the public  
16 their philosophy, since the Supreme Court says they can say  
17 almost anything on behalf of any candidate?

18 MR. KAUFFMAN: Well, we're talking a little about  
19 apples and oranges here. Are you talking about the Citizens  
20 United v. FEC case last week? I mean, two weeks ago, I  
21 believe. And that only addressed campaign finance  
22 contributions, so it doesn't really directly or even very much  
23 indirectly affect this, other than the amount of money which  
24 might be available for expenditures in the total realm of  
25 influencing public policy by who gets elected. But last week's

1 decision doesn't have any direct effect on this. But you're  
2 right. I mean, the Supreme Court decision sort of did say,  
3 yes, corporations are people, too.

4 CHAIRMAN EARLL: One last question. Does the  
5 disclosure law require registration only when that person or  
6 organization is trying to influence the legislature, or does it  
7 also cover when a person or organization is attempting to  
8 influence the courts?

9 MR. KAUFFMAN: The courts are, I believe, exempted  
10 out of that. They have carved out their own little niche and  
11 claim to have their own disciplinary process, so it does only  
12 affect, in my opinion, only the executive branch and  
13 legislative branch.

14 CHAIRMAN EARLL: Thank you.

15 One last call. Yes, sir.

16 REPRESENTATIVE SANTONI: Representative Pashinski.

17 REPRESENTATIVE PASHINSKI: Thank you very much.

18 I'm still having a little difficulty trying to put  
19 our arms around this. I mean, the purpose of advertising is to  
20 sell something, whether you sell it to a particular group or to  
21 the body as a whole. The concept is to sell something to the  
22 body as a whole to buy a product or to make a decision. So if  
23 the purpose of the ad is to influence the people who will then  
24 be motivated to influence the legislature or the courts, I find  
25 it difficult to define that line.



1 MR. KAUFFMAN: Is there a question?

2 REPRESENTATIVE PASHINSKI: Well, I'm looking for some  
3 definitive answer as to the difference between whether it's one  
4 of these five categories of groups that are making some form of  
5 plea to sell something, as opposed to the gaming industry doing  
6 the same thing.

7 MR. KAUFFMAN: Is that for me?

8 REPRESENTATIVE PASHINSKI: Whoever would like to take  
9 that.

10 MR. KAUFFMAN: I mean, you make a good point. And  
11 this ad is very carefully worded. It doesn't ask for a  
12 specific action. It does not mention a specific piece of  
13 legislation or executive action. I mean, it is very, very  
14 carefully crafted, and, you know, you could make the point  
15 that, hey, you know, the ad is saying, look what a wonderful  
16 corporation -- look what wonderful corporations we are, we're  
17 bringing all these jobs to Pennsylvania, we're generating all  
18 this revenue, please continue coming to our casinos, and help  
19 support Pennsylvania. You could reach that conclusion.

20 Other people could reach the conclusion, based on the  
21 timing and where the ads were run and how many times they were  
22 run, that it was, in effect, to have an impact on the  
23 legislators themselves and their constituents.

24 REPRESENTATIVE PASHINSKI: It's a very gray line.  
25 Thank you.

1 CHAIRMAN EARLL: Gentlemen, thank you very much.

2 Okay, this really is the last question.

3 REPRESENTATIVE SANTONI: Representative Wansacz.

4 REPRESENTATIVE WANSACZ: Thank you, Chairman Santoni.

5 I guess this question would be for you, Mr. Kauffman,  
6 or Mr. Harhut. The question that I'm having is, are you saying  
7 that if -- let's say a group of individuals in any specific  
8 organization throughout the State get together, and they're  
9 concerned about an industry. And whether it's -- and we have  
10 tons of industry in Pennsylvania that citizens are concerned  
11 about. And they put out newsletters to keep each other  
12 informed, they say, this is what's going on in the legislature,  
13 if you're not happy, you know, contact them. These are  
14 obviously, may spend over, you know, just a mailing that they  
15 mail each other out. Do they have to be considered a lobbying  
16 group?

17 MR. KAUFFMAN: Well, there is a carve-out in the  
18 legislation for these organizations where newsletters are  
19 specifically exempt.

20 REPRESENTATIVE WANSACZ: So newsletters are, but,  
21 okay. So any group that wants to get together, or let's say  
22 they run a radio advertisement. They want to get their message  
23 out as a radio advertisement to their members in their specific  
24 geographical area. Can they do that?

25 MR. KAUFFMAN: Well, sure, they can do that, but, you

1 know, they would not have to register or report until they've  
2 tripped the \$2,500 threshold in doing things to intentionally  
3 affect the outcome of legislative or executive action.

4 REPRESENTATIVE WANSACZ: No, but I'm saying a group  
5 gets together -- let's use the example Marcellus Shale. Very  
6 popular. A lot of citizens groups want Marcellus Shale. They  
7 were talking about, you know, groups get together, they put out  
8 newsletters, they may even do maybe commercials, maybe radio  
9 advertisements. If they want to do that, not saying -- just  
10 saying, hey, this is what's going on in the legislature, we  
11 think it's a growing industry, you know, we want to keep you  
12 aware of it. Can they do that without having to file as a  
13 lobbying firm?

14 MR. KAUFFMAN: Well, I guess I have to go back to my  
15 original testimony. They have to trip the three triggers.

16 REPRESENTATIVE WANSACZ: Okay. And so, what I'm  
17 trying to say is, if you're saying, is it, can it -- I want to  
18 know if these organizations, then -- should we be contacting  
19 these organizations, saying, you know what, you have to watch  
20 what you're saying, or is there a gray line, or should they  
21 automatically be coming right out and saying, you all have to  
22 get lobbyists if you get organized and you want to let the  
23 people know what's going on in your area and that they think  
24 they should be paying attention to the legislature? Because I  
25 think if that happens, I think you're going to have a lot of

1 groups throughout the State, on any issue, citizens groups,  
2 home community groups, anything like that, that are going to  
3 have to become lobbyists now.

4 MR. KAUFFMAN: Well, you know, I think the  
5 legislators and the folks on the committee that drafted the  
6 regs tried to be very careful, because we do not want to  
7 discourage citizens groups from getting together and, you know,  
8 making their points of view known. The key is when we bring  
9 together lots of resources to influence legislative action or  
10 executive action is sort of the important trigger there. We  
11 want to encourage people to be involved in the legislative  
12 process and the advocacy process. So there is a bit of a gray  
13 area and a thin line between advocacy and lobbying. We do not  
14 want to discourage advocacy. We want people engaged in the  
15 public policy process. But once they start paying people, or  
16 once they start expending significant amounts of money, that  
17 trips the trigger of when you have to register and report.

18 REPRESENTATIVE WANSACZ: Well, I think anytime that  
19 you get into advocacy, you're going to deal with expenses.  
20 You're going to deal with somebody giving up a lot of their own  
21 personal time. So it really comes out to, then, how they're  
22 doing it. They might be getting reimbursed expenses. I mean,  
23 so, anytime citizens really get together, I think they have  
24 that. Probably, homeowners organizations have that. And so, I  
25 would be very careful about where I think we need to go,

1 because if you do that, you may start affecting these citizens  
2 organizations that are just specifically concerned about an  
3 area or a specific industry.

4 Thank you.

5 CHAIRMAN EARLL: Thank you, gentlemen. Appreciate  
6 your time.

7 Next, I would invite up to the front table Attorney  
8 Richard Sprague, Chief Justice Emeritus Zappala, Ms. DeNaples,  
9 Attorney Hardy, Mr. Smukler, and Ms. Peck.

10 While we're waiting for our panel to get settled, for  
11 the Members' information, we have, since there are three  
12 members of the Casino Association, that being SugarHouse  
13 Casino, Mt. Airy, and the Rivers, we've invited representatives  
14 from the three organizations to be here, and that would be Ms.  
15 DeNaples, Mr. Hardy, and Attorney Sprague. And then we also  
16 have the principals or affiliates or staff of the Casino  
17 Association, and that would be Justice Zappala, again Mr.  
18 Sprague, Ms. Peck, and Mr. Smukler. So, if that kind of gives  
19 you an overview of who's sitting before you.

20 Welcome, ladies and gentlemen. Before we get  
21 started, I would ask that you all stand and raise your right  
22 hand, and we're going to put you under oath.

23 (Whereupon, RICHARD A. SPRAGUE, STEPHEN A. ZAPPALA,  
24 SR., LISA DeNAPLES, DON SCHIFFER, CHARLES J. HARDY, KEN  
25 SMUKLER, AND MICHELE ZAPPALA PECK, were duly sworn.)

1           CHAIRMAN EARLL: Attorney Sprague, I understand that  
2 you have an opening statement.

3           MR. SPRAGUE: Yes. I'm going to say may it please  
4 the Court, but I--

5           CHAIRMAN EARLL: And, sir, before you begin, I hate  
6 to interrupt you already, but could you perhaps introduce  
7 everyone at the table so we know who's who before we get  
8 started?

9           MR. SPRAGUE: Yes.

10          CHAIRMAN EARLL: Thank you.

11          MR. SPRAGUE: At the far left here is Don Schiffer,  
12 who is the general counsel from Mt. Airy. Next in line is Lisa  
13 DeNaples, a member of the board of directors of PCA.

14          CHAIRMAN EARLL: Attorney Sprague, could you make  
15 sure your green light is on your microphone?

16          MR. SPRAGUE: Okay, I'll start over. To my far left  
17 is Don Schiffer, who is general counsel for Mt. Airy. Next  
18 here is Lisa DeNaples, who is a member of the board of  
19 directors of PCA. To my immediate left is the former Chief  
20 Justice of the Pennsylvania Supreme Court, Stephen Zappala. My  
21 name is Richard Sprague, and I'll get back to myself in a  
22 moment. To my right is Mr. Smukler, who is the executive  
23 director of the PCA. To his right is Chuck Hardy, who is a  
24 director of PCA and a member of my law firm. And to the far  
25 right is Michele Peck, the daughter of Chief Justice Zappala

1 and an employee of PCA.

2 CHAIRMAN EARLL: Thank you. And as I said, I  
3 understand that you have some opening remarks?

4 MR. SPRAGUE: Yes. And I would like to first thank  
5 this joint committee and Chairlady Earll and Chairman Santoni  
6 and the Members of this joint Senate and House committee. I  
7 thank you for the opportunity to be here, and one of the  
8 reasons that I thank you is there has been so much speculation  
9 and what I believe is misinformation about PCA that I think it  
10 is very good to air it and to present to you what PCA is and to  
11 answer your questions.

12 I want to jump ahead one second, though, because I  
13 was kind of taken aback when I heard Representative Schroder  
14 talk about the radio ad in this case, and I want to suggest to  
15 this joint committee that if it is conceded that the radio  
16 ad--and I'm just dealing with that for the moment--does not  
17 address any legislation, doesn't refer to any legislation,  
18 doesn't ask the listener of the radio ad to do anything, but in  
19 Representative Schroder's own words when he asked the question,  
20 its purpose is to educate the public--those are the words that  
21 were used--I would suggest to you that in no way can a notice  
22 that is for the purpose of educating the public be lobbying.

23 Furthermore, I'll go as far as to say that if this  
24 joint committee or any group was to try to suggest that  
25 educating the public is lobbying and under control of a

1 legislative branch, you are flouting the Constitution of the  
2 United States. In no way can educating the public by itself be  
3 considered something that can be controlled and regulated by a  
4 legislature.

5 But having said that, I think it is important that we  
6 understand what is PCA. And I want to say, I talked about the  
7 various people that I introduced, and I really didn't introduce  
8 myself. My name is Richard Sprague. I wear a number of hats,  
9 and I think it's important to understand that. I am an owner  
10 of one of the casinos, SugarHouse Casino. In addition, I am  
11 counsel for SugarHouse. In addition to that, I am the chairman  
12 of the board of PCA. In addition to that, I am counsel for  
13 PCA. So I think you have to understand those various hats.

14 Now, let's talk about PCA. How did it come about?  
15 When I obtained, with partners, a license for SugarHouse, I  
16 thought it would be very helpful for the gaming industry that  
17 there be a trade association, not for the purpose, then, of  
18 lobbying, but for the purpose of facing issues that would be  
19 common to all of the casinos that were now being created in  
20 Pennsylvania. There are numbers of issues that don't just  
21 involve one particular gaming place but are common to the  
22 entire industry. And I thought it would be a good idea -- and  
23 by the way, I looked at other States. I saw that in just about  
24 every other State where there is gaming, there are trade  
25 associations. And I thought it would be a good idea that, in



1 Pennsylvania, there be a trade association to have all of the  
2 casinos, frankly, the racinos, as well as the stand-alones,  
3 part of this trade group.

4 I take credit, or discredit, however you want to put  
5 it, for that idea, and as a result, I requested a meeting in  
6 Harrisburg of all of the racinos and the stand-alones for the  
7 purpose of discussing creating a trade association. And we had  
8 such a meeting. We had it, frankly, in February, and then  
9 March of 2007. At that meeting came all of the racinos that  
10 had licenses, all of the stand-alones that had licenses, and we  
11 discussed forming a trade association. And by the way, there  
12 was nothing secret about that meeting.

13 And as a result of that meeting, frankly, some  
14 differences arose between the racetrack group and the  
15 stand-alones, and I left the meeting thinking, I don't want to  
16 form a trade association that has disputes right off the bat  
17 within the trade association. And I thought it would make more  
18 sense to form a trade association of just the stand-alones at  
19 that time and, as a result, decided to form the Pennsylvania  
20 Casino Association. That's the genesis. That's how it came  
21 about. And in March of -- May, I'm sorry, May of 2007, we  
22 filed articles of incorporation.

23 The initial board of directors -- and by the way, the  
24 initial members of the PCA at that time were Mt. Airy and  
25 SugarHouse, just those two. And the directors at that time

1 were myself and Louis DeNaples. Now, we went and formed our  
2 trade association. The idea was to get the other stand-alone  
3 casinos to join. I subsequently had talks with Foxwoods. They  
4 have not yet joined, but they indicated when they get their  
5 feet on the ground, if they ever do, they will join the trade  
6 association. When Neil Bluhm took over ownership of the Rivers  
7 in Pittsburgh, the Rivers did join our association.

8           Now, I'm the person who is on the board, as I said  
9 initially, with Louis DeNaples, and from the beginning, I  
10 needed people to give me ideas. I'm a lawyer. I'm not  
11 somebody involved in gaming in that sense, and I wanted to have  
12 the advantage of knowing Pennsylvania. I wanted to know its  
13 makeup politically, I wanted to know its makeup in terms of its  
14 various interests, and I wanted to get the Chief Justice here,  
15 Chief Justice Zappala, to be an advisor, somebody that I could  
16 turn to who knew this State, who could give me information and  
17 suggestions in terms of how to get this trade association  
18 effective. Frankly, he resisted my overtures.

19           I can try to be persuasive, and in trying to be  
20 persuasive, I decided we'll form our original office in  
21 Pittsburgh, and I learned that Michele Peck could come to work  
22 for me, at least part-time, and I hired her as a director of  
23 operations. I also, frankly, hired her thinking it might help  
24 in my trying to persuade her father to really come on board.  
25 He resisted. And it was not until by March of 2008, sometime

1 in the early part of 2008, that I persuaded the Chief Justice  
2 Zappala to come on board as an advisor. The person who was  
3 running it for me then -- we got a lease for a place in  
4 Pittsburgh -- was Michele Peck. And at a certain time, and I  
5 used Chief Justice Zappala as a consultant, as an advisor. I  
6 went through millions of discussions, thoughts, hearing  
7 suggestions from him.

8           And while this was going on, sometime in about March  
9 2008 as well, Louis DeNaples could not stay as a director, for  
10 the reasons you all know, of the charges that have been brought  
11 against him, and it was not thought appropriate that Louis  
12 DeNaples would remain as a director, so Louis DeNaples then  
13 stepped out, and that's how his daughter, Lisa DeNaples, became  
14 a director in place of Louis.

15           And I tried to get other stand-alones to join us,  
16 engaged in talks with them. At a certain point -- and by the  
17 way, you know, I notice that a Member of this committee  
18 is--it's interesting--on the one hand suggesting we're  
19 lobbyists, which we're really not, except for very limited  
20 lobbying by three e-mails, which I'll get to. But except for  
21 that, this trade association is not a lobbyist association. We  
22 intend to be, and I want to make that clear, and we are in  
23 discussions with various lobbyists that we intend to select  
24 one, and as soon as we do, we will register. I want to make  
25 that clear as well.

