IN THE MATTERS OF THE APPLICATION
OF BALLY'S PARK PLACE, INC., a
New Jersey Corporation, FOR A
CASINO LICENSE AND THE APPLICATION
OF BALLY MANUFACTURING CORPORATION,
a Delaware Corporation, FOR A
CASINO SERVICE INDUSTRY LICENSE.

Decided: March 16, 1981
Approved for Publication By The Casino Control Commission:
April 8, 1988

SYNOPSIS

Bally's Park Place applied to the Casino Control Commission for
a casino license and Bally Manufacturing Corporation applied for a
casino service industry license. The matter was heard by the Casino
Control Commission.

In its decision, the Commission explained that the criteria for
casino licensure (N.J.S.A. 5:12-84, -86 and -89) and service industry
licensure (N.J.S.A. 5:12-92(a), -92(b), -86 and -89) must be affirmatively
established by the applicant by clear and convincing evidence. The
clear and convincing standard requires producing a firm belief as the
truth of matters sought to be established. Thus, the test is more than
the civil standard of preponderance of the evidence but less than the
criminal standard of beyond a reasonable doubt.

The Commission first examined the persons who must qualify
under Section 85 as persons who have the ability to significantly influence or control the operations of the corporate applicant. Those
persons must demonstrate good character, honesty and integrity as
required by Section 89(b)(2). In applying this standard, the Com-
mission is required to make a predictive judgment as to how an
individual will conduct himself in the future based on evidence of past
conduct. Evidence of specific acts should be given more weight in
making this determination than opinion testimony regarding an indi-
vidual's reputation.

Applying these standards, the Commission found that the one
Bally officer and major stockholder, William T. O'Donnell, did not
demonstrate good character and was therefore not qualified. This
determination was based on O'Donnell's past association with individ-
uals with ties to organized crime and on his participation in an attempt
to influence legislators in Kentucky.
Prior to the hearing, and as a condition for issuance of a temporary casino license for Bally's, O'Donnell had resigned from his corporate office and agreed to other conditions terminating his influence as a shareholder. He had, however, requested a determination as to his qualification. Another major shareholder, Alexander R.A. Wilms, similarly severed ties to Bally and was not considered during the hearing as a person who must qualify. No determination was made as to Wilms' qualification.

The Commission found that 22 individuals other than O'Donnell and Wilms who were required to qualify did demonstrate requisite good character and were therefore qualified.

Regarding the corporate applicants, the Commission measured their integrity by the integrity of the persons controlling the companies. Even if only one person had engaged in improprieties, the corporate entity would not be qualified if other persons in control ratified or tolerated the improper conduct. In this case, the Commission found that O'Donnell's conduct did not reflect on the present management of the corporate applicants. The corporate applicants had demonstrated requisite good character for licensure. However, conditions were set out continuing O'Donnell's severance from influence and control.

Bally's Park Place was granted a conditional casino license and Bally Manufacturing was granted a conditional casino service industry license. Both licenses were dependent on O'Donnell, Wilms and the corporate applicants abiding by conditions set out in the Commission's decision to prevent any influence or control by O'Donnell and Wilms.

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BY THE CASINO CONTROL COMMISSION:

INTRODUCTION

On February 24, 1978, Bally's Park Place, Inc., a New Jersey corporation (then known as Bally of New Jersey, Inc.) applied to the Casino Control Commission for a casino license. In accordance with the Casino Control Act, the Commission requested the Division of Gaming Enforcement ("Division") to conduct a comprehensive investigation into the qualifications of Bally's Park Place. While the investigation was in progress, Bally's Park Place proceeded with the reconstruction of the former Dennis Hotel into a proposed casino hotel facility involving substantial other new construction upon the site of the former Marlborough-Blenheim Hotel.

On October 1, 1979, Bally's Park Place formally requested issuance of a temporary casino permit pursuant to N.J.S.A. 5:12-95.1, et seq. After conducting a hearing on this request, the Commission found that, subject to certain conditions, Bally's Park Place met the requirements for a temporary casino permit. The Commission then issued such a permit and a certificate of operation effective December 29, 1979. Bally's Park Place has been operating its casino hotel continuously since that date. The temporary casino permit expired at midnight on December 29, 1980.

The statutory requirements for a temporary casino permit are limited to areas which do not concern the suitability of the corporate applicant or the suitability of the entities and persons required by law

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1Bally's Park Place, Inc., the corporate casino license applicant is a wholly-owned subsidiary of publicly-traded Bally's Park Place, Inc., a Delaware corporation. ["Bally's Park Place (Delaware)"] Bally's Park Place (Delaware) is in turn an 82.8 percent owned subsidiary of publicly-traded Bally Manufacturing Corporation, a Delaware corporation whose principal place of business is at 2640 West Belmont Avenue, Chicago, Illinois. As will be seen, Bally Manufacturing Corporation is itself a direct applicant for a casino service industry license.
to be qualified for a casino license. However, those deferred suitability issues are essential to this plenary casino license determination.

In addition to the casino license application of Bally's Park Place, this Commission must decide the casino service industry license application of Bally Manufacturing Corporation, a Delaware Corporation [hereinafter, at times, "Bally"]). On January 25, 1978, Bally applied for a casino service industry license seeking authorization to conduct business directly relating to casino or gaming activity pursuant to N.J.S.A. 5:12-92(a) and (b). In the usual course, the matter was referred to the Division for investigation.

On August 12, 1980, the Division filed with the Commission its "Report" with regard to the application of Bally’s Park Place for a casino license and the application of Bally Manufacturing Corporation for a casino service industry license. Along with the Report, the Division filed a "Statement of Issues" emphasizing several matters which the Division deemed significant. These documents were submitted by the Division pursuant to its statutory responsibility to investigate the qualifications of each applicant and to provide all necessary information to the Commission. N.J.S.A. 5:12-76. Although they assist the Commission in focusing its inquiry into the qualifications of the applicants, these documents are not evidence of the matters stated therein. Nor did the Report and Statement of Issues initiate the present hearing. The Casino Control Act requires a hearing on every casino license application and each applicant must meet the statutory criteria regardless of the tenor of the Division’s report. See N.J.S.A. 5:12-87.

In order to expedite the proceedings and to fairly permit the parties to prepare for the hearing, five pre-hearing conferences were conducted. Those conferences resulted in five pre-hearing conference orders delineating the factual matters which were to be the primary subjects of the hearing. Essentially, those subjects concern the areas described in the Division’s Report. Further, the applicants and the Division have entered into limited stipulations of fact relevant to those areas. These stipulations have been accepted by the Commission. As to any other factual matters not placed in issue nor actually litigated during the hearing, it must be assumed that such matters pose no cause for concern. In this regard, the Commission takes notice of the fact that the applicants have to date filed numerous documents which pertain to uncontested matters and which were not introduced at the hearing. The real task at hand is to determine whether the evidence
actually developed at this hearing indicates that the applicants are suitable or not.

The statutory standards which must be applied in deciding the suitability of Bally's Park Place for a casino license are contained in sections 84, 86 and 89 of the Act. N.J.S.A. 5:12-84, -86 and -89. Sections 84 and 89(b) set forth the criteria which the casino license applicant and the other persons required to be qualified as a condition of such licensure must affirmatively establish by clear and convincing evidence. The clear and convincing evidence requirement falls between the ordinary civil standard of "preponderance of the evidence" and the criminal standard of "beyond a reasonable doubt." The preponderance standard means simply that when the record is considered as a whole the credible evidence renders the existence of the fact in question more likely than not. In contrast, the familiar criminal standard means that the trier of fact must not have a reasonable doubt, that is, one based on the evidence or the lack of evidence. A reasonable doubt is one which has some justification rather than an imaginary or possible doubt. The clear and convincing standard is much higher than the preponderance standard but somewhat less than the reasonable doubt requirement. Clear and convincing evidence should produce in the mind of the Commission a firm belief or conviction as to the truth of the matters sought to be established. In order to sustain its burden, an applicant must present clear and convincing proof of the facts upon which the Commission may reach a reasonable conclusion as to suitability. Further, the Act requires that four of the five Commission members must concur in any necessary finding for casino licensure. N.J.S.A. 5:12-73(d).

As noted, a casino license applicant must establish by clear and convincing evidence that it meets the criteria of Section 84 and that the persons who must be qualified meet the criteria of Section 89(b) for casino key employees. For Bally's Park Place, a corporate casino license applicant, the persons required to so qualify are described in Sections 85(c) and 85(d) of the Act. N.J.S.A. 5:12-85(c) and -85(d). In determining whether a person is one required to be qualified, the paramount consideration is whether or not that person has the ability to significantly influence or control operations of the relevant company. Under Section 85(c), the following persons connected with Bally's Park Place must qualify:

(a) each officer;
(b) each director;
(c) each person holding any beneficial interest, direct or indirect, in the securities of the applicant corporation;
(d) any person who in the opinion of the Commission has the ability to control the corporation or elect a majority of the board of directors of the corporation, other than a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business; and
(e) any lender, underwriter, agent or employee of the applicant corporation or other person whom the Commission considers appropriate for qualification.

Under Section 85(d) the officers, directors, lenders, underwriters, agents, employees and securities holders of Bally's Park Place, Inc., (Delaware) (the intermediary company) and Bally Manufacturing Corporation (the holding company) must qualify to the standards under Section 89, except residency. See N.J.S.A. 5:12-89. However, since both the intermediary company (Bally's Park Place, Inc., (Delaware)) and the holding company (Bally Manufacturing Corporation) are publicly traded corporations, the Commission and the Director of the Division may agree to waive such qualification requirements as to any person who is not significantly involved in the activities of the applicant corporation, Bally's Park Place, and who does not have the ability to control the holding company or the intermediary company or to elect one or more directors thereof.

During the pre-hearing conferences, the Division submitted a list of persons whom the Division deemed required to be qualified in order for Bally's Park Place to receive a casino license. The Division also indicated those individuals to whom it interposed an objection and the grounds for such objection. These materials were provided to the Commissioners and the parties. Of the 23 persons ultimately required to qualify, only William T. O'Donnell drew a specific and express objection from the Division. Although the Division initially objected to Alexander R. A. Wilms as well, the Division later agreed to waive Mr. Wilms as a person required to qualify if certain conditions are met. These matters are discussed in greater detail below.

As to the licensure standards themselves, Section 84 and 89(b)(2) establish essentially the same qualification criteria which must be demonstrated by clear and convincing evidence for the corporate applicant and the persons to be qualified.

The first such affirmative qualification criterion is that of "financial stability, integrity and responsibility". N.J.S.A. 5:12-84(a); N.J.S.A. 5:12-89(b). The second affirmative qualification criterion appears in Section 84(c) and in Section 89(b)(2). Although the wording
of the two sections is not precisely the same, the difference is without
consequence. A casino license applicant or a person required to qual-
ify must demonstrate "by clear and convincing evidence . . . reput-
tation for good character, honesty and integrity", N.J.S.A.
5:12-89(b)(2). Although literally this language refers to "reputation",
the Commission has previously held the basic standard to be the actual
character and trustworthiness of the individual. See In the Matter of
the Application of Resorts International Hotel, Inc., for a Casino
License, (1979) Opinion at pp. 8-9. Of course, reputation is an ac-
cepted indicator of character and an applicant would be obliged to
convincingly dispel any negative reputation evidence. The third
affirmative qualification criterion requires the applicant or qualifying
person to demonstrate, by clear and convincing evidence, "sufficient
business ability and casino experience as to establish the likelihood"
that the applicant will create and maintain "a successful, efficient
casino operation", or that the qualifying person will achieve "success
and efficiency in the position involved", N.J.S.A. 5:12-84(d); N.J.S.A.
5:12-89(b)(3). A fourth affirmative criterion applies only to the casino
license applicant which must establish the "integrity and reputation"
of all financial investors or lenders whose investments or loans are
related to the Atlantic City casino hotel project. N.J.S.A. 5:12-84(b).

As previously indicated, in addition to the casino license appli-
cation of Bally's Park Place, the Commission must also rule upon the
casino service industry license application of Bally Manufacturing
Corporation. This corporation seeks to provide goods or services to
New Jersey casinos which directly relate to casino or gaming activity.
More precisely, this company is a manufacturer and supplier of gam-
ing equipment. Thus, the suitability standards to be satisfied by Bally
Manufacturing Corporation in order to obtain a casino service indus-
try license are those set forth in Sections 92(a) and 92(b), 86 and 89

Under Section 92(b), Bally Manufacturing Corporation, as well
as its owners, management and supervisory personnel and other prin-
cipal employees must qualify under standards, except residency, estab-

1A fuller explanation of the licensing criteria and the decisional process is
contained in the written instruction provided by the presiding officer, Vice-
Chairman Danziger, to the Commission members for their guidance. The
instruction has been transcribed in the record and need not be restated at
length here. It suffices to note that the Commission followed the guidelines
in reaching its decision.
lished for qualification of a casino key employee under Section 89 of the Act. The affirmative qualification criteria of this section have been set forth above. The so-called negative or disqualification criteria of Section 86 are also incorporated by reference in Section 89. N.J.S.A. 5:12-89(d). As to the persons who must meet these criteria as part of the Bally casino service industry license application, they will be considered together with the group of individuals who must similarly qualify as part of the Bally’s Park Place casino license application.

Simply stated, the task of the Commission on these applications is to determine whether Bally, Bally’s Park Place and the persons required to individually qualify have convincingly demonstrated the positive attributes required by the Act. In its investigative report and its “Statement of Issues” the Division directed the attention of the Commission to several areas of concern. Each of the significant areas were fully explored at the hearing. At the conclusion of this proceeding, the Division objected to William T. O’Donnell as a person who must qualify for both the casino license application of Bally’s Park Place and the casino service industry license application of Bally Manufacturing Corporation. Further, the Division objected to both companies as being generally unfit for licensure. A review of the lengthy record and the voluminous exhibits reveals that Mr. O’Donnell either initiated the most important events in question or bore direct responsibility for them in his role as Bally’s undisputed leader. Put differently, to recount Mr. O’Donnell’s activities is to recount the relevant history of Bally. Thus, we address ourselves first to Mr. O’Donnell’s suitability and the suitability of the other “qualifiers”. Thereafter, we consider the suitability of the corporate entities.

II. PERSONS REQUIRED TO QUALIFY

A. WILLIAM T. O’DONNELL

1. INTRODUCTION

William T. O’Donnell who presently resides in Winnetka, Illinois, was born on September 26, 1922, in Chicago, and was educated at Loyola Academy and Sullivan High School in Chicago. He left high

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3There is no allegation that any of these entities or individuals falls under one or more of the disqualifying or negative criteria of Section 86. N.J.S.A. 5:12-86.
school before graduation to help support his family. From 1943 to 1945 he served in the United States Marine Corps. Early in 1946 William O’Donnell became employed by Lion Manufacturing Company in the purchasing department. Approximately six to eight months later he moved to the sales department. By the mid 1950’s he had become the sales manager and by late 1950’s the general sales manager.

Lion Manufacturing had been founded in the 1920’s by Raymond J. Moloney, primarily as a mail order business. In 1931 the company was incorporated and began manufacturing a pinball machine known as the “Bally-hoo”. During the 1940’s and 1950’s Lion produced and sold pinball machines and various other types of coin operated machines (including, until about 1949, slot machines), primarily for domestic consumption.

In 1958 Mr. Moloney died and his estate, which included Lion Manufacturing, was placed in trust with the American National Bank and Trust Company of Chicago as administrator. William O’Donnell was one of five directors of Lion appointed by American National. In 1962 American National advised the Lion directors that it intended to liquidate the assets of Lion since the company was not then profitable and since American National felt that liquidation was in the best interests of the estate. Mr. O’Donnell requested, and American National granted him, the opportunity to raise the necessary money to purchase the assets of Lion. Ultimately, Mr. O’Donnell succeeded in assembling a small group of investors who acquired the assets of Lion on June 17, 1963, from the estate of Mr. Moloney for $1.2 million.

In March 1968, Bally Manufacturing Corporation was incorporated, and in April 1968, Lion was merged into Bally. In 1969, Bally made its initial public offering of common stock, and in 1971 Bally made a second public offering of common stock. In August 1975, Bally’s, stock began to be traded on the New York Stock Exchange.

Bally is today a publicly-traded corporation. The approximately 25,500,000 shares of common stock of the company are distributed amongst approximately 22,676 stockholders of record and approximately 65,000 beneficial owners. In addition, approximately $35 million of 6 percent convertible subordinated debentures due 1998 are owned by 369 holders of record. Bally’s principal business involves the design, manufacture, sale and distribution of slot machines, German gaming machines, various types of pinball machines, arcade-amusement games and other related products. Bally-owned dis-
tributors sell these and competitive lines of machines, as well as types of coin-operated equipment which Bally does not itself manufacture. Bally operates 209 arcade-amusement centers in 37 states and leases coin-operated products and equipment, including slot machines. Since December 29, 1979, a majority-owned subsidiary has operated a casino hotel in Atlantic City. Products manufactured by Bally are distributed throughout the world by a network of distributors, including distributors which are wholly-owned or majority-owned subsidiaries of Bally. Distributors of Bally's products market such products through approximately 70 locations in the United States and Canada and approximately 20 locations abroad. 18 distribution locations in the United States and 6 locations in other countries are maintained by wholly-owned or majority-owned subsidiaries of Bally. As of December 31, 1979, Bally had total assets of $602 million. For the first three quarters of 1980, Bally's revenues were $347 million, net income was $38.6 million and earnings per share were $1.45.

