STATE OF NEW JERSEY, DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF GAMING ENFORCEMENT, Complainant,

v.

INDUSTRIAL EQUITY (PACIFIC) LIMITED, AUCKLAND PENSION FUNDS LIMITED, DEL WEBB CORPORATION, THE CLARIDGE HOTEL AND CASINO CORPORATION, THE CLARIDGE AT PARK PLACE, INCORPORATED AND DEL E. WEBB NEW JERSEY, INC.,

Respondents.

Decided: July 6, 1989
Approved for Publication: January 17, 1990

SYNOPSIS

Respondent’s request for an extension of time to file an application for interim casino authorization (ICA) received a three-to-one vote by the Casino Control Commission, which was sitting with one vacant position. The Division of Gaming Enforcement contended that four votes were required to carry the motion.

Section 73d of the Casino Control Act provides that a majority of the full Commission shall determine any action, “except that no casino license or interim casino authorization may be issued without the approval of four members.” The Commission concluded that four votes are required for an extension of time to file for an ICA. The Commission has always required four votes for approval of any integral component of a casino license. Because of ICA substitutes on an interim basis for a casino license or finding of qualification, the same voting requirements should apply. Likewise, if four votes are required to grant an ICA, a lesser number should not be permitted to allow an applicant to extend the time to comply with ICA requirements.

Section 73d also provides that if a vacancy has existed on the Commission for more than 60 days, a majority of the full Commission may determine any action. Therefore, respondent requested a rehearing so that its application for an extension could be considered after the vacancy existed for 60 days, thus permitting the motion to carry
by three votes. The Commission rejected this request, noting that
rehearings may be permitted only in exceptional situations such as
when there is a change in the facts or law applicable to the matter.
If rehearings were permitted because of changes in voting require-
ments, the purpose of providing a 60-day period before the Com-
misson can act by three votes would be negated. This would result
in rehearing all matters decided by a three-to-one vote during the 60-
day period after a Commission vacancy occurs. The Commission
concluded that the Legislature did not intend that result.

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Equity (Pacific) Limited and Auckland Pension Funds Limited
Brian D. Spector, Esq., (Ribis, Graham, Verdon & Curtin, attorneys)
for The Claridge at Park Place, Incorporated, The Claridge Hotel
and Casino Corporation, Del Webb Corporation, and Del E. Webb
New Jersey, Inc.
James C. Fogarty, Deputy Attorney General, for the Division of
Gaming Enforcement.

BY THE CASINO CONTROL COMMISSION:

I. INTRODUCTION

In a Schedule 13D filing dated July 21, 1987, Industrial Equity
(Pacific) Limited (IEP) and its wholly-owned subsidiary, Auckland
Pension Funds Limited (APF), indicated that they had purchased
9.3% of the common stock of Del Webb Corporation (Webb), a
publicly traded holding company of casino licensees, The Claridge at
Park Place, Incorporated (CPP) and Del E. Webb New Jersey, Inc.
(DEW NJ). Because IEP and APF held more than five percent of
Webb’s stock, they were presumed to be influential shareholders and
were requested to submit for qualification. See sections 105(d) and
-85(d) of the Casino Control Act, N.J.S.A. 5:12-1, et seq. (the Act).\(^1\)

By petition no. 281704 submitted October 8, 1987, IEP and APF,

\(^1\) At times, sections of the Act are cited by reference to the section number
only. The full citation may be obtained by adding the prefix “N.J.S.A.
5:12- -.”
whose holdings had increased to 9.8% of Webb’s common stock, requested a waiver of qualification. This petition was subsequently withdrawn when the Director of the Division of Gaming Enforcement (Division) indicated that he would not concur in a waiver, as required by section 85(d)(1) of the Act.

On October 27, 1987, in connection with the 1987-88 CPP and DEWNJ license renewal hearing, with the concurrence of the Director of the Division, IEP and APF received a temporary and conditional waiver of qualification. Under the waiver, IEP and APF were directed to file a stock proxy agreement neutralizing voting, prohibiting IEP or APF from exercising control over Webb, and requiring approval from a designated commissioner prior to any communications between Webb and IEP or APF.

By petition no. 277801 submitted October 3, 1988, IEP and APF requested a rehearing of their petition for a waiver of qualification. On October 24, 1988, the Commission denied the request and ordered IEP and APF to file, by November 23, 1988, a completed application for interim casino authorization (ICA), pursuant to section 95.12(b) of the Act.

