

CONFIDENTIAL

COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE PENNSYLVANIA GAMING CONTROL BOARD

In re: Application of Philadelphia  
Entertainment and Development Partners,  
L.P. and Horseshoe PL GP, LLC, Horseshoe  
PL LP, LLC, Horseshoe PL Acquisition Co.,  
LLC and Bally's Midwest Casino, Inc.

Docket No. 1367

FILED  
DEC 13 2010  
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JOINT PETITION OF PHILADELPHIA ENTERTAINMENT AND DEVELOPMENT PARTNERS,  
L.P., HORSESHOE PL GP, LLC, HORSESHOE PL LP, LLC, HORSESHOE PL ACQUISITION  
CO., LLC AND BALLY'S MIDWEST CASINO, INC. FOR CHANGE OF CONTROL,  
INDEPENDENT QUALIFICATION PURSUANT TO 4 Pa. C.S. § 1328(a) AND (b), AND  
ANCILLARY RELIEF

NOW COME, Philadelphia Entertainment and Development Partners, L.P. ("PEDP"),  
and Horseshoe PL GP, LLC ("Horseshoe GP"), Horseshoe PL LP, LLC ("Horseshoe LP"),  
Horseshoe PL Acquisition Co., LLC ("Horseshoe Acquisition") and Bally's Midwest Casino, Inc.  
("BMC"; and together with Horseshoe GP, Horseshoe LP and Horseshoe Acquisition,  
collectively referred to as "Caesars"), and Edward Snider ("Snider"), and The Silver Family  
Charitable Foundation ("Silver Trust") ("Silver Trust"; and together with PEDP, Caesars and  
Snider collectively referred to as the "Joint Petitioners"), by and through their respective  
attorneys, F. Warren Jacoby, Esquire of Cozen O'Connor and William J. Downey, Esquire of  
Fox Rothschild LLP, by petition to the Pennsylvania Gaming Control Board (the "Board"), and  
state:

**I. Introduction**

1. On December 20, 2006, the Board approved the issuance to PEDP of a Category 2 slot machine license, License No. F-1367 (the "Slot Machine License"), pursuant to Section 1304 of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. § 1101 et seq. (the "Act"). See 4 Pa.C.S. § 1304. The Slot Machine License authorized PEDP to develop, construct and operate a gaming facility with related amenities as proposed by PEDP (the "Facility"), to be located at approximately 1499 S. Christopher Columbus Boulevard in Philadelphia (the "Property").

2. As a result of numerous factors and events as have been presented to the Board and to the Bureau of Investigation and Enforcement ("BIE") in previous motions, testimony and submissions by PEDP and its representatives, including the global economic downturn and the concomitant adverse effect on the financial markets and gaming industry, PEDP encountered unexpected significant obstacles and difficulties in moving forward with the development and construction of the Facility at the Property. As a consequence, in an effort to find a solution to this problem, PEDP implemented a plan to identify potential investors and financial sources (i) willing to invest in PEDP and its proposed Facility, and (ii) qualified to provide management and expertise required for the development and operation of the Facility.

3. As a result of PEDP's efforts in this regard, on or about October 22, 2010, PEDP, BMC, Washington Philadelphia Investors, L.P. ("WPI"), Washington Partners Community Charities, L.P. ("WPCC"), Foxwoods Development Company ("FDC"), FDC/PEDP GP LLC ("FDC GP"), Foxwoods Management, LLC ("Foxwoods Manager"), FDC Philadelphia, LP ("FDC Philadelphia") and RBS Citizens National Association ("Citizens"; and together with WPI, WPCC, FDC, FDC GP, Foxwoods Manager and FDC Philadelphia, collectively the "Term Sheet Parties") executed that certain Confidential Term Sheet dated October 22, 2010 (the

"Term Sheet"), pursuant to which the Term Sheet Parties agreed to

negotiate in good faith the terms of certain definitive agreements pursuant to which a series of transactions would be consummated that would, among other things, effect a recapitalization and change in control of PEDP (collectively, the "Recapitalization Transactions"), all as more particularly described in the Term Sheet. A copy of the Term Sheet is attached hereto as Exhibit A.