1           But in the course -- you know, it was said by a  
2 Member of this committee, she hadn't heard of us. Well, I  
3 guess we're not such great lobbyists if you never heard of us.  
4 But one of the reasons the PCA was not, for a period of time,  
5 so active - I'm the guy that was running it, I who was  
6 spending, believe me, all my time in the various courts of  
7 Pennsylvania fighting efforts to stop SugarHouse, as  
8 Representative O'Brien knows well, being very artful against  
9 us, but--

10           REPRESENTATIVE O'BRIEN: It's such a joy to welcome a  
11 corporate constituent.

12           MR. SPRAGUE: Thank you. But in any event, a lot of  
13 time was spent fighting efforts to stop SugarHouse from being  
14 able to proceed in its building, and that took a lot of time.  
15 In the meantime, I was meeting with Chief Justice Zappala,  
16 getting ideas, thinking of things that would be in the area  
17 that a trade association would be interested in.

18           And let me just jump ahead, just to give you the  
19 idea. When I say a trade association, we have an interest  
20 right now, and I just had, on behalf of the trade association,  
21 a meeting with the people from Parx on what would be an area of  
22 interest of an association. Got nothing to do with lobbying.  
23 You all passed table games recently. The Gaming Board has to  
24 pass regulations. They got to issue some temporary regulations  
25 now, because it will take a longer time, but when they issue

1 the permanent one. So what do we do? I sat down, this is in  
2 the PCA aspect with, he's not a member but interested in  
3 gaming, with the person running Parx, Mr. Green. We want to  
4 see if the casinos -- whether they're a member of the PCA or  
5 not is not important -- but the casino, the gaming industry,  
6 whether we can have suggestions to the Gaming Board, if they  
7 should request it--and they will and do--as to what should be  
8 some of the proposed rules. That's an area of common interest.

9 Another area of common interest, frankly -- you all  
10 passed table games. As you know, there is smoking allowed in  
11 casinos. What do you do with the table games on that? And one  
12 of the areas that we're discussing is should the casinos adopt  
13 and suggest a common standard for the table games to be certain  
14 ones smoking, other ones not, or no smoking anywhere? These  
15 are common issues, and this is the kind of thing you do with a  
16 trade association.

17 Now, in the year 2008, working with Michele Peck as  
18 operations director, I kept trying to work with Chief Justice  
19 Zappala to find an executive director. I felt there should be  
20 somebody over Michele Peck. I tried to persuade Chief Justice  
21 Zappala to become the executive director. He refused. We  
22 interviewed numbers of people for the purpose of bringing them  
23 on board, but none were satisfactory. And I kept persuading or  
24 trying to persuade Chief Justice Zappala to take that position.

25 I did, in the year 2009, when he agreed, on a

1 temporary basis, to become the executive director of PCA, but  
2 with a commitment by me that we will continue to look for  
3 somebody else to become the executive director. And when Chief  
4 Justice Zappala agreed to become the executive director, I  
5 arranged for his salary to be \$275,000 a year for the work he  
6 was doing and continuing to do for me. In fact, I had that  
7 salary for him when he came on board as an advisor and  
8 consultant, and we continued that salary. But we continued to  
9 look for an executive director in 2009, and ultimately -- and I  
10 have the date here -- in August of 2009, and effective  
11 September 2009, we found somebody to become the executive  
12 director. That was Mr. Smukler here. And we hired him as the  
13 executive director, and I named Chief Justice Zappala as  
14 chairman.

15 Now, when we hired Mr. Smukler, Chief Justice Zappala  
16 felt that his salary at that \$275,000 was too high. He  
17 shouldn't be continuing to be paid that \$275,000 since we had  
18 hired, now, Mr. Smukler. I thought he was worth it. As far as  
19 I'm concerned, he is worth it. But over my protests, in this  
20 year, 2010, he himself cut his salary from that \$275,000 to  
21 \$150,000. Now, as we have told you, and as I said in my letter  
22 -- and by the way, I believe everybody's got my letter and the  
23 letter that Representative Santoni sent to the board, so I'm  
24 not going to read what you already have, if that's all right  
25 with you.

1           But the only thing that I did, and I have the names  
2 around here somewhere. Do you have the names of the people  
3 that I went and talked to? No, no, the list of -- oh, yeah. I  
4 did, and Mr. Hardy, go to the following legislators -- and this  
5 is not in my SugarHouse hat; this is in my PCA hat. And I went  
6 to, names I'm sure you know, and I may mispronounce some:  
7 Representative Civera, Representative Wansacz, Senator  
8 Erickson, Senator Pileggi, Representative McCall, Senator  
9 Tomlinson, Representative Perzel, Representative Eachus.

10           Why did I go to each of them? And let me make it  
11 absolutely clear. When I went to each of them, my opening  
12 statement to each and every one of them is, I am here, and I  
13 don't want you to do a thing for me. I do not want anything.  
14 I'm not here asking for anything. I am here just to introduce  
15 myself and Mr. Hardy, and to tell you about our association,  
16 and to tell you that we have this trade association. I believe  
17 I said to each one that I believe the courts are going to knock  
18 out the prohibition on political contributions, and by the way,  
19 just as a little side, with your thought about reform right now  
20 and putting in the new act, your political prohibition, I  
21 believe you'll find that's just as unconstitutional as what was  
22 knocked out before, but for different reasons.

23           But in any event, I went to each of these people, not  
24 talking about any particular legislation, but just wanting to  
25 introduce myself, letting them know that we have this

1 association, that we want to get to know the Members of the  
2 legislature. Why? Because it doesn't take anybody with a  
3 brain. It's obvious that in the legislature, there are those  
4 legislators that are against gaming, there are those  
5 legislators that are for gaming, there are those legislators  
6 that are somewhat in between, and we wanted to have some idea  
7 of who does what and who's on which side.

8           Why? Frankly, because I thought that prohibition on  
9 political activity someday is going to be knocked out, and I  
10 wanted to be in a position, if it was knocked out, that I could  
11 support people who I thought were friendly, and I could oppose  
12 people that I thought would not be friendly. That's not  
13 lobbying, that is just taking a position on who it is you want  
14 to support and who you don't. And nothing with any of them in  
15 terms of any legislation.

16           Now, as we said, and I said in a responding letter to  
17 Representative Santoni, we have not talked to one legislator  
18 about any legislation, first. Secondly, and it's interesting,  
19 because if you look at the Gaming Act -- not the Gaming Act,  
20 the lobbying law. Excuse me one second. If you look at -- and  
21 you were talking here with Mr. Kauffman and others -- in your  
22 legislation of the lobbying law, and you talk about intent,  
23 what do you have in there? The statement of intent and  
24 jurisdiction. "The ability," and I'm reading from it, "The  
25 ability of the people to exercise their fundamental authority



1 and to have confidence in the integrity of the processes by  
2 which laws are made and enforced in this Commonwealth demands  
3 that the identity," that's the words, "the identity and scope  
4 of activity," and I repeat the words again, "scope of activity  
5 of those who are paid to influence the actions of the General  
6 Assembly and the Executive Department be publicly and regularly  
7 disclosed."

8           Before I get to whether we're under the exemption,  
9 what could be more meeting the intent of your Lobbying Act than  
10 the three e-mails that we sent which were sent to every Member  
11 of the legislature, not sent and given to somebody at a dinner  
12 meeting, or not sent to somebody at a private club, but sent by  
13 us to every Member of the legislature and made public and  
14 disclosed to the news media, and published by the news media.  
15 That's the first part.

16           Secondly, each of those e-mails were done in the same  
17 manner. You know, it's interesting, I read, and I'm sure you  
18 read, that our Governor was meeting with a lawyer from one of  
19 the casinos to get something in your recent act, and there were  
20 meetings between the Governor and this lawyer and some of your  
21 leaders in the legislature behind closed doors, not out front.  
22 What is it that we did? We published to everybody so that, in  
23 fact, there is nobody who is unaware of, one -- yes, this was  
24 an effort to influence the General Assembly. No dispute, that  
25 is lobbying. The issue is, one, we come under the broad

1 statement of intent. We disclosed it.

2 But more importantly -- and you may call it  
3 technical, but it's the law as you wrote it, as you know and  
4 from what we have presented to you -- there is an exemption.  
5 So not only did we -- this isn't our meeting with any of you.  
6 Not one of you met with us. When one of you said you never  
7 heard of us, well, we didn't meet with any of you. But we  
8 publicly published what our position is. Yes, that comes under  
9 lobbying. I do not dispute that. But it was an e-mail to  
10 every Member of the legislature. You all use e-mail. It costs  
11 you nothing to push that button and send it God knows where and  
12 to everybody. We gave you the benefit of the doubt and said  
13 \$10, probably \$9.55 too much. And we took Mr. Smukler, because  
14 we didn't get paid for this, but we took Mr. Smukler's salary,  
15 figured it out on an hourly basis, he spent four and a half --  
16 what was the number?

17 MR. SMUKLER: One and a half hours on each e-mail.

18 MR. SPRAGUE: All right, so four and a half hours.  
19 So we spent \$450. Now, under your Lobbying Act -- and by the  
20 way, for you all to be upset about this, when all that we did  
21 is publish to everybody what we did, I think there's other  
22 things for you to be upset about, not this, but -- and I'll  
23 finish shortly. I can always sense those looks. But my point  
24 is that you've got an exemption in the act for if it is under  
25 20 hours. This was under 20 hours. There's an exemption in

1 the act if the expenses are under \$2,500 in the quarter. This  
2 is clearly under that. So you do not, therefore, under your  
3 act, register. If you don't like that act, and you want to  
4 change the act, you know, I think it's silly, and I don't think  
5 this is an issue to be fighting here when all we're talking  
6 about is something that was mailed to everybody.

7 Now, there's one other argument, and I detected that  
8 in some of the questions being asked, about a principal, as  
9 though the principal, even if he spends nothing, has to file  
10 and say, I spent nothing in that quarter. But if you look at  
11 the language there in the Lobbying Act, the language is a  
12 "registered principal." We're not registered in the first  
13 place because we've done nothing to cause to be registered.  
14 Once you're registered, then yes, you have to, every quarter,  
15 file your report. But you don't do that until you are  
16 registered.

17 Now, we have done nothing other than what I have just  
18 said. I know, and, you know, it's beyond me what the  
19 legislative purpose is, and that's where your limitations are,  
20 even a committee of the legislature. But somebody raises  
21 whether Chief Justice Zappala should have filed on his tax  
22 form, Federal tax form. I don't know what your legislative  
23 purpose is in terms of a Federal tax form, and I never have  
24 known the Pennsylvania legislature to be an arm of the United  
25 States government in terms of its tax policies, but things

1 change.

2 But I want to make clear to you, first place, all of  
3 the insinuations that have been made, and I think,  
4 unfortunately, trying to smear the good name of the former  
5 Chief Justice, suggest that he didn't file for 2008. He was  
6 not an officer in 2008. He became an officer in 2009. That  
7 form does not get filed until 2010, as you know. In addition,  
8 on the form that was filed, and we have it here, and we'll give  
9 it to you in evidence if you want, the accountant for PCA --  
10 and I don't know if any of you fill out your own tax returns.  
11 I couldn't possibly do it. I rely on accountants, and I would  
12 be lost without them. But I have the document from the  
13 accountant here. He wanted a list of the officers and  
14 directors. Chief Justice Zappala is not an officer. So there  
15 was nothing that was filed in terms of what the accountant  
16 asked for that was in any way a failing, improper.

17 The bottom line is PCA has done absolutely nothing  
18 that is in any way wrong, that violates the spirit of anything.  
19 You can take your most liberal readings. We have done it the  
20 reverse way. We have done it the liberal way, by the three  
21 lobbying activities, publishing them for the world to see, not  
22 doing it behind a closed door, not doing it just meeting  
23 somebody for dinner. That's where we are. Thank you.

24 CHAIRMAN EARLL: Does anyone else on the panel have  
25 any comment before we begin the questioning?

1 (No response. )

2 CHAIRMAN EARLL: Questions?

3 Senator White.

4 SENATOR D. WHITE: Thank you, Madam Chairman.

5 Mr. Sprague, I can't tell you how relieved I am,  
6 because I'm one of Senators that did not, in his district, get  
7 a casino, and I voted, in both cases, both times, positively  
8 for slots and then also the expansion to table games. So to  
9 hear you describe or have described by others to have PCA be a  
10 citizens group or a trade association, I breathe a sigh of  
11 relief, because I thought it was maybe something much more than  
12 that. So I thank you for that.

13 But I wanted to ask Justice Zappala, in regards to  
14 your expertise in trade associations, what exactly were your  
15 duties? I mean, from the time that you were approached by Mr.  
16 Sprague and conceded to go ahead and join PCA, did you have a  
17 contract? Was it written? Would you provide any details to us  
18 or a copy of that transaction? Just how formal was this, or  
19 was it just some form of just sitting around drinking a cup of  
20 coffee?

21 MR. JUSTICE ZAPPALA: First, let me start by saying,  
22 I'm extremely prejudiced. I spent 23 years in the judiciary,  
23 and I have such great respect for the courts. I also have  
24 respect for the equal branches of government. In my tenure as  
25 a jurist, I had been called upon to do various and sundry

1 matters involving the courts, and I think Representative  
2 Caltagirone knows this. We started on concepts which people  
3 said did not exist, could not be done, and yet we did and  
4 turned it around while I was on the courts. I'm referring  
5 specifically to what I had done as it relates to the  
6 implementation of the entire computer program of the judicial  
7 system. We did it without one dollar of tax money. As a  
8 matter of fact, the only money that we got was given to us as a  
9 loan by Senator Tilghman, which was insisted it be paid back.  
10 Every dollar, every dime that was spent and has been spent by  
11 the State judicial computer fund are all fee-generated by  
12 users.

13 I enjoyed the courts. Upon my retirement, I was  
14 asked by Chief Justice Cappy to remain in the position of Chief  
15 Justice Emeritus. An order was appropriately drawn in January  
16 of 2003. The order named me as a Chief Justice Emeritus. I  
17 was delegated to do nonadjudicatory matters. I was answerable  
18 directly to the Chief Justice, and I was paid on a per diem  
19 rate like any other senior judge on the number of days which I  
20 would work. I enjoyed that work.

21 I stayed in that position until 2007. And I'll get  
22 to your question. In 2007, it became apparent to me, because  
23 of my close relationship with Chief Justice Cappy, that he was  
24 going to retire from the bench. At that point, in the latter  
25 part of 2007, I had taken the choice of whether to remain,

1 which I could have, under Chief Justice Castille, seek the  
2 return of my license and practice law, which I refused to do,  
3 or possibly entertain another area which was novel and fertile,  
4 as far as I was concerned, which was the gaming industry. And  
5 as Mr. Sprague had indicated before, he had approached me on  
6 several occasions, which I was not interested.

7 But because, at the time, and I'm referring somewhere  
8 around September of 2007, knowing what was going to happen with  
9 the Chief Justice, I decided maybe to give it some thought. I  
10 then gave it some thought but did not become an official person  
11 with the Casino Association until March of 2008. I only took  
12 that position predicated upon two things -- three things. One,  
13 I want no contract, I have no contract, and I sought no  
14 contract. And I could leave tomorrow, because that's the way I  
15 wanted it. You shake my hand, and I'll shake yours.

16 Number two, I insisted that my office and my title  
17 would never be used for lobbying purposes. I have known many  
18 of you sitting here, and you know me, and there isn't one who  
19 has ever said I've contacted them relative gaming or any other  
20 matter. And number three, I said I would not, under any  
21 circumstances, renew my license to practice law, because I felt  
22 it would be a prostitution of my position.

23 On that predicate, I did go to work, and I was giving  
24 as much counseling as possible as relates to Mr. Sprague and  
25 the association. I do have a varied field, not only in the

1 judiciary for 23 years, but involved with Allegheny County  
2 politics, which Mr. Ferlo is aware of, for 15 years prior to  
3 that time. I was involved with the county commissioners, I was  
4 involved as far as the director of planning and development, I  
5 was the county solicitor, I was responsible for 129  
6 municipalities, and I was the one who structured the Police and  
7 Fire Academy.