Until December 1979, Mr. O'Donnell was president, chairman of the board of directors and chief executive officer of Bally. At that time, investigative concerns relating to Mr. O'Donnell's suitability were expressed by the Division with regard to the application of Bally's Park Place for a temporary casino permit. As part of an agreement among Bally Manufacturing Corporation, Bally's Park Place (Delaware), Bally's Park Place and Mr. O'Donnell, dated December 5, 1979, Mr. O'Donnell resigned as president, chairman of the board, employee and director of Bally and all its subsidiary companies. He agreed not to exert any influence or control over Bally and its subsidiary companies. Additionally, he further agreed to execute an irrevocable voting trust with regard to all his shares of stock in Bally Manufacturing Corporation and in Bally's Park Place (Delaware). The voting trustees are authorized and directed to vote Mr. O'Donnell's shares in accordance with the majority of the shareholder votes cast in any particular election by the shareholders. Finally, Mr. O'Donnell agreed that: (1) upon a Commission finding of non-qualification as to him, he would promptly submit to the Commission for approval a plan of divestiture of his stock; and (2) upon final adjudication of a Commission finding of non-qualification as to him, he would divest himself of the stock of Bally and its subsidiaries owned by him. This agreement was made a condition of the temporary casino permit issued to Bally's Park Place, effective December 29, 1979. Mr. O'Donnell is the largest single stockholder of Bally. In addition, he owns stock in Bally's Park Place, (Delaware). Mr. O'Donnell was,
up until the time of his resignation, the acknowledged leader and prime mover of the Bally group.

As an officer, director, major stockholder and principal employee of Bally and some of its subsidiaries, William O'Donnell clearly would have been a person who must individually be qualified for approval as a casino key employee (except for New Jersey residence) in order for Bally's Park Place to be eligible to hold a casino license. While Mr. O'Donnell has resigned from these positions and placed his stock in a voting trust, all parties to this proceeding, including Mr. O'Donnell, seek a determination as to his qualification. In any event, by virtue of the history of Mr. O'Donnell's relation to Bally, his significant stock interests and his intent to return to a position of control should he be found to be qualified, he is a person whom the Commission considers appropriate for qualification. N.J.S.A. 5:12-85(c) and (d). For these reasons, Mr. O'Donnell also falls into the group of "owners, management and supervisory personnel" who must meet the same high standards as part of the application of Bally Manufacturing Corporation for a gaming-related casino service industry license. See N.J.S.A. 5:12-92(b). Mr. O'Donnell, therefore, has the affirmative responsibility to establish by clear and convincing evidence his "financial stability, integrity and responsibility", his "good character, honesty and integrity", and his "business ability and casino experience". N.J.S.A. 5:12-89(b).

With regard to Mr. O'Donnell, the bulk of the evidence presented to the Commission relates to the licensure criterion of "good character, honesty and integrity". The Act requires the Commission in determining an individual's "good character, honesty and integrity" to examine, among other factors, that individual's "family, habits, character, criminal and arrest record [if any], business activities, financial affairs and business, professional and personal associates". N.J.S.A. 5:12-89(b)(2).

In order to determine whether an individual is in fact qualified, this Commission must make a judgment as to how that individual will conduct himself in the future. The need to make that predictive judgment, in turn, requires investigation of what has been denoted the individual's "character". This character inquiry is not undertaken to pass moral judgment on a person's behavior or to punish past wrongs. Rather, the good character standard has been established under the Casino Control Act because of its clear and close relationship to the paramount objective of an honest and efficient casino industry. See N.J.S.A. 5:12-1(b)(7) and (15). The good character re-
requirement heads off the risk of wrongdoing. It assures to the extent practicable honest performance. It meets the public expectation that casinos and the industries which directly serve them will be operated by individuals of unquestionable honesty and integrity.

"Good character" is a concept used repeatedly in legal as well as everyday affairs. It is demanded in sundry situations, including, among others, business, personal and governmental relationships. A person's "character" is usually thought to embrace "all his qualities and deficiencies regarding traits of personality, behavior, integrity, temperament, consideration, sportsmanship, altruism, etc., which distinguish him as a human being from his fellow men". Mester v. United States, 70 F.Supp. 118, 122 (E.D. NY. 1946), aff'd 332 U.S. 749 (1947). Because of its generality, the subject defies a cataloguing of all conceivable facts and factors which define the standard. When viewed in a vacuum, the concept loses all significance. The standard, however, draws specificity from each setting and from the particular objectives sought to be achieved. Trap Rock Industries v. Kohl, 59 N.J. 471, 483 (1971) cert. den. 405 U.S. 1065 (1972). So here, the nature of the subject, that is, the suitability to participate in the sensitive casino gaming industry in New Jersey, itself supplies concreteness to the concept of "good character". The demand is for a party who will perform honestly and whose record does not suggest a lack of that essential integrity. Hence, we must look to an individual's past conduct as a guide to how that individual is likely to operate a casino facility in the future.

In an effort to meet his statutorily imposed burden, Mr. O'Donnell produced evidence in support of his good character, honesty and integrity. Witnesses having substantial backgrounds in law enforcement testified as to Mr. O'Donnell's good character, honesty and integrity. David P. Schippers, a former head of the Chicago Strike Force, whose prior testimony was placed in evidence, stated that at no time had he received "information indicating that any of the officers or agents of that firm [Bally] were directly or indirectly involved in organized crime". Mr. William F. Beane, the former FBI Special Agent in Charge for Chicago, testified that he had personally reviewed the FBI files on Bally and Mr. O'Donnell and that he "would be willing to put [his] 28 years in the Bureau on the line and go to work for them". The Commission also heard the testimony of Thomas A. Foran, a former United States Attorney with an impressive record of prosecuting organized crime, who testified that when he asked the FBI for a report on Mr. O'Donnell, he was told that "Bill O'Donnell
was as straight as an arrow and was extremely helpful to the Bureau.
James M. Rochford, Bally's Vice President of Corporate Security and
a former Superintendent of Police for the City of Chicago, described
Mr. O'Donnell as "absolutely honest" and "a man of his word and
when he says something you can bet your life on it".

Numerous bankers and other members of the financial commu-

nicity gave their opinions of Mr. O'Donnell's good character and testified
to his good reputation in the financial community. These included:
J. Joseph Anderson, Senior-Vice President of Continental Illinois
Bank and Trust Company; Alan Stults, Honorary Chairman of the
Board, and Robert Engelman, Jr., Executive Vice President, both of
American National Bank and Trust Company of Chicago; Samuel W.
Sax, Chairman of the Board of the United of America Bank; and Lee
S. Isgur of Paine Webber.

Other witnesses testified as to Mr. O'Donnell's good character
and his reputation in the community where he lives and works. Two
Jesuit priests, the Reverend Lawrence Reuter, president of Loyola
Academy (a private secondary school operated by the Society of
Jesus), and the Reverend John H. Reinke, Chancellor of Loyola
University in Chicago, stated that Mr. O'Donnell's reputation in the
community where he lives and works is "very favorable" and "impec-
cable". In addition, the Honorable Abraham L. Marovitz, Senior
Judge of the United States District Court for the Northern District
of Illinois, testified that Mr. O'Donnell's reputation in the community
is that of "an honest, decent man and member of our community".
Judge Marovitz also testified that in his own opinion, Mr. O'Donnell
is "a very excellent human being". Still other witnesses, such as Mary
Mitchell and Walter Wojtaszek, testified as to good deeds done by
Mr. O'Donnell during his lifetime.

In examining the whole man and the entire circumstances in
which he performed, the Commission must carefully consider all of
the testimony regarding Mr. O'Donnell's character, honesty and in-
tegrity. Several individuals with impeccable credentials willingly came
forward to praise Mr. O'Donnell's candor, honesty, generosity and
compassion. Based either on their personal contacts with Mr.
O'Donnell or on law enforcement sources available to them, these
witnesses were aware of no reason to doubt that Mr. O'Donnell is
an upright, trustworthy and law abiding businessman.

Due regard must be given to such positive opinion and reputation
testimony. However, in determining the proper weight to accord this
evidence, the Commission must consider not only the relationship of
each witness to Mr. O'Donnell and Bally but, more importantly, the reliability and scope of the basis on which the opinion or reputation testimony rests. In point of fact, none of the character witnesses produced by Mr. O'Donnell exhibited knowledge of all the significant information regarding his activities and associations which has now been brought to the attention of this Commission. Thus, with the opinion and reputation testimony in mind, the Commission must scrutinize the entire record to reach its own conclusion as to the character of Mr. O'Donnell.

Since the bulk of the evidence concerned specific acts and events in which Mr. O'Donnell was personally involved or for which he was directly responsible, a threshold question arises as to the relative value of specific act evidence, opinion testimony and reputation in judging character, honesty and integrity. Again the latter two types of evidence may not be ignored. However, if the Commission finds that an individual engaged in certain conduct which, under all the circumstances and in light of all the relevant evidence, indicates character flaws or shortcomings, the insights thus obtained would naturally deserve greater weight than contrary favorable proofs in the form of opinion or reputation evidence. Evidence of specific acts provides "the most decisive revelation of character". *McCormick, Evidence*, §187 at 443 (2 ed. 1972). Although true character can never be viewed directly, it is manifested by the actual behavior of the individual. Opinion and reputation, when accurate, are themselves nothing more than the residue of an individual's conduct. Quite simply, it is a theorem long-since proven by human experience that actions speak louder than words.

The Division of Gaming Enforcement has recommended that the Commission find William T. O'Donnell to be unsuitable for qualification. In so recommending, the Division points to evidence of specific acts and events which assertedly belie the favorable opinion and reputation testimony and raise serious questions about Mr. O'Donnell's character. Thus, the Commission is required to determine whether Mr. O'Donnell's actions, viewed in the context in which they occurred, do disclose a lack of fitness. While the record is too voluminous to permit a detailed recitation of the proofs regarding Mr. O'Donnell's behavior, the Commission has taken pains to carefully assess all the pertinent evidence. We now proceed to comment upon these matters which we deem most significant.
2. GERARDO CATENA

Shortly after he began working for Lion in 1946, Mr. O'Donnell became acquainted with a company known as Runyon Sales, which was for many years the largest distributor for Lion, having exclusive rights to the New York, New Jersey and Connecticut areas. (In the coin machine business, the distributor is the entity which purchases the product from the manufacturer, and in turn sells it to the operator, who is the ultimate owner of the equipment). Mr. O'Donnell was in frequent contact during that period with Runyon Sales’ principals including Abe Green, with whom he became friends. Mr. O'Donnell also had telephonic and personal contact during this period with Barnet Sugarman, a partner in Runyon Sales. On a visit to Runyon Sales in the middle 1950's Mr. O'Donnell was introduced to Gerardo Catena, whom he knew to be associated with Runyon.

Sometime in the early 1950's, Mr. O'Donnell had heard rumors that both Catena and Joseph “Doc” Stacher were connected with Runyon Sales. He had also learned at that time, from a Dun and Bradstreet report, that Runyon Sales was reputed to have hoodlum or unsavory connections. At that point Mr. O'Donnell had asked Abe Green if Catena or Stacher were Green's partners. Green had replied that Stacher had been, but was no longer, and that Catena still was a partner.

In point of fact, during the period from 1950 to 1965 Gerardo Catena was the subject of numerous governmental and media reports in the public record, all of them negative and all referring to his organized crime affiliations. One particular example involved the so-called Apalachin meeting in 1957, in which Catena was stopped in a car along with Russel Bufalino and Vito Genovese. The matter generated substantial publicity. Based upon this and other factors, the reputation of Gerardo Catena was that he was a member of organized crime. Catena’s reputation was, in the words of the Nevada Gaming Commission, of a “notorious and unsavory” nature.

In 1962, four years after the death of Lion's founder, Raymond Moloney, American National Bank and Trust Company of Chicago (“American National”), the administrator of Mr. Moloney's estate, stated its intent to liquidate the assets of Lion. Mr. O'Donnell sought an opportunity to raise the necessary money to purchase Lion. Mr. O'Donnell made unsuccessful attempts (a) to persuade American National to finance the purchase of Lion; (b) to persuade the Moloney family to keep the company together; and (c) to purchase Lion's assets.
in conjunction with R.F. Jones (a San Francisco-based Bally distributor). Thereafter, Mr. O'Donnell turned to Abe Green of Runyon Sales, with whom such a proposal was discussed at a dinner meeting in Chicago. At that point in time Mr. O'Donnell knew that Green was a partner with Gerardo Catena in Runyon Sales, that Green and Catena were also partners in other businesses, and that Catena was reputed to be a hoodlum.

Green indicated interest in Mr. O'Donnell's proposal, and in 1963 contacted Sam W. Klein concerning the purchase of Lion. Klein was already acquainted with both Green and Catena since, as O'Connell learned later, Klein had met Catena and had attempted to purchase Runyon Sales in 1960. Klein brought in Louis M. Jacobs, a principal of the Emprise Corporation, who, in turn, contacted Frank J. Prince. Another investor was Barnet Sugarman. As noted, Mr. O'Donnell knew Mr. Sugarman to be a partner in Runyon Sales. Green and Sugarman also brought in Irving Kaye, who was known to Mr. O'Donnell and who was an owner of the Irving Kaye Company along with Green, Sugarman, and Catena.

The named individuals formed a corporation, K.O.S. Enterprises, which in June of 1963 acquired the assets of Lion for approximately $1.2 million. The principals of K.O.S. were at that time divided into two groups: (1) the O'Donnell group, consisting of Messrs. O'Donnell, Kaye, Green, and Sugarman; and, (2) the Klein group, consisting of Klein, Jacobs, and Prince. Klein and Jacobs subsequently purchased Prince's shares.

In March of 1964 Barnet Sugarman died. Mr. O'Donnell testified that he then first learned that Catena had a hidden ownership interest in Lion. Specifically he was advised that Sugarman and Abe Green had each acquired one-half of their respective interests in K.O.S. Enterprises for the benefit of Catena. At that point Catena and Green purchased what had been Sugarman's interest in K.O.S. from his widow. Thereafter Green told Mr. O'Donnell that Catena was getting older and wanted to liquidate his assets. Mr. O'Donnell was interested in buying out Catena because of his reputation and prior hidden ownership of Lion. By this time, Catena's underworld reputation as the underboss of the Vito Genovese crime family was well documented publicly. In July of 1965, an agreement was signed whereby Mr. O'Donnell purchased some of Green's record shares of Lion. This agreement was intended to buy out Catena's interest in the company, although it contains no reference to Mr. Catena or any other third party.
In the meantime, in October of 1964, a partnership was formed for the purpose of purchasing the real estate on which the Lion premises were located. This was the 2640 West Belmont Avenue Partnership, and consisted of all the shareholders of Lion, those then being Messrs. O'Donnell, Klein, Kaye, Green and Jacobs. Although Mr. O'Donnell had learned prior to that time that Green had fronted for Catena in the purchase of Lion and in the Irving Kaye Co., he recalls making no inquiry of Green as to whether he was fronting for Catena in the real estate partnership as well.

Green himself remained a partner of Catena in Runyon Sales until late 1970 and Runyon Sales was retained as the exclusive Bally distributor in the New York, New Jersey, and Connecticut areas until at least 1974, when it was nominally replaced by Coin-Op. Although Mr. O'Donnell had "some concern" over Bally's use of a distributor partly owned by Catena, such concern was not acted on in any way other than for O'Donnell to occasionally express such concern to Green.

Green did not buy Catena out of Runyon Sales until December of 1970 at a time when Catena was in prison for contempt of the New Jersey State Commission of Investigation. During the period from 1970 to 1975, Catena was confined continuously in New Jersey for his contemptuous refusal to answer questions put to him by the State Commission of Investigation concerning organized crime activities, following a grant of testimonial immunity.

According to Mr. O'Donnell, Irving Kaye first learned in March of 1964 that Green and Sugarman had been fronting for Catena in the Irving Kaye Co. Kaye nevertheless knowingly remained a partner of Catena in that company until 1971. This was despite suggestions from Mr. O'Donnell that Kaye, who, was a vice president of Bally during this period, should buy out Catena because of Catena's reputation.

Meanwhile, Bally Manufacturing Corporation was incorporated in 1968. In 1966 the Jacobs interests were purchased by the Klein and O'Donnell groups. Thereafter, in 1968, Bally Manufacturing Corporation was formed and Lion was merged into Bally. The resulting equity structure of Bally remained substantially unchanged from the Lion ownership until Bally's initial public securities offering in 1969.

By this time, Mr. O'Donnell's ambitions for Bally had begun to be realized. In a period of just four years, Bally had become so dominant in the Nevada slot machine market that, in 1968, Bally sold over 90 percent of the new slot machines in that State. Mr. O'Donnell
attributed this near sales monopoly to the superiority of the company's product.