4. On or about December 10, 2010, the Term Sheet Parties, Washington Philadelphia Investors I, L.P. ("WPI-1"), Horseshoe GP and Horseshoe LP entered into that certain Partnership Interest Purchase and Exchange Agreement dated as of December 10, 2010 (the "Purchase Agreement"), which agreement (including all attachments thereto) identifies and incorporates the respective definitive agreements of the parties thereto regarding the Recapitalization Transactions. A copy of the Purchase Agreement (including such attachments) is attached hereto as Exhibit B.

5. Consummation of the Recapitalization Transactions as described in the Purchase Agreement would effect a change of control of PEDP, as that term is defined at 4 Pa. C.S. § 1328(c).

## II. Jurisdiction of the Board

6. Notice to the Board and Board approval is required for the consummation of any transaction that would effect a change of control of a slot machine licensee. See 4 Pa. C.S. § 1328(b) and 58 Pa. Code § 441a.17(b).

7. Section 1328(c) of the Act provides that a change of control occurs upon the acquisition by a person or group of persons acting in concert of more than 20% of a slot machine licensee's securities or other ownership interests, with the exception of any ownership interest of

the person that existed at the time of initial licensing and payment of the initial slot machine license fee, or more than 20% of the securities or other ownership interests of a corporation or other form of business entity which owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the licensee.

4 Pa. C.S. § 1328(c).

8. Any person or group of persons intending to acquire more than 20% of a slot machine licensee's securities or other ownership interests is required to independently qualify for a license in accordance with the Act and the regulations of the Board, and shall pay the licensing fee required by Section 1209 of the Act (relating to slot machine license fee), except as otherwise required by the Board. See 4 Pa. C.S. § 1328(b) and 58 Pa. Code § 441a.17(d).

### III. The Parties

#### The Current PEDP Parties.

9. PEDP is a Pennsylvania limited partnership owned by WPI (67.00%), FDC Philadelphia (29.99%), WPI-1 (3.00%) and FDC GP, its general partner (0.01%) (FDC GP, WPI, WPI-1 and FDC Philadelphia are sometimes collectively referred to as the "Existing PEDP Partners").

(a) WPI is a Pennsylvania limited partnership owned by WPCC (61.292%), Peter DePaul (9.155%), Manny Stamatakis (4.497%), Frederick Teece (6.077%); Quincy Jones, Jr. (5.692%), Anuj Agarwal (4.912%), Robert Levy (3.050%), Billy King (1.134%), Dawn Staley (1.134%), Garry Maddox (1.134%), Joan Steinberg (0.856%), Sylvia DiBona/DiBona Family Trust (1.013%) and WPI GP, LLC, its general partner (0.043%) (all such partners in WPI sometimes collectively referred to as the "Existing WPI Partners").

(1) WPCC is a Pennsylvania limited partnership owned by The Rubin Family Charitable Foundation (42.98%) ("Rubin Trust"), Silver Trust (38.35%), Snider (18.57%) and WPCC GP, LLC (0.01%). WPCC GP, LLC is a Pennsylvania limited liability company owned by A.J. Agarwal (50%) and George Rubin (50%).

(2) WPI GP, LLC is a Pennsylvania limited liability company owned by A.J. Agarwal (50%) and George Rubin (50%).

(b) FDC Philadelphia is a Pennsylvania limited partnership owned by FDC (99.90%) and Foxwoods GP Philadelphia, LLC (0.10%), its general partner. Foxwoods GP Philadelphia, LLC is a Pennsylvania limited liability company wholly-owned by FDC. FDC is a Missouri limited liability company wholly-owned by the Mashantucket Pequot Tribal Nation ("MPTN").

(c) WPI-1 is a Pennsylvania limited partnership owned by WPCC (61.292%), Peter DePaul (9.155%), Manny Stamatakis (4.497%), Frederick Teece (6.077%); Quincy Jones, Jr. (5.692%), Anuj Agarwal (4.912%), Robert Levy (3.050%), Billy King (1.134%), Dawn Staley (1.134%), Garry Maddox (1.134%), Joan Steinberg (0.856%), Sylvia DiBona/DiBona Family Trust (1.013%) and WPI GP, LLC, its general partner (0.043%).

(d) FDC GP is wholly-owned by Foxwoods GP Philadelphia, LLC.