8 If you want to know about Erie, I can talk about  
9 Tullio and things that I had done with him. If you want to  
10 talk about Scranton, I've done that. So when you talk in terms  
11 of what I had to offer, I think it was a myriad of varied  
12 possibilities of knowledge across the State.

13 Now, do you have any other questions, Senator?

14 SENATOR D. WHITE: Yes, I sure do.

15 MR. JUSTICE ZAPPALA: All right.

16 SENATOR D. WHITE: So, once again, my question is  
17 whether you had a contract, whether it was written--

18 MR. JUSTICE ZAPPALA: The answer is no.

19 SENATOR D. WHITE: No. And your compensation in  
20 2007, or 2008, did you have specific duties that you were asked  
21 to do in this organization or--

22 MR. JUSTICE ZAPPALA: In 2007, I was not employed by  
23 the association.

24 SENATOR D. WHITE: All right, 2008.

25 MR. JUSTICE ZAPPALA: In 2008, I can't even tell you



1 the number of meetings I had with Mr. Sprague, some of the  
2 principals of the associations, talking in terms of some other  
3 people who I talked to personally about coming on board in  
4 trying to captivate this idea of a new industry in the State of  
5 Pennsylvania.

6 SENATOR D. WHITE: Did you have a job description?  
7 There wasn't anything formal at all then?

8 MR. JUSTICE ZAPPALA: No, I did not have a job  
9 description, Senator.

10 SENATOR D. WHITE: And was your daughter -- then, she  
11 helped recruit you into the PCA, according to Mr. Sprague. Is  
12 that right?

13 MR. JUSTICE ZAPPALA: No, she was enticed to come in  
14 to bring me in. It was in reverse, Senator.

15 SENATOR D. WHITE: Okay, in reverse of that. Now,  
16 all right -- so, it doesn't look like I'm getting anywhere  
17 where it comes to any defined duties under the PCA for anybody.  
18 Is that--

19 MR. JUSTICE ZAPPALA: That's not necessarily true. I  
20 said the defined duties I had was anywhere, anytime, anyhow,  
21 where there was information needed by the PCA, by Mr. Sprague,  
22 by any of the members. My accessibility was there on a 7/24.  
23 Now, I can't divulge what we discussed, whether it would be  
24 strategy or other matters. But you can ask him, and if it  
25 wasn't worth it, he should have fired me. So I did have

1 defined duties as it relates to consulting with him and a  
2 resource person.

3 SENATOR D. WHITE: I thank you, Chief Justice, and  
4 I'll wait for questions later.

5 Madam Chairman, thank you.

6 REPRESENTATIVE SANTONI: Just for the record, there  
7 was, in the packets that were handed out, job descriptions for  
8 executive director and director of operations. So it should be  
9 in the packets of all the Members.

10 To open up questions on the House side is Chairman  
11 Schroder.

12 MR. SPRAGUE: May I say, Representative Santoni?

13 REPRESENTATIVE SANTONI: Please.

14 MR. SPRAGUE: Yes, once we do have the regular  
15 executive director, we do have the job description that you  
16 have, and it was sent to you, and I think, and also the  
17 director of operations, which is Michele Peck. The one other  
18 thing I would like to add, which I forgot to say, if I may:  
19 When I got the letter from Representative Santoni -- and I want  
20 all the Members of the committee to know this -- I not only  
21 responded, but I called Representative Santoni, because I  
22 didn't want any mystery here. And I asked him, could we meet?  
23 And I would have Chief Justice Zappala with me, and we intended  
24 to meet in -- Representative Santoni picked Reading, at his  
25 office, and Chief Justice Zappala came from Pittsburgh for that

1 meeting, which was set up for January 2nd. Unfortunately, the  
2 Representative's office did not mark it down, and  
3 Representative Santoni was in Harrisburg. But we conferred on  
4 the phone with the idea of yet meeting and answering questions.

5 And then, of course, when we got word of this  
6 hearing, I must suggest, maybe you all know it, but again, I  
7 did make the offer -- I want you all to know it -- to  
8 Chairperson Earll as well, that we would be glad to come in and  
9 meet with Chairperson Earll and Chairman Santoni. But they  
10 felt -- and I'm not finding any fault with it -- that since a  
11 hearing had been set up, and all you got to do to arrange a  
12 hearing, you know, let's have the hearing.

13 CHAIRMAN EARLL: Well, actually, Attorney Sprague,  
14 that's not the reason we didn't meet privately. The  
15 allegations and the circumstances surrounding the association  
16 and your activities have been raised in a very public way, so  
17 we thought that it might be better for you to address them in a  
18 very public way. It had nothing to do with already having a  
19 hearing scheduled.

20 MR. SPRAGUE: Okay. Well, that's fine. All I want  
21 to make sure is I want everybody to understand that we offered  
22 to make ourselves available from the get-go.

23 REPRESENTATIVE SANTONI: Thank you.

24 We'll move to questions with Chairman Schroder,  
25 please.

1 REPRESENTATIVE SCHRODER: Thank you, Mr. Chairman.

2 Good morning, ladies and gentlemen. I think,  
3 earlier, we saw an example of Mr. Sprague's legendary courtroom  
4 advocacy on display here, and I want to go back to where he  
5 sought to characterize my remarks about the issue of the radio  
6 ad. And I would just like to state that at no time did I say,  
7 concede, or suggest that the radio ad did not fall under  
8 indirect communications. All I was suggesting was that at the  
9 very least, it constituted an educational component, which  
10 brings me, I guess, to the crux of the one question that I  
11 have.

12 Under the definition of indirect communication, it  
13 includes educational campaigns on public interest. So I guess  
14 my question to you, Mr. Sprague, is this: Do you argue that  
15 your ad does not fall under an educational campaign on public  
16 interest, or do you argue that that part of the bill is  
17 unconstitutional, or both?

18 MR. SPRAGUE: Well, let me say this. I think you got  
19 to look at the first part there, Representative Schroder, which  
20 makes it clear that this indirect is, and the words are there,  
21 "to take action" -- and that is an essential part, if you read  
22 that whole paragraph -- and to take action is what has to be  
23 part of that to come under your Lobbying Act. Just information  
24 is not to take action. That lets the listener just listen.

25 I mean, it would be a sorry state in this country if

1 you just put something out, informational, and people don't  
2 take action on it, and you try to suggest that's lobbying? You  
3 know, free speech, and I don't mean to sound corny on this  
4 thing, is basic. The Supreme Court of the United States -- you  
5 saw the ruling. Those that argue it maybe went too far in the  
6 rights it's given corporations, but the bottom line is that  
7 unless you can say there is no other interpretation, then you  
8 can't have that held constitutional.

9           So I guess my answer to you really is, I think that  
10 if you take the phrase that's in there "to take action" as  
11 modifying the rest, this is not a radio ad. By the way, you  
12 heard even Mr. Kauffman. I don't know if he meant to give us  
13 credit. He said this was very well drawn. Well, maybe it was  
14 well drawn, but it meets what is the exemption there. And yes,  
15 if you interpret it broader than that, it is unconstitutional,  
16 and, you know, you want to take me to court on it? Be my  
17 guest.

18           REPRESENTATIVE SCHRODER: Well, I guess the question  
19 is, will you, or will you be recruiting a plaintiff to take to  
20 court on that issue, as well as the campaign contribution  
21 issue, which you raised?

22           MR. SPRAGUE: Well, I'm glad you asked me that  
23 question. I have really been in discussions on the issue of  
24 whether or not I should, on behalf of myself -- remember, I'm  
25 an owner in SugarHouse in that capacity -- take this litigation

1 on, since it now, and it would be violative of our present  
2 election law for a corporation to obviously have commercials  
3 favoring or disfavoring a candidate, whether I should have the  
4 Casino Association take it on, or stand by and see if someone  
5 else does it.

6 And that reminds me. Can I take up, and it's in  
7 answer to your question, because I know part of the attack is  
8 the matter of Peter DePaul's attack on the earlier act in  
9 getting the campaign contribution part declared  
10 unconstitutional. I would like to get across, because--

11 SENATOR ORIE: Madam Chairman, I'm just going to ask  
12 -- there have not been any questions he's going off. I hope  
13 there is some control and constraint in regards to questions  
14 and him answering questions. I mean, I'd love to hear his  
15 dissertation all day, but there are Members here that have  
16 pointed questions and would certainly like--

17 CHAIRMAN EARLL: I understand, Senator. I would  
18 expect that the Member that asked the question would be able to  
19 determine whether the response is responsive or not and corral  
20 the witness if it's not.

21 I will give you leeway, however, though, on this  
22 issue of -- because we're all curious about why the association  
23 paid Mr. DePaul \$100,000, and at what time that payment was  
24 made, and what the purpose of that payment was.

25 MR. SPRAGUE: I thought that really rose from

1 Representative Schroder's question, what would I do about the  
2 present act? So I wanted to get that clear.

3 Let me make it clear. Mr. DePaul brought his  
4 litigation strictly on his own. There was a suggestion  
5 somewhere that we paid his law firm for it. Not true. Mr.  
6 DePaul brought his litigation. He brought it because he had  
7 always made campaign contributions. He felt this was  
8 unconstitutional. He paid, with his own money, the law firm.  
9 We had nothing to do with that. We were not the law firm.  
10 That was a law firm out in Pittsburgh.

11 When Mr. DePaul was successful in that, because of my  
12 view that we were a trade association and we were interested in  
13 gaming from the whole standpoint of the State, the  
14 Commonwealth, I felt this was something that was favorable for  
15 the whole gaming casino, the whole gaming industry. And I  
16 suggested that we then pay Mr. DePaul after the fact and  
17 reimburse him for what he had paid. That's the short and  
18 simple of it.

19 REPRESENTATIVE SCHRODER: And let me be clear, just  
20 to make sure I understood part of your earlier comments. One  
21 of the reasons that you might want to have the more recent  
22 legislation prohibiting campaign contributions struck down is  
23 so that either you or your organization can go after those  
24 Members who are opposed to gambling.

25 MR. SPRAGUE: Absolutely.

1 REPRESENTATIVE SCHRODER: Okay, thank you.

2 Now, moving on to--

3 MR. SPRAGUE: Can I finish my answer?

4 REPRESENTATIVE SCHRODER: I thought you did.

5 MR. SPRAGUE: No, I didn't.

6 REPRESENTATIVE SCHRODER: Oh, my apologies.

7 MR. SPRAGUE: That's all right. You know, we in  
8 SugarHouse were a bit disadvantaged because the people that  
9 were opposed to gaming and did not want SugarHouse to be  
10 developed, they could raise money, they could support you  
11 legislators, they could raise money and oppose you legislators  
12 that wanted to be either helpful or harmful. But under the law  
13 as it existed at that time, our arms were behind our back. The  
14 opponents could raise all the money they wanted to, and we had  
15 to sit there and get smacked in the face. So yes, I am very  
16 much in favor of the gaming industry being able to take part in  
17 the political process. And I know that you say, well, there's  
18 an aroma of corruption in it. If you read the recent Supreme  
19 Court opinion of the United States, they'll tell you that that  
20 of itself isn't sufficient.

21 Thank you.

22 REPRESENTATIVE SCHRODER: I read the opinion in the  
23 DePaul case, and it very much does speak to that aroma that you  
24 talk about. However, your opponents didn't have the power of  
25 direct appeal to the Supreme Court, though, did they?



1 MR. SPRAGUE: My opponents? In which matter?

2 REPRESENTATIVE SCHRODER: The opponents you were just  
3 speaking of that supposedly raised all that money to support  
4 opponents of gambling. All I'm saying is that under the law,  
5 you might have had some capabilities that they didn't.

6 MR. SPRAGUE: That's true.

7 REPRESENTATIVE SCHRODER: Okay. Now, on your letter  
8 concerning the e-mails, you calculated the personnel costs  
9 spent preparing and sending those. Mr. Sprague, what I didn't  
10 see in this section is any mention of office expenses. Did you  
11 calculate office expenses, such as whatever lease or rent your  
12 office in Pittsburgh would cost, such as utilities, such as,  
13 you know, light, you know, electricity, leasing of computers,  
14 copying machines, whatever those office expenses would add up  
15 to? I didn't see any mention of them in here. Was that a --  
16 what was the reason for that, I guess?

17 MR. SPRAGUE: The reason for that, Representative  
18 Schroder, is that office is not, as I tried to make clear, a  
19 lobbying office. I did not think -- to answer your question, I  
20 did not compute those expenses in here because I don't think  
21 that is appropriate. But I did take Mr. Smukler's time because  
22 he was doing something at that moment for lobbying. But that  
23 office is not a lobbying office, as I've tried to make clear.

24 MR. SMUKLER: And may I just add, the e-mails were  
25 generated out of Philadelphia on my computer out of

1 Philadelphia, which is where I am based. And that's -- and the  
2 time, I mean, for the three e-mails was calculated as my time  
3 to do it in Philadelphia. None of the activity of generating  
4 that e-mail was done in the Pittsburgh office. Not to say that  
5 what Mr. Sprague says is not controlling, it's just so that you  
6 understand that the generation of the e-mail was done in a  
7 Philadelphia office.

8 REPRESENTATIVE SCHRODER: I appreciate that  
9 clarification. So none of the salaries of any of the  
10 principals were apportioned into the personnel time of \$450 to  
11 make these e-mails, it was just your efforts, Mr. Smukler?

12 MR. SMUKLER: That's correct.

13 REPRESENTATIVE SCHRODER: Okay. Just give me one  
14 moment.

15 All right. Just so I'm clear, I had thought in your  
16 letter, Mr. Sprague -- and I admittedly am characterizing it  
17 here, but this is how I read it, with regards to the e-mails --  
18 you were not arguing that that was not lobbying, just that you  
19 hadn't met the \$2,500 threshold.

20 MR. SPRAGUE: You're absolutely correct, and I want  
21 to make it clear, that is lobbying. That is exactly what  
22 lobbying is, and I was trying to influence the legislature.

23 REPRESENTATIVE SCHRODER: I understand that, and I  
24 guess that's what brought to my mind the question about the  
25 office expenses not being in there. All right, I'm going to

1 need to think about that for a moment.

2           Finally, I will close by this question or two. You  
3 state in your testimony that you have tried to interpret and  
4 comply with this law in the most liberal way, I guess, meaning  
5 the most expansive reading of it. Yet I then hear you testify  
6 that you walk into leadership offices and issue a disclaimer  
7 saying, oh, I'm not here, you know, I don't want you to do  
8 anything for me, I'm not asking for anything, just want to  
9 introduce, and this, that, and the other thing. Are you  
10 suggesting that anyone can use such a disclaimer to avoid  
11 compliance with this act? Because that's what it sounded like  
12 to me.

13           MR. SPRAGUE: No, no, no. What -- no, sir. What I  
14 was saying was that the only meeting that I had with  
15 legislators were those meetings, and I wanted them to feel -- I  
16 didn't know these people. I'm introducing myself to them, and  
17 I wanted them to feel comfortable that I'm not here to talk to  
18 you about any legislation. I'm not here asking you for any  
19 favors or anything. I wanted them to feel right off the bat--

20           I mean, Representative Schroder, you don't know me,  
21 but I believe in being candid. I believe in being blunt. I  
22 don't like to beat around the bush. I'm meeting these people,  
23 and I know what kind of lives you all live, I know -- I've been  
24 around long enough. I know the concerns you have when  
25 somebody, a stranger, comes in your office. I wanted them to

1 know right off the bat, I'm not asking for a thing. I don't  
2 mean to say that I could say that and then do something that,  
3 in fact, is violative of the lobbying law, and then I toot my  
4 horn and say, oh, I said I didn't want anything. I said it for  
5 that reason, for them to feel comfortable, and if you want to  
6 go on with your hearings and invite every one of them in, if  
7 you want, and you can establish that's exactly what occurred.  
8 Nothing was asked.

9 REPRESENTATIVE SCHRODER: And I will certainly take  
10 your word for that.

11 Finally, I just want to say that I do take exception  
12 to the suggestions, and sort of the scolding and what I saw as  
13 mockery, about us, you know, having more important things to be  
14 concerned about than really the public integrity that is the  
15 Lobbyist Disclosure Act. So--

16 Sorry, do we have any water?

17 Well, I'll just close on that, and thank you.

18 MR. SPRAGUE: Can I comment, though, on what you did  
19 say, Representative Schroder?

20 CHAIRMAN EARLL: Yeah, we need to move on here,  
21 please.

22 Senator Orie.

23 SENATOR ORIE: Thank you.

24 Mr. Smukler, maybe one of the problems I have here is  
25 the quotes that you and Mr. Hardy made to the paper in 2009.