IEP and APF never applied for an ICA, as required by the Act and as ordered by the Commission. On December 9, 1988, the Division filed a complaint against IEP, APF, CPP, DEWNJ, Webb, and The Claridge Hotel and Casino Corporation (CHC), an intermediary company of Webb and CPP. In its complaint, the Division requested the entry of an order finding IEP and APF to be per se disqualified for their failure to file a completed ICA application pursuant to section 95.12(b) of the Act, and compelling IEP and APF to divest their Webb securities by a date certain. The Division also requested, pursuant to section 105(e) of the Act, that CPP, DEWNJ, and Webb be ordered not to pay any dividends, interest, or remuneration in any form to IEP or APF, and also be ordered to prevent IEP and APF from exercising, directly or through any trustee or nominee, any rights conferred by the securities in question. Finally, the Division requested that, in the event IEP and APF did not divest the securities in question by a date certain, Webb would immediately cause the divestiture of all Webb securities held by IEP and APF.

By letter submitted January 9, 1989, CPP, CHC, DEWNJ and Webb responded to the Division’s complaint, agreeing only that Webb would make a good faith effort, including the prosecution of all legal remedies, to comply with any divestiture order of the Commission
if IEP and APF were ordered to divest their Webb stock but failed to do so. These respondents also contended that the Commission need not take any further action against them at that time.

Pursuant to section 108(c) of the Act, IEP and APF were required to file a Notice of Defense by January 17, 1989. IEP and APF responded to the Division’s complaint on January 19, 1989, by filing an untimely request for an extension of time to file an ICA application.

On January 25, 1989, the Commission, sitting with one vacant position, voted three to one in favor of a motion to grant a 30-day extension. Counsel for the parties were then offered the opportunity to brief the question of whether three or four votes were required to carry the motion for the 30-day extension.

On January 26, 1989, IEP submitted a petition for a declaratory ruling that three votes were sufficient to carry the January 25, 1989 motion, or alternatively, for a rehearing of the petition requesting an extension. The Division objected to the rehearing request and also recommended that the Commission find that four votes were required to carry the January 25, 1989 motion to extend.

II. REQUEST FOR EXTENSION OF TIME TO FILE AN ICA APPLICATION

The ICA provisions, which became effective on January 14, 1988, establish a mechanism to permit continuous casino operations when property or other interests relating to an operating casino have been transferred and the transferee has not been fully licensed or qualified. Where, as in the instant matter, a transfer occurs through the purchase of publicly-traded securities, section 95.12(b) requires that the purchaser file a completed ICA application within 30 days after the Commission determines that qualification is required under section 84, or that qualification should not be waived under section 85(d)(1). The Commission may extend the 30-day filing period, but prerequisites of any such extension are the submission of a written acknowledgement of the Commission’s jurisdiction and a demonstration of good cause. Failure to file an ICA application in a timely manner constitutes a per se disqualification under the Act.

Section 95.12(a) provides an interim authorization procedure for transfers of all property other than publicly-traded securities. It is worth noting that no such transfer may take place until the complete ICA application has been submitted and a favorable ICA ruling
obtained. Thus, section 95.12(b) constitutes an exception for publicly-traded securities whereby, in order to accommodate the demands of the public market, the interest is obtained by the transferee before the ICA process is begun. In this respect, public security acquisitions create a potential vulnerability of the regulatory system to entry and influence by untested investors. As will be seen, this vulnerability is most acute before the ICA application is filed.

A mandatory part of any ICA application is a trust agreement which conveys to a trustee all right, title and interest, including any voting rights, to the property being transferred. See section 95.14(a). The trustee must sell the property if the ICA applicant is denied interim authorization or is found unqualified. The unsuccessful ICA applicant also may not obtain any profit from the sale, receiving only its actual cost of the property sold. See section 95.14(e). Moreover, even if interim authorization is granted, an ICA applicant may not participate in the earnings of a casino hotel or receive any returns on its investment until it is ultimately found qualified by the Commission. See section 95.14(c).