The Caesars Parties

10. Horseshoe GP is a Delaware limited liability company formed for the purpose of acquiring a general partnership interest in Holdings (as defined below).

11. Horseshoe LP is a Delaware limited liability company formed for the purpose of acquiring a limited partnership interest in Holdings. Horseshoe LP is wholly-owned by Horseshoe Acquisition.

12. Horseshoe Acquisition is a Delaware limited liability company formed for the purpose of acquiring a limited liability company interest in Horseshoe LP and Horseshoe PL Management Company, LLC ("Horseshoe Management"), the proposed manager of PEDP.

13. BMC is a Delaware corporation, and the holder of that certain Promissory Note, dated December 27, 2005, issued by WPI to BMC in the original principal amount of \$67,426,773.01, which is secured on a non-recourse basis by a pledge of WPI's partnership interest in PEDP. WPI became indebted to BMC in connection with WPI's acquisition of the Property from BMC.

14. Each of Horseshoe GP, Horseshoe Acquisition and BMC is wholly-owned by Caesars Entertainment Operating Company, Inc., a Delaware corporation ("CEOC"). CEOC is currently licensed by the Board as an Affiliated Entity in connection with its beneficial ownership interest in Category 1 Slot Machine operator Chester Downs and Marina LLC d/b/a Harrah's Chester Casino & Racetrack ("Harrah's Chester").

15. CEOC is wholly-owned by Caesars Entertainment Corporation, a Delaware corporation ("CEC"). CEC is currently licensed by the Board as an Affiliated Entity in connection with its beneficial ownership interest in Harrah's Chester.

16. CEC is owned by Co-Invest Hamlet Holdings B LLC (38.539%), TPG Hamlet Holdings, LLC (19.198%), Co-Invest Hamlet Holdings, LLC (16.639%), Apollo Hamlet Holdings B, LLC (11.555%), Apollo Hamlet Holdings, LLC (10.275%), TPG Hamlet Holdings B, LLC (2.633%) and certain members of CEC and its subsidiaries' management each holding less than 1% (1.160%). Each of the aforementioned entity owners of CEC (i) is comprised of

"private investment funds" (as that term is defined at 58 Pa. Code § 433a.1), and is exempt from licensure under 58 Pa. Code § 433a.4(f).

The Silver Parties

17. Silver Trust is an irrevocable trust domiciled in the Commonwealth of Pennsylvania. Melissa Silver is the grantor of Silver Trust. Silver Trust is licensed by the Board as a Principal Entity in connection with its beneficial ownership interest in PEDP.

18. Under the terms of the Silver Trust Agreement, the Trustees may distribute all or any portion of the income of principal of the Trust exclusively to or for the benefit of such organizations, non-profit institutions, entities and agencies, whether secular or religious, and individuals as the Trustees of Silver Trust, in their absolute discretion, may deem advisable in furtherance of the trust purposes, without, however, such distributions being limited to recipients that are exempt under Section 501(c)(3) of the Internal Revenue Code ("Code") or to such purposes as are described in Section 501(c)(3) of the Code.

The Snider Parties

19. Snider is an individual resident in the Commonwealth of Pennsylvania. Snider is licensed by the Board as a Principal in connection with his beneficial ownership interest in PEDP.

**IV. The Proposed Recapitalization Transactions**

Pages 8 through 14 of  
this petition have been  
Redacted.



Proposed New Partnership Structure

27. After consummation of the Recapitalization Transactions, the resultant ownership structure of PEDP will be:

- (a) General Partner
  - PEDP GP (0.01%)
- (b) Limited Partner
  - Holdings (99.99%)

Holdings will be the 100% beneficial owner of PEDP.

28. After consummation of the Recapitalization Transactions, and assuming in new Class A equity is raised, the resultant ownership structure of Holdings will be:

- (a) General Partner
  - Horseshoe GP (0.0131%)
  
- (b) Limited Partners
  - Class A (63.4042%)*
    - Snider (16.6436%)
    - Silver Trust (16.6436%)
    - TBD Class A investors (30.1170%)
  
  - Class B (30.7108%)*
    - Horseshoe LP (30.7108%)
  
  - Class C (8.0%)*
    - WPI 1 (1.6329%)
    - FDC Philadelphia (1.6329%)
    - BMC (2.6061%)

A post-Closing structure chart showing the proposed organization of PEDP is attached hereto as Exhibit C.