1 Are you an attorney, sir, Mr. Smukler?

2 MR. SMUKLER: A nonpracticing attorney.

3 SENATOR ORIE: Okay. In your statement on October  
4 25, 2009, to the Pittsburgh Post-Gazette, you were asked  
5 specifically about the organization, and your quote, if I may  
6 use it, "The association has been inconspicuous until this  
7 month, but that doesn't mean it's been inactive, Mr. Smukler  
8 said...Mr. Smukler said...until now, the association's focus  
9 had been on litigation rather than legislation. 'There was a  
10 lot of litigation...going on.'" And when you refer to this  
11 litigation, I just wanted to see, and I was looking that over,  
12 on 7/12/07, the Pennsylvania Supreme Court rejects the appeal  
13 challenging DeNaples' license. And I believe at that time, Mr.  
14 DeNaples was represented by you, Mr. Sprague. Am I correct?

15 MR. SPRAGUE: Yes.

16 SENATOR ORIE: Okay. And then on 10/2/07, a stay is  
17 entered by Justice Castille by the Supreme Court involving Mr.  
18 DeNaples. Again, I believe that's you, Mr. Sprague, in the  
19 role of attorney for Mr. DeNaples, your board of director?

20 MR. SPRAGUE: You're correct.

21 SENATOR ORIE: And then on 11/28/07, Peter DePaul,  
22 represented by Buchanan Ingersoll, files an order saying, about  
23 the constitutionality of prohibiting casino owners. And then  
24 on 12/11/07, the Supreme Court orders DeNaples to appear before  
25 the grand jury. On 5/2/08, the Pennsylvania Supreme Court

1 exercises King's Bench, and again, that's filed by you, am I  
2 correct, Mr. Sprague? The petition.

3 MR. SPRAGUE: Well, you had a whole lot of predicates  
4 in there. If your question is just on the last, yes.

5 SENATOR ORIE: Yes, the King's Bench, that's what  
6 it's on. And on 4/30/09, the Pennsylvania Supreme Court, in a  
7 5-to-1 vote, invalidates the provision barring casino owners  
8 from making contributions to political campaigns, something  
9 that you didn't have anything to do with the lawsuit but  
10 certainly supported this. And then on 5/1/09, the PCA pays  
11 \$100,000 to DePaul.

12 Is that what you were referring, about litigation,  
13 Mr. Smukler?

14 MR. SMUKLER: No. I misspoke.

15 SENATOR ORIE: You misspoke in regards to those  
16 quotes?

17 MR. SMUKLER: No, no, no. With regards to the  
18 litigation, I misspoke. I was taken to the woodshed. I was  
19 told that I had misspoken. I will say--

20 SENATOR ORIE: Who took you to the -- who's the one  
21 who admonished--

22 MR. SMUKLER: Chuck Hardy, Dick Sprague.

23 SENATOR ORIE: Okay.

24 MR. SMUKLER: There is no shortage of people around  
25 here that would take me to the woodshed.

1           SENATOR ORIE: And Mr. Smukler, maybe you could  
2 answer for me, too. You indicate that as far as you're  
3 concerned, Mr. Zappala was with this casino organization since  
4 the onset. Did you get taken to the woodshed over making that  
5 statement as well, in that same article?

6           MR. SMUKLER: I was not taken to the woodshed for  
7 that comment, but I don't know -- since the onset--

8           SENATOR ORIE: So, does that mean it's true or not  
9 true? Because I don't know, today, because I'm hearing he now  
10 started in -- well, I'm going to get to Mr. Zappala. When do  
11 you understand Mr. Zappala--

12          MR. SMUKLER: I started in September of 2009.

13          SENATOR ORIE: Okay.

14          MR. SMUKLER: And so he was clearly there before I  
15 was there. He was there well before I was there. Whether  
16 technically that meant the onset of the incorporation  
17 documents, frankly, I was talking to a reporter who was not  
18 that concerned with the technical aspects of when he started  
19 his service.

20          SENATOR ORIE: Okay. Thank you.

21          Mr. Hardy, now, you took Mr. Smukler to the woodshed,  
22 so I'm going to ask you some questions. In this same article,  
23 you're indicating, in this article, that both the Zappalas were  
24 with this organization from the very beginning. "Mr. Hardy  
25 said he didn't know the extent" but that both of them "had been

1 with the association from the [very] beginning."

2 MR. HARDY: To my mind, they both were in from the  
3 earliest days that I was actively involved. At that time, as  
4 Mr. Sprague explained, he was trying to convince Chief Justice  
5 Zappala to take a role, and they were talking about the Casino  
6 Association, which was going -- was formed by that time, I  
7 believe, and being formed. And from the very first employee  
8 that I'm aware of who came onboard was Michele Peck, who came  
9 on, I believe, in -- I don't want to -- the first year that we  
10 filed a tax return, I believe, in 2007, and she was not a W-4  
11 employee but a 1099 employee for a few months.

12 SENATOR ORIE: Okay. Ms. Peck, could you answer a  
13 question for me? In 2008, the salary for the PCA was listed as  
14 \$400,000. Can we assume, since you were the only one who  
15 supposedly worked for them in 2008, that that entire salary  
16 went to you?

17 MS. PECK: I--

18 MR. HARDY: I didn't say she was the only one  
19 working. She was the first one who came onboard and was paid.

20 MS. PECK: Well, I have no problem, as long as Mr.  
21 Sprague's all right with this, I can disclose my salary? Do  
22 you have any problem with that, Mr. Sprague?

23 MR. SPRAGUE: No.

24 MS. PECK: I make \$65,000 a year, so that salary is  
25 not \$400,000.



1 SENATOR ORIE: Okay.

2 MS. PECK: That first year of set-up costs was  
3 setting up the office. I was hired November 1st to start  
4 setting up an office in Pittsburgh.

5 SENATOR ORIE: Okay. And were you provided with what  
6 your roles were as the financial operator?

7 MS. PECK: No.

8 SENATOR ORIE: Your duties?

9 MS. PECK: I was told to establish an office in  
10 Pittsburgh, and that's what I did.

11 SENATOR ORIE: Okay--

12 MS. PECK: I looked--

13 SENATOR ORIE: So you're the financial operator, and  
14 you're listed under the IRS forms as that. You were not given  
15 a job description as to what that entailed?

16 MS. PECK: I was not the financial operator. We  
17 hired -- I hired an accounting firm to come in. I have a  
18 bookkeeper that pays all our bills, but I oversee the payment  
19 of bills and the filing of forms.

20 SENATOR ORIE: So when Mr. Sprague describes your  
21 role in the letter that he provided to us that you are the  
22 operations director and one in charge of the financial records,  
23 who did you hire?

24 MS. Peck: I hired Lally and Lally, and our  
25 accountant's name is Randy.

1           SENATOR ORIE: Okay, and what were your specific  
2 duties for the Pennsylvania Casino Association?

3           MS. PECK: When I was hired in November of 2007, I  
4 went out and I searched for a location for the office. I set  
5 up the office. I did everything from decorate the walls to  
6 bring in a tech person to set up the computers. I put the  
7 telephones in, I brought in the accountant and a bookkeeper so  
8 that we could have our bills paid. I sign the checks, they  
9 send the checks out. I work on a day-to-day operation with  
10 whatever needs to be done. And--

11           SENATOR ORIE: Who did you report to?

12           MS. PECK: Mr. Sprague.

13           SENATOR ORIE: Okay. And what were your specific  
14 skills, training, or experience for this job?

15           MS. PECK: Well, I think he was lucky to have me,  
16 because when I was hired in November of 2007, I was--

17           MR. SPRAGUE: May I enter an objection? She can  
18 answer, but, you know, there's got to be questions related to a  
19 legislative purpose, and I suggest to the Members of this whole  
20 committee, joint committee, questions of this nature have  
21 nothing to do with the Lobbying Act or a legislative purpose.

22           CHAIRMAN EARLL: Attorney Sprague, I do think that we  
23 need some leeway in this line of questioning because we don't  
24 know what the association has done, what your individual  
25 members of the association are responsible for, or your staff.

1 So -- and that's not our fault that we don't know any of that.  
2 So there is going to be some leeway here.

3 MS. PECK: As a background, I am a business graduate.  
4 I was in retail and marketing before I went to law school and  
5 got my law, my J.D. When Mr. Sprague asked me to come to work  
6 in November of 2007, I had just been appointed onto what's  
7 called the Board of Viewers in Allegheny County. In my role as  
8 operations director with the Casino Association, I told him  
9 upfront that I would do whatever I could, but my first priority  
10 was with the Board of Viewers as a Special Master.

11 With my background in business, I knew how to set up  
12 an office and operations, and I knew how to work with the  
13 day-to-day business that was going on in the office, and that's  
14 what I did. So whatever came up in the office, I addressed.

15 SENATOR ORIE: Okay, and what records -- under the  
16 job description that you never saw but Mr. Sprague shared with  
17 us in the letter that he responded to the Majority Chairman in  
18 the House, it says that you're responsible for the records, the  
19 office records. What records do you keep on behalf of the PCA?

20 MS. PECK: Well, I keep all of the, I guess all the  
21 payment records, anybody that's been paid. I have all the  
22 bookkeeping that our bookkeeper gives me for the years of '07,  
23 '08, and '09. Whatever records the organization needs to keep,  
24 I have.

25 SENATOR ORIE: And when you say you work for the PCA

1 and you were appointed to the Board of Viewers, how many hours  
2 would you work for the PCA, and how many hours would you work  
3 for the Board of Viewers a week?

4 MS. PECK: I worked for the Board of Viewers as many  
5 hours as was needed. I worked for the PCA in whatever extra  
6 hours I had and whatever time was available in order to get  
7 everything done. So if I had to work weekends, I worked  
8 weekends; if I had to work nights, I worked nights.

9 SENATOR ORIE: And did you have a written contract as  
10 to your--

11 MS. PECK: No.

12 SENATOR ORIE: No written contract?

13 MS. PECK: No.

14 SENATOR ORIE: Just, you'd work when you had to work,  
15 and--

16 MS. PECK: We didn't have a problem. Things were  
17 getting done.

18 SENATOR ORIE: Okay. Chief Justice, I have a few  
19 questions for you. In 2007, you were working for the courts,  
20 the AOPC, and you were still working for the Supreme Court, is  
21 that correct, as a senior judge on the technology? And that--

22 MR. JUSTICE ZAPPALA: No. No, that is not correct.

23 SENATOR ORIE: Okay. What would your role have been  
24 in 2007 with the Supreme Court?

25 MR. JUSTICE ZAPPALA: 2007, I probably was doing the

1 same things I was doing in 2003, 2004, 2005, and 2006, and that  
2 is working closely with Chief Justice Cappy on any issues which  
3 Chief Justice Cappy deemed appropriate as far as me handling,  
4 whether it was budgetary, whether it was a computer, whether it  
5 was an issue involving something involving problems with other  
6 judicial districts, whether it was the center which was built.  
7 I'm trying to think of all the various things that I have done  
8 with the Chief Justice. But anything involving the court.  
9 Chief Justice Cappy and I were very close, as far as  
10 administration.

11 SENATOR ORIE: Okay, and I have in front of me your  
12 financial interests. It says you were paid by Sprague and  
13 Sprague, indirectly.

14 MR. JUSTICE ZAPPALA: Yes.

15 SENATOR ORIE: Could you explain that to me?

16 MR. JUSTICE ZAPPALA: In 2007, I think it was in the  
17 early part of 2007, I was approached by the Sprague law firm  
18 for the purpose of doing some independent work which involved  
19 nonlitigation. The nonlitigation work as was given to me was  
20 the issue as to the propriety of billing by a law firm. There  
21 was guaranteed, in which I was assured, there was absolutely no  
22 litigation pending, and this was strictly in the preparation of  
23 whatever need the Sprague firm had for their client. I then  
24 approached Chief Justice Cappy, discussed the matter with him,  
25 and as long as it was nonadjudicatory, as long as it had no

1 relevance as far as any lawsuits, either pending or possible, I  
2 was able to do what I wanted to do. I had no problems.  
3 Therefore, I did the report, submitted it to the Sprague law  
4 firm, and whatever happened, happened. And it was reported on  
5 my form.

6 SENATOR ORIE: Could you tell me, Chief Justice, when  
7 was the first time you worked for the Pennsylvania Casino  
8 Association, and what amount were you paid for working for  
9 them?

10 MR. JUSTICE ZAPPALA: The first time I went to work  
11 with the Casino Association was, I think, March or April of  
12 2008.

13 SENATOR ORIE: And what was your salary at that time?

14 MR. JUSTICE ZAPPALA: The salary, I think, agreed  
15 upon at that time, I think Mr. Sprague indicated, was going to  
16 be \$275,000 a year.

17 SENATOR ORIE: Okay. And Ms. Peck, when I asked you  
18 about 2008, you said, and you got permission, I apologize, I  
19 forget, how much were you paid?

20 MS. PECK: \$65,000 a year.

21 SENATOR ORIE: And Chief Justice, since you were the  
22 executive director, and the total costs for salaries were  
23 \$400,000, where -- who got paid this other amount of money?

24 MR. JUSTICE ZAPPALA: Well, I wasn't the executive  
25 director, I don't think, until 2009. I had no title in 2008.

1 SENATOR ORIE: Okay.

2 MR. JUSTICE ZAPPALA: So where was the other money  
3 paid?

4 SENATOR ORIE: Do you know of anyone else that was  
5 paid? Because this--

6 MR. JUSTICE ZAPPALA: Oh, yeah. We had one gentleman  
7 that's been with us from the inception, I think, Mr. Alberts.  
8 There was other amounts paid. I'm trying to think who else,  
9 but that wasn't my bailiwick. I don't know.

10 SENATOR ORIE: Mr. Sprague, when you provided your  
11 letter of December 1st where you list all the employees, is  
12 there a reason why Mr. Alberts isn't listed, since he was with  
13 this organization since the onset?

14 MR. SPRAGUE: I never hired him. He was hired by--

15 MR. JUSTICE ZAPPALA: Michele.

16 MR. SPRAGUE: --Michele Peck.

17 SENATOR ORIE: But you would agree, you're counsel to  
18 the Casino Association.

19 MR. SPRAGUE: Pardon?

20 SENATOR ORIE: You're counsel, sir, to the Casino  
21 Association. You -- they can hire whoever they want, and you  
22 don't know who they hire?

23 MR. SPRAGUE: I didn't say I didn't know. I said she  
24 hired him. He was a low position. It's not somebody that I  
25 thought of.

1           SENATOR ORIE: So when you -- so let me make this  
2 clear. So as of December 1st, other than Mr. Alberts, is there  
3 any--

4           MR. JUSTICE ZAPPALA: December 1st of what year,  
5 madam?

6           SENATOR ORIE: The letter he wrote, December 2009,  
7 that he wrote in response, other than Mr. Alberts, are all  
8 other -- are there any other employees that we do not know of  
9 today that we should know of?

10          MR. SPRAGUE: I don't know. Could I have my letter,  
11 please?

12          SENATOR ORIE: And while you're looking at that,  
13 Michele, since you hired him, how much was he paid?

14          MS. PECK: Who?

15          SENATOR ORIE: Mr. Alberts.

16          MR. SPRAGUE: Excuse me, let me just go back to your  
17 question. This individual that you're just talking about--

18          SENATOR ORIE: Um-hum.

19          MR. SPRAGUE: --is the only other person I'm aware,  
20 unless you include the accountant.

21          SENATOR ORIE: Okay. And Ms. Peck--

22          MR. SPRAGUE: And the bookkeeper, I'm told. I really  
23 don't pay attention to some of those details like that.

24          SENATOR ORIE: Ms. Peck, how much was Mr. Alberts  
25 paid, and what was his job responsibilities, since you hired



1 him? And that's it.

2 MS. PECK: Well, since Mr. Sprague knew that I would  
3 not be there on a full-time basis, I hired Mr. Corky Alberts to  
4 come in when I wasn't there. His salary is \$50,000 a year.

5 SENATOR ORIE: And his job duties?

6 MS. PECK: Mr. Alberts would answer the phones; he  
7 would take care of any day-to-day things that I wasn't there to  
8 handle until I got there.