The evidence before us suggests that during the 1960's there were hidden ownership interests in a group of casinos in Nevada, including the Sands, Flamingo, Freemont, and Horse Shoe, to which Bally supplied its slot machines. Hidden profits were reportedly skimmed out of these casinos, and some were ultimately funnelled from Las Vegas to New Jersey where they were shared by, among others, Gerardo Catena. Michael "Mickey" Wichinski, who was Bally's first successful Nevada slot machine distributor during the 1960's, had a familial relationship with Catena by virtue of the marriage of Wichinski's nephew to Catena's daughter. Wichinski had been referred to Mr. O'Donnell by Abe Green. Wichinski himself held a percentage ownership in the Sands Hotel, which was one of the first Nevada casinos to which Bally sold slot machines, and Wichinski received commissions for all these sales. Wichinski also became an investor along with Mr. O'Donnell in the Westronics Co. in or about 1965 and remains so to this day.

In 1971 Bally made a second public offering of its stock. A portion of the proceeds therefrom were used to redeem the shares owned by Abe Green and his family. This was prompted by earlier discussions with Nevada authorities concerning Bally's contemplated bid for public registration there. Nevada officials indicated to Mr. O'Donnell that Bally would have difficulty being licensed as long as Green was associated with the company. Pursuant to an agreement with Bally, Irving Kaye also disposed of a quantity of his stock and used the proceeds to buy out the record and beneficial interests then held by Green, Catena and Mrs. Catena in various companies in which Kaye was an owner.

Subsequent to the 1971 public offering, the only remaining shareholders of Bally who had participated in the 1963 acquisition of Lion were Irving Kaye, Sam Klein, and William O'Donnell. In 1975, Kaye was denied a gaming license in Nevada based upon his "numerous business relationships over a period of years with Gerardo Catena, a person of notorious and unsavory reputation". Kaye subsequently resigned as an officer of Bally and sold his stock. Kaye died in 1977. In 1976, Klein's probationary licensure was revoked by Nevada, and Klein was ordered to resign from Bally and divest himself of his stock, although his continued partnership with Mr. O'Donnell in the 2640 West Belmont Avenue Partnership was left, and remains to this day, undisturbed. These events now leave William O'Donnell as the only
remaining shareholder of Bally who participated in the acquisition of Lion.

From these facts it is apparent that, in order to acquire Lion Manufacturing in 1963, William O'Donnell entered into partnership with individuals (Green and Sugarman) "fronting" for Gerardo Catena, who was then known to Mr. O'Donnell as a member of organized crime. Mr. O'Donnell was made aware that Green, Sugarman and Kaye were partners with Catena in numerous business ventures. Moreover, another of the K.O.S. partners, Sam Klein, turned out to be too tolerant of the disreputable Gerardo Catena. Nevada's 1976 revocation of Klein's probationary license followed his being observed in May of 1976 playing golf in Florida with Catena. These relationships occurred, for the most part, at the very inception of what was to become a highly successful gaming enterprise led by Mr. O'Donnell. They were conceived as a result of his calculated business judgments which, from a strictly commerical point of view, proved well-founded. They were cultivated by Mr. O'Donnell, through the years, despite his notice and increasing awareness of facts that should have counseled him to immediately sever these potentially corruptive influences. Illustrative is the fact that although Catena's interest in Bally (then Lion) was bought out in 1965, Bally nevertheless continued a business relationship with Runyon Sales until at least 1974, and that until 1971, Catena continued his part ownership of Runyon. Moreover, to this very day, William O'Donnell remains a partner of Sam Klein's in the 2640 West Belmont Building Partnership which leases to Bally the premises on which its main factory in Chicago is located.

3. DINO CELLINI

Another questionable and disturbing association which William O'Donnell was instrumental in formulating was one with Dino Cellini, whom this Commission has previously found to be an "associate of Meyer Lansky and a person of unsuitable character". In the Matter of the Application of Resorts International Hotel, Inc., for a Casino License, (1979) at p. 36. ["Resorts"]. According to Mr. O'Donnell, Dino Cellini appeared at his office, unannounced, sometime in 1964 or 1965. Cellini had been referred by Cyril Schack, who was a principal of Phonographic Equipment Co., a substantial Bally distributor in England. Schack and Cellini were part owners of the Colony Club, a private gaming club in England, at which Cellini also performed managerial functions. Mr. O'Donnell himself had visited the Colony
Club during the 1960's and had there socialized with Cellini.4

At the meeting in Mr. O'Donnell's office, Cellini told Mr. O'Donnell that he would have the authority to select slot machines for a new casino in the Bahamas. Based upon this conversation, in 1965 Mr. O'Donnell accompanied Cellini to the Bahamas where, after various discussions, the Bally Bahamian Company was set up.

Shortly thereafter, Cellini contacted Mr. O'Donnell to inform him that he, Cellini, had been excluded from the Bahamas for formerly running one of Meyer Lansky's casinos in Cuba. At that time Mr. O'Donnell knew Meyer Lansky to be a notorious organized crime figure. In 1967, Cellini was excluded from Great Britain for the same reasons he had been excluded from the Bahamas. Bally continued to pay commissions to Cellini for his sales of Bally slot machines in the Bahamas and Portugal in 1967 and 1968. However, Cellini was not paid directly. His commissions went instead to third party companies. This method of payment may have been selected to avoid the appearance of Dino Cellini's name in Bally's records.

At some subsequent point, Mr. O'Donnell recommended to Alexander Wilms that Cellini become a slot machine salesman for Bally Continental, a Belgium based distributorship which became a wholly-owned Bally subsidiary in 1969. Cellini did commence such employment in that year. Subsequently, Cellini began to receive from Bally Continental a draw against commissions in the amount of $2,000 per month. In addition to his receipt of this draw, Cellini's business expenses (which in some years totaled in excess of $50,000) were also paid by Bally Continental.

Sometime in 1971, inquiries were made concerning the possibility of Bally Manufacturing Corporation becoming licensed in Nevada for the purpose of purchasing Bally Distributing, a separate corporation selling Bally slot machines in Nevada. William O'Donnell was informed by Philip Hannifin, Chairman of the Nevada Gaming Control Board, that the company's association with Dino Cellini would cause substantial problems insofar as licensing was concerned.

From December 1971, (when a Federal indictment was returned against Bally and Mr. O'Donnell in New Orleans) until April 1973,

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4The Colony Club's other owners included Alexander Wilms, the managing director of one of Bally's European distributorships, and Carl Glickman, a close friend of Sam Klein and a Bally consultant. Also noteworthy is the fact that in 1968 newspaper articles appeared in Britain which alleged that Klein was a hidden owner of the Club.
(the date of their acquittal on that indictment), Bally’s licensing initiative in Nevada was held in abeyance. Mr. O’Donnell spoke to Wilms occasionally during this period about terminating Cellini. Mr. O’Donnell testified that Wilms resisted, and so he, O’Donnell, did not insist. Dino Cellini was eventually severed in May of 1973 about one month after Bally’s acquittal and one month before its licensing effort in Nevada was resumed in June of 1973.

4. SOUTHLAND DISTRIBUTING: THE KENTUCKY BRIBERY INCIDENT

In the late 1940’s or early 1950’s, William O’Donnell first met or spoke to Gilbert K. Brawner, who was then an employee of Branson Distributing Company. Branson was at that time Lion’s distributor in Kentucky and was selling bingo machines. Brawner later came to own Branson, which became Southland Distributing Company.

As a result of Federal legislation in 1961, a question arose as to whether these bingo machines could be sent into various states. Test litigation involving a machine shipped to Branson in Kentucky was initiated by Bally in 1964, but was abandoned in 1966 when the Kentucky Legislature amended the applicable statute so as to clearly prohibit importation of the bingo machines.

In late 1967, Mr. O’Donnell became aware of an initiative on the part of Brawner and others to attempt to have the Kentucky statute amended to legalize the bingo games. Letters on the subject were exchanged between Brawner and Mr. O’Donnell. The passage of such an amendment was in the interest of both Bally and Mr. O’Donnell. In response to a request from Brawner, legal advice was provided by Bally’s attorneys at Bally’s expense.

In a letter dated February 2, 1968, addressed to Mr. O’Donnell by Brawner, Brawner stated in part:

One other thing, Bill, we have turned the bingo bill into the Research Committee this week. It seems as though more of the representatives and senators who have read the bill so far seem

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"In this period, on June 6, 1971, Dino Cellini was indicted by a Federal grand jury in Florida. The indictment charged Cellini with evasion of taxes due on money skimmed from junkets to casinos in London and the Bahamas. Meyer Lansky was named as a co-defendant. Although O’Donnell was aware of this indictment, he claimed to have no knowledge of the specific allegations. The indictment was ultimately dismissed in 1977 or 1978."
[sic] to think that we do have a very good chance of putting this bill over. My biggest problem is trying to raise enough to take care of the expenses in Frankfort . . .

Brawner also stated, in a letter to Mr. O'Donnell dated February 20, 1968:

... I am awfully afraid that I am not going to have enough money to get it through the House. It is really shameful because we have made all the arrangements with the representatives, and they all tell us that we have a 99 percent chance to get it through. We are not worried too much about the senate, as we have made the senators an if come basis. Just last night I gave the chairman of the committee, which this bill is in, $500. That is what he wanted. It seems as though word got out that we have given him some money. Now, they are trying to put me on for more money . . .

In still another letter to Mr. O'Donnell dated February 23, 1968, Brawner stated:

Our bill came out of the House favorably. There was [sic] eleven on the committee, and ten voted for it. We feel that we do have a big job ahead of us; but in addition, we have made a lot of contacts with the representatives. We feel that we will have in the neighborhood of 67 votes out of 100, which we only need 51.

The only thing that we are now worried about is being able to have enough money on hand to get it through the House, but we are hoping that we will be able to get a lot of the representatives with less money than they are asking for. Mr. Akers, who introduced the bill, and myself have obligated ourselves to all of them.

It is like I mentioned the other day that we feel that we will be able to work a deal with our Senate when it gets that far. Our biggest problem is in the House . . .

On March 1, 1968, Mr. O'Donnell sent an airmail, special delivery letter to Brawner which read in part:

Enclosed is the $4,000 loan you asked for. Also enclosed is a note which I ask you to please sign and return to me.

At the time this letter and check were sent, the bill Brawner was supporting had passed the House and was pending in the Senate. The bill did not ultimately pass the Senate, however, and the $4,000 was returned to Mr. O'Donnell with a letter from Brawner dated March 18, which read in part:
Enclosed you will find the note along with a check for $4,000. I want to take this opportunity to thank you for all the favors you have done for me, and I am sorry that we have to return this, as it could have been a real big thing for you and myself ... 

In testifying before this Commission, Mr. O'Donnell stated clearly that he interpreted Brawner's February 20, 1968, letter to be referring to bribery. In particular, he interpreted the "if come basis" language of the second paragraph to refer to a contingent bribe arrangement with senators.

Mr. O'Donnell's explanation of this matter was that he never saw the February 20 and February 23 letters from Brawner, and that the $4,000 constituted a loan to Brawner. Mr. O'Donnell said he supposed he had spoken to Brawner prior to sending him the money, but could not recall any details of the conversation or the purpose for the loan other than his conviction that it was not for purposes of bribery.

When questioned as to how he could be so certain that he had never read the February 20th and February 23rd letters, Mr. O'Donnell responded:

I think there are two facts that make [me] believe I never read those letters. The first fact is that it was in my files. The second fact is that I never would have sent a check down there if I had read those letters.

At a later point, Mr. O'Donnell again stated that, had he read such letters, he would have thrown them away without bringing them to the attention of any enforcement agency.

On still another occasion, Mr. O'Donnell stated:

If I had read those letters, your question is would I have referred that to a law enforcement agency . . . I think I have to answer I'm not sure what I would have done.

5. OTHER MATTERS OF CONCERN

During the course of the hearing, evidence was adduced on numerous other matters which bear upon Mr. O'Donnell's suitability. Although no single one of those other matters appears as meaningful as any of the three areas set forth above, several of them do give cause for concern. Moreover, when these seemingly less significant events are viewed together with the more serious ones, the developing picture of Mr. O'Donnell is brought into sharper focus. Specifically, the quality of his business practices, the nature of his attitude toward
regulatory authorities, and the degree of his commitment to disentangle the company from its suspect origins are better revealed in the added light cast by these other matters. As always, the Commission has considered each event or sequence of events in the context of the entire record and in the circumstances in which they occurred. In the interest of clarity and brevity, however, our comments are directed to those which best serve to illuminate and refine the critical issue of whether Mr. O'Donnell may be trusted to influence or control a casino operation or an essential casino service industry.

In the fall of 1971, Federal law enforcement authorities were conducting an investigation into illegal gambling in Chicago. Pursuant to court authorization, a wiretap was installed on the telephone line of one of the suspected participants. On four occasions from September 16, 1971, to October 17, 1971, conversations involving Mr. O'Donnell were intercepted and recorded. These taped conversations were introduced into evidence along with transcripts of their contents. Mr. O'Donnell admitted that he was a party to the telephone conversations, that the purpose of the calls was to place wagers on football games and that he then knew bookmaking activity to be illegal under Illinois law. He claimed not to have been aware at the time that the act of placing a wager with a bookmaker was also illegal under Illinois law. See 38 Ill. Rev. Stat. §28-1(a)(2). However, Mr. O'Donnell acknowledged that he was then familiar with the fact that illegal bookmaking and gambling operations frequently provided funds for other organized criminal ventures. Thus, some importance attached to the question whether Mr. O'Donnell regularly bet substantial sums with a person whom he knew to be part of such an operation.

According to Mr. O'Donnell, he had previously engaged in a course of friendly wagering with a long-time friend, one Arthur "Jake" Sommerfield. These bets had escalated to $500 or $1000 each when Mr. Sommerfield indicated he would be traveling out of the state. Mr. O'Donnell explained: "I knew it was illegal to bet across state lines and I asked him if he knew somewhere where I could place the bet and to give me the number". Mr. Sommerfield obliged and

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1It is understood that New Jersey does not impose criminal penalties on individuals who participate in illicit gaming solely as players. See N.J.S.A. 2C:37-2.

2The New Jersey Supreme Court has recognized the fact that illegal gaming operations are a prime source of revenue for organized crime. See State v. DeSatasio, 49 N.J. 247, 257 (1967).
Mr. O'Donnell called the number four times at approximately one week intervals to place bets on the next weekend's football games. In the first call, Mr. O'Donnell was instructed to refer to himself as "Bill for J" which signified that he was referred by Jake Sommerfield. This form of identification was necessary because different people might answer the telephone when Mr. O'Donnell called and because Mr. O'Donnell was told to "straighten up whatever you do with J". The other party explained that Mr. O'Donnell should pay his losses or collect his winnings through Jake Sommerfield and that when "he [Jake] lets me know then your figure will be clear". To avoid confusion, the other party decided to begin "clean" with Mr. O'Donnell's account notwithstanding Mr. O'Donnell's assertion that he was $1,500 "to the good" with Sommerfield. The other party added that if "J tells me to give you credit for $1,500, I will gladly do it". The other party then proceeded to inform Mr. O'Donnell of the betting "line" on that week's football games and Mr. O'Donnell made wagers aggregating $5,000. In the three subsequent calls, Mr. O'Donnell announced himself as "Bill for J" and made bets totalling $2,500, $6,000 and $2,000 respectively. Mr. O'Donnell testified that an unidentified man would come to his office to collect losses or to pay winnings.

In fairness, it must be observed that sports betting is widespread in our society. Nevertheless, Mr. O'Donnell's illicit gaming hardly serves to enhance his image. Of more significance are Mr. O'Donnell's responses to questions regarding this episode. On direct examination, he was asked whether he knew he was placing bets with an illegal bookmaking operation. He answered that "if I had thought about it, yes, I would have known that it was a bookie". On cross-examination, Mr. O'Donnell restated this response and declared that he had not given any thought at the time to whether he was dealing with a bookmaker.

While anyone would be reluctant to admit he knowingly patronized an illicit gaming operation with its probable organized crime affiliations, this motivation only makes Mr. O'Donnell's answers more disturbing. A man of Mr. O'Donnell's intelligence and acumen could hardly have failed to realize he was betting with a bookmaking ring. Indeed, if Mr. O'Donnell truly did not grasp this fact, then he is capable of ignoring or avoiding the most obvious implication of information coming to his attention. Thus, Mr. O'Donnell was being less than honest either with the Commission when he testified or with himself when he placed the wagers. Neither alternative speaks well for Mr. O'Donnell's trustworthiness and candor.
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Similar doubts about Mr. O'Donnell are raised by the evidence regarding Bally's efforts to sever business relationships with Louis Boasberg whose company, New Orleans Novelty Company, had been Bally's distributor in Louisiana for many years. As noted previously, Mr. O'Donnell and Bally were indicted by a Federal grand jury in 1971 for interstate transportation of illegal gaming equipment, to wit, Bally "bingo" pinball machines, and for conducting illegal gambling with such equipment. Louis Boasberg was also named in the indictment. Following the jury trial at which Bally and Mr. O'Donnell were acquitted, Mr. Boasberg was found guilty of promoting illegal gambling and operating an illegal gaming business, i.e., New Orleans Novelty Company. Contemporaneously with this prosecution, Mr. Boasberg was charged in a separate Federal indictment with bribery of public officials. The stated purpose of the bribery was to protect an illegal gaming operation using coin operated machines, including Bally "bingo" machines. Mr. Boasberg ultimately pleaded guilty to the bribery charge and was sentenced in 1973 to several months in Federal prison. Thereafter, in January 1974, Mr. Boasberg was sentenced on the jury verdicts to a $7,000 fine and a three year probation to commence on his release from Federal prison on the bribery sentence.