Page 17 of this Petition  
has been Redacted.

## V. Licensing Considerations

35. The Purchase Agreement and the Restructuring Transactions contemplated thereunder are subject to and conditioned upon the receipt of, among other things, all required approvals, consents and authorizations from the Board, as well as the licensing of Affiliated Entities, Principal Entities and Principals of each of the entities and persons implied by the proposed structure of Holdings and PEDP, and the receipt from the Board of its approval of the change of ownership and control of PEDP.

36. As noted above, as part of the Recapitalization Transactions, Caesars, Silver Trust and Snider will collectively indirectly acquire more than 20% of PEDP's securities or other ownership interests, and as such, each of them must independently qualify for a license in accordance with the Act and the regulations of the Board. See 4 Pa. C.S. § 1328(b) and 58 Pa. Code § 441a.17(d).

37. Each of the following entities has, on even date herewith, submitted to the Bureau of Licensing the form of application indicated beside its name on the list below, in connection with its proposed beneficial ownership interest in PEDP:

- (a) Co-Invest Hamlet Holdings B LLC – Category 2 License Application
- (b) TPG Hamlet Holdings, LLC – Principal Entity Application
- (c) Co-Invest Hamlet Holdings, LLC – Principal Entity Application
- (d) Apollo Hamlet Holdings B, LLC – Principal Entity Application
- (e) Apollo Hamlet Holdings, LLC – Principal Entity Application
- (f) TPG Hamlet Holdings B, LLC – Principal Entity Application
- (g) CEC – Category 2 License Application
- (h) CEOC – Category 2 License Application
- (i) Horseshoe Acquisition – Category 2 License Application
- (j) Horseshoe LP – Category 2 License Application
- (k) Horseshoe GP – Category 2 License Application
- (l) Horseshoe Management – Category 2 License Application
- (m) BMC – Principal Entity Application

Each of those entities identified in subparagraphs (a) through (h), above, is presently licensed by the Board and remains in good standing as an Affiliate Entity or Principal Entity of Caesars Chester. As evidenced by their applications submitted to the Board's Bureau of Licensing, each of the entities identified in the subparagraphs above possesses the requisite good character, honesty and integrity, and financial fitness, business and gaming experience, necessary for licensure under the Act and the regulations adopted by the Board. See 4 Pa. C.S. §§ 1310, 1313.

38. Each of the following entities is currently licensed as a Principal Entity or, prior to the date of this Petition, has submitted its application to be licensed as a Principal Entity, in connection with its beneficial ownership interest in PEDP:

- (a) Silver Trust
- (b) WPI
- (c) FDC Philadelphia

Each of the entities identified in subparagraphs (a) through (c), above, is presently licensed by the Board and remains in good standing as an Affiliate Entity or Principal Entity of PEDP. Each of the entities identified in the subparagraphs above possesses the requisite good character, honesty and integrity, and financial fitness, business and gaming experience, necessary for licensure under the Act and the regulations adopted by the Board. See 4 Pa. C.S. §§ 1310, 1313.

39. Each of the following natural persons has, on even date herewith, submitted to the Board's Bureau of Licensing his or her Multi-Jurisdiction Personal History Disclosure Form ("MJPHD") and the Pennsylvania Supplement to the MJPHD, in connection with his or her position as a Principal of a proposed holder of a beneficial ownership interest in PEDP:

- (a) Baker, J
- (b) Benjamin, J
- (c) Bonderman, D
- (d) Civale, A
- (e) Cohen, M
- (f) Coslet, J
- (g) Coulter, J
- (h) Davis, K
- (i) Donovan, T
- (j) Halkyard, J
- (k) Harris, J
- (l) Halloway, D
- (m) Hughes, N
- (n) Jones, J
- (o) Kondra, C
- (p) Lane, K
- (q) Loveman, G
- (r) Marrandino, D
- (s) Michael, G
- (t) Miller, G
- (u) Norton, D
- (v) Paelinck, C
- (w) Peterson, K
- (x) Press, E
- (y) Rowan, M

- (z) Swann, L
- (aa) Thomas, M
- (bb) Wiflong, D
- (cc) Williams, C
- (dd) Murphy, P

Each of those natural persons identified in subparagraphs (a) through (cc), above, is presently licensed by the Board and remains in good standing as a Principal of Caesars Chester. As evidenced by their applications submitted to the Board's Bureau of Licensing, each of the natural persons identified in the subparagraphs above possesses the requisite good character, honesty and integrity, and financial fitness, business and gaming experience, necessary for licensure under the Act and the regulations adopted by the Board. See 4 Pa. C.S. §§ 1310, 1313.