9 SENATOR ORIE: Thank you, Madam Chairman. I'll wait  
10 for the second round.

11 REPRESENTATIVE SANTONI: Questions from  
12 Representative O'Brien.

13 REPRESENTATIVE O'BRIEN: Thank you, Mr. Chairman.

14 Mr. Sprague, let me start off by saying in public  
15 something that I've said to you in private. Hail to the victor  
16 valiant. We've tussled. We've had contrary opinions. Your  
17 project's in the air. Congratulations.

18 MR. SPRAGUE: Thank you.

19 REPRESENTATIVE O'BRIEN: Now, I have one simple  
20 question. I mean, obviously, your lawyering is second to none.  
21 You're a powerful and influential man in this Commonwealth.  
22 You're--

23 MR. SPRAGUE: Flattery will get you nowhere. Go  
24 ahead.

25 REPRESENTATIVE O'BRIEN: It will get me everywhere,

1 and you know it, Dick. You're on the Supreme Court -- or were  
2 on the Supreme Court Disciplinary Board, which oversees  
3 lobbyists. Why not? Why wouldn't you register? We've just  
4 spent approximately two hours, plus the prep time, in this. I  
5 don't understand, for a lousy hundred bucks, why wouldn't you?

6 MR. SPRAGUE: Well, I'll tell you. As I said, we are  
7 in the process of looking for a lobbyist. And whether it's  
8 just the way in which I approach things, I thought we will  
9 register as soon as we hire a lobbyist, and that's what my  
10 intent is, and that's where we are. You know, if we had been  
11 more involved in lobbying than these three e-mails and been  
12 doing it, surely, we would have registered. But we weren't.

13 And I'll tell you one other thing. It was not really  
14 our intent to get involved in the lobbying. We were a trade  
15 association. You know why those three e-mails went out? And  
16 that's the only thing we did, and I say it's lobbying, but it  
17 comes under the exemption. I saw -- and this is me -- I saw in  
18 this legislature, which you are all a part of, the fighting  
19 going on between the various factions. And I saw the fight  
20 going on -- shall that table game tax be what I thought was an  
21 absurd amount, 30-some percent, which if you're trying to put  
22 in table games, maybe you don't want table games, but then just  
23 say so. Don't put in a tax that's absurd. I saw that. And  
24 then I saw all the fighting, and then I saw the Governor in  
25 here, and he was making his terms.

1           And I really decided at that point, even though we're  
2 not a lobbying firm, we are going to -- and I did become aware,  
3 and I think I saw the Chairwoman having a hearing, I'm not that  
4 good on names, but I saw on PCN, Chairwoman Earll, with some  
5 economic group making reports, and I heard them testifying that  
6 a certain percentage is what ought to be the tax for table  
7 games to be economical and profitable for -- remember, the  
8 Commonwealth, your Commonwealth is a partner with us. And I  
9 saw this group telling what was the best thing economically for  
10 Pennsylvania. And when I saw that, I decided, God, we're going  
11 to send out something to all the legislators urging them, and  
12 that's what our e-mail is really what that economic group was  
13 pressing to Chairwoman Earll at those hearings that I saw. So  
14 I jumped into that.

15           The only other thing that I jumped into was I felt  
16 that this legislature, when they passed the original bill, had  
17 said there would only be two resorts. And all of a sudden, I  
18 see monkeying with that. And I frankly had my own suspicions  
19 as to what was the reason that was going on for the monkeying,  
20 and why was there, all of a sudden, this push for more resorts.  
21 And I have my own belief about that, which I'm sure  
22 Representative Schroder is fully in accord with. But I said  
23 enough's enough. And so for that area, I jumped in.

24           I wasn't thinking this is now making me a lobbyist.  
25 But we're interviewing, and when we've got them, we will

1 register.

2 REPRESENTATIVE O'BRIEN: Well, hearing that you and  
3 Chairman Schroder are on the same page on an issue, obviously,  
4 I have nothing further. Thank you.

5 I would like to thank the Chair.

6 MR. SPRAGUE: Well, thank you.

7 CHAIRMAN EARLL: Attorney Sprague, just to follow up  
8 on that line of questioning for a moment. As I connect these  
9 dots, and feel free to correct me if I'm wrong, but we have a  
10 very incestuous group of people who are involved, on a variety  
11 of different levels, in a significant percentage of this gaming  
12 market in Pennsylvania. We have the Casino Association, of  
13 which you are legal counsel, you're board of directors, and  
14 you're a part owner of SugarHouse, which is a member of the  
15 association. We have two other members of the association, Mt.  
16 Airy and the Rivers. Sprague and Sprague, your law firm,  
17 represents Mt. Airy, as well as SugarHouse. Your general  
18 counsel to SugarHouse represents the Rivers. We have a couple  
19 other law firms that do piecework for these member  
20 organizations of your association. All three of your member  
21 organizations have the same lobbyist, Wojdak and Associates. I  
22 mean, clearly, there's a group of you who have -- wear very  
23 many different hats in three different casinos, as well as the  
24 association. In addition to that, you bring on some very high,  
25 powerful people -- Chief Justice Zappala -- and then you kind

1 of sit there and wonder why we are concerned about whether  
2 you're following the law or not. And even if we agree that the  
3 letter of the law does not require registration, it seems to me  
4 that you're violating the spirit of the law, because we have  
5 worked very hard, some of us, to make sure that this industry  
6 has credibility in Pennsylvania, and so that the usual taint  
7 and suspicion that is associated with this industry could be  
8 avoided in Pennsylvania, and by your refusal or cutesiness with  
9 not registering, you make it seem suspicious, even if it's not  
10 suspicious.

11 Then I look at your articles of incorporation, and  
12 your articles of incorporation for the association does say  
13 that you are going to "represent the industry before the  
14 Legislature and elected and appointed officials in addressing  
15 issues and related matters of importance to the industry  
16 generally." Well, clearly, whatever we're legislating involves  
17 issues of importance to the industry. So excuse some of us if  
18 we're very chagrined by your lack of disclosure, whether it's  
19 required technically by the law or not. By not registering,  
20 you look like you're hiding something, and that affects all of  
21 us in this legislature, particularly those of us who have tried  
22 to be fair to a new industry.

23 So, again, why wouldn't you just register? What is  
24 the big deal?

25 MR. SPRAGUE: It's no big deal. Let me make that

1 clear. It's just that you have a point of view, if you don't  
2 have to, why don't you lean over and do it? Maybe I've been a  
3 lawyer too long for you. I believe in - the law says you  
4 register if certain things occur. That's what I do. I don't  
5 just do things because somebody else thinks I should do it.

6 But you raise other issues, I think, there, and I  
7 think you intertwine them. One, you raise the issue of wearing  
8 many hats. And you raise the issue of interrelationships,  
9 having the same lobbyist here and there. And that is -- I'm  
10 not quarreling with that, and if your hearing got nothing to do  
11 with the Lobbying Act but has to do with whether or not one  
12 person can wear, in the gaming industry today, different hats,  
13 that's an issue.

14 CHAIRMAN EARLL: Don't misunderstand me. I don't  
15 think any of that's illegal, and I congratulate all of you who  
16 have figured out a way to get your fingers in all of that.  
17 Good for you. But my point is that because you have your  
18 fingers in all of that, you certainly do at least make the  
19 appearance of influencing that. And you have relationships.  
20 You're all shrewd political operators. You have been for  
21 years. You have relationships in the executive branch as well  
22 as the legislature. So why -- if you don't have anything to  
23 hide about your involvement in any of this -- why don't you  
24 just register?

25 MR. SPRAGUE: You know, it's very nice to say, if you

1 have nothing to hide. You know, it's great to say, we'll be  
2 for motherhood and against sin. We're dealing with what the  
3 law is, and I have made it clear that under the law, we have  
4 done absolutely nothing wrong. Now, let me say this. I got a  
5 great respect for you. If you had called me on the phone, and  
6 my good friend Representative O'Brien had called me on the  
7 phone, and said, hey, Sprague, you know, I don't think your  
8 Casino Association's violated anything, but you know, we feel  
9 uncomfortable about you. Do me a favor, register. I'd have  
10 registered.

11 CHAIRMAN EARLL: Oh, please. That's not my  
12 responsibility to make sure you're registered, as nice as that  
13 suggestion is. What I'm saying is that considering the nature  
14 of this industry and considering all of the skepticism and all  
15 of the aura of the industry, why wouldn't you bend over  
16 backwards so that none of us would be in this position of  
17 having to have a public hearing where you're being  
18 cross-examined on even maybe some irrelevant information? You  
19 could have avoided all of it.

20 MR. SPRAGUE: Well, you know, my response to that is,  
21 as I said with Representative Santoni, we offered to come in,  
22 and everything I've said to you now, I was willing to say to  
23 him, I was willing to say to you.

24 CHAIRMAN EARLL: That's nice, but we're not the only  
25 ones paying attention. We have a whole Commonwealth out there

1 of a variety of different constituencies that are paying  
2 attention.

3 MR. SPRAGUE: Well, you've taken that whole  
4 Commonwealth, and you're facing this issue. And I suggest to  
5 you -- I wasn't facetious when I said earlier -- what is more  
6 open than what we have done? When you're talking about  
7 lobbying, everyone here -- and let's be very blunt about it,  
8 you all know, Representative O'Brien knows, somehow in your  
9 gaming bill, there was snuck through certain provisions that a  
10 lot of you didn't know about until it was too late to act upon.  
11 And how did that happen? Because lobbyists dealt with some of  
12 your Members, not in an open mailing to everybody, but meeting  
13 with them privately.

14 CHAIRMAN EARLL: Well, I would suggest it wasn't only  
15 lobbyists that were having private meetings and private  
16 conversations.

17 MR. SPRAGUE: Pardon?

18 CHAIRMAN EARLL: I would suggest it wasn't just  
19 registered lobbyists having those conversations.

20 MR. SPRAGUE: Whoever it was, but I'm suggesting to  
21 you, if I was in your position, I'd take a look at that rather  
22 than this Mickey Mouse thing.

23 CHAIRMAN EARLL: Representative Santoni.

24 REPRESENTATIVE SANTONI: I'm going to --  
25 Representative O'Brien wants to make one second comment, and



1 then I'm going to go to Representative Vereb.

2 REPRESENTATIVE O'BRIEN: Mr. Sprague, please  
3 register.

4 REPRESENTATIVE SANTONI: Representative Vereb.

5 REPRESENTATIVE VEREB: Thank you, Mr. Chairman.

6 MR. SPRAGUE: I may do that for you.

7 REPRESENTATIVE VEREB: Thank you, Chairmen,  
8 respective Chairmen.

9 Mr. Sprague, I'm going to go back and forth with you,  
10 if you don't mind. It's a great honor to have you here to  
11 testify before us, and I echo the sentiments of my good friend  
12 and colleague, Representative O'Brien, in terms of your stature  
13 in the court and the system that we so depend upon day to day.

14 MR. SPRAGUE: Thank you.

15 REPRESENTATIVE VEREB: You mentioned you had a  
16 meeting with a number of Representatives and Senators, and I  
17 might have missed a date or approximate date. When did you go  
18 and introduce yourself to the Members that you had listed? And  
19 I realize it may be a couple of days. Just an approximate  
20 timeline.

21 MR. SPRAGUE: I'm going to have to estimate the  
22 dates. I have an appointment book in my office, and if you  
23 really want the dates, I could get them from my appointment  
24 book, and I'll mail them to you, if you want. I would estimate  
25 they were in 2008, maybe going into 2009.

1           REPRESENTATIVE VEREB: You mentioned the names, and  
2 you had said you wanted to introduce yourself. You did not  
3 mention my leader, Representative Sam Smith. Now, either you  
4 like Groundhog Day, or you know each other from some other way.  
5 Is there a reason you wouldn't have gone to my Leader?

6           MR. SPRAGUE: No, there's no reason. As a matter of  
7 fact, what my instructions to Mr. Hardy were, I really wanted  
8 to go ultimately and meet with -- I wanted to meet with every  
9 legislator that was in office. I never got to do it. But  
10 there was no cutting anybody off. It was just time for --  
11 limitations.

12           REPRESENTATIVE VEREB: And because we're a couple  
13 months off on the timeline, do you remember if you met with  
14 Senator Fumo for purposes that you met with these other  
15 Members?

16           MR. SPRAGUE: Uh, well, you raise a very interesting  
17 question there. I had obviously -- at one time, I represented  
18 Senator Fumo, so obviously, I had many meetings with Senator  
19 Fumo. But there came a time in -- what was the year?

20           REPRESENTATIVE VEREB: In an effort of time, you can  
21 get back to the committee, if it's okay with the Chairs. If we  
22 don't know the dates and times, you could certainly get back to  
23 us, Mr. Sprague.

24           MR. SPRAGUE: There came a time in 2008 where my  
25 relationship with Senator Fumo terminated, and from then on, I

1 have never talked to him again, other than to appear against  
2 him in court.

3 REPRESENTATIVE VEREB: Thank you. And you said the  
4 purpose of these meetings was to go introduce yourself to these  
5 particular Members of -- some leadership, some not leadership.

6 MR. SPRAGUE: And to identify our Casino Association  
7 to them.

8 REPRESENTATIVE VEREB: Would you be suggesting, then,  
9 that you would not have known former Speaker Perzel when you  
10 would have gone to have met with him?

11 MR. SPRAGUE: I did know Perzel from previously.

12 REPRESENTATIVE VEREB: Okay. Justice Zappala, thank  
13 you for your service to the court, and I'm sure you yourself  
14 are appalled at some of the investigations that are going on  
15 and just how much of a mockery it's made and how much we are  
16 trying to work to make our operations, both in the Senate and  
17 the House, a little more transparent. And we are really trying  
18 to do the right thing, regardless of how minute people may  
19 think this issue is. These investigations are a far cry from  
20 the moperly with intent to gawk charges that we used to  
21 insinuate on the minor summary charges in police work, Justice.

22 But moving on to your post-Justice career here, you  
23 know, you've said your role, you've said you've been attending  
24 meetings, you've said your salary. I won't go back through  
25 that, but let me just ask you this: What do you have to show

1 for it?

2 MR. JUSTICE ZAPPALA: Pardon, sir?

3 REPRESENTATIVE VEREB: What do you have to show for  
4 everything you have done for this group?

5 MR. JUSTICE ZAPPALA: In what respect? I don't  
6 understand the question.

7 REPRESENTATIVE VEREB: With your salary--

8 MR. JUSTICE ZAPPALA: What has it brought to me?

9 REPRESENTATIVE VEREB: With your -- I'll try to  
10 rephrase it -- with your salary and your efforts and everything  
11 that you have done, what has, what do you have to show for it  
12 in terms of what is the end product of your salary and your  
13 efforts in all of those meetings that you obviously can't  
14 disclose, but what is the end product of what you've done?

15 MR. JUSTICE ZAPPALA: Well, again, the end product  
16 has not yet been achieved. And as I said to you, the only  
17 reason I became involved is because I thought that it was  
18 something which was novel and something which had not been  
19 done, and that is the housing of the stand-alone casinos,  
20 together with the other part of the gaming industry, under one  
21 roof. Unfortunately, when I became involved initially, there  
22 was all this litigation, there was all confusion, and that was  
23 almost an impossibility. Can I now pull it back together  
24 again? I don't know, Mr. Representative. I have no idea.  
25 Would I love to try and do it? The answer is yes.

1           So what have I accomplished by it? Right now,  
2 there's three -- let's see, we have three representations,  
3 we're trying to see if we can maybe get a couple more and go on  
4 with this theory that you can speak with one voice, which is  
5 permeated throughout the Commonwealth, which has sense on what  
6 is achieving. That's all.

7           REPRESENTATIVE VEREB: One voice to what audience?

8           MR. JUSTICE ZAPPALA: To all audiences. In other  
9 words, an audience that whether you're in the banking industry  
10 or whether you're in the health industry or whether you're in  
11 the pharmaceutical, that you can speak as one voice  
12 representing that group. And that's a pretty tough thing to  
13 do.

14           REPRESENTATIVE VEREB: Okay, so also, the long-term  
15 goal, as Mr. Sprague has said, you're working on it currently,  
16 but it's also a long-term goal to register this group as a  
17 lobbyist -- as a lobbying group?

18           MR. JUSTICE ZAPPALA: That's their choice to make,  
19 sir. I'm not part of the directors. Whatever they decide to  
20 do is fine with me.