The ICA procedure promotes stability and continuity in casino gaming operations in the event of property transfers, and provides an orderly method of permitting such transfers while satisfying vital law enforcement concerns. See section 1(b)(16). The ICA procedure was also designed to deal with the effects of significant changes in the ownership of the securities of casino licensees and their publicly-traded holding companies. By precluding any profit on its investment until an ICA applicant has been found qualified, and precluding any profit on the sale of its investment if it is disqualified, the ICA procedure deters potential investors who would otherwise disrupt casino operations by dabbling in the publicly-traded stock of casino holding companies in the hopes of a short-term profit without undergoing regulatory scrutiny for qualification and licensure. With this background, we may proceed to the question of the number of votes needed for an extension of time to file an ICA application with respect to publicly-traded securities.

Two different provisions of the Act govern the question of how many votes are required to grant such an extension. As noted, Section 95.12(b) provides in part that, in cases relating to the acquisition of publicly-traded securities of a holding or intermediary company, an ICA must be filed "within 30 days after the Commission ... declines to waive qualification under [Section 85(d)(1) of the Act] or within such additional time as the commission may for good cause allow
Section 73(d) of the Act provides in part that: "[a] majority of the full commission shall determine any action of the commission, except that no casino license or interim casino authorization may be issued without the approval of four members ..."

Although the provisions of the Act concerning an ICA are relatively new, there is ample precedent concerning voting procedures and requirements for a casino license and investor qualification, to which an ICA is closely related and for which it effectively substitutes. Consistent with general rules of statutory construction, we have construed the four-vote casino license requirement in connection with the other sections of the Act relating to casino licensure, so as to produce a harmonious whole. Wager v. Burlington Elevators, Inc., 116 N.J. Super. 390, 395 (Law Div. 1971). It would be illogical to construe the Act as permitting all the various requirements for a casino license to be approved by three-vote decisions, and then, when nothing further remains to be approved except the issuance of the license itself, requiring a four-vote approval for what would be essentially a mere ministerial act. By requiring four votes for all integral components of a casino license, we have avoided rendering any part of the statute superfluous or meaningless. Hoffman v. Hock, 8 N.J. 397 (1952).

Thus we have always required four votes for the approval of any integral components of a casino license, such as a lease involving a casino hotel or the land thereunder, see section 82(b)2, an agreement for the management of a casino, see section 82(b)(3), and the qualifiers of a casino licensee or its holding companies, see sections 82(b)(4) and 85(c) and (d).

For example, in connection with our consideration of the application of Playboy-Elsinore Associates (PEA) for a casino license in 1982, we were required to determine the qualifications of Hugh M. Hefner, the president and a major shareholder of Playboy Enterprises, Inc. (PEI), a general partner of PEA. See section 85(d). At the conclusion of the PEA hearing, three of the five commissioners found that Mr. Hefner had established, by clear and convincing evidence, his good character, honesty and integrity to participate in casino operations. That is, they found he had met the requirements applicable to a casino key licensee. See section 89. However, on the basis of the four-vote requirement in section 73(d), Mr. Hefner was not found qualified. See In the Matter of the Application of Playboy-Elsinore
*Associates for a Casino License,* Docket No. 81-CL-3, pp. 136-138. As a result, PEA's license application would have been denied if PEI and Hefner had not divested themselves of their interest. See Resolution No. 82-246, pp. 37-38.

Like a casino license, an ICA also requires four votes. Because an ICA actually substitutes, on an interim basis, for a casino license or a finding of qualification, see section 1(b)(16) and section 95.12, the same reasoning concerning voting requirements should apply to an ICA. That timely filing of the ICA application was viewed by the Legislature as a crucial aspect of the process is demonstrated by the fact that an applicant is *per se* disqualified for failure to so file. See section 95.12(b). Thus, in this case the failure of IEP and APF to meet their obligations of timely compliance in order to maintain their privileged status under section 95.12(b), results in denial of their application.

As previously noted, the ICA procedure permits persons who have not yet been found qualified to become involved in casino operations on an expedited basis, provided that they perform in a responsible and expeditious manner as well. Recognizing that the regulatory system is at its most vulnerable point after the purchaser of publicly-held securities has become a significant holder and before a completed ICA application and trust agreement have been submitted, section 95.12(b) requires an ICA application to be submitted within thirty days. Time is of the essence in ICA matters if the goals of the ICA provisions are to be accomplished. Therefore, an extension of time, and particularly the necessary good cause showing, are tantamount to affirmative authorization criteria which IEP and APF must demonstrate by clear and convincing evidence.