40. Each of the following natural persons is currently licensed as a Principal or, prior to the date of this Petition, has submitted his or her application to be licensed as a Principal, in connection with his or her beneficial ownership interest in PEDP:

- (a) Snider

The natural person identified in subparagraph (a), above, is presently licensed by the Board and remains in good standing as a Principal of PEDP. The natural person identified in the subparagraphs above possesses the requisite good character, honesty and integrity, and financial fitness, business and gaming experience, necessary for licensure under the Act and the regulations adopted by the Board. See 4 Pa. C.S. §§ 1310, 1313.

41. Each of the following entities formed or to be formed in connection with the Restructuring Transactions, as soon as reasonably practicable, will submit to the Bureau of Licensing the form of application indicated beside its name on the list below, in connection with its proposed beneficial ownership interest in PEDP:

- (a) WPI-1 – Principal Entity Application
- (b) Holdings – Category 2 License Application
- (c) PEDP GP – Category 2 License Application

42. In addition to the foregoing entities and natural persons, each entity and each natural person for whom licensure is required in connection with the proposed ownership structure of PEDP, but not otherwise named herein, will file all required application forms with the Board.

**VI. License Fee Assessed Upon Change of Control**

43. Under Sections 1327 and 1328 of the Act, in connection with a change in ownership or change in control, the Board has the plenary authority and discretion to adjust the license fee otherwise required by Section 1209 upon consideration of the type of transaction, the relevant ownership interest and changes thereto, and other considerations deemed relevant by the Board. See 4 Pa. C.S. §§ 1327, 1328 and 1209.

44. Section 1209(a) of the Gaming Act requires the payment of a “one-time” slot machine license fee in the amount of \$50 million, which one-time fee was paid by PEDP on or about October 17, 2007.

45. The Joint Petitioners respectfully submit that the appropriate fee to be assessed upon the change of control events contemplated by the Purchase Agreement should be an aggregate fee of \$2.5 million, reflecting the Board’s precedential decisions in prior change of control matters before the Board.

46. The Board first exercised its statutory discretion in conjunction with the “going-private” transaction of CEC, then a publicly traded company operating as Harrah’s Entertainment, Inc., by affiliates of AP Alternative Assets L.P. and the Texas Pacific Group (the



"CEC Transaction"). At the time of the CEC Transaction, CEC indirectly owned a 50% interest in Harrah's Chester.

47. In approving the "change of control" of Harrah's Chester, the Board considered the relevant criteria associated with the CEC Transaction and determined that a change of control license fee of \$2.5 million was appropriate.

48. Subsequent to its determination, the Board issued a Notice of its decision in the CEC Transaction, therein citing its statutorily-granted discretion under Section 1328(d) of the Act and noting that a fee of \$2.5 million is to be assessed on an acquirer in connection with a change in control of a licensee unless circumstances dictate otherwise. See Notices, Pennsylvania Gaming Control Board, "Change of Control Slot Machine License Fee" (January 19, 2008).

49. Upon information and belief, the same \$2.5 million change of control fee was set to be assessed in connection with the proposed but unconsummated acquisition of 100% of the publicly traded Penn National Gaming by an affiliate of Fortress Investment Group and Centerbridge Partners.

50. Finally, the same \$2.5 million change of control fee was assessed in a reorganization and recapitalization of PITG Gaming, LLC effected by Holdings Acquisition Co., L.P., which involved a change of control of a greater than 50% interest in the licensee.