Mr. O'Donnell was fully aware of the existence and nature of Mr. Boasberg's Federal convictions. Despite this knowledge and despite his professed intolerance for bribery of any sort, Mr. O'Donnell initiated no action to ascertain whether Bally should cease using Mr. Boasberg's company as a distributor. Indeed, New Orleans Novelty Company continued its relationship with Bally during Mr. Boasberg's imprisonment and after his release on May 15, 1974. Eventually, the Nevada Gaming Commission demanded, as a condition of the probationary registration order entered on March 20, 1975, that Bally terminate all business relationships with Mr. Boasberg or any company under his control.

By letter dated March 24, 1975, Bally notified Mr. Boasberg of the Nevada order and advised him that New Orleans Novelty Company would be discontinued as a Bally distributor on May 24, 1975.

'Mr. O'Donnell's response was also inadequate in the face of convictions or admissions of four other Bally distributors regarding illegal gambling operations or bribery of public officials or both. No effective action was taken with respect to these matters until Nevada demanded severance of business relations with such individuals in 1977.
Thereafter, Mr. Boasberg arranged to have the Bally distributorship transferred from New Orleans Novelty Company to Playtime Sales Company, a partnership composed of Mr. Boasberg’s five children and one other individual. This arrangement was acceptable to the Nevada authorities so long as Mr. Boasberg refrained from any involvement in the new company. However, Mr. Boasberg was allowed to purchase Bally equipment from Playtime for use in his pinball and vending machine routes. In addition, New Orleans Novelty Company remained as a distributor for several other coin-operated machine manufacturers.

By its order of October 20, 1977, the Nevada Gaming Commission found that Bally had failed to comply with certain requirements of the 1975 registration order and, more specifically, that Bally had continued to maintain business relationships with Louis Boasberg or a company under his control. From the evidence in the present record, there is no doubt about the correctness of Nevada’s finding. In fact, shortly after the order was issued, Mr. O’Donnell instructed James Rochford, Bally’s newly appointed vice-president for corporate security, to conduct an on-site inquiry into the involvement of Louis Boasberg with Playtime Sales Company. Mr. Rochford, accompanied by Bally’s General Counsel Glenn Seidenfeld and its Nevada counsel, Donald Carano, visited the premises of Playtime Sales Company and Louis Boasberg’s New Orleans Novelty Company in New Orleans. The two companies were located at the same address in adjacent rooms. When he viewed the facility and spoke to Louis Boasberg, it became immediately apparent to Mr. Rochford that Mr. Boasberg controlled the operation of Playtime through his son, G. Robert Boasberg.

Although Bally’s compliance failure is established, Mr. O’Donnell’s personal culpability, if any, must be determined. Mr. O’Donnell testified that he was intent on complying with the 1975 Nevada order and that he was confident the company was “in every way” complying. His confidence was based upon the internal reporting system which had been established to assist Nevada authorities in monitoring the company and upon the “almost daily” contact between Bally representatives and Nevada officials. Mr. O’Donnell’s confidence was not shaken when he learned that Mr. Boasberg’s company (New Orleans Novelty) and Playtime Sales were located in the same building. According to Mr. O’Donnell, Nevada had been informed of this fact and had registered no protest. Nor was Mr. O’Donnell troubled by Mr. Boasberg’s continuing use of stationary
proclaiming New Orleans Novelty as the Louisiana and Mississippi distributor for Bally. In a response reminiscent of his explanation regarding his illegal wagers, Mr. O'Donnell stated: "I'm afraid I have to say I didn't reflect on that".

Mr. O'Donnell asserted that other items coming to his attention after the 1975 order provided no cause to question Mr. Boasberg's separation from Bally or Playtime. In January 1976, Mr. O'Donnell's secretary approved payment by Bally of a trip to be taken by Mr. Boasberg from New Orleans to Chicago to London and back to New Orleans. This payment was made at the behest of Ross Scheer, Bally's marketing director, to reward Mr. Boasberg for research and marketing assistance which he provided to Bally prior to the 1975 severance order. Mr. Scheer acknowledged that Bally was under no legal obligation to provide this benefit. Mr. O'Donnell was unsure when he first learned of this payment although he claimed that the Nevada officials were aware of it. In Mr. O'Donnell's view, there was no reason to suspect that the trip was payment for more recent services or business with Mr. Boasberg.

Mr. O'Donnell maintained his position notwithstanding certain communications from Mr. Boasberg. By all accounts, Mr. Boasberg was a prolific correspondent. A batch of letters introduced at the hearing attests to this trait and to his close personal relationship with Mr. O'Donnell. Mr. O'Donnell considered the business advice and suggestions offered by Mr. Boasberg to be consistent with Mr. Boasberg's use of Bally equipment as a route operator, i.e., a customer of a Bally distributor rather than as a distributor. While many of the letters do not indicate any involvement of Mr. Boasberg in Playtime, some contain passages which are difficult to reconcile with that conclusion.

In a letter dated February 16, 1976, and written on the stationery of New Orleans Novelty, Mr. Boasberg complained to Mr. O'Donnell about the price which Bally was charging for its pinball games. Mr. Boasberg asked: "[H]ow can a distributor get $35.00 more" for a certain Bally game than a competitor's model. Later in the same letter, Mr. Boasberg wrote:

"Other evidence of the duration and closeness of this relationship appears in the record. For example, Mr. Boasberg guaranteed a $50,000 bank loan for Mr. O'Donnell in 1966, the proceeds of which were used to pay off a debt secured by a voting trust in favor of Louis Jacobs. At the time, Mr. Jacobs was attempting to wrest control of Lion from the other founders."
We won’t use many Flip Flops [a Bally product] not only because of the price but because we still haven’t been paid yet for some Wizards [a Bally product] to say nothing of Bows and Arrows [a Bally product] and other games. We have reached the end of the line as far as credit, and need a little rest to catch up.

After receiving this letter, Mr. O’Donnell sent copies to key personnel in Bally’s marketing and engineering operations. In his transmittal memorandum, Mr. O’Donnell stated that Mr. Boasberg’s letter was “self-explanatory” and that Bally’s response would be “that he [Boasberg] had better buy” the named pinball game at Bally’s current price.

By letter dated April 30, 1976, again on New Orleans Novelty stationery, Mr. Boasberg advised Mr. O’Donnell that Bally’s direct operation of an amusement arcade had alienated competing operators who were also purchasers of Bally equipment. Mr. Boasberg enclosed a letter from one such operator who had written to New Orleans Novelty to protest such competition and to state his intent to boycott Bally products. In Mr. Boasberg’s letter, he bemoaned the loss of a good customer and noted in a post-script that “TAC did not order any Old Chicagos [a Bally product], however, Operation Sales did order ten”.

On April 20, 1976, Boasberg wrote to Mr. O’Donnell once again on New Orleans Novelty stationery. Most of the letter, which was designated as “personal”, was devoted to praising Bally and Mr. O’Donnell for their recent success. In the final paragraph, however, Mr. Boasberg changed the subject to his own business concerns:

Now after all this lovemaking, let me remind you that I have on order two trailer loads of Capt. Fantastics. Will you please inform your Sales Department to stop sending Fantastics to the bootleggers, the home offices, and take care of New Orleans Novelty Co., and how about cutting my price on Twin Joker to $250.

Mr. O’Donnell saw this request as perfectly consistent with the fact that Mr. Boasberg’s company ran a large route operation which was permitted by the Nevada order to purchase Bally equipment from Playtime Sales Company. Mr. O’Donnell also insisted that Nevada knew all of this, although he could not cite a specific conversation or document discussing this with the Nevada officials prior to Nevada’s expression of dissatisfaction in mid-1977.

While we have carefully considered the explanation given by Mr. O’Donnell, we are constrained to find that the combined facts known
to Mr. O’Donnell should have given him a clear signal that Mr. Boasberg was continuing as a Bally distributor through his sons’ company. Instead of heeding the warning signs, Mr. O’Donnell either did not “reflect” on them or did not see them as being inconsistent with compliance. Mr. O’Donnell’s failure to properly interpret these indications does not necessarily mean that he intentionally violated the Nevada order. However, at best, his performance does reveal an indifference to a regulatory restriction which required Bally to terminate a well established and successful distributor. Further, when considered together with his lack of reaction to other distributors involved in illegal gaming and bribery, Mr. O’Donnell’s conduct displays an acceptance, if not an approval, of such practices by Bally distributors.

The 1975 Nevada order contained other conditions to Bally’s registration as a slot machine operator and manufacturer. As already discussed herein, Abe Green had held a hidden interest in Bally for the notorious Gerardo Catena. In addition, Mr. Green was a business partner of Mr. Catena in several ventures including Runyon Sales Company, a New Jersey corporation which had long been Bally’s distributor for the New York metropolitan area. Mr. Green assertedly purchased Mr. Catena’s interests in their businesses in late 1970 or early 1971. Mr. Green also sold his own Bally shareholdings back to the company in 1971. However, Nevada’s 1975 order required Bally to have no business dealings with Mr. Green or with any company which he controlled or in which he had a 5 percent or greater interest in voting securities. Mr. O’Donnell understood that this requirement meant Bally could no longer deal with Runyon Sales.

In apparent anticipation of the Nevada position, Abe Green’s son, Irving Green, had advised Mr. O’Donnell in mid-1974 that he would be using the trade name Coin-Op. An internal memorandum dated July 15, 1974, to key Bally personnel, including Mr. O’Donnell, stated that Runyon was to be replaced by Coin-Op for all purposes. Subsequent to the Nevada prohibition, by letter dated May 16, 1975, Irving Green reminded Mr. O’Donnell of his earlier notification that “in the future, Runyon Sales Company would be conducting business as Coin-Op Distributing with Irving Green as its president”. Mr. Green asserted that Coin-Op had been engaged in the distribution and sale of coin-operated machines since the 1974 notice. Id. Attached to this letter was a trade name certificate, dated May 9, 1975, in which Irving Green declared that he was “about to transact” business under the name of Coin-Op Distributing and that the business “will be conducted” at Route 22 and Fadem Road, Springfield, New Jersey.
Irving Green's letter and the attached trade name certificate provide information relevant to the independence of Coin-Op from Runyon. From the letter, it appears that Mr. Green considered Coin-Op as a mere alter ego or fictitious name for Runyon. The trade name certificate reveals that Coin-Op was not a separate business entity but a name being used by Irving Green to conduct business. The address stated in the certificate was also the address of Runyon Sales, and, most significantly, Irving Green was also the manager of Runyon Sales, a fact which standing alone renders suspect any claim of arms-length dealings between Runyon and Coin-Op.

Mr. O'Donnell knew of Irving Green's simultaneous ownership of Coin-Op and management of Runyon. As to the sharing of facilities, Mr. O'Donnell certainly became aware of that arrangement by April 1976 when he received a memorandum from William J. Tomlinson on the subject. The April 13, 1976, memorandum was sent to Mr. O'Donnell for "Action by the Executive Committee." Mr. O'Donnell explained that he did not schedule the memorandum for committee review since the memorandum found no control of or interest in Coin-Op by Abe Green despite evidence of overlap and confusion between Runyon and Coin-Op such as shared facilities and use of Runyon business forms by Coin-Op. Rather, Mr. O'Donnell instructed Mr. Tomlinson to take the additional measures suggested in the memorandum.

The actions recommended by Mr. Tomlinson included physical separation of Runyon from Coin-Op, use of Coin-Op forms and documents for Coin-Op business, submission of a true copy of a certificate of incorporation for Coin-Op and a yearly reporting of the officers and directors of Coin-Op. The memorandum further stated that, until these steps were taken, "no further shipments will be made from Bally to Coin-Op".

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10Mr. Tomlinson had been Bally's general counsel from July 1, 1971, to January 1, 1976. Thereafter until January 1977, he continued as an outside consultant on a part-time basis.

11As a condition of Bally's probationary registration in 1975, Nevada demanded that an internal control system be established and enforced. Under the system, which was designed by Mr. Tomlinson, an executive committee comprised of directors and senior management personnel was ultimately responsible for compliance.

12In fact, Coin-Op was not incorporated until February 21, 1978.
The memorandum continued with a summary of what was asserted to be Bally's existing policy with regard to Coin-Op. Essentially, the memorandum claimed that Bally had not had an official distributor in the New York-New Jersey area since the 1975 Nevada order and that any distributor with approved credit status could order direct from the factory until Coin-Op demonstrated its independence from Runyon. The memorandum declared flatly that it "encompasses the procedure followed by Bally since the registration order went into effect and sets forth the policy for the future". Mr. Tomlinson then concluded by noting that the memorandum would be submitted to Nevada as part of Bally's annual compliance report.

The recommended actions were apparently not taken and shipments were made to Coin-Op. Mr. O'Donnell was content to leave the matter in the hands of Mr. Tomlinson who was then a part-time consultant. Moreover, Mr. O'Donnell saw no reason to inquire about the Coin-Op situation before he signed Bally's annual compliance report ("Review of Order of Registration") on June 8, 1976, and submitted it to the Nevada regulatory bodies. Mr. Tomlinson's memorandum was attached to the report and referenced in the text. Similarly, the following year, Mr. O'Donnell signed the annual compliance report, dated June 30, 1977, which stated that the company remained in compliance as previously reported and that the status of these matters had not changed.

By its order of October 20, 1977, the Nevada Gaming Commission found that Bally had failed to comply in several respects with the 1975 registration order and extended Bally's probation for an additional three year period. While the order recited continuing business relationships with one unacceptable distributor, Louis Boasberg, no mention was made of Abe Green or Runyon Sales. However, Bally was directed to strengthen its system of internal reporting and, specifically, to provide copies of all reports to a company compliance committee which, in turn, was to file every such report with the Nevada Gaming Control Board.

In early 1978, Glenn K. Seidenfeld, Bally's general counsel, read

\footnote{There is also considerable doubt whether Bally had implemented the policy of having no official distributor and taking direct orders from any distributor in the New York-New Jersey areas. Mr. Jerome Gordon, Vice-President of H. Betti Enterprises, testified that his company was a coin-operated equipment distributor in New Jersey and that, until it acquired the Runyon Sales distributorship in 1978, it could not purchase equipment directly from Bally.}
an announcement in a magazine that a course in repair and maintenance of Bally products would be conducted by Runyon Sales. Upon being advised of this, Mr. O’Donnell directed Mr. Seidenfeld to visit Irving Green and inquire into the matter. In February 1978, Mr. Seidenfeld met Irving Green at the Runyon Sales office on Route 22 in Springfield, New Jersey. In this meeting, which lasted only about 30 minutes, Mr. Green admitted that Coin-Op had no employees of its own and that Mr. Green spent 90 to 100 percent of his time at Runyon. In addition, Mr. Seidenfeld learned that Coin-Op had only one customer, Runyon. During the meeting, Irving Green indicated that he would be selling the distributorship business and concentrating on the more profitable route operations.

On his return to Bally, Mr. Seidenfeld reported to Mr. O’Donnell in the presence of James M. Rochford, Bally’s vice-president for security. It was decided that both Mr. Rochford and Mr. Seidenfeld should return to New Jersey for another meeting with Irving Green. Mr. Rochford and Mr. Seidenfeld both testified that they were not then aware of the issues raised by Mr. Tomlinson’s memorandum nearly two years earlier and Mr. O’Donnell made no reference to that history.

On April 12, 1978, Messrs. Seidenfeld and Rochford visited Irving Green but, on this occasion, the meeting took place at the Coin-Op office in Union, New Jersey. After speaking to Mr. Green and observing the facility, both Mr. Rochford and Mr. Seidenfeld found an “almost total intermixing” between Runyon and Coin-Op. Indeed, Mr. Rochford received the impression that the Coin-Op office had been recently set up solely to create some appearance of separation for the sake of the Nevada order.14

These findings were reported to Mr. O’Donnell who decided that, since Irving Green intended to dispose of the distributorship, he would be given 60 days to do so or be terminated as a distributor. Eventually, by an agreement dated June 6, 1978, between Runyon Sales, Inc., and H. Betti Industries, Inc., the assets of Runyon were sold. The agreement, which was signed for Runyon by Abe Green and Irving Green and which makes no reference to Coin-Op, was contingent upon H. Betti Industries obtaining a Bally distributorship. Mr. O’Donnell

14This should have caused no great surprise to Mr. O’Donnell since Bally’s sales department had advised him and other key employees of Coin-Op’s relocation in a memorandum dated March 8, 1978.
agreed to the transaction and Betti received the requested distributorship.