21           REPRESENTATIVE VEREB: Okay. Although he said it,  
22 you're involved. Has the mission or goal been to ultimately  
23 register -- I'm asking you -- has it been the goal of this  
24 group to register as a lobbying firm or a lobbyist?

25           MR. JUSTICE ZAPPALA: Well, Mr. Representative, I

1 can't answer that question. I'm not on the board of directors.  
2 I'm not there making those policy decisions. I'm only a  
3 resource person when they have other issues to raise. Whether  
4 they do or not has no bearing, as far as I'm concerned.

5 REPRESENTATIVE VEREB: Okay, but you are the  
6 chairman, correct?

7 MR. JUSTICE ZAPPALA: Am I the chairman? I don't  
8 know, am I chairman?

9 MR. SPRAGUE: Yes.

10 MR. JUSTICE ZAPPALA: Yes. Okay. I guess, yes.

11 REPRESENTATIVE VEREB: Thank you, Mr. Sprague.

12 MR. JUSTICE ZAPPALA: I guess, yes. But a chairman  
13 without a portfolio.

14 REPRESENTATIVE VEREB: Then what is -- and,  
15 obviously, we're just trying to figure this out. It's a lot to  
16 absorb. What is the role of the chair?

17 MR. JUSTICE ZAPPALA: Well, again, you know, I wasn't  
18 sure if I was the chair. But I'm assuming the role of the  
19 chair is to follow through with the policies which were  
20 established by its members -- and, again, all the policies come  
21 through the three casinos, through Mr. Sprague -- and try and  
22 carry out those policies. And one of the policies is having  
23 everything under one roof, if possible. If possible.

24 REPRESENTATIVE VEREB: Thank you, Justice.

25 Ms. DeNaples, you've been sitting there very

1     patiently all morning, and I just -- very brief questions. Did  
2     you attend, there was a meeting March 12 of '07 at the  
3     Harrisburg Hilton. That meeting was mentioned by Mr. Sprague.  
4     Do you know if yourself or -- I'm not sure of the timeline, if  
5     your father or someone directly that works directly with Mt.  
6     Airy was at that meeting? It was regarding this.

7             MS. DeNAPLES: Yes, I was there. I attended.

8             REPRESENTATIVE VEREB: You attended. Can you tell  
9     me, walking out of that hotel, what your impression was of the  
10    future of this association?

11            MS. DeNAPLES: I think, after that meeting, you  
12    couldn't take anything, because it was just the initiation of  
13    the awareness of the meeting. And then it ended up being a lot  
14    of disagreements and agreements about other things that were  
15    happening in the casino industry.

16            REPRESENTATIVE VEREB: Can you mention some of the  
17    disagreements?

18            MS. DeNAPLES: They started -- like smoking. I mean,  
19    they started to bring up some issues that they had problems  
20    with, so.

21            REPRESENTATIVE VEREB: More policy issues?

22            MS. DeNAPLES: Yes.

23            REPRESENTATIVE VEREB: Do you recall any  
24    disagreements over lobbying?

25            MS. DeNAPLES: It was not discussed, to my knowledge.

1 REPRESENTATIVE VEREB: Lobbying was not discussed in  
2 that meeting?

3 MS. DeNAPLES: I don't -- I do not recall that.

4 REPRESENTATIVE VEREB: Lobbying in the future part of  
5 that conversation at all?

6 MS. DeNAPLES: I'm sorry, sir?

7 REPRESENTATIVE VEREB: Was the future of your  
8 organization to lobby, was that a discussion?

9 MS. DeNAPLES: I do not believe it got that far. I  
10 mean, this was a while ago. There was other things happening  
11 in Harrisburg. I cannot recall the exact details of the  
12 meeting, but I don't -- do not recall it got to that detail.

13 REPRESENTATIVE VEREB: Were there any meetings  
14 subsequent to that, that you attended, regarding this before  
15 the formulation of the association?

16 MS. DeNAPLES: I do not remember.

17 REPRESENTATIVE VEREB: Okay. Did you attend any  
18 board meetings in which members were appointed to the board or  
19 chairs or--

20 MS. DeNAPLES: No.

21 REPRESENTATIVE VEREB: No? Thank you.

22 Mr. Sprague, I just want to talk -- I'll try to be as  
23 quick as I can -- about a little bit about the association. I  
24 just want to kind of summarize, and you can correct me if I'm  
25 wrong. The idea of the association was your idea?



1 MR. SPRAGUE: Yes.

2 REPRESENTATIVE VEREB: How did you approach the  
3 startup of it, the running of it, to get started?

4 MR. SPRAGUE: I told Mr. Hardy here to get a hold of  
5 the principals of each one of the racinos and each one of the  
6 stand-alones and ask them if they would be interested in  
7 attending a meeting that I would arrange for here in Harrisburg  
8 to discuss forming an association, and he followed through and  
9 set up and got a hold of everybody, and they attended the  
10 meeting.

11 REPRESENTATIVE VEREB: Okay. When describing the  
12 purpose of the association to the potential members, either  
13 before the meetings that we had talked about, or, you know,  
14 during those meetings that we've talked about, did you ever  
15 advise anyone that the purpose of the association would be to  
16 lobby the Pennsylvania State government on behalf of the gaming  
17 industry in the Commonwealth?

18 MR. SPRAGUE: I did discuss with the whole group  
19 there that I thought that eventually, in forming an  
20 association, if we could speak as one voice, we could then be  
21 effective in lobbying with the legislature, ultimately, on many  
22 issues, such as the high tax rate, as something to consider,  
23 and issues of that nature. So the answer to your question is  
24 yes. It was an area of disagreement, by the way, but I raised  
25 it.

1 REPRESENTATIVE VEREB: I can imagine your  
2 disagreement was vocal, for sure.

3 MR. SPRAGUE: Yes.

4 REPRESENTATIVE VEREB: So this was at the same  
5 meeting that I was just asking Ms. DeNaples about, or do I have  
6 a different meeting?

7 MR. SPRAGUE: No, I think it was the same meeting.  
8 This was in March 2007.

9 REPRESENTATIVE VEREB: So you thought the central  
10 effort and central fight of this group, to lobby something like  
11 the tax issue, would be an effective purpose for the group  
12 long-term?

13 MR. SPRAGUE: Long-term, absolutely.

14 REPRESENTATIVE VEREB: Did you advise any member or  
15 anyone else that you, the association director, association  
16 staff, or anyone else associated with or working on behalf of  
17 your organization would be lobbying on their behalf? Sounds  
18 like you wrote that question, Mr. Sprague.

19 MR. SPRAGUE: I didn't hear the last part.

20 REPRESENTATIVE VEREB: It's a very worded question.  
21 I guess my purpose is, were any of the people that I mentioned,  
22 were they told that they would be working on behalf of your  
23 organization to be lobbying on their behalf?

24 MR. SPRAGUE: The original idea was to have this as a  
25 trade association, and then we would have each of the entities

1 do lobbying. There wasn't any thought of taking away the  
2 lobbyists from each of the entities, but having a trade  
3 association to then have each of the groups be able to lobby  
4 for what we jointly agreed upon, and that's one of the areas  
5 that fell apart, because there was a lot of disagreements as to  
6 the entities working jointly.

7 REPRESENTATIVE VEREB: Thank you. And actually, this  
8 is obviously to you, but if anyone else has background on this,  
9 it would be great, at the table there. Is anyone aware of any  
10 other statewide association that advocates in Harrisburg on  
11 behalf of issues important to its members that doesn't consider  
12 such advocacy to be lobbying and therefore follow all the laws,  
13 rules, and regulations pertaining to lobbying Pennsylvania  
14 State government?

15 MR. SPRAGUE: Well, that's just, again, that, you  
16 know, that's the kind of broad question against--

17 REPRESENTATIVE VEREB: I'll rephrase it. Is there  
18 another group like yours, Mr. Sprague, that you're aware of?

19 MR. SPRAGUE: I don't study other groups in  
20 Pennsylvania. I'm sure -- but if you're saying that they're  
21 lobbying in violation of the Lobbying Act, that's one thing.  
22 Don't -- I have never said these three e-mails were not  
23 lobbying. They are. But under our law, they are not violative  
24 of the Lobbying Act. That's all I've said. So don't ask me a  
25 question about other groups, because it depends on what they're

1 doing.

2 REPRESENTATIVE VEREB: And just, I'm trying to cut  
3 out all the questions you've already answered, because you  
4 certainly have answered a lot. I want to talk about the  
5 lawsuit and how Mr. DePaul came to the conclusion, or who  
6 solicited him -- I don't want to use -- how about recruit Mr.  
7 DePaul to file the suit involving campaign contributions. What  
8 was your role in that, at all?

9 MR. SPRAGUE: If you know Mr. DePaul, nobody recruits  
10 him, first. Mr. DePaul felt very strongly about the  
11 prohibition on political activity, and as a matter of fact, I  
12 don't know how much you know in terms of the background here.  
13 When Mr. DePaul applied for a gaming license -- and under the  
14 law, once you're an applicant, you are prohibited from  
15 political activity for anybody running for any office, by the  
16 way. Mr. DePaul went and made political contributions even  
17 after he was an applicant. He did not realize that that law  
18 applied to an applicant. He thought the law applied only once  
19 you got a license. When he found out that it applied to an  
20 applicant, he immediately wrote to all the people he had made  
21 contributions and had them refund his money.

22 He nonetheless was fined by the Gaming Board  
23 \$100,000, and his casino, Foxwoods, was fined, I believe,  
24 \$100,000. And he paid that fine on his own. But he thought  
25 this law was unconstitutional. No one had to urge him. He's

1 lived his whole life as a businessman making political  
2 contributions to both parties. And he felt very strongly that  
3 this law was violative of his rights, and he wanted the first  
4 opportunity to sue, and he did sue. I'm sure nobody solicited  
5 him at all, and he has now got a suit against the Commonwealth  
6 of Pennsylvania that's in the Commonwealth Court to get that  
7 \$100,000 fine back.

8 REPRESENTATIVE VEREB: Thank you, Mr. Sprague. Just  
9 one quick follow-up to that. I am familiar with Mr. DePaul. I  
10 don't really know him personally. I also realize that the  
11 \$100,000 that it costs to make that fight in court wasn't going  
12 to set anyone back too far. Why would you have not solicited  
13 the remainder of the industry in Pennsylvania to help pay that  
14 \$100,000? Why did the three members of this association feel  
15 it so important to reimburse him?

16 MR. SPRAGUE: Because, frankly, while I'm still  
17 trying today, I have not gotten others in the gaming industry  
18 to work with us. Some of them feel, let you do it, and why  
19 should I have to join you? Others feel that they have their  
20 own goals to go on. So I've given up trying to get them on a  
21 broad base. Frankly, what I'm trying to do now is inch my way.  
22 Get one to join and then another one. I want to conquer  
23 Europe, but I don't want to jump right to Berlin. I want to  
24 start at the beaches.

25 REPRESENTATIVE VEREB: Who actually did the check go

1 to? Who was the reimbursement written out to?

2 MR. SPRAGUE: I don't know. It was written to Peter  
3 DePaul.

4 REPRESENTATIVE VEREB: Okay.

5 CHAIRMAN EARLL: Senator Wozniak.

6 SENATOR WOZNIAK: Thank you, Madam Chairman. I  
7 apologize for my communicator. I got it yesterday, and I have  
8 no bloody clue how it works.

9 Counselor; Counselor; nonpracticing Counselor;  
10 Counselor; Chief Justice; Ms. DeNaples, I don't know if you're  
11 a Counselor or not; Counselor; we've been here almost three  
12 hours, and boy, they say that lawyers are paid by the word,  
13 then everybody has done pretty well here. I just want to  
14 preface this that I have no interest in inquisitions, and I'm  
15 glad that we do not come up with every trade association in  
16 front of us. But gaming is sexy by its own interests. I never  
17 heard the radio ads. I don't know who Mr. DePaul is. I don't  
18 have a horse in the race. I don't have a casino. I wish I  
19 did. You people are creating hundreds of thousands of jobs and  
20 hundreds of millions of dollars in revenues to the State and in  
21 those employees.

22 Obviously, there's been three hours of discussion  
23 about, you should've did this, you should've did that, you  
24 stepped into the gray area. I'm asking you, please register.

25 Chief Justice, I'm going to make the assumption that

1 you came on board because you were a Chief Justice. You're  
2 experienced in the law, you know the four corners of  
3 Pennsylvania, and I doubt very much that anybody that's going  
4 to be in the casino industry is going to make any kind of foul  
5 play or trip up when all eyes, including, I see, the reporters  
6 out here, because they sure want to find every little chink in  
7 the armor. I think you've done an excellent job today  
8 expressing yourself.

9 I would never want to go against you, Counselor  
10 Sprague. You are a very articulate individual. I know the  
11 feint within the feint within the feint that's going on here,  
12 but I appreciate that you came out here today and expressed  
13 yourself. I don't know March 13, 2008, September 21, 2010. I  
14 don't really care. Personally, I think this is much ado about  
15 nothing, and I want to put that on the record.

16 Thank you, Madam Chairman.

17 MR. SPRAGUE: Thank you. May I make a comment, then?  
18 If -- and this is the lawyer in me -- if it is understood there  
19 is no suggestion that we did anything wrong by not having  
20 registered up to this moment, even though we have not yet hired  
21 our lobbyist, we will register. Now, that's my proposal. But  
22 I don't want any suggestion, oh, you're now going to register  
23 because in some way he's saying he did something wrong, because  
24 if that's it, our linchpin is we did nothing wrong.

25 REPRESENTATIVE SANTONI: We have, there's actually

1 four or five more House Members, and the Senator and I agree  
2 that we want to conclude the hearing by noon, so I would  
3 respectfully, respectfully ask both people posing questions and  
4 those answering questions to be as brief as possible. We would  
5 really appreciate it.

6 Next questioner is Representative Barbin.

7 REPRESENTATIVE BARBIN: Thank you, Mr. Chairman.

8 And thank you, Mr. Sprague, Chief Justice Zappala,  
9 and all the members that have provided testimony under oath,  
10 although I note that the same oath wasn't provided or requested  
11 by the prior panel of testifiers. I'd also note today that the  
12 only issue that has any merit at all appears to be the question  
13 as to whether a trade association should, upon formation, be  
14 required under our State lobbying law to register as a  
15 lobbyist.

16 Mr. Sprague, when you formed the trade association,  
17 was the Pennsylvania Casino Association required as a trade  
18 association to register as a lobbyist?

19 MR. SPRAGUE: Absolutely not.

20 REPRESENTATIVE BARBIN: Okay. Then I'll make my  
21 comments very short. The bottom line is that the law did not  
22 require you to. The bottom line is there is a provision that  
23 Mr. Schroder, or Representative Schroder, pointed out that says  
24 that if a trade association is embarked in an education action  
25 but does not take or does not request follow-up action by the



1 public or a movement to persuade an individual legislator,  
2 that's not lobbying. There's been no lobbying that's gone on  
3 here today. No discussion has gone even close to that  
4 particular issue. And unless we're prepared, either Senate or  
5 House, to amend the lobbying law today and say that  
6 registration is immediately required of all trade associations,  
7 then this hearing should be over.

8           And I would say this just for my own responsibility  
9 as a representative of the people of Pennsylvania. I was lucky  
10 enough to be a law clerk for Chief Justice Henry O'Brien. And  
11 when he left office, he served as counsel for Reed, Smith, Shaw  
12 and McClay, and he was paid a salary probably close to what  
13 Justice Zappala was, but that was because he was a tremendous  
14 personal lawyer, and he had every right to make a salary as a  
15 former member of a public body. There is nothing wrong with  
16 the salary if you are worth the salary, and Chief Justice  
17 Zappala, in any industry group, is worth that salary. So any  
18 insinuation to the contrary bespeaks badly on our whole  
19 institution, and I'm not going to participate in any more  
20 hearings that are called for this type of purpose.

21           Thank you, Mr. Chairman.

22           CHAIRMAN EARLL: I'll respond to that. The purpose  
23 of the hearing was to get some facts on the record so that we  
24 could make a determination as to what the casino industry, or  
25 the Casino Association, was up to -- it was as simple as that

1 -- instead of trying to glean information from the newspapers,  
2 which we would all agree is probably not a good thing to do.  
3 That is the sole purpose of the hearing.