51. The Legislative History of Section 1328 of the Act supports the proposition that the standard \$2.5 million license fee is appropriate for the Recapitalization Transactions. In enacting Section 1328 of the Act, the General Assembly sought to address a specific concern, to wit: "license flipping." The award of a gaming license is a valuable privilege. The \$50 million license fee was intended to compensate the Commonwealth for a portion of the value

created by the issuance of a license. See Leg J. Senate HB2330 (daily ed. July 1, 2004) at 1959 (statement of Sen. Armstrong). The expressed concern was that, if, due to the number of licenses issued or other market or economic factors, the value of a license were to grow beyond an amount commensurate with the amount of the license fee, a seller or transferor might experience an unjust financial windfall without any benefit accruing therefrom to the Commonwealth. In light of this concern, the General Assembly provided that a license fee would also be payable in the case of a change of control of a licensed entity. However, the General Assembly also granted the Board wide discretion to reduce the fee where, as here, circumstances warrant.

52. Here, none of the Existing PEDP Partners, Caesars, Silver Trust or Snider are engaging in the Recapitalization Transactions out of a desire to profit from "flipping" PEDP's license. Indeed, the Board presently has before it a Complaint filed by the Bureau of Investigations and Enforcement seeking the revocation of PEDP's license. One cannot infer from these allegations that the value of the PEDP license has appreciated at all, let alone to a point where a concern about "flipping" would arise.

53. The Board is also authorized to take into account other relevant considerations. As the Board is acutely aware, neither construction nor gaming has commenced under the PEDP license. It is therefore respectfully submitted that to require the payment of any fee in excess of the amount suggested above by Joint Petitioners would be unwarranted and could effectively prevent this transaction from being consummated, to the extreme prejudice and detriment of the Commonwealth and the City, and their citizens. The Joint Petitions respectfully submit that such considerations support an assessment of a \$2.5 million license fee in this matter.

WHEREFORE, the Joint Petitioners respectfully requests that the Board:

- a. Enter an order, pursuant to 4 Pa. C.S. §§ 1327 and 1328(b) and 58 Pa. Code § 441a.17(b), granting approval of the change of ownership and change of control described herein as a single change of control of a slot machine licensee, all as provided in the Purchase Agreement; and
- b. Enter an order, pursuant to 4 Pa. C.S. §§ 1328(a) and (b), 1310 and 1313, finding each Affiliate Entity, each Principal Entity and each Principal, as identified herein, to be independently qualified for a license under the Act; and
- c. Enter an order, pursuant to 4 Pa. C.S. § 1290 and Board precedent, setting the licensing fee to be assessed in connection with the subject change of ownership and change of control at \$2.5 million; and
- d. Grant such other relief as it may deem appropriate.

Respectfully submitted,

COZEN O'CONNOR

BY: 

Stephen A. Cozen (PA ID No. 03492)  
F. Warren Jacoby (PA ID No. 10012)  
Attorneys for Petitioner, PEDP

FOX ROTHSCHILD LLP

BY: 

William J. Downey, Esquire (PA ID No. 63401)  
KellyAnne Kennedy (PA ID No. 307291)  
Attorney for Petitioners, Caesars

Dated: December 10, 2010

All Exhibits submitted  
in support of the Petition  
have been redacted in  
their entirety.

**CERTIFICATE OF SERVICE**

I certify that on December 10, 2010, a one (1) original of the foregoing petition was delivered to the following:

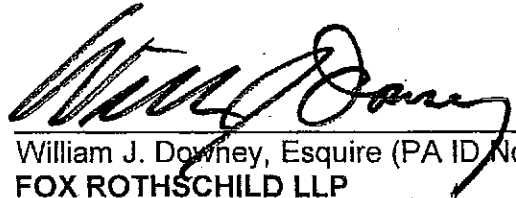
**Via Hand Delivery**

Alta Drayton Brown  
Deputy Clerk, Office of Hearings &  
Appeals  
Pennsylvania Gaming Control Board  
One Penn Center, Suite 502  
2601 N. 3rd Street  
Harrisburg, PA 17110

Further, ten (10) copies of the petition were delivered to the following:

**Via Hand Delivery and E-mail**

Mickey Kane  
Secretary to the Board  
Pennsylvania Gaming Control Board  
Verizon Tower, 5<sup>th</sup> Floor  
303 Walnut Street  
Harrisburg, PA 17101



William J. Downey, Esquire (PA ID No. 63401)  
**FOX ROTHSCHILD LLP**  
1301 Atlantic Avenue, Suite 400  
Atlantic City, NJ 08401  
(609) 345-4515

Dated: December 10, 2010