Although not conceded by Mr. O'Donnell, Mr. Seidenfeld or Mr. Rochford, the information obtained from the two 1978 visits should have confirmed earlier indications that no real distinction between Coin-Op and Runyon existed. However, no written report was prepared for the compliance committee on this matter until a year later when Mr. Rochford was requested to file such report by Bally's New Jersey counsel. The absence of a timely written submission in this instance contrasts with the prompt reporting by Mr. Rochford of other inquiries which he conducted regarding Bally distributors. Moreover, on May 19, 1978, Mr. O'Donnell signed Bally's annual compliance report to the Nevada authorities in which he declared: "the company's compliance with this provision [against direct or indirect business with Abe Green] was set forth in the 1976 and 1977 submission and the status of these matters has not changed since the date thereof". In defending this representation, Mr. O'Donnell contended that he was not obliged to report any failure of compliance because Messrs. Rochford and Seidenfeld "told me they didn't know if it was or it wasn't [a violation]."

The respect which Mr. O'Donnell accorded directives of the gaming authorities is further illustrated by his response to the Nevada order regarding Sam W. Klein. As previously discussed, Mr. Klein had been brought in by Abe Green to be one of the founders of Bally in 1963. In addition to being a major stockholder, he was a director and vice-president of the company. Thus, Mr. Klein, as did Mr. O'Donnell, weathered the adverse publicity and regulatory skepticism arising from Bally's corporate relationship to reputed mobsters, especially Gerardo Catena. Further, Mr. Klein personally had drawn unfavorable comment for his alleged associations with undesirables and for his relationship to the oft-suspected Central States, Southeast and Southwest Areas Teamsters Pension Fund. In particular, Mr. Klein was criticized for his gift of Bally stock to an influential teamster official at a time when Bally held sizeable loans and was seeking major

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11In the interim, on February 22, 1979, Bally was released from probation in Nevada and granted a permanent registration.
financing from the fund. Indeed, in a letter dated August 26, 1976, to Mr. O’Donnell, Mr. Klein recognized the responsibility of Nevada officials “to protect the gaming industry from even the hint of organized crime involvement”.

In his letter, Mr. Klein related that, in June 1976, he had been visiting Irving Kaye, a fellow Bally founder, who was seriously ill in Florida. Also present was another old friend of Mr. Kaye, Gerardo Catena. Over the course of a ten day period, Mr. Klein attended three dinners with Mr. Catena and, at Mr. Catena’s request, Mr. Klein arranged a golf date at his country club. Mr. Klein, Mr. Catena and a friend of Mr. Catena played golf and lunched together. While maintaining that this was the extent of his contact with Mr. Catena and that there was no discussion of Bally, Mr. Klein expressed a willingness to resign his positions and dispose of his stock for the good of the company.

By its order entered on September 23, 1976, the Nevada Gaming Commission revoked all earlier licenses and findings of suitability of Mr. Klein and further ordered: (1) that Mr. Klein resign as an officer and director of Bally; (2) that he divest himself of all his Bally stock within four years and relinquish his voting rights immediately; (3) that he pay a fine of $50,000 to the Nevada Gaming Commission; and (4) that Bally “and its controlled subsidiaries shall henceforth not employ Sam W. Klein in any capacity”. Both Mr. Klein and Bally consented to the entry of this order. Mr. O’Donnell testified that he was well aware of this order and that he intended to comply with its spirit as well as its letter.

Later in 1976, following passage of the New Jersey casino gaming referendum, Mr. O’Donnell was contacted by Mr. Klein who advised that a friend, one Al Toll, owned a property in Atlantic City, the Howard Johnson’s Motel, which was very well-suited for development as a casino hotel. In early 1977, Mr. O’Donnell went to Atlantic City where he met with Mr. Klein and Mr. Toll to discuss the possible

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"The record discloses that Mr. Klein was making gifts of stock to several recipients in early 1972. A very generous gift, 3,700 shares, was bestowed on the family of William Presser, a trustee of the pension fund. In February 1971, Mr. Presser had been convicted on Federal charges of conspiracy and acceptance of unlawful payments for a labor organization.

"Mr. Catena had been released the previous year from a New Jersey prison where he had been incarcerated for five years for his steadfast refusal, under a grant of immunity, to answer questions regarding organized crime."
acquisition of the property by Bally. There were four or five such meetings in all.

At some point in these negotiations, Mr. Klein indicated that he expected a finder’s fee from Bally if the acquisition took place. Mr. O’Donnell turned to Bally’s general counsel, Glenn Seidenfeld, for an opinion as to whether payment of the finder’s fee would violate the Nevada order. Mr. Seidenfeld in turn contacted George Aronoff, one of Bally’s outside counsel, and they discussed the issue. After deliberating for some time, they concluded that the order would not prohibit such a payment to Mr. Klein as an independent contractor. However, Mr. Aronoff added that it would be “improvident” for Bally to proceed without the approval of the Nevada authorities. Mr. O’Donnell did not seek such approval. The finder’s fee was not paid because Bally did not purchase the property.

Subsequent to the entry of the 1976 Nevada order, Mr. Klein involved himself in a separate matter but one also related to Bally’s entry into the Atlantic City casino industry. Mr. O’Donnell testified that during a telephone conversation he apprised Mr. Klein of his intent to ask William Weinberger, a casino executive in Las Vegas, to lead the Bally casino project in Atlantic City. Mr. Klein revealed that he knew Mr. Weinberger from their college days and suggested that “a contact coming from me ... would be more fruitful”. Mr. O’Donnell accepted the offer. Later, Mr. Klein reported that he had contacted Mr. Weinberger and he was interested. To Mr. O’Donnell’s knowledge, Mr. Klein played no other part in this effort, which resulted in Mr. Weinberger becoming president of Bally’s Park Place.

On cross-examination, Mr. O’Donnell denied that the purpose of Mr. Klein’s intervention was to have Mr. Weinberger be more receptive to Bally’s offer. When asked why he did not notify the Nevada authorities before authorizing Mr. Klein to approach Mr. Weinberger, Mr. O’Donnell asserted that he acted in reliance on the legal opinion which he obtained relative to Mr. Klein’s requested finder’s fee. According to Mr. O’Donnell, the lawyers had said the earlier arrangement was “perfectly okay”, so he could see no problem with this “mere phone call, or a visit, or whatever he [Klein] was going to do with Mr. Weinberger”.

The foregoing does not speak well of Mr. O’Donnell’s vigilance and sensitivity to regulatory obligations. Of more significance, however, is the fact that these matters, especially Runyon and Klein, involved direct links to the admittedly dubious origins and early life of Bally. Mr. O’Donnell’s reluctance to break cleanly with these
elements, even in the face of possible or apparent regulatory violations, seriously undermines the credibility of his avowed determination to put Bally’s past behind it.

6. **CONCLUSIONS AS TO WILLIAM T. O’DONNELL**

The facts recited above, all of which we find to be supported by credible evidence in the record before us, simply do not square with the positive testimony adduced as to the good character, honesty and integrity of William T. O’Donnell. Stated plainly, Mr. O’Donnell’s previous behavior provides powerful proof that he should not be trusted to control a company which seeks licensure either to operate a casino or to supply essential gaming equipment in New Jersey. To repeat, three aspects of Mr. O’Donnell’s history are most troublesome:

(1) the direct and indirect associations of Gerardo Catena with Bally which resulted from the acquisition effort led by William O’Donnell and which endured over the course of several years thereafter;

(2) the association with Dino Cellini which William O’Donnell led Bally to engage in and which he engaged in personally; and

(3) the participation of William O’Donnell in an apparent attempt to secure passage of favorable legislation in Kentucky by offering monetary payments to members of the Kentucky Legislature.

Based on the substantial credible evidence in the record as a whole, including the evidence summarized above, this Commission finds Gerardo Catena to be a person of unsuitable character and reputation. Similarly this Commission also finds, as it has previously, that the late Dino Cellini was a person of unsuitable character and reputation.

The Commission has noted in the past that under the Casino Control Act a person’s associations may bear upon his character and, hence, upon his present fitness for licensure. Whether an association does so reflect upon present character and fitness depends upon many factors including the time of the association, its duration, its purpose, its intensity, its attenuation through third parties, the character of the associate, the associate’s reputation, the applicant’s knowledge of such reputation or character, the applicant’s exercise of reasonable efforts to determine the suitability of his associates, termination of the association and the reasons for termination. *Resorts, supra* at 10.

Viewing Mr. O’Donnell’s associations with Gerardo Catena and with Dino Cellini in light of each of these factors we find that both of these associations reflect adversely on Mr. O’Donnell’s character.
Upon careful review of all of the evidence relating to the alleged 1967-68 Kentucky bribery incident, we find that Mr. O'Donnell participated in an attempt to buy the votes of members of the Kentucky Legislature in an effort to influence the passage of legislation which would be to the economic benefit of Mr. O'Donnell and Bally. This too reflects adversely on Mr. O'Donnell's character.

The negative impressions which emerge from these associations and actions are reinforced by the other behavior which we have examined, including: Mr. O'Donnell's wagering with a bookmaking ring, his attitude toward Nevada's regulatory concerns, his seeming tolerance of public corruption and illegal gaming activity by Bally distributors, his willingness to continue business relationships which threaten to renew the appearance if not the fact of organized crime affiliations, and his unsatisfactory explanations on several occasions during this hearing. These matters are too proximate and too numerous to be dismissed as isolated, abberational, petty or stale.

Although no single one of them would require disqualification, they substantiate the adverse inferences which we have drawn from the three most serious areas of concern. Further, these additional matters did not occur in the distant past. Indeed, many transpired during the pendency of the present application or at this hearing. Thus, they tend to oppose any finding that, whatever Mr. O'Donnell's failings may have been at one time, the character deficiencies exposed thereby have been overcome.

The law requires us to judge each applicant's character. We find this a most difficult task for several reasons. First, "character" is an elusive concept which defies precise definition. Next, we can know the character of another only indirectly, but most clearly through his words and his deeds. Finally, the character of a person is neither uniform nor immutable.

Nevertheless, we conceive character to be the sum total of an individual's attributes, the thread of intention, good or bad, that weaves its way through the experience of a lifetime. We must judge a man's character by evaluating his words and deeds as they appear from the testimony and from all of the evidence in the record before us. We must focus particularly on those attributes of trustworthiness, honesty, integrity and candor which are relevant to our inquiry.

Who then is William O'Donnell? He is obviously a man with many fine attributes including those of kindness, generosity, loyalty, intelligence and leadership ability. However, in light of the evidence in the entire record and particularly those facts which we have sum-
marized here, we are constrained to conclude that he has not satisfied us by clear and convincing evidence that he possesses the high standard of good character, honesty and integrity demanded by the Casino Control Act. Accordingly, William T. O'Donnell is not qualified.

B. ALEXANDER R. A. WILMS

Alexander R. A. Wilms, a Belgian national, was the founder of Bally Continental, Ltd., N.V. ("Bally Continental"), a Belgian corporation which was a successor to a limited partnership formed by Mr. Wilms in 1949. Both companies distributed Bally manufactured products, including coin-operated amusement and slot machines, in Europe, Africa and the Middle East. All of the outstanding and issued shares of Bally Continental were acquired by Bally from Alexander Wilms in 1969. In conjunction with this acquisition, Alexander Wilms received compensation in part in the form of unregistered Bally securities. Subsequent to this acquisition, Mr. Wilms was elected a director of Bally and continued to serve as the chief executive officer of Bally Continental.

In 1974, Alexander Wilms applied to the Nevada Gaming Commission for a state gaming license in conjunction with Bally's application for a state gaming license and concurrent registration as a publicly-traded corporation. Bally's gaming license and registration were granted by the Nevada Gaming Commission on a probationary basis by order dated March 20, 1975. Based upon certain evidence adduced at an investigatory hearing conducted by the Nevada State Gaming Control Board, serious questions were raised regarding the qualification of Alexander Wilms for a gaming license in Nevada. By order dated March 21, 1975, Mr. Wilms was permitted to withdraw his application for a Nevada state gaming license, subject to the following conditions:

1. He resign as president of Bally Continental within nine months; and
2. He resign immediately from any other offices or directorships or positions that he may hold with Bally or any of its subsidiaries; and
3. He not seek employment as an officer, employee, or agent of Bally or any of its subsidiaries without prior approval of the Nevada Gaming Commission.

The Nevada Gaming Commission did, however, permit Alexander Wilms to remain as a shareholder in Bally and he retains that status to this date.

Throughout the past decade, Alexander Wilms has conveyed by gift to various members of his immediate family shares of Bally stock.
As of March 6, 1980, Bally had one class of voting capital stock, par value 66\(\frac{2}{3}\) cents, of which there were approximately 25,500,000 shares issued and outstanding. As of that date, the record ownership of Bally stock by Alexander Wilms and his family was as follows:

<table>
<thead>
<tr>
<th>Shareholder</th>
<th>Number of Shares Owned</th>
<th>% of Total Shares Issued and Outstanding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alexander R.A. Wilms</td>
<td>449,128</td>
<td>1.77%</td>
</tr>
<tr>
<td>Elise Wilms (wife)</td>
<td>284,800</td>
<td>1.12%</td>
</tr>
<tr>
<td>Alfred Wilms (son)</td>
<td>705,000</td>
<td>2.76%</td>
</tr>
<tr>
<td>Lucien Wilms (son)</td>
<td>633,800</td>
<td>2.49%</td>
</tr>
<tr>
<td>Sophie Wilms and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stephanie Wilms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(granddaughters)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>8,000</td>
<td>0.031%</td>
</tr>
<tr>
<td></td>
<td>2,080,728</td>
<td>8.16%</td>
</tr>
</tbody>
</table>

With minor exceptions, all of the Bally voting stock owned of record by Elise, Alfred, Lucien, Sophie and Stephanie Wilms was obtained directly or indirectly as a gift from Alexander Wilms.

As of March 6, 1980, there were 22,700,000 shares of Bally’s Park Place (Delaware) voting common stock outstanding. As of that date, the record ownership of Bally’s Park Place (Delaware) stock by the Wilms’ family was: Alexander, 98,083 shares (0.43 percent); Elise, 53,427 shares (0.24 percent); Alfred, 112,504 shares (0.5 percent); and Lucien, 112,015 shares (0.49 percent). In the aggregate, these shares amount to 1.65 percent of the outstanding voting common stock of Bally’s Park Place (Delaware). There is no indication in the record that the shareholdings in Bally or Bally’s Park Place (Delaware) of any member of the Wilms’ family have changed materially since March 6, 1980.

Pursuant to Sections 85(c) and 85(d)(1) of the Act, N.J.S.A. 5:12-85(c) and 85(d)(1), the securities holders of Bally (the holding company) and Bally’s Park Place (Delaware) (the intermediary company) must qualify to the standards of a casino key employee, except for residency, in order to issue a casino license to the operating subsidiary. However, since both the holding company, Bally, and the intermediary company, Bally’s Park Place (Delaware), are publicly-traded corporations, the Commission and the Director of the Division may agree to waive such qualification requirements as to any security holder if they are satisfied that he does not have the ability to control
the publicly-traded corporation or elect one or more directors thereof.

By virtue of their status as shareholders in Bally and Bally's Park Place (Delaware), Alexander, Elise, Alfred, Lucien, Sophie, and Stephanie Wilms appeared to be individuals required to qualify as part of the casino license application of Bally's Park Place. Thus, the question was presented whether Alexander Wilms or any of the named Wilms' family members, as shareholders of the intermediary and holding companies of Bally's Park Place, had the ability to control such publicly-traded intermediary or holding companies or elect one or more directors thereof within the meaning of Section 85(d)(1). If the answer to this question was in the affirmative then there could be no waiver of any requirement imposed by the Act that any or all of the Wilms family members be qualified as a condition of the casino license application. The Division took the position that Alexander Wilms would not be qualified for approval as a casino key employee pursuant to the provisions of the Act. The Division took no position with regard to the qualifications of Elise, Alfred, Lucien, Sophie or Stephanie Wilms.

At the conclusion of the evidentiary portion of the license hearing, the Commission found that, as matters then stood, there were substantial reasons why the grant of a waiver to any member of the Wilms family should be withheld. To that point, the Commission and the Division were operating under the assumption that, subsequent to the termination of the temporary casino permit of Bally's Park Place, the Wilms family would reassume the right to exercise the voting powers of their stock in Bally and Bally's Park Place (Delaware). By virtue of the terms of the December 5, 1979 agreement and with the assent of each member of the Wilms family, the Wilms' stock in Bally and Bally's Park Place (Delaware) had been subject to an irrevocable proxy during the course of the temporary casino permit.