4 Senator Ferlo. Oh, I'm sorry, I guess he didn't want  
5 to wait any longer.

6 REPRESENTATIVE SANTONI: Representative Clymer.

7 REPRESENTATIVE CLYMER: Thank you, Mr. Chairman, and  
8 welcome, ladies and gentlemen, to this hearing. I'll try to be  
9 very brief.

10 October of 2009, PCA issues a release including  
11 Foxwoods about pending legislation. After PCA retracts  
12 Foxwoods as part of the group, Cozen begins lobbying on  
13 Foxwoods' behalf. Has there been any communication between  
14 Cozen and PCA? And is he still counsel to the association?

15 MR. SPRAGUE: The answer is there has been no  
16 communication between PCA and Cozen, and Cozen is not counsel  
17 to the association. The only part where Cozen was counsel to  
18 the association was in incorporating it, period.

19 REPRESENTATIVE CLYMER: Thank you. And two other  
20 questions, briefly. We all know that the casino proponents  
21 pushed very hard to legalize slot machines and table games here  
22 in Pennsylvania. Now, the same people who were involved are  
23 part of the Pennsylvania Casino Association. So if I propose  
24 legislation to increase the costs for the table games  
25 license--we all recognize \$16.5 million is a giveaway, so I'm

1 going to increase it--where is the trade -- where will be the  
2 Pennsylvania Casino Association as a trade association? Where  
3 will you be on that issue?

4 MR. SPRAGUE: If there's an effort to increase the  
5 tax or the license fee, my position, and I believe I, as you  
6 gathered, speak for the association, will be to oppose it.

7 REPRESENTATIVE CLYMER: And you'll do that through  
8 education or how, as an association?

9 MR. SPRAGUE: I'll sort of have to get the lay of the  
10 land. I would think right now, your chances of getting this  
11 legislature to change the license fee or the tax are like nil.  
12 So I don't think I'm going to have to do anything.

13 REPRESENTATIVE CLYMER: All right. Well, we're going  
14 to have a budget crisis coming up, and of course, we need the  
15 additional money. So we want to be reasonable and fair.

16 All right, I'll go to another question. The smoking  
17 issue has been brought up, smoking in the casinos. Now, the  
18 Pennsylvania law prohibits smoking in all public places, and of  
19 course, the casinos were to be included. You know, they were  
20 to be no smoking in casinos. Guess what? Somehow, the casinos  
21 were exempted. You can now smoke in certain parts of the  
22 casino, the places where the gambling is done the most. Now,  
23 Mr. Sprague, sir, you are director, you are counsel, and you  
24 are owner. Now, you know the reason that the casinos want the  
25 smoking is because it brings in more revenue.

1           So, there's proposals out there to make the -- to  
2 prohibit this, you know, somehow prohibit smoking in the  
3 casinos, and you yourself said that this is an issue that the  
4 Pennsylvania Casino Association will discuss. What's there to  
5 discuss? It looks like it's a done deal. It's not going to  
6 happen, because of the reasons I just articulated.

7           MR. SPRAGUE: The only area I was talking about on  
8 smoking was that in some talks, as I said, particularly with  
9 Parx, there's a question as to, on table games themselves,  
10 should the casinos -- you know, they can place the table games  
11 where they want. Should they try to place them where there is  
12 no smoking, so that somebody is not, let's say, at a poker  
13 table and somebody else goes to light up. I don't know the  
14 answer to it. All I'm saying is this is an area that we're  
15 discussing. And that's the purpose of a trade association - to  
16 talk about these things. So I don't have an answer for you on  
17 that.

18           REPRESENTATIVE CLYMER: And my final comment, and  
19 there's no answer to it, and that is, you had mentioned about  
20 Foxwoods and SugarHouse being at a disadvantage because the  
21 people could raise money. Well, ladies and gentlemen, those  
22 two licenses for Philadelphia were put in there behind the  
23 closed doors. The people of Philadelphia really never had an  
24 opportunity to voice their opinions. So they're the ones that  
25 are the disadvantaged. They're the result of this political

1 politics that took place.

2 And with that, I conclude my remarks. Thank you.

3 MR. SPRAGUE: Thank you, sir.

4 REPRESENTATIVE SANTONI: Thank you, Mr. Chairman, I  
5 think.

6 Representative Caltagirone.

7 REPRESENTATIVE CALTAGIRONE: Thank you, Mr. Chairman.

8 For the record, and for the benefit of the Members  
9 here, I just want to share with you, you know, I think I'm  
10 probably the senior Member here in this body, House or Senate -  
11 34 years. I helped to craft the legislation, and I worked very  
12 closely with the Chief Justice on the court computerization,  
13 which is statewide. His management and business skills were  
14 second to none. And he brought to the table a lot of respect  
15 and ingenuity in crafting the system that we have and use  
16 today. And I want to let you all know that he's an excellent  
17 person, he has an impeccable reputation, and he's worked very,  
18 very hard in establishing, I think, especially with the court  
19 system and the computerization, something that we can all be  
20 very proud of. And I just want to get that on the record.  
21 Thank you.

22 REPRESENTATIVE SANTONI: Thank you.

23 Representative Swanger.

24 REPRESENTATIVE SWANGER: Thank you.

25 I'm looking at the job description for executive

1 director of your association, and I'll be very brief here. I'm  
2 just going to pick out a few of the duties and  
3 responsibilities. "Fosters an environment that facilitates  
4 broad support for Pennsylvania's gaming industry....Develops  
5 and maintains relationships with key stakeholders to assist  
6 them in creating an environment in which the gaming industry  
7 can thrive in Pennsylvania....Acts as a knowledgeable advocate  
8 in the public sphere for the gaming industry...[and] Maintains  
9 effective relationships with the Pennsylvania General  
10 Assembly."

11 Now, obviously, if your executive director is doing  
12 his job, he is already performing these duties and  
13 responsibilities. And I'll address my question to Counselor  
14 Sprague. Is it my understanding that you feel that these  
15 activities are not lobbying?

16 MR. SPRAGUE: No, I don't think they're lobbying.

17 REPRESENTATIVE SWANGER: Thank you.

18 CHAIRMAN EARLL: I think we're on second round  
19 follow-ups. Has everybody has the opportunity to ask one  
20 round?

21 REPRESENTATIVE SANTONI: Representative Wansacz has a  
22 question for the first round, and then very brief second round.

23 Jim.

24 REPRESENTATIVE WANSACZ: Thank you, Mr. Chairman.

25 Obviously, I think it's come out here today that you

1 guys are a trade organization, and a trade organization is not  
2 registered -- is not required to be registered, under law, as  
3 lobbying. I think that's become very, very clear. As I  
4 mentioned earlier to Mr. Kauffman of the Common Cause is, if we  
5 were to do that, we'd be really cutting off every organization  
6 out there. I can tell you as a Representative, I'm sure every  
7 Representative and Senator here at this table has met with a  
8 trade organization in their lifetime, because that's your job,  
9 is to go ahead and discuss what is important as an organization  
10 to you. Just like the General Assembly - we could kind of be a  
11 trade organization if we wanted because we have disagreements  
12 all the time. I'm sure when you guys meet, as Ms. DeNaples  
13 said, you guys disagree. That happens. That's why you try to  
14 come together and find common ground on what is important to  
15 grow the industry.

16 Mr. Zappala, I think you've done a great job. I  
17 mean, with steering this board, the industry is going to create  
18 over 10,000 jobs, plus the thousands already created on through  
19 the slot machines, the millions of dollars in economic  
20 development, the \$25 million that our volunteer fire companies  
21 get, the hundreds of millions more in taxes that we're going to  
22 get in.

23 You know, I just looked at the revenue numbers the  
24 other day coming in from our Appropriations, and they said, you  
25 know what, we're going to be faced with a budget deficit again

1 this year because our personal income tax is off, our sales tax  
2 is off. Well, once we have 10,000 people to work, I very hope  
3 that the personal income tax is going to go up, the sales and  
4 goods that people are buying are going to go up. So that is  
5 going to help the Commonwealth of Pennsylvania. So I have no  
6 problem with a trade organization meeting, talking about that,  
7 because I think that is your right, just as any home  
8 organization, trade organization, just as the tavern industry,  
9 just as the insurance industry, just as any other industry can  
10 do it.

11           Also, what I would like to talk to you about is I  
12 know a lot of people talk about the campaign contributions.  
13 Well, I introduced an amendment onto the House floor that many  
14 Members voted as unconstitutional when I tried to ban another  
15 industry from contributing to, and let me tell you, gaming is  
16 important. But so is insurance. So is healthcare. So is  
17 utilities. These have effects on everyday people's lives. Why  
18 are we -- why do we say to them, oh, you can contribute, but,  
19 you know, gaming can't? So I'm pretty confident that when the  
20 courts, if this is challenged and goes in front of the courts,  
21 that they're going to strike it down, just as Members of this  
22 General Assembly said it was unconstitutional.

23           So I just wanted to add my comments. Thank you.

24           MR. SPRAGUE: Thank you.

25           CHAIRMAN EARLL: Attorney Sprague, when the radio



1 advertisement ran, what market did that run in? How many days  
2 did it run?

3 MR. SPRAGUE: May Mr. Smukler answer that?

4 CHAIRMAN EARLL: Please.

5 MR. SMUKLER: The radio ads ran in five media markets  
6 across Pennsylvania. It ran for four days in all of those --  
7 it ran for four days in those markets.

8 CHAIRMAN EARLL: Do you have receipts for the buy  
9 times?

10 MR. SMUKLER: I can get them.

11 CHAIRMAN EARLL: Could you please submit those to me?

12 MR. SMUKLER: Sure.

13 CHAIRMAN EARLL: And I'm not trying to play a game of  
14 gotcha here, because I really am trying to understand maybe  
15 where our lobbying disclosure law needs to be amended or  
16 tweaked, but, for example, Attorney Sprague, have you had any  
17 conversations personally with the Governor on any gaming  
18 issues?

19 MR. SPRAGUE: At any time?

20 CHAIRMAN EARLL: At any time.

21 MR. SPRAGUE: Yes.

22 CHAIRMAN EARLL: And your suggestion is that because  
23 you weren't spending any money doing that--

24 MR. SPRAGUE: You didn't ask me what the conversation  
25 was.

1           CHAIRMAN EARLL:  Were you compensated to carry  
2 messages forward to the Governor?

3           MR. SPRAGUE:  Pardon?

4           CHAIRMAN EARLL:  Were you compensated to carry  
5 messages forward to the Governor?

6           MR. SPRAGUE:  The conversation was the other way.  
7 The Governor called me.

8           CHAIRMAN EARLL:  Okay.  How about with the Gaming  
9 Control Board members?

10          MR. SPRAGUE:  Have I had any conversation with any of  
11 them?  Other than when appearing in front of them at a hearing,  
12 no.

13          CHAIRMAN EARLL:  No private conversations?

14          MR. SPRAGUE:  None.

15          CHAIRMAN EARLL:  Okay, but just hypothetically, if  
16 you did have a private conversation that you instigated with  
17 the Governor, for example, are you suggesting that because --  
18 and that you were actually talking to him about some issue of  
19 the day relative to the industry -- you're saying that the law,  
20 in your opinion, the lobbying disclosure law doesn't require a  
21 registration for you to do that because you're not spending any  
22 money in that effort?

23          MR. SPRAGUE:  Well, it would depend how much time,  
24 because I think it's in the alternative.  It's not just one or  
25 the other.  If, for example, I was spending over 20 hours

1 trying to persuade the Governor in terms of supporting and  
2 working on certain legislation, I think, absolutely, I am under  
3 the Lobbying Act and have to register. But if it's less, then  
4 no.

5 CHAIRMAN EARLL: Less than 20 hours?

6 MR. SPRAGUE: But, you know, let me say this. I'm  
7 not a lobbyist in that sense. And to the suggestion, why not  
8 pay the hundred dollars and register? If I was spending my  
9 time, not 20 hours but 15, a significant amount of time with  
10 the Governor, or with Representatives, trying to persuade you  
11 to enact legislation, I wouldn't hold on to the technicalities  
12 there. I'd register.

13 CHAIRMAN EARLL: Justice Zappala, I'll ask you the  
14 same question. Have you had any conversations with any of your  
15 brethren or ex-brethren on any level of the bench in regards to  
16 the Casino Association's business?

17 MR. JUSTICE ZAPPALA: Absolutely not.

18 CHAIRMAN EARLL: Thank you. How about on any gaming  
19 issue, not just Casino Association related?

20 MR. JUSTICE ZAPPALA: Absolutely not, and I think the  
21 last conversation I had with Chief Justice Castille, it was  
22 when he was swearing in Sallie Updyke Mundy. That's all I  
23 know.

24 CHAIRMAN EARLL: But you weren't talking about gaming  
25 during that swearing-in?

1 MR. JUSTICE ZAPPALA: No, there was no need to talk  
2 about gaming, Senator.

3 CHAIRMAN EARLL: And Senator Orie, you have follow-up  
4 questions?

5 SENATOR ORIE: Yes.

6 CHAIRMAN EARLL: And again, we're going to keep the  
7 follow-ups brief so we can recess.

8 SENATOR ORIE: Ms. DeNaples, could you tell me how  
9 much Mt. Airy paid in dues in 2007?

10 MS. DeNAPLES: I believe it was 405.

11 SENATOR ORIE: 405. And could you tell me how much  
12 you paid in 2008?

13 MS. DeNAPLES: It was just one payment.

14 SENATOR ORIE: And can you tell me -- one payment?

15 MS. DeNAPLES: The payment of 405.

16 SENATOR ORIE: For 2007? I'm talking about 2008.

17 MS. DeNAPLES: It was just one payment for the 2007.  
18 No additional payments.

19 SENATOR ORIE: Okay, and what about 2009?

20 MS. DeNAPLES: No additional payments.

21 SENATOR ORIE: So when they have revenues coming in  
22 in 2007, Mr. Sprague, as \$800,000, and 2008, \$425,000, where  
23 did that money -- who all contributed--

24 MR. SPRAGUE: In that year, it would have been the  
25 payment by Mt. Airy and the payment by SugarHouse.

1           SENATOR ORIE: Okay, and that would have been in  
2 2007. What about 2008, where it has listed \$425,000. Who  
3 would have contributed to that?

4           MR. SPRAGUE: I believe that was a payment by Rivers,  
5 which came in then.

6           SENATOR ORIE: Okay. And when you look at that \$1.2  
7 million over a two-year period, and you're not lobbying, you  
8 have employees with no contracts, neither one of them that can  
9 describe their job descriptions or ever saw their job  
10 descriptions, even though you've provided them to us, it leaves  
11 the question is, what are you paying \$1.2 million for to get  
12 one voice when you haven't even reached that goal yet?

13           MR. SPRAGUE: Because we're working on it, and we're  
14 trying to achieve it, and as you will see, Rivers has made one  
15 payment; Mt. Airy, as you just heard, has made one payment,  
16 going back from the start of 2007; the only one that has paid  
17 twice is my place, SugarHouse. And we are working, trying to  
18 get this trade association to be effective. And, you know, I  
19 must say, it picks up on what Representative Caltagirone said--

20           SENATOR ORIE: Mr. Sprague, I only have a limited  
21 amount of time, so I'm going to interject here.

22           MR. SPRAGUE: Okay.

23           SENATOR ORIE: In 2009, is that when you paid again?  
24 And how much did you pay, if you paid twice? How much is it  
25 this year?

1 MR. SPRAGUE: The last payment by SugarHouse was last  
2 year? Last year or the year before, and that was \$350,000.

3 SENATOR ORIE: Okay, so I guess my point is, when you  
4 add that, that's 1.5, and that's what I'm saying. That leaves  
5 an impression of, if this is just a trade association, that's a  
6 lot of money; nobody knows what their job descriptions are,  
7 nobody knows; there's no contracts for any of these  
8 individuals. It leaves one to wonder what the purpose is.

9 MR. SPRAGUE: I believe you're making a speech.  
10 That's not a question. And you have a copy of the job  
11 description for executive director. You have a copy of the job  
12 description for director of operations. We have just gone  
13 through what we have done, and just to say, nobody knows what  
14 you're doing, you've just been listening to us for three hours.

15 SENATOR ORIE: Mr. Sprague, could you also answer for  
16 me that -- you indicated that Cozen and O'Brien are the ones  
17 that filed your articles of incorporation.

18 MR. SPRAGUE: Cozen and O'Connor.

19 SENATOR ORIE: Correct. And then your mission  
20 statement changes from the articles of incorporation, the  
21 rider. When were those changes made, and why?