Like any request for a finding of compliance with a critical element of ICA approval, the extension request must obtain four votes, unless a vacancy has existed on the Commission for more than 60 days. Stated differently, if four votes are required for a finding of qualification for an ICA, as the Act expressly provides, then a lesser

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*10 N.J.A.R. 465
2. The decision finding Hefner unqualified despite the three to two vote in his favor was affirmed in an unreported decision of the Appellate Division. App. Div. Docket No. A-4188-81T1 (August 31, 1983).
number of votes cannot be permitted to allow an applicant to enjoy indefinitely the benefits of the ICA provisions. It is the burden of the applicant to prove its suitability for ICA, including its timely compliance. It is not the burden of the State to prove otherwise. Hence, the extension of the period in which to file the ICA application, itself a component of ICA qualification, demands four votes. The three-to-one vote decision of January 25, 1989, was not sufficient to grant the extension of time that IEP and APF had requested. For that reason, the extension was denied and IEP and APF were unqualified to obtain an ICA with respect to their Webb holdings.

III. REQUEST FOR RECONSIDERATION

IEP and APF point out that there was a change in the Commission's voting requirements as of February 1, 1989, and contend that this change in circumstances merits a rehearing of their extension request. IEP and APF also argue that the "coincidence" of this change in voting requirements and the scheduling of their extension request immediately prior to that change present an extraordinary situation that justifies a rehearing of the matter.

Section 73(d) of the Act provides that:
A majority of the full commission shall determine any action of the commission, except that no casino license or interim casino authorization may be issued without the approval of four members. In the event that a vacancy has existed in the commission for more than 60 days, a majority of the full commission may act with respect to any matter, including the issuance of a casino license or interim casino authorization.

The Commission's voting requirements did change on February 1, 1989, because of the time elapsed since Commissioner Carl Zeitz's departure from the Commission. His term ended on August 4, 1988. As permitted by Section 52(h) of the Act, he served an additional 120 days until December 2, 1988, because his successor had not been appointed and qualified.

Since a fifth commissioner had not been qualified by February 1, 1989, a vacancy existed in the Commission for more than 60 days as of February 1, 1989. Thus, on February 1, 1989, a three-vote majority was sufficient to determine any matter brought before the Commission. Accordingly, the three-to-one vote which failed to grant the requested extension of time on January 25 would have succeeded on February 1.

IEP contends that this circumstance justifies a rehearing, arguing
that the result in this matter should turn on its merits, and not on when the matter was heard.

Section 107(d) of the Act addresses rehearing and, in relevant part, states that:

(1) The commission may, upon motion therefor made within 10 days after the service of the decision and order, order a rehearing before the commission upon such terms and conditions as it may deem just and proper when the commission finds cause to believe that the decision and order should be reconsidered in view of the legal, policy or factual matters advanced by the moving party or raised by the commission on its own motion. . . .

(3) A motion for relief from a decision and order which is based on any ground other than the presentation of newly discovered evidence shall be governed as to both timeliness and sufficiency by the regulations of the commission which shall be modeled, to the extent practical, upon the rules then governing similar motions before the courts of this State.

Rule 4:50-1(a)-(e) of the New Jersey Court Rules permits matters to be reopened for various reasons, including mistake, newly discovered evidence and fraud. Additionally, subsection (f) of this court rule provides that “[o]n motion, with briefs, and upon such terms that are just, the court may relieve a party or his legal representative from a final judgment or order for . . . any other reason justifying relief from the operation of the judgment or order.” As noted by the New Jersey Supreme Court in *Court Investment Company v. Perillo*, 48 N.J. 334, 341 (1966), “No categorization can be made of the situations which would warrant redress under subsection (f). [T]he very essence of (f) is its capacity for relief in exceptional situations. And in such exceptional cases its boundaries are as expansive as the need to achieve equity and justice.”

However, we fail to see anything exceptional or extraordinary about this situation. As counsel for IEP and APF conceded at the February 1 hearing, there were no changes in the facts or the substantive law applicable to this matter in the week since the January 25 hearing. The only difference was the above-mentioned change in voting requirements occasioned by the 60-day vacancy on the Commission. In our opinion, this change does not constitute the type of change in circumstance which would justify a rehearing in this matter. To hold otherwise would require the rehearing of all matters decided by three-to-one votes during the sixty-day period after a vacancy occurs. In effect, this would cancel the 60-day period and result in all matters being decided by three votes immediately after a vacancy.
We cannot conceive that the Legislature intended such a result.