By their terms, these proxies directed the secretaries of the holding and intermediary companies to vote the Wilms' stock in accordance with the majority of the stockholder's votes cast at any particular meeting. The proxies were to remain in effect from the date of their execution (December 12, 1979) until "the last date on which Bally's Park Place, Inc. holds a temporary casino permit in accordance with the laws of New Jersey, or for such further period of time as may be fixed by the New Jersey Casino Control Commission". Furthermore, the proxies provided that they would be irrevocable during such period unless revoked with the written consent of the New Jersey Casino Control Commission.
The Commission was thus faced with the very difficult issue of whether any or all members of the Wilms family must be qualified as part of the casino license application of Bally's Park Place. Alexander Wilms, through his counsel, steadfastly maintained that he should not be required to qualify as part of the application of Bally's Park Place. Therefore, the record of this proceeding is sparse as to the ultimate issue of the qualification of Alexander Wilms. If the Commission were forced to make a determination as to the qualification of Alexander Wilms based upon this record, the Commission might be unable to find that the statutory standard has been met. Thus, a determination that Mr. Wilms was required to qualify as part of the casino license application of Bally's Park Place could potentially have serious ramifications for that corporate casino license applicant.

The Commission considered whether an alternative response to this problem would be feasible and appropriate. The policies and purposes of the Casino Control Act would best be served by a resolution which adequately protects the law enforcement concerns contained in the Act without needlessly frustrating the mutual interests of the State and the corporate applicant. These interests, namely the economic revitalization of Atlantic City and the issuance of a casino license to an otherwise qualified applicant, would be unjustifiably jeopardized by placing in the hands of a shareholder, who is unable to control the actions of the corporate casino license applicant, the power to disqualify that applicant by refusing to cooperate in the application process.

To avoid this dilemma without eroding the Act's mandate that the integrity of any controlling or influential person be established, the Commission proposed that certain restrictions be imposed as a precondition to issuance of a casino license to the applicant. These restrictions were specifically designed to assure that there will no control or significant influence over the operations of Bally's Park Place or Bally Manufacturing Corporation by any member of the Wilms family.

On December 23, 1980, as part of its preliminary determination, the Commission announced its intent to pursue this course of action and described the conditions which would be imposed. In view of the fact that William T. O'Donnel would be foreclosed from playing any role in the management or in the formulation of policy of the corporate applicants as a result of his failure to qualify, the Commission believed that the proposed conditions would effectively foreclose the ability of Alexander Wilms or any other member of the Wilms family
(1) to significantly influence or control the operations or policies of the casino license applicant or (2) to control Bally or Bally’s Park Place (Delaware) or elect one or more of the directors thereof.

After expressing these findings and opinions, the Commission offered the Director of the Division an opportunity to consider whether he would join the Commission in waiving any qualification requirement for the Wilms family members, pursuant to Section 85(d)(1).

When the license hearing reconvened on December 29, 1980, the Director declared his agreement with the Commission’s position that waivers of qualification were appropriate. The Director emphasized that his continuing concurrence was contingent on strict compliance with the proposed conditions and unstinting cooperation by the applicant with the Division in enforcing them. Additionally, the Director suggested a modification to the condition imposed on business dealings between Bally and Alexander R. A. Wilms. We consider the suggested modification, which expands the scope of the condition to include other Wilms family members, to be a reasonable safeguard against indirect influence by Alexander R. A. Wilms. We therefore adopt it.

Section 92(b) of the Act, N.J.S.A. 5:12-92(b), requires that the owners, among others, of a casino service industry license applicant which is subject to the provisions of Section 92(a) (gaming related) must qualify under the standards, except residency, established for qualification of a casino key employee under the Act. See N.J.S.A. 5:12-89. Commission regulations provide that each owner of a casino service industry license applicant who directly or indirectly holds any beneficial interest or ownership in excess of five percent of the enterprise must so qualify. N.J.S.A. 19:43-1.14(a)(1)(iii). As with casino license qualifiers, these statutory and regulatory provisions are grounded in those policies of the Act which require all individuals who may have the ability to significantly influence or control the operations of a Section 92(a) enterprise to be qualified under the appropriate standards of the Act.

Bally Manufacturing Corporation, in addition to being a holding company as to Bally’s Park Place, is itself an applicant for a Section 92(a) casino service industry license as a gaming equipment manufacturer and supplier. If the Bally stock held by the Wilms family were to be aggregated, the Wilms family could be found to be an owner required to be qualified in accordance with the provisions of the Act and Commission regulations. There is no credible evidence in the
record of this proceeding, however, which would support a finding that the members of the Wilms family have historically pooled the non-voting beneficial interests which accrue as a result of their ownership of Bally stock; furthermore, there is a similar lack of support for a finding that such an event is likely to occur in the future. By imposing the same conditions on the casino service industry license as will be imposed on the casino license, including a restriction on the voting power of the Bally stock owned of record by Alexander, Elise, Alfred and Lucien Wilms, the Commission hereby finds that none of these individuals are now persons required to be qualified as an owner of a Section 92(a) casino service industry enterprise.

The conditions thus imposed upon both the casino license of Bally’s Park Place and the casino service industry license of Bally Manufacturing Corporation to assure that the Wilms family members are appropriately granted a waiver from any qualification requirement are as follows:

1. That the irrevocable proxies which were executed on December 12, 1979, by Alexander R.A. Wilms, Elise Wilms, Alfred Wilms and Lucien Wilms in accordance with the December 5, 1979, agreement and which provide that the Wilms’ stock in Bally Manufacturing Corporation and Bally’s Park Place (Delaware) shall be voted with the majority of shareholders voting on any matter, shall be continued in full force and effect so long as the companies are holding or intermediary companies with respect to a licensed New Jersey casino operator, or so long as either company holds a gaming related casino service industry license;

2. That Bally Manufacturing Corporation and Bally’s Park Place (Delaware) shall notify the Commission and the Division before recording any transfer of stock in said companies held by any member of the Wilms family;

3. That the management and directors of Bally Manufacturing Corporation and its subsidiaries shall immediately notify the Commission and the Division of any effort by any member of the Wilms family to influence any actions or decisions of the companies, their officers, directors or employees;

4. That Bally Manufacturing Corporation and its subsidiaries shall have no direct or indirect business transactions of any nature whatsoever with Alexander R.A. Wilms, Elise Wilms, Alfred Wilms or Lucien Wilms or any corporation or other business entity controlled by them, or any of them, or in which they or any of them own beneficially a 5 percent or greater interest of any class of voting
securities, without notice to the Division of Gaming Enforcement and the prior approval of the Casino Control Commission; provided that they may continue as stockholders subject to the irrevocable proxies; and further provided that the notice and prior approval provision of this paragraph shall become effective 60 days following the issuance of a casino license to Bally's Park Place or a casino service industry license to Bally Manufacturing Corporation; and

5. That Bally Manufacturing Corporation and its subsidiaries shall not permit any member of the Wilms family to act as director, officer, employee or agent without the prior approval of the Commission.

All of the findings of the Commission regarding whether or not Alexander, Elise, Alfred, Lucien, Sophie and Stephanie Wilms are individuals required to be qualified as part of the applications of Bally Manufacturing Corporation or Bally's Park Place are predicated upon the facts contained in the record presently before the Commission. The parties should be mindful of the fact that any significant change in these facts may require the Commission to re-evaluate its findings as to whether the above-stated conditions are adequate or effective and whether any member of the Wilms family should be required to qualify in the future.

C. OTHER PERSONS REQUIRED TO QUALIFY

Aside from William T. O'Donnell and the Wilms family, the Commission finds that there are 22 persons required to qualify either as part of the Bally's Park Place casino license application or as part of the Bally Manufacturing Corporation casino service industry license application or both. As to the casino license, the Commission and the Division concurred, under N.J.S.A. 5:12-85(c) and 85(d)(1), as to those individuals affiliated with the publicly-traded holding and intermediary companies who were required to qualify. As to the casino service industry license, the Commission has determined the qualifers in accordance with the Act, N.J.S.A. 5:12-92(a) and (b), and the regulations, N.J.A.C. 19:43-1.14. The 22 individuals, none of whom were the subject of an objection and about whom no grounds for rejection appear on this record, are the following:

1. GEORGE NORMAN ARONOFF, an Ohio resident, 47 years of age, is a director of Bally Manufacturing Corporation.

2. DOROTHY J. ATTANASIO, 56 years of age and a New Jersey resident, is Vice-President of Administration for Bally's Park Place.
3. ALAN H. BIBLE, 70 years of age and a Nevada resident, is a Director of Bally Manufacturing Corporation.

4. STEVEN R. BOLSON, 34 years of age and a New Jersey resident, is Secretary and General Counsel of both Bally's Park Place (Delaware) and Bally's Park Place.

5. JERRY ALLEN BLUMENSHINE, 40 years of age and an Illinois resident, is Corporate Controller for Bally Manufacturing Corporation.

6. JOHN ANTHONY BRITZ, 62 years of age and an Illinois resident, is Executive Vice-President of Technology and a Director of Bally Manufacturing Corporation.

7. WILLIS H. BROCKHOFF, 62 years of age and an Illinois resident, is Treasurer of Bally Manufacturing Corporation.

8. GEORGE D. CROWLEY, 67 years of age and an Illinois resident, is a Director of Bally Manufacturing Corporation and Chairman of that company's Finance & Long Range Planning Committee.

9. REDENIA C. GILLIAM, 32 years of age and a New Jersey resident, is Vice-President for Government Relations of both Bally's Park Place (Delaware) and Bally's Park Place.

10. RICHARD GILLMAN, 49 years of age and a New Jersey resident, is Chairman of the Board of both Bally's Park Place (Delaware) and Bally's Park Place.

11. RICHARD KNIGHT, 32 years of age and a New Jersey resident, is Corporate Controller for both Bally's Park Place (Delaware) and Bally's Park Place.

12. ALFRED C. LINKLETTER, 68 years of age and a New Jersey resident, is a Director and consultant of both Bally's Park Place (Delaware) and Bally's Park Place.

13. CHRISTIAN MARI, 29 years of age and a New Jersey resident, is Vice-President for Hotel Operations of Bally's Park Place.

14. GEORGE BERNARD MORAN, 70 years of age and a New York resident, is a Director of Bally Manufacturing Corporation.

15. ROBERT E. MULLANE, Jr., 48 years of age and an Illinois resident, is President and Chairman of the Board of Bally Manufacturing Corporation.

16. JAMES M. ROCHFORD, 59 years of age and an Illinois resident, is Vice-President for Corporate Security of Bally Manufacturing Corporation.

17. IRVING ROM, 57 years of age and an Illinois resident, is a Director and Executive Vice-President for Finance of Bally Manufacturing Corporation.
18. ROSS BERYL SCHEER, 50 years of age and an Illinois resident, is director of Marketing for Bally Manufacturing Corporation.

19. GLENN K. SEIDENFELD, Jr., 36 years of age and an Illinois resident, is Secretary and General Counsel for Bally Manufacturing Corporation.

20. CHARLES R. TANNENBAUM, 46 years of age and a New Jersey resident, is Vice-President of Entertainment & Special Events for Bally’s Park Place.

21. WALTER WECHSLER, 67 years of age and a New Jersey resident, is a Director of Bally’s Park Place.

22. WILLIAM S. WEINBERGER, 67 years of age and a New Jersey resident, is a director and President of both Bally’s Park Place (Delaware) and Bally’s Park Place.

Having considered all of the information supplied by each of the qualifiers and by the Division, the Commission is satisfied that each of the named individuals meets the statutory standards required of a person who must qualify as part of a casino license or a gaming-related casino service industry license.

III. SUITABILITY OF THE CORPORATE APPLICANTS

Having considered the suitability of the individuals required to qualify, we must now decide whether the corporate applicants, Bally Manufacturing Corporation and its subsidiary, Bally’s Park Place, possess the requisite good character, honesty and integrity for a casino service industry license (gaming-related) and a casino license, respectively.

Bally Manufacturing Corporation is a large, publicly-traded company. Although the Casino Control Act considers this company to be a “person” required to qualify, it is evident that such an entity and its subsidiaries (collectively “the company”) cannot be evaluated in the same manner as an individual like Mr. O’Donnell. Common experience teaches that an individual’s character develops over time and manifests itself through acts and omissions. Once formed, individual character usually resists precipitous transformation. A corporation, however, does not possess a separate moral character. As our Supreme Court has stated: “The moral responsibility of a corporation is one and the same with the moral responsibility of the individuals
who give it direction." Thus, a corporation mirrors the attributes of its principal officials and must bear responsibility in a broad sense for their failings.

This reflective character also permits the entity to remove a stain from the corporate image by removing the persons responsible for the misdeeds. In order to accomplish this cleansing, the corporation must be able to isolate the wrong done and the wrongdoers from the remaining corporate personnel.

If, as a consequence, the corporation has purged itself of the offending individuals and they are no longer in a position to dominate, manage or meaningfully influence the business and operations of the corporation, the responsibility of the corporation should then be assayed, not upon the moral infirmities of the removed malefactors, but upon the integrity of the persons who remain in ownership and control of it.19

The question thus becomes whether the improprieties in Bally's history can be localized in any one individual. Stated differently, this Commission must be convinced that the persons remaining after Mr. O'Donnell's removal possess the necessary measure of integrity. In examining the personal qualities of these remaining individuals, at least two contentions must be considered: first, that the other key personnel, especially the directors, tolerated or ratified unacceptable conduct and associations; and second, that the very retention of Mr. O'Donnell as President and Chairman of the Board itself demonstrates the defective character of other corporate officials. Since we have already found that the persons required to qualify have done so, we have implicitly concluded that, on the present record, these contentions are unfounded as to the current management. We now explain why we reach this conclusion.

As previously stated in regard to Mr. O'Donnell, three areas of concern emerge as most damaging. First is the acquisition of the predecessor company in 1963 by the K.O.S. group formed by Mr. O'Donnell and the resulting association of the company with Gerardo Catena and confederates of Mr. Catena. While this association gives us cause for deep concern as to Mr. O'Donnell's fitness, the present company can hardly be held responsible for those activities. It has

been demonstrated during this hearing that each of the original K.O.S. members have been severed from the company with the sole exception of Mr. O'Donnell. The last such severance occurred in 1976 when Sam W. Klein was ordered by the Nevada Gaming Commission to divest himself of his shares and to resign all positions with the company. There is no reason to believe that Mr. Klein can exercise any control or influence over Bally today, especially in view of this Commission's demand that Mr. O'Donnell be separated from the company. Further, no evidence appears to indicate that any other present corporate official has participated in or condoned any illicit activity by Mr. Klein or by any other member of the K.O.S. group.

The second major area of concern with regard to Mr. O'Donnell is the alleged bribery of Kentucky legislators in 1968. It is true that passage of the bill in question would have benefitted Bally, but there is no indication that anyone else in the company had any knowledge of Mr. O'Donnell's apparent intent. Although two current members of the company's management, Mr. Brockhoff and Mr. Britz, signed the $4,000 check which Mr. O'Donnell sent to Gilbert Brawner, we are convinced that they acted on instructions of Mr. O'Donnell to send a loan to one of Bally's distributors. The responsibility for this action falls squarely on Mr. O'Donnell.

The third troublesome area regarding Mr. O'Donnell is his employment of Dino Cellini as a salesman in the Bahamas and later in Europe. Mr. O'Donnell made it quite clear that it was his decision to engage Mr. Cellini and that he was aware of Mr. Cellini's reputation. As chief executive officer, Mr. O'Donnell certainly did not have to confer with anyone else before taking those actions. However, if anyone else could be faulted, it would be Alexander Wilms who was Mr. Cellini's immediate superior at Bally Continental. In any event, no active member of the corporate group appears to be chargeable with any negative inferences flowing from Mr. Cellini's work for the corporation. That work ended in May 1973 and Mr. Cellini died in 1978.

During this hearing, several other matters have been examined. These include: the adequacy of compliance with the 1975 Nevada probationary registration, especially the requirement to cease all business with Louis Boasberg and Abe Green; the several borrowings from the Teamsters Pension Fund; the placement of insurance with the United Founders company through Alan Dorfman's agency; the use of Michael Wichinsky as a distributor for the company in Nevada; compliance with the 1976 order of the Nevada Gaming Commission
to refrain from employing Sam W. Klein in any capacity; and the placement of illegal wagers by Mr. O'Donnell for a month in 1971.

After reviewing the evidence pertaining to all of these matters, the Commission is satisfied that they may reflect on Mr. O'Donnell but they do not reflect adversely on the present management and directors of Bally. In this regard, the Commission observes that the membership of the board of directors has undergone almost a complete change since 1974 and that the company now appears earnest in its commitment to regulatory compliance.

Further, the company has presented for this Commission's scrutiny virtually every director, officer and key employee in the present corporate management. No allegation has been leveled against these individuals that they personally approved or participated in any of the troublesome associations, regulatory violations or improper behavior discussed herein. It is true that the Bally leadership, especially the board, has been perhaps too passive and too reliant on Mr. O'Donnell with respect to important matters. However, we do not find willful neglect or purposeful abdication which would cause us to doubt the character of the present personnel. Thus, while this Commission realizes the difficulty of weeding out culpable individuals from the corporate thicket, under the present circumstances we do not find cause to reject this publicly-traded corporate group.