22 MR. SPRAGUE: I have no recollection.

23 SENATOR ORIE: And the fact that the rider indicates,  
24 "helping to represent the industry before the Legislature and  
25 elected and appointed officials in addressing issues and

1 related matters of importance to the industry generally," that  
2 doesn't -- I guess my question would be, your mission  
3 statement, this is more descriptive of lobbying, if you ask me.

4 MR. SPRAGUE: Well, it may be. I really don't -- I'm  
5 surmising, as I said. I really don't recall. It may be that  
6 that was changed when the law was knocked out affecting  
7 political contributions. I don't know. I'm just guessing at  
8 that.

9 SENATOR ORIE: Okay. Well, maybe you could get back  
10 to me on that.

11 And my last question would be, when you gave the  
12 duties of everybody on December 1st, is there a reason that you  
13 left out the duties of the chairman?

14 MR. SPRAGUE: I'm sorry, I didn't hear that question.

15 SENATOR ORIE: You did a letter on December 1st to  
16 the Chairman of the House Gaming Committee, and in that letter,  
17 you described everybody's duties, and when I asked Ms. Michele  
18 Zappala Peck if she knew what her duties were, if she had seen  
19 that, she had indicated no, and I wanted to ask you, why the  
20 omission of the duties of the chairman?

21 MR. SPRAGUE: Well, the question that Representative  
22 Santoni, if you looked at his question, the question, you see,  
23 your question is a misleading question. His question was,  
24 quote, "What are the duties of the Association senior staff,  
25 including its Executive Director?" And that's what I answered.

1           SENATOR ORIE: Are there duties that you -- because  
2 in asking Mr. Zappala, and I think it was asked by  
3 Representative Vereb and others, he didn't even know he was the  
4 chairman. Are there specific duties for the chairman that you  
5 can provide this committee?

6           MR. SPRAGUE: Yeah. Let me tell you. If it wasn't  
7 for Chief Justice Zappala, I would--

8           SENATOR ORIE: Mr. Sprague, I'm just asking you, do  
9 you have duties for the chairman?

10          MR. SPRAGUE: Yeah, I'm answering it.

11          SENATOR ORIE: Do you have them in written form like  
12 you did for executive director?

13          MR. SPRAGUE: No, I don't have them in written form,  
14 but in trying to get this trade association yet with more  
15 members, more effective, so we can speak as a common voice, the  
16 fact that I have Chief Justice Zappala working with me, just in  
17 all the things that Representative Caltagirone said, is what  
18 gives me a voice. If you think those people give one hoot  
19 about if it's Dick Sprague, no. The fact that it's Dick  
20 Sprague with Chief Justice Zappala, that is what is attractive  
21 to them.

22          SENATOR ORIE: And what is -- for a trade  
23 organization to have \$1.6 million in revenues raises a red flag  
24 as to what else and what the purpose of that association is  
25 for. That is our bottom line.



1 MR. SPRAGUE: What do you think we're doing? You  
2 make a statement like that, and you're just surmising, just  
3 like you said at one point you never heard of us. And so  
4 because you never heard of us, what, that makes us some weirdo?  
5 There is a lot of things you never heard of.

6 SENATOR ORIE: No, Mr. Sprague, when you're looking  
7 at the money, and you're looking at the nature of the gaming  
8 industry, transparency is something that I've been pushing for  
9 from day one, and that's all I'm putting on record with you.

10 REPRESENTATIVE SANTONI: Follow-up from Chairman  
11 Schroder.

12 REPRESENTATIVE SCHRODER: Thank you, Mr. Chairman,  
13 and I will be brief.

14 Mr. Sprague, earlier on, you suggested that had  
15 Representative O'Brien or someone just made a friendly  
16 suggestion to you, that in fact you might have registered the  
17 PCA, you know, as a principal, as a lobbyist organization. I  
18 guess my question, then, is this: You know, this hearing was  
19 called because of, you know, a number of things, articles that  
20 started to appear in the newspaper about the role of the PCA,  
21 questions that were raised in those articles about, you know,  
22 lobbying or the extent of lobbying. Then you receive a letter  
23 from Chairman Santoni raising, you know, direct questions about  
24 the activities of PCA and whether or not the organization, in  
25 fact, lobbied. So my question to you is, in light of that, did

1 you go seek an advice, an opinion, from the State Ethics  
2 Commission under Section 1308(C) of the act to get the Ethics  
3 Commission's determination as to whether or not your  
4 association should lobby -- or, should register, excuse me?

5 MR. SPRAGUE: No. I think I'm a better lawyer than  
6 they are.

7 REPRESENTATIVE SCHRODER: Well, I don't -- that's an  
8 interesting statement. Does that show a certain disdain for  
9 the Ethics Commission?

10 MR. SPRAGUE: No. It means that I can read the law,  
11 I can read statutes, I can see what they say, and where it is  
12 very clear what they say. I don't need to go to somebody else  
13 for their interpretation.

14 REPRESENTATIVE SCHRODER: But you're aware that had  
15 you done so, and had you received a favorable advice to your  
16 position, that you would have protection under the law, under  
17 the act, by complying in good faith with that. So in light of  
18 that, wouldn't a reasonable person in your position just say,  
19 eh, let me go get the advice of the Ethics Commission. We're  
20 sure of our position. Once they affirm that, we'll have  
21 protection under the law. All this will go away. There  
22 wouldn't be any need for a hearing today.

23 MR. SPRAGUE: Representative Schroder, all my life, I  
24 have never accepted just the easy way if what I thought I was  
25 doing was right.

1           REPRESENTATIVE SCHRODER: Let me ask this: Has the  
2 PCA or any individual, up to this point, received a notice of  
3 noncompliance from the Ethics Commission?

4           MR. SPRAGUE: No.

5           REPRESENTATIVE SCHRODER: Okay.

6           In closing, I just wanted to, you know, make a couple  
7 observations. There seems to be an effort by some towards the  
8 end of this hearing to state a conclusion, and I'm mostly  
9 talking about members of this panel, and this is not  
10 necessarily directed at Mr. Sprague and the other individuals,  
11 that a trade association, you know, cannot lobby, and we  
12 shouldn't even be talking about this because PCA is a trade  
13 association. I believe that's an oversimplification and a  
14 misreading of the Lobbyist Disclosure Act.

15           As Mr. Sprague has pointed out, there are triggers in  
16 the act, and if an individual or organization goes beyond those  
17 triggers, they are in fact required to register. And the  
18 question before us today, and as Chairman Earll has adroitly  
19 stated, it's to get to those facts as to whether or not certain  
20 activities occurred that would trigger it. And we may agree or  
21 disagree, and some light has been shed on some of those  
22 questions. But I just wanted to put that on the record. I  
23 also think the--

24           MR. SPRAGUE: Representative Schroder, may I say  
25 this? I totally agree. Being a trade association, as such,

1 does not require you to register as a lobbyist, but a trade  
2 association can do lobbying, which, if it does it in a certain  
3 way, will require it to register.

4 REPRESENTATIVE SCHRODER: I think we were in complete  
5 agreement, until perhaps the "in a certain way," only because I  
6 don't know what you meant by that.

7 MR. SPRAGUE: I just meant that if you exceed or go  
8 above what the exemption is.

9 REPRESENTATIVE SCHRODER: I understand.

10 The other thing I would like to say, as to  
11 suggestions that have been made that it is constitutionally  
12 impermissible to prohibit campaign contributions on the part of  
13 this particular industry in comparing it with amendments that  
14 were offered to, you know, prohibit contributions from other  
15 industries, I just suggest that everyone who has not done so  
16 actually read the DePaul decision of the Supreme Court. In  
17 fact, they made it quite clear that it was constitutionally  
18 permissible, and it met the strict scrutiny test for free  
19 speech to prohibit contributions from people in this industry.  
20 Then, they veered down a different path, looking at the  
21 difference between the legislative intent of the original  
22 statute and what the statute actually did. And that's the  
23 basis upon which that original prohibition was struck down. So  
24 I would just advise everyone to read the DePaul decision. It  
25 in fact is very enlightening.

1           And Madam Chairman, I thank you for your time and the  
2 hearing. Thank you.

3           REPRESENTATIVE SANTONI: Follow-up from  
4 Representative Vereb.

5           REPRESENTATIVE VEREB: Thank you, Mr. Chairman.

6           I guess my only question is, what would you do  
7 different today, knowing all of the questions that have arisen,  
8 whether -- we're not suggesting you did right or wrong. What  
9 would you do differently today? I'd actually like to ask the  
10 chairman--he didn't even know he was chairman until he got here  
11 today--so now that you know you're the chairman, Justice, what  
12 would you do differently today for the organization you head  
13 up?

14           MR. JUSTICE ZAPPALA: I'm not the chairman.

15           REPRESENTATIVE VEREB: Oh, you're not the chairman  
16 now? He fired you that quick? I'm kidding.

17           MR. SPRAGUE: I'm the chairman of the board.

18           REPRESENTATIVE VEREB: Okay. And he's -- the Justice  
19 is chair of--

20           MR. SPRAGUE: The association.

21           REPRESENTATIVE VEREB: Of the association.

22           MR. SPRAGUE: So is the question to me?

23           REPRESENTATIVE VEREB: Actually, yes.

24           MR. SPRAGUE: In one sense, I would do nothing  
25 different, but to the extent that I have seen what has appeared

1 in the press to be what I call sort of some malicious,  
2 defamatory publications, if I could have avoided that, just  
3 from that standpoint, my friend Representative O'Brien is  
4 right, pay the \$100 and register and avoid it. It's costing me  
5 a lot more than that \$100 to be here, spending this time. And  
6 I said earlier, if I believe I'm doing what's right, I don't  
7 take the shortcut on it.

8 For myself, I'd probably stick to the same thing. I  
9 am very offended and bothered by how this has been used to  
10 attack and smear the Zappala family. If I could have avoided  
11 that, I'd have paid the \$100.

12 REPRESENTATIVE VEREB: Well, I'd just make a comment  
13 on that. Mr. Sprague, in all due respect, the fact that he's a  
14 former Chief Justice, this is the only industry that I'm aware  
15 of in Pennsylvania that has direct access to the Supreme Court  
16 by any appellate issue, and they go right to the Supreme Court.  
17 I'm not aware of any other industry that has that. So, you  
18 know, maybe I'm wrong. But I didn't write this bill. You  
19 know, so that brings this to a whole other level of discussion.  
20 And as the Chairwoman said, you know, we're trying to find out  
21 exactly what happened and what's going on here, and, you know,  
22 that's the purpose of today's hearing. So I'm not making an  
23 attack. I think it's a great honor to be able to have the  
24 reverse, to be able to ask questions of a Justice. I've never  
25 been in front of the Supreme Court.

1           Let me just say this, though.

2           MR. SPRAGUE: I'm not suggesting that this committee  
3 here has said or done anything improper. No, no.

4           REPRESENTATIVE VEREB: Okay.

5           MR. SPRAGUE: My comment was, as a result of things,  
6 things have appeared in the press -- and I'm a great one for  
7 suing the press -- that have been, I think, false and  
8 defamatory of the Zappala family.

9           REPRESENTATIVE VEREB: I want to stick to my  
10 commitment of time to the Chairperson and just ask you this:  
11 Do you think that the association was helpful with the final  
12 taxation that was put in this last piece of legislation? I  
13 know that was one of the things that you were advocating for in  
14 your message. Do you feel your message worked, either directly  
15 or subliminally?

16           MR. SPRAGUE: I think -- and maybe I'm taking credit  
17 for what I don't deserve -- I think that our e-mail, where we  
18 suggested that to go and create another, a third resort, and  
19 that we took that as violative of the previous law and that we  
20 could sue for the \$50 million license fee, I think that was  
21 helpful in having it stay, at least until the year 2017, of two  
22 resorts. I don't think that our position in terms of the table  
23 tax -- I think that was worked out by all of you, and I don't  
24 think we meant two cents in that whole thing.

25           REPRESENTATIVE VEREB: Okay. Thank you.

1           And just a follow-up comment, Madam Chair, is, you  
2 know, the one thing I've learned today is this association  
3 actually has done less since its inception than the House of  
4 Representatives has done on some of these gaming issues over  
5 the last two Sessions. And I got to tell you, I don't want to  
6 hear from any lobbyists or any of the licensees ever again  
7 about taxation with the money they're spending for your  
8 association. My hope, honestly, is that -- you're a very  
9 brilliant attorney. You're a former Chief Justice. Go  
10 register, become the lobbying firm that everyone may think you  
11 do or not, and then we don't have any more hearings,  
12 potentially, and we live happily every after. And when we do  
13 revisit trade association legislation, Mr. Sprague, I would  
14 hope you would accept an appointment with me so we could help  
15 craft the language, since you have a great way of interpreting  
16 it.

17           MR. SPRAGUE: I would love to, and I'll repeat what I  
18 said earlier -- I don't think Representative O'Brien was here  
19 -- if it is agreed by this committee that there was no need for  
20 us to have registered under the facts, I will, even without our  
21 yet getting a lobbyist, register and pay the \$100. But I will  
22 not do it if there's any suggestion that we were wrong in not  
23 having registered.

24           CHAIRMAN EARLL: You are wily, Mr. Sprague. I don't  
25 think you're going to get a consensus opinion out of this



1 committee whether you were wrong or not, so the burden is on  
2 you to choose to register or not, regardless of what we think  
3 about your prior activity.

4 I would like to just, in closing, say that I do  
5 appreciate everyone's time. We have heard a lot of information  
6 this morning, some of it relevant, some of it not. We're going  
7 to take some time -- at least speaking for myself and my  
8 staff -- we're going to take some time and digest what we've  
9 heard. But I think going forward, you clearly now understand  
10 the concerns. So, you know, your course of action is up to  
11 you, but I do appreciate your testimony this morning.

12 MR. SPRAGUE: Thank you.

13 REPRESENTATIVE SANTONI: And if I could just conclude  
14 with some brief comments. I didn't make many because I know  
15 there were many questions, but I do want to thank all seven of  
16 you for coming to Harrisburg to testify. I know you came from  
17 far and wide. And I know there were some questions as to  
18 whether this hearing was necessary. But as a strong proponent  
19 of gaming, I led the charge in the House on the table games. I  
20 stood on the floor for many, many, many, many, many hours. And  
21 one of the criticisms that we always hear from the opponents is  
22 that things are done secretively, things are done behind closed  
23 doors. There's that out there, that element out there, with  
24 regard to gaming. So Chairlady Earll and I decided that it was  
25 important to get the information out with regards to your

1 organization. We do appreciate all the information.

2 I think, it's said pretty clearly in my second  
3 letter, my second paragraph to Mr. Zappala, and I'll just, it's  
4 only a sentence or two, "At the outset let me make clear that I  
5 fully support and encourage the Commonwealth's licensed gaming  
6 facilities to organize and speak with one voice on various  
7 legislative issues before the General Assembly. As you are  
8 well aware, all issues surrounding casinos will continue,"  
9 stress this point, "will continue to receive greater scrutiny,  
10 and so the industry must rise to the occasion and meet these  
11 higher standards." And that's all we were trying to do.

12 Thank you so much for your time, and I wish you a  
13 safe trip home.

14 MR. SPRAGUE: Thank you.

15 (Whereupon, the proceedings were concluded at 12:25  
16 p.m.)

17

18

19

20

21

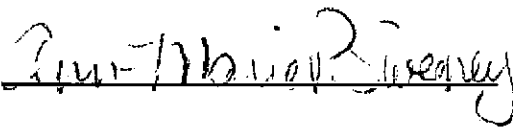
22

23

24

25

1 I hereby certify that the proceedings and evidence are  
2 contained fully and accurately in the notes taken by me during  
3 the hearing of the within cause, and that this is a true and  
4 correct transcript of the same.

5  
6  
7  
8  
9 

10 ANN-MARIE P. SWEENEY  
11 Chief Official Reporter  
12 Senate of Pennsylvania

13  
14  
15 THE FOREGOING CERTIFICATION DOES NOT APPLY TO ANY  
16 REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT  
17 CONTROL AND/OR SUPERVISION OF THE CERTIFYING REPORTER.

18  
19  
20  
21 ANN-MARIE P. SWEENEY  
22 Chief Official Reporter  
23 Senate of Pennsylvania  
24 Room 644, Main Capitol Building  
25 Harrisburg, PA 17120  
(717)787-4205