We agree that, as a general principle, the decision in this or any matter should not hinge upon when it is heard. However, rehearing this matter on a later date so as to produce a certain preconceived result or to alter a prior result, does nothing to advance that principle, and in fact appears to be completely contrary to that idea. Moreover, it was no coincidence that the extension request was heard toward the end of the 60-day post-vacancy period. It was IEP which failed either to file a completed ICA application or to request an extension by the statutory 30-day deadline which fell on November 23, 1988, well before Commissioner Zeitl left the Commission on December 2. Thus, five votes would have been available if IEP acted promptly. Further, it was IEP's continued inaction, until the Division lodged a complaint, and indeed beyond the time for answering the complaint under section 108, which brought the extension request before the Commission near the close of the 60-day period. Even if an appropriate case for rehearing after the 60-day period could be imagined, the equities argue strongly against rehearing in this matter. For all of the above reasons, the rehearing request is denied.

Since IEP and APF have failed to file a completed ICA application in a timely manner, as required by the Act and our previous Order No. 88-298, IEP and APF are per se disqualified pursuant to section 95.12(b) of the Act. Accordingly, we order that notice of the disqualification of IEP and APF be served upon CPP, DEWNJ, and Webb as well as IEP and APF, and we further order that:

1. IEP and APF shall, within 120 days, divest all of their Webb securities, subject to the prior approval of the Commission, except in the case of open market sales;

2. No dividends or interest shall be paid by CPP, CHC, DEWNJ or Webb, or be received by IEP or APF, with respect to the Webb securities held by IEP and APF;

3. IEP and APF shall not exercise, directly or through any trustee or nominee or otherwise, any rights conferred by such Webb securities, and CPP, CHC, DEWNJ, and Webb shall not allow or permit IEP or APF to exercise any such rights;

4. No remuneration in any form, for services rendered or otherwise, shall be paid by CPP, CHC, DEWNJ, or Webb, or be received by IEP or APF, with respect to such securities.
SUPPLEMENTAL OPINION—PUBLIC MEETING
OF MAY 24, 1989 FACTS

On March 22, 1989, IEP and APF appealed the Commission’s February 6, 1989 Order denying reconsideration of its January 25, 1989 decision to the Appellate Division. They also filed a motion with the Appellate Division for a limited remand, in order to enable them to petition the Commission for a reconsideration of its decision to deny any extension. Neither the Division nor the Commission opposed the motion, and on April 10, 1989, the Appellate Division remanded the matter. On April 25, 1989, IEP and APF filed a motion for a rehearing which was accompanied by an executed trust agreement, a Personal History Disclosure form for an IEP officer, and incomplete Business Entity Disclosure forms for IEP and Brierley Investments Limited (BIL), which allegedly now owns approximately 70% of IEP. IEP also requested that the Commission vacate its disqualification order of February 6, 1989, deem IEP’s ICA application complete, and dissolve the January 10, 1988 voting proxy agreement.

By letter dated May 17, 1989, the Division indicated that it opposed a reconsideration of the matter, and also opposed the granting of any extension of time if the matter was, in fact, reconsidered.

ANALYSIS AND DISCUSSION

The Commission did not oppose IEP and APF’s motion for a remand because this second reconsideration request relies upon a different theory than the first one. Unlike the first reconsideration, which was based upon sections 107(d)(1) and (3) of the Act, the present reconsideration request relies upon section 107(d)(2) of the Act, which provides that

[u]pon motion made within a reasonable time, but in no event later than one year from the service of the decision and order, the commission may relieve a party from the decision and order upon a showing that there is additional evidence which is material and necessary and which would be reasonably likely to change the decision of the commission, and that sufficient reason existed for failure to present such evidence at the hearing of the commission or on a motion under paragraph (1) of this subsection. The motion shall be supported by an affidavit of the moving party or his counsel showing with particularity the materiality and necessity of the additional evidence and the reason why it was not presented at the
hearing or on a motion under paragraph (1) of this subsection. Upon
rehearing, rebuttal evidence to the additional evidence shall be ad-
mitted. After rehearing, the commission may modify its decision and
order as the additional evidence may warrant.

IEP and APF contend that the proposed trust agreement which
they have now submitted constitutes new evidence, and is sufficient
for a rehearing under section 107(d)(2) of the Act. We disagree. The
trust agreement is a required part of the ICA application which the
Commission initially ordered IEP and APF to file by November 23,
1988. In our view, the term "additional evidence," however broadly
defined, does not include a trust agreement which is statutorily re-
quired to be filed with the Commission. See section 95.14 of the Act.
Additional evidence is not something which parties may create at their
pleasure when it is deemed necessary.