For all of these reasons and subject to the conditions stated hereafter, the Commission finds that the corporate applicants have established the requisite good character, honesty and integrity for licensure. However, no license could issue unless William T. O'Donnell is no longer a person to be qualified and unless the unsavory or questionable associations in the company's past are fully severed. To assure that neither Mr. O'Donnell nor any of the disreputable individuals previously affiliated with the company is in a position to dominate, manage or meaningfully influence the company's business or operations, the Commission hereby imposes several conditions on both the casino service industry license of Bally Manufacturing Corporation and the casino license of Bally's Park Place. Strict compliance with these conditions and the Wilms conditions (see Part IIIB) is an essential premise for both the issuance and continuation of these licenses. The conditions are as follows:

1. That the irrevocable voting trust executed by William T. O'Donnell pursuant to the December 5, 1979, agreement, entered by Mr. O'Donnell to induce the issuance of a temporary casino permit to Bally's Park Place, shall be extended until the Commission is
satisfied that a permanent divestiture of those securities held by Mr. O'Donnell in Bally Manufacturing Corporation and Bally's Park Place (Delaware) has been achieved:

2. That, in accordance with the December 5, 1979, agreement, William T. O'Donnell shall submit to the Division and the Commission by no later than February 2, 1981, a plan of divestiture for his securities which plan shall be modified as the Commission may direct:

3. That Bally Manufacturing Corporation and Bally's Park Place (Delaware) shall not distribute to Mr. O'Donnell any dividends or interest accruing to his securities in accordance with the terms of an agreement with Mr. O'Donnell dated and executed December 24, 1980:

4. That Bally Manufacturing Corporation and its subsidiaries shall have no business transactions whatsoever with Mr. O'Donnell or any corporation or other business entity controlled by him or in which he has a 5 percent or greater interest of any class of voting securities, except as may be necessary to effectuate the divestiture of Mr. O'Donnell's securities and except with respect to his partnership interest in the 2640 West Belmont Partnership;

5. That Bally Manufacturing Corporation and its subsidiaries shall immediately notify the Commission and Division of any effort by Mr. O'Donnell to influence any action or decision of the companies, their officers or directors or employees;

6. That Bally Manufacturing Corporation and its subsidiaries shall have no business transactions whatsoever with Gerardo Catena, Abe Green, or Sam W. Klein (except with respect to his partnership interest in 2640 West Belmont Partnership) or with any corporation or other business entity controlled by them or any of them or in which they or any of them have a 5 percent or greater interest of any class of voting securities;

7. That Bally Manufacturing Corporation and its subsidiaries shall have no business transactions whatsoever with Irving Green or Louis Boasberg or with any corporation or other business entity controlled by any of them or in which any of them have a 5 percent or greater interest of any class of voting securities, without the prior approval of the Commission;

8. That Bally Manufacturing Corporation and its subsidiaries shall not permit Jack Rooklyn to act as a director, officer, employee or agent without the prior approval of the Commission;

9. That by no later than February 2, 1981, Bally Manufacturing
Corporation shall either show cause why the 2640 West Belmont Partnership should be allowed to continue as owner and lessor of the Bally headquarters or submit a plan for acquisition or reconstitution of the said partnership so as to eliminate the participation of Messrs. Klein and O'Donnell therein:

10. That by no later than July 1, 1981, Bally Manufacturing Corporation shall cause at least 50 percent of the membership of its board of directors to be independent, outside members and shall maintain such minimum proportion thereafter;

11. That Bally Manufacturing Corporation shall maintain in full force and effect its present system of internal reporting, shall amend such system as required by the Commission and shall not amend such system without the prior approval of the Commission, provided that nothing herein shall require Bally Manufacturing Corporation to modify or not modify the said system without the concurrence or against the directive of any other jurisdiction; and

12. That Bally Manufacturing Corporation shall continue to maintain an adequately and competently staffed security department to assure that the company and its subsidiaries are not dealing with persons lacking integrity, to assure that the internal reporting system is functioning properly and to assure compliance with these conditions.

IV. FINDINGS AS TO COMPLIANCE WITH OTHER LICENSE REQUIREMENTS

At the hearing, the contested issues covered the standards of good character, honesty and integrity as applied to the corporate applicants and to certain key persons required to qualify in order for the licenses to issue. Although these disputed matters have now been addressed, there remain several other areas in which findings are mandated by the Act, by the regulations of the Commission and by the conditions attached to the temporary casino permit granted to Bally's Park Place. A detailed recitation of proposed findings and conditions in these other areas was prepared by the Commission's Licensing Division and presented to the parties before the close of the hearing. No objection was raised and the proposal was formally adopted and included in the record. For the sake of completeness, the operative findings and conditions are set forth herein. They are as follows:

1. That Bally's Park Place has satisfied N.J.S.A. 5:12-85(a)(1) to (9) requiring it to file information concerning the organization, busi-
nesses, personnel, securities, and securities holders of it and its holding companies:

2. That Bally's Park Place is wholly-owned by an intermediary company, Bally's Park Place, Inc., (Delaware), which is qualified to do business in New Jersey and which has issued in excess of 22 million shares of common stock, publicly-traded in the over-the-counter market, which is presently held by approximately 18,000 shareholders of record, both direct and beneficial, of which shares the holding company, Bally Manufacturing Corporation, is the owner of approximately 83 percent (See N.J.S.A. 5:12-26 and 28);

3. That the holding company, Bally Manufacturing Corporation, is a Delaware Corporation with principal offices in Chicago, Illinois is qualified to do business in New Jersey and has issued in excess of 25 million shares of common stock, publicly-traded on the New York Stock Exchange which is presently held by more than 22,000 record and 65,000 beneficial shareholders (See N.J.S.A 5:12-26);

4. That the two said corporations, Bally Manufacturing Corpora- tion and Bally's Park Place, are presently the sole holding and intermediary companies of Bally's Park Place, a subsidiary (See N.J.S.A. 5:12-47), and that both have registered with the Commission as required by N.J.S.A. 5:12-85(b);

5. That Bally Manufacturing Corporation is a casino service industry as defined by N.J.S.A. 5:12-12 in that it does business with New Jersey casinos and provides them with goods and services on a regular or continuing basis;

6. That Bally Manufacturing Corporation is required to hold a casino service industry license pursuant to N.J.S.A. 5:12-92(a) in that its goods or services directly relate to casino or gaming activity and it is a manufacturer and supplier of gaming equipment;

7. That Bally Manufacturing Corporation as well as its owners, management, supervisory personnel, and other principal employees, must qualify under the standards, except residency, for qualification of a casino key employee as required by N.J.S.A. 5:12-92(b), and that all required entities and persons, except as otherwise noted in this opinion and subject to the conditions previously stated, have so qualified;

8. That Bally's Park Place owns the entire casino hotel building and owns in fee the former Dennis Hotel site portion of the land thereunder; that the holding company, Bally Manufacturing Corporation, owns in fee the former Marlborough-Blenheim site portion of the land thereunder which it leases as landlord to Bally's Park Place;
and that Bally's Park Place is thus eligible to hold a casino license (See N.J.S.A. 5:12-82(b)(1), (2), and (4));

9. That the said lease is in writing, has been filed with the Commission, has a duration of in excess of 30 years and includes a fixed sum buy-out provision conferring upon Bally's Park Place, as lessee, the absolute right to acquire the entire interest of lessor holding company Bally Manufacturing Corporation in the event the said lessor is found to be unsuitable (See N.J.S.A. 5:12-82(c)(5));

10. That Bally's Park Place manages its own casino (N.J.S.A. 5:12-82(b)(3) and (c));

11. That Bally's Park Place and Bally Manufacturing Corporation as parties to the said lease agreement shall each in accordance with N.J.S.A. 5:12-82(c)(9) be jointly and severally liable for all acts, omissions, and violations of the Casino Control Act by either party regardless of actual knowledge of such act, omission, or violation and notwithstanding any provision in said agreement to the contrary;

12. That Bally's Park Place meets the incorporation, on-site office, state corporation law compliance, ownership ledger, operating bank account, and express corporate charter provision requirements of N.J.S.A. 5:12-82(d)(1) through (6);

13. That Bally's Park Place has adopted provisions which establish the right of the Commission to prior approval of all transfers of interests in Bally's Park Place as required by N.J.S.A. 5:12-82(d)(7) and which establish the absolute right of Bally's Park Place to repurchase at the lesser of market or purchase price any interests the transfer of which has been disapproved by the Commission as required by N.J.S.A. 5:12-82(d)(8);

14. That Bally's Park Place neither holds nor has been issued a casino license and thereby meets the requirement of N.J.S.A. 5:12-82(e) limiting to three the number of casino licenses a person may hold;

15. That Bally's Park Place obtained, in addition to monies advanced to it by Bally Manufacturing Corporation out of its operating funds, $288.6 million to finance the casino proposal from the following sources:

   (a) $176.2 million in credit lines and revolving loans from the following 12 banking institutions;

   (1) $60.1 million from Continental Illinois National Bank and Trust Company (Including $11.1 million from its Nassau, Bahamas Branch)
(2) $26.5 million from Manufacturers Hanover Trust Company
(3) $16.0 million from Marine Midland Bank
(4) $11.3 million from American National Bank
(5) $12.3 million from Girard Bank
(6) $7.5 million from Industrial National Bank of Rhode Island
(7) $7.5 million from First National State Bank of New Jersey
(8) $10.0 million from Union Bank of America
(9) $5.0 million from National Westminster Bank
(10) $5.0 million from Barclays Bank International, Ltd.
(11) $10.0 million from Credit Suisse
(12) $5.0 million from Canadian Imperial Bank of Commerce;

(b) $3.9 million from a mortgage to First Peoples National Bank of New Jersey of Haddon Township, New Jersey, on the Marlborough-Blenheim site extending to December 1, 1997, which was assumed by Bally Manufacturing Corporation at the time that site was purchased;

(c) $4.0 million from a mortgage to Norman Palley and Alexander Blatt, as trustees, on the Marlborough-Blenheim site extending to March 1, 1981;

(d) $56.0 million from the sale of 3.9 million shares of Bally’s Park Place, (Delaware) common stock issued on July 23, 1979;

(e) $48.5 million from the sale of Bally Manufacturing Corporation twenty-year convertible subordinated debentures issued effective September 19, 1978;

16. That no other financial sources which bear any relation to the casino proposal have been identified;

17. That Bally’s Park Place has established by clear and convincing evidence both the integrity and reputation of the named financial sources and that its financial resources are adequate to complete the casino proposal and to operate the casino as required by N.J.S.A. 5:12-84(b);

18. That the casino hotel facility is situated on an approximately 8.3 acre tract fronting on the Boardwalk between Park Place and Michigan Avenue and consists of wholly new construction integrated with a complete reconstruction of the historic Dennis Hotel into a single convention hotel building which conforms to the “approved hotel” requirements of N.J.S.A. 5:12-27 and 83;
19. That, as a condition to the issuance of a Temporary Casino Permit, the casino hotel facility was required both to comply with the appropriate provisions of the Uniform Construction Code Act (N.J.S.A. 52:27d-119, et seq.) and the law relating to barrier-free design for the physically handicapped (N.J.S.A. 52:32-4) and to obtain a Certificate of Occupancy from the City of Atlantic City;

20. That Bally's Park Place has complied with all appropriate provisions of the Uniform Construction Code Act and the law relating to barrier-free design for the physically handicapped and has obtained a Certificate of Occupancy from the city of Atlantic City;

21. That, as a condition of its casino license, Bally's Park Place shall maintain a current Certificate of Occupancy issued by the City of Atlantic City;

22. That, as a condition to the issuance of a casino license and as required by N.J.S.A. 5:12-83 and 84(e), any expansion of the casino hotel facility and other related construction is subject to full review and approval by the Commission and all other appropriate jurisdictional agencies, which shall include consultation with the Division of Gaming Enforcement;

23. That, as a condition to the issuance of a Temporary Casino Permit, Bally's Park Place was required to submit for Commission review and approval a design solution which would achieve the goal of N.J.S.A. 5:12-98(b)(4) by eliminating any visibility of the casino from outside the facility through the temporary Boardwalk entrance;

24. That, although Bally's Park Place effectively eliminated any visibility of the casino from outside the facility through the temporary Boardwalk entrance, there remains an issue as to whether total compliance with N.J.S.A. 5:12-98(b)(4) has been achieved in that the casino floor may be visible from outside the facility;

25. That, as a condition of its casino license, Bally's Park Place shall within 30 days of the date of this decision demonstrate to the Commission that the casino is not visible from outside the facility in compliance with N.J.S.A. 5:12-98(b)(4) and shall, after consultation with the Division of Gaming Enforcement, present a design solution to eliminate any such visibility that may be found to exist;

26. That, as required by N.J.S.A. 5:12-84(e), Bally's Park Place has established to the satisfaction of the Commission that, subject to the various conditions identified herein, the casino and its related facilities and its location are suitable and that neither the Atlantic City patron market nor the overall environment including economic, social, demographic, competitive, or natural resource conditions have
been, are being, or will be adversely affected by the casino hotel facility;

27. That, as a condition to the issuance of a Temporary Casino Permit, the Commission required that parking provisions and traffic circulation be subject to continuing review and approval by both the Atlantic City Department of Police and the Commission;

28. That, as a condition of the issuance of the casino license, parking provisions and traffic circulation shall remain subject to the continuing review and approval of both the Atlantic City Department of Police and the Commission;

29. That, as a condition to the issuance of its Temporary Casino Permit, Bally’s Park Place was required to cooperate with and aid in the development and implementation of plans both to improve the traffic circulation in the Brighton Park area including that on Pop Lloyd Boulevard, Park Place, Indiana Avenue and the connecting loop street and to redesign and upgrade Brighton Park itself;

30. That Bally’s Park Place has in fact assumed the major cost in the upgrading of Brighton Park including the installation of an all-new irrigation system, the complete re-sodding and replacement of all damaged shrubs and the new paving of existing walkways;

31. That, as a condition of its casino license, Bally’s Park Place shall to the extent appropriate continue to cooperate with and aid in the development and implementation of plans to improve such traffic circulation and to redesign Brighton Park;

32. That Bally’s Park Place is required by N.J.S.A. 5:12-84(e) to establish to the satisfaction of the Commission that its proposal does not adversely affect the overall environmental conditions in the Atlantic City region including its economic, social and demographic conditions;

33. That by virtue of the fact that Bally’s Park Place employs at the approved hotel facility in excess of 4,300 persons, the proposal does affect the overall environment in the Atlantic City region and does particularly affect the limited residential housing stock available as a practical matter for the employees which Bally’s Park Place has added to the Atlantic City workforce;

34. That, as a condition to the issuance of a Temporary Casino Permit, Bally’s Park Place was required to participate with the Commission in assessing the Atlantic City regional housing needs and, if so required, further participate in providing a reasonable share of the housing construction requirement for Atlantic City;

35. That, as a condition of its casino license, Bally’s Park Place
shall continue to participate with the Commission in assessing the Atlantic City regional housing needs and, if so required, further participate in providing a reasonable share of the housing construction requirement for Atlantic City;

36. That Bally’s Park Place on December 6, 1979, committed itself to introduce 56 units of family housing to the Atlantic City housing stock through the construction of 28 townhouses to be known as the Jacobs Family Terrace project on a site between Mediterranean and Baltic Avenues at New York Avenue; that, to date, both New Jersey Department of Environmental Protection and Atlantic City Planning Board approvals have been obtained; and that Bally’s Park Place has represented that these housing units will be ready for occupancy by November of 1981;

37. That, as a condition of its casino license, Bally’s Park Place shall use its best efforts, giving consideration to among other factors the cost of money, to have the said 56 units ready for occupancy by November of 1981 and shall within 30 days of this decision submit to the Commission a detailed outline of its projected completion dates;

38. That the approved hotel presently contains 503 qualifying sleeping units of a typical size of 407 square feet and an average size of 415 square feet and thereby exceeds the minimum qualifying sleeping units requirement set forth in N.J.S.A. 5:12-27 and 83(a);

39. That the approved hotel presently contains a total of 129,974 square feet of qualifying space including 56,470 square feet of qualifying dining, entertainment and sports space, 27,170 square feet of qualifying meeting and exhibition space, and 46,334 square feet of qualifying kitchen support facilities and thereby exceeds the minimum qualifying space requirements set forth in N.J.S.A. 5:12-83(b), (c), (d) and (g);

40. That the approved hotel contains a single casino room of 60,000 square feet which does not exceed the maximum square foot limitation set forth in N.J.S.A. 5:12-83(d);

41. That Bally’s Park Place has projected the following completion dates for the listed amenities it proposes to add to its “approved hotel” as described in detail in its application for this casino license and as analyzed in the Report of the Approved Hotel and Impact Bureau of the Commission’s License Division at pages 11(a) through 11(c), admitted at the license hearings:
<table>
<thead>
<tr>
<th>Component</th>
<th>Completion Date as of December 1979</th>
<th>Completion Date as of December 1980</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. North meeting room expansion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Park Place entrance renovation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. 3-level grand Boardwalk entry &amp; health club</td>
<td>June 1, 1980</td>
<td>January, 1983</td>
</tr>
<tr>
<td>d. Boardwalk Mezzanine slab</td>
<td></td>
<td>July, 1983</td>
</tr>
<tr>
<td>e. Coffee Shop</td>
<td></td>
<td>June, 1982</td>
</tr>
<tr>
<td>f. Chinese Restaurant</td>
<td></td>
<td>June, 1983</td>
</tr>
<tr>
<td>g. Gourmet Restaurant</td>
<td></td>
<td>June, 1984</td>
</tr>
</tbody>
</table>

42. That, as a condition of its casino license, Bally's Park Place shall, on a quarterly basis, continue to inform the Commission in writing as to its then current intention concerning the construction and completion of the indicated amenities;

43. That, upon completion of the Boardwalk entry and mezzanine slab, the casino room may unduly dominate the convention hotel complex in violation of N.J.S.A. 5:12-1(1)(b)(5) and (6) by virtue of the fact that no meaningful access may then exist from the extensive Boardwalk frontage to non-casino amenities within, other than access unduly dominated by the casino, its gaming tables and its slot machines;

44. That, as a condition of its casino license, Bally's Park Place shall provide meaningful access from the Boardwalk to non-casino amenities not dominated by its casino;

45. That construction of the approved hotel facility commenced in September 1978;

46. That Bally's Park Place, on November 16, 1979, filed a written guarantee that it would require its contractors and subcontractors to afford an equal employment opportunity to all employees in connection with the construction of its approved hotel; that it filed documents in support of its position that it made a good faith effort to afford an equal employment opportunity to such employees as re-
quired by N.J.S.A. 5:12-134(a); and that it has failed to make all
construction equal employment opportunity submission on a timely
basis;

47. That Bally's Park Place initially relied upon Joseph Nigro
and subsequently Sharon Vavrek, employees of its general contractor
Turner Construction Company, as affirmative action officers for its
construction workforce as required by N.J.S.A. 5:12-135(f) and, there-
after, on April 30, 1979, appointed its own employee, William L.
McKnight as its equal employment officer;

48. That Bally's Park Place has failed to meet the percentage
employment goals in N.J.A.C. 19:53-1.5(3) and 1.14(a) of 20 percent
minority and 6.9 percent female journeymen and apprentices by
trade;

49. That Bally's Park Place construction workforce from Novem-
ber 18, 1979, to October 14, 1980, contained the following proportions
of protected class individuals:
<table>
<thead>
<tr>
<th>Trade</th>
<th>Total Worker Weeks</th>
<th>Worker Weeks</th>
<th>Minority</th>
<th>Minor Worker Weeks</th>
<th>Minority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plasterer</td>
<td>211</td>
<td>4</td>
<td>2</td>
<td>1.946</td>
<td>50%</td>
</tr>
<tr>
<td>Bricklayer</td>
<td>361</td>
<td>10</td>
<td>2</td>
<td>1.26</td>
<td>20%</td>
</tr>
<tr>
<td>Elevator</td>
<td>549</td>
<td>10</td>
<td>0</td>
<td>0.81</td>
<td>14%</td>
</tr>
<tr>
<td>Mechanic</td>
<td>726</td>
<td>10</td>
<td>4</td>
<td>0.70</td>
<td>11%</td>
</tr>
<tr>
<td>Electrician</td>
<td>77</td>
<td>10</td>
<td>0</td>
<td>0.06</td>
<td>9%</td>
</tr>
<tr>
<td>Painter</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>9%</td>
</tr>
<tr>
<td>Plumber</td>
<td>68</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>9%</td>
</tr>
<tr>
<td>Ironworker</td>
<td>68</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>9%</td>
</tr>
<tr>
<td>Operating Engineer</td>
<td>333</td>
<td>8</td>
<td>0</td>
<td>0.08</td>
<td>5%</td>
</tr>
<tr>
<td>Cement Mason</td>
<td>333</td>
<td>8</td>
<td>0</td>
<td>0.08</td>
<td>5%</td>
</tr>
<tr>
<td>Roofer</td>
<td>354</td>
<td>8</td>
<td>0</td>
<td>0.08</td>
<td>5%</td>
</tr>
<tr>
<td>Carpenter</td>
<td>1954</td>
<td>13</td>
<td>0</td>
<td>0.13</td>
<td>7%</td>
</tr>
<tr>
<td>Sheetmetal</td>
<td>105</td>
<td>4</td>
<td>0</td>
<td>0.04</td>
<td>4%</td>
</tr>
<tr>
<td>Worker</td>
<td>351</td>
<td>18</td>
<td>0</td>
<td>0.18</td>
<td>3%</td>
</tr>
<tr>
<td>Floor Cover</td>
<td>27</td>
<td>4</td>
<td>0</td>
<td>0.04</td>
<td>2%</td>
</tr>
<tr>
<td>Sprinkler</td>
<td>127</td>
<td>3</td>
<td>0</td>
<td>0.03</td>
<td>0%</td>
</tr>
<tr>
<td>Fitter</td>
<td>34</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>0%</td>
</tr>
<tr>
<td>Vinyl Worker</td>
<td>16</td>
<td>0</td>
<td>0</td>
<td>0.00</td>
<td>0%</td>
</tr>
<tr>
<td>Taper</td>
<td>685</td>
<td>74</td>
<td>44</td>
<td>44</td>
<td>11%</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>6,853</strong></td>
<td><strong>746</strong></td>
<td><strong>44</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## b. Apprentices

<table>
<thead>
<tr>
<th>Trade</th>
<th>Total Worker Weeks</th>
<th>Minority Worker Weeks</th>
<th>Percent Minority</th>
<th>Female Worker Weeks</th>
<th>Percent Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>Painter</td>
<td>22</td>
<td>18</td>
<td>82%</td>
<td>8</td>
<td>10.3%</td>
</tr>
<tr>
<td>Sheetmetal Worker</td>
<td>4</td>
<td>3</td>
<td>75%</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Vinyl Worker</td>
<td>7</td>
<td>5</td>
<td>71%</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Brick Layer</td>
<td>2</td>
<td>1</td>
<td>50%</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Sprinkler Fitter</td>
<td>88</td>
<td>32</td>
<td>36%</td>
<td>20</td>
<td>22.7%</td>
</tr>
<tr>
<td>Floor Coverer</td>
<td>57</td>
<td>15</td>
<td>26%</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Electrician</td>
<td>154</td>
<td>4</td>
<td>3%</td>
<td>10</td>
<td>6.5%</td>
</tr>
<tr>
<td>Plumber</td>
<td>79</td>
<td>2</td>
<td>3%</td>
<td>5</td>
<td>6.3%</td>
</tr>
<tr>
<td>Cement Mason</td>
<td>1</td>
<td>0</td>
<td>0%</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>570</strong></td>
<td><strong>106</strong></td>
<td><strong>19%</strong></td>
<td><strong>45</strong></td>
<td><strong>7.9%</strong></td>
</tr>
</tbody>
</table>

## c. Laborers

<table>
<thead>
<tr>
<th>Total Worker Weeks</th>
<th>Minority Worker Weeks</th>
<th>Percent Minority</th>
<th>Female Worker Weeks</th>
<th>Percent Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>919</td>
<td>657</td>
<td><strong>71%</strong></td>
<td>87</td>
<td><strong>9.5%</strong></td>
</tr>
</tbody>
</table>
50. That in each of the two trades of Carpenter and Plumber, which collectively represent 39 percent of the total journeyworker workforce on Bally's Park Place hotel project between November, 1979, and October, 1980, the percentage of minority journeyworkers failed to exceed 11 percent; that, despite some efforts by the Bally's Park Place, the goal of 20 percent minority journeyworkers within each trade has not been achieved; and, that construction of the casino hotel project has been substantially completed.

51. That Bally's Park Place, as a condition of the issuance of its operation certificate, was required to make a meaningful financial contribution to Atlantic Construction Training Program, Inc., a non-profit corporation formed to develop apprentice training programs;

52. That Atlantic Construction Training Program, Inc. presently appears to be one viable vehicle to increase the representation of protected classes in journeyworker positions within the Atlantic County area construction workforce;

53. That Bally's Park Place, as a condition to the issuance of its operation certificate, was required to employ an additional person on its affirmative action staff whose expertise relates to the construction workforce and whose duty is to make good faith efforts on behalf of the company to ensure that construction at its approved hotel complex is accomplished with a construction workforce which conforms to equal employment goals;

54. That, as a condition of its casino license, Bally's Park Place shall employ such a person on its affirmative action staff prior to the commencement of any new construction;

55. That the Commission will continue to review the question of whether Bally's Park Place has made and continues to make good faith efforts to conform to the affirmative action and equal employment opportunity requirements pertaining to its construction workforce as required by N.J.S.A. 5:12-134;

56. That Bally's Park Place employs approximately 4,361 individuals;

57. That Bally's Park Place has filed guarantees that it will afford an equal employment opportunity to all prospective employees; has filed an affirmative action program designed to afford equal employment opportunities; has filed documents in support of its position that it has made and continues to make good faith efforts to afford an equal employment opportunity to all prospective employees and to abide by its program; and has made all equal employment opportunity
filings pertaining to operations in a timely manner as required by N.J.S.A. 5:12-134(b) and (c);

58. That Bally’s Park Place on April 30, 1979, appointed its employee William L. McKnight as operations equal employment officer pursuant to N.J.S.A. 5:12-135(f);

59. That Bally’s Park Place has developed and implemented training and upward mobility programs as a means of making all job classifications available to minorities and female workers in accordance with N.J.A.C. 19:53-1.15(a)(6);

60. That Bally’s Park Place presently meets the protected class employment goals of twenty percent for minorities and forty-three percent for females set forth in N.J.A.C. 19:53-1.5(e) with respect to its present 4,361 employee workforce, which consists of 29.6 percent minority and 47.05 female individuals, but presently fails to meet these goals in the indicated (*) categories as required by N.J.A.C. 19:53-1.5(a)(2) and (f):

<table>
<thead>
<tr>
<th>Category</th>
<th>Positions</th>
<th>Minority</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Executives</td>
<td>35</td>
<td>5 (15%)</td>
<td>8 (23%)</td>
<td></td>
</tr>
<tr>
<td>*Managers</td>
<td>419</td>
<td>60 (14%)</td>
<td>142 (34%)</td>
<td></td>
</tr>
<tr>
<td>*Asst. Managers Supervisors</td>
<td>111</td>
<td>12 (11%)</td>
<td>14 (13%)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>241</td>
<td>73 (30%)</td>
<td>116 (48%)</td>
<td></td>
</tr>
<tr>
<td>*Officials &amp; Managers</td>
<td>806</td>
<td>150 (18.6%)</td>
<td>280 (34.7%)</td>
<td></td>
</tr>
<tr>
<td>*Professionals</td>
<td>844</td>
<td>120 (14%)</td>
<td>305 (36%)</td>
<td></td>
</tr>
<tr>
<td>*Technicians</td>
<td>75</td>
<td>11 (15%)</td>
<td>21 (28%)</td>
<td></td>
</tr>
<tr>
<td>*Sales</td>
<td>13</td>
<td>2 (15%)</td>
<td>6 (46%)</td>
<td></td>
</tr>
<tr>
<td>Office &amp; Clerical</td>
<td>697</td>
<td>171 (25%)</td>
<td>575 (82%)</td>
<td></td>
</tr>
<tr>
<td>*Craftworkers</td>
<td>84</td>
<td>20 (24%)</td>
<td>6 (7%)</td>
<td></td>
</tr>
<tr>
<td>*Operatives</td>
<td>77</td>
<td>28 (36%)</td>
<td>28 (36%)</td>
<td></td>
</tr>
<tr>
<td>*Laborers</td>
<td>385</td>
<td>317 (82%)</td>
<td>169 (44%)</td>
<td></td>
</tr>
<tr>
<td>Service Workers</td>
<td>1,380</td>
<td>471 (34%)</td>
<td>661 (48%)</td>
<td></td>
</tr>
</tbody>
</table>

61. That Bally’s Park Place, as a condition of its operation certificate is required by January 1, 1981, to increase within the “officials and managers” level of its workforce from 18 percent to at least 20 percent minority employees and from 30 percent to at least 37 percent female employees as an interim goal and to increase such minority and female representation in each of the four subcategories included within the “officials and managers” level; and that the female and minority representation in these areas are summarized as follows:
### "Officials and Managers" Level

<table>
<thead>
<tr>
<th>Category</th>
<th>Total Employees</th>
<th>Minority</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executives</td>
<td>22</td>
<td>35</td>
<td>2 (10%)</td>
</tr>
<tr>
<td>Managers</td>
<td>290</td>
<td>419</td>
<td>38 (13%)</td>
</tr>
<tr>
<td>Asst. Managers</td>
<td>95</td>
<td>111</td>
<td>15 (16%)</td>
</tr>
<tr>
<td>Supervisors</td>
<td>171</td>
<td>241</td>
<td>49 (29%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>578</td>
<td>806</td>
<td>104 (18%)</td>
</tr>
</tbody>
</table>

(Officials and Managers)
62. That, as a condition of its casino license, Bally’s Park Place shall by January 1, 1982, seek to achieve interim goals in the “officials and managers” category of 20% minorities and 40% females;

63. That Bally’s Park Place has made good faith efforts to achieve the protected class employment goals at all levels of its workforce;

64. That, as a condition of its casino license, Bally’s Park Place shall timely submit information regarding its affirmative action goal compliance levels in the form and manner prescribed by the Commission staff;

65. That, as a condition of its casino license, Bally’s Park Place shall, within 30 days of this decision, submit a finalized description of its training program to the Commission staff and shall implement all phases of said program immediately upon approval of said program by Commission staff;

66. That, as a condition of its casino license, Bally’s Park Place shall, at the direction of and in the form prescribed by the Commission staff, timely submit all relevant information regarding its complaint review procedure and information evidencing affirmative action it has taken to afford an equal employment opportunity including but not limited to methods of employment, upgrading, demotion, transfer, recruitment, layoff, termination, compensation, and employee selection as described in N.J.A.C. 19:53-1.5(a)(2);

67. That, subject to the conditions previously stated, Bally’s Park Place has established by clear and convincing evidence its financial stability, integrity, and responsibility as required by N.J.S.A. 5:12-84(a);

68. That Bally’s Park Place has established by clear and convincing evidence that it has sufficient business ability and casino experience to make likely the continued maintenance of a successful, efficient casino operation as required by N.J.S.A. 5:12-84(d).

V. CONCLUSION

Based on our review of the entire record, including our observation of the witnesses who testified before us, we find that Bally Manufacturing Corporation and Bally’s Park Place qualify for a conditional gaming-related casino service industry license and a conditional casino license, respectively. The major conditions attached to the licenses are designed to assure that neither William T. O’Donnell nor Alexander R. A. Wilms can exercise any control or influence over
the policies, business or activities of either corporate applicant. In the case of Alexander R. A. Wilms, the conditions underpin both (1) our concurrence with the Director of the Division of Gaming Enforcement that Mr. Wilms and members of his family need not qualify as part of the casino license application and (2) our separate determination that the same individuals need not qualify as part of the gaming-related casino service industry license application.

In the case of William T. O'Donnell, the conditions must effect a full severance of Mr. O'Donnell from the applicants. Since Mr. O'Donnell was clearly a person required to qualify under the casino license application and since he has failed to establish his good character, honesty and integrity by clear and convincing evidence, the Casino Control Act demands a denial of the casino license application and the institution of a conservatorship to control the already operating casino hotel, unless the unqualified person is totally and utterly separated from the applicant and its holding company. See N.J.S.A. 5:12-105 and -130.1b. Similarly, since Mr. O'Donnell was also required to qualify under the casino service industry license application, denial of the casino service industry license would be mandated if any significant relationship with Mr. O'Donnell continued. See N.J.S.A. 5:12-92(b). Given the virtual identity between Mr. O'Donnell and Bally Manufacturing for nearly 20 years, any business contact between them carries as especial significance and the potential for real influence over company policy. Thus, only unstinting compliance with the purposely severe conditions appended to the licenses will satisfy the policies of the Act.

Based on the foregoing and on our belief that the corporate applicants will honor punctiously the conditions stated herein, orders granting an appropriately conditioned casino service industry license (gaming-related) and casino license to Bally Manufacturing Corporation and Bally's Park Place, respectively, will be entered. Further, an order finding William T. O'Donnell not qualified to the standards of a casino key employee shall also be entered.

*Commissioner McWhinney, Dissenting in Part as to William T. O'Donnell.*

While I agree with the majority that William T. O'Donnell does not qualify, I believe that this finding should be based solely on Mr. O'Donnell's past associations with Gerardo Catena and with Dino Cellini. Unlike my fellow Commissioners, I am unable to draw any conclusions as to Mr. O'Donnell's character from the evidence in the
record relating to the incident which occurred 13 years ago involving Southland Distributing Company and an alleged attempt to buy the votes of members of the Kentucky Legislature.

Moreover, I do not find that any of the other issues raised by the Division of Gaming Enforcement rises to the level of disqualification. In any event, these matters must be balanced against the testimony of the extremely impressive array of character witnesses who testified on Mr. O'Donnell's behalf.

You must check the New Jersey Citation Tracker in the companion looseleaf volume to determine the history of this case in the New Jersey courts.