Even assuming that the trust agreement is "additional evidence,"
we question whether it meets the remaining requirements of Section
107(d)(2) of the Act, and particularly, whether it is "reasonably likely
to change the decision of the commission," and whether "sufficient
reason existed for failure to present such evidence" at the January
25th or the February 1st hearings.

In the Matter of the Hotel and Restaurant Employees and Bar-
tenders International Union Local 54, 203 N.J. Super. 297 (A.D. 1985),
Gerace requested a rehearing of a Commission ruling finding him
disqualified. Relying on his constitutional right to avoid self-in-
crimination, Mr. Gerace had not testified at the original hearing
because he was the subject of a federal grand jury investigation at
the time. He was later willing to testify and wished to reopen the
hearing for the purpose of offering his testimony, which he claimed
was necessary, material, and would provide new evidence. The Court
upheld the Commission's finding that Gerace's explanation for his
failure to testify at the first hearing did not meet the statutory require-
ment of "sufficient reason." The Court stated that "[Gerace's] de-
cision not to testify was a tactical one. The Commission is not obli-
gated to relieve him of the consequences of that choice because of
a change of mind two years later. The Commission did not abuse its
discretion in refusing to reopen the record to elicit Gerace's testi-
mony." Local 54, id., at p. 344.

In our view, there are obvious parallels between the Local 54 case
and the instant matter. IEP and APF chose to ignore the Com-
misson's Order of October 24, 1988, the ICA application filing dead-
line of November 23, 1988, and the Division's Complaint of December 9, 1988. The allegation that there was a corporate "change of heart" in early January 1989 does not obligate the Commission to relieve IEP and APF from the consequences of their previous decisions. In any event, even if there had been such a change in corporate policy, it did not result in the filing of a completed ICA application by January 25 or February 1, 1989.

IEP and APF also contend that they "deserve another chance before a full five-member Commission as a matter of fairness." In the Local 54 case, supra, Mr. Gerace had also contended that a change in the composition of the Commission warranted a hearing, so that any new members could express their views. The Court stated that such a contention was "without merit," and that, if anything, any change in the Commission's composition rendered a rehearing inappropriate because the new members would not have heard the original evidence. See Local 54, supra, at p. 344. Thus, the fact that the Commission now has five members rather than four does not merit a reconsideration of this matter.

Lastly, IEP and APF renew their argument, which was advanced at the February 1, 1989 hearing, that this is an exceptional case because of the sequence of events which led to the initial denial. IEP and APF again argue that the denial was "a result of an accident of timing" and that "[t]he same vote total would have succeeded just days later." Accordingly, they contend that under section 107(d)(3) of the Act, which incorporates by reference R. 4:50-1(f), the Commission can and should reopen this matter. This argument was heard and rejected on February 1, 1989, and is rejected for the same reasons at this time.

The broad power of the Commission to reconsider matters is undisputed. See Petition of Hilton New Jersey Corporation for a Rehearing, public meeting of March 26, 1985. However, in our view, a sufficient showing has not been made for a rehearing of this matter. No "additional evidence" has been submitted, as required under section 107(d)(2) of the Act. No claims have been made that the Commission decided the matter incorrectly, misconstrued key testimony or overlooked crucial evidence. The only claim is that the Commission decided the matter at the "wrong" public meeting (January 25 instead of February 1, when a three-to-one vote would have carried the motion to extend, assuming that the vote would have been three-to-one). We fail to see that such a circumstance is extraordinary or unfair, or that it otherwise merits a rehearing under any of the
various provisions of section 107 of the Act. For these reasons, the rehearing request is denied.

Although our decision makes it unnecessary to consider IEP and APF's request to deem their ICA application complete, we note for the record that it is not. Both IEP and BIL have refused to disclose certain information in their respective BED's, and there are apparent and significant discrepancies in the materials submitted. No PHD was submitted for Bruce Hancox, although the Commission had ordered in October 1987 and again in October 1988 that one be filed. Lastly, the executed trust agreement which was submitted does not comply in all respects with the requirements of N.J.S.A. 5:12-95.14 and a form of trust agreement previously approved by the Commission. For all of the above reasons, the ICA application is not, and could not be deemed complete.

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.