

PENN NATIONAL GAMING INC  
Form DEF 14A  
April 28, 2006  
UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**SCHEDULE 14A**

Proxy Statement Pursuant to Section 14(a) of  
the Securities Exchange Act of 1934 (Amendment No. )

Filed by the Registrant  x

Filed by a Party other than the Registrant  o

Check the appropriate box:

- o Preliminary Proxy Statement
- o **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- x Definitive Proxy Statement
- o Definitive Additional Materials
- o Soliciting Material Pursuant to §240.14a-12

**PENN NATIONAL GAMING, INC.**

(Name of Registrant as Specified In Its Charter)

N/A

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- x No fee required.
- o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
  - (1) Title of each class of securities to which transaction applies:
  - (2) Aggregate number of securities to which transaction applies:
  - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
  - (4) Proposed maximum aggregate value of transaction:
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- o Fee paid previously with preliminary materials.
- o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
  - (1) Amount Previously Paid:
  - (2) Form, Schedule or Registration Statement No.:
  - (3) Filing Party:
  - (4) Date Filed:



## **Penn National Gaming, Inc.**

825 Berkshire Boulevard, Suite 200  
Wyomissing, Pennsylvania 19610

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### **NOTICE OF ANNUAL MEETING OF SHAREHOLDERS**

To be Held on June 1, 2006

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**NOTICE IS HEREBY GIVEN** that the 2006 Annual Meeting of Shareholders of Penn National Gaming, Inc. (the Company), a Pennsylvania corporation, will be held on Thursday, June 1, 2006, at 10:00 a.m., local time, at Ballard Spahr Andrews & Ingersoll, LLP, 1735 Market Street, 51st Floor, Philadelphia, PA 19103 for the following purposes:

1. To elect two Class I directors for a 3-year term and until their successors are duly elected and qualified.
2. To consider and transact such other business as may properly come before the Annual Meeting.

The foregoing items of business are more fully described in the Proxy Statement accompanying this Notice of Annual Meeting. Management currently knows of no other business to be presented at the meeting. If any other matters come before the meeting, the persons named in the enclosed proxy will vote with their judgment on those matters.

Only shareholders of record at the close of business on April 7, 2006 are entitled to notice of and to vote at the Annual Meeting and any postponement or adjournment thereof. All shareholders are cordially invited to attend the Annual Meeting in person. Any shareholder attending the Annual Meeting may vote in person even if such shareholder previously signed and returned a proxy.

**By order of the Board of Directors,**

Robert S. Ippolito  
*Secretary*

Wyomissing, Pennsylvania  
April 28, 2006

**WHETHER OR NOT YOU EXPECT TO ATTEND THE ANNUAL MEETING, YOU CAN ENSURE THAT YOUR SHARES ARE VOTED AT THE MEETING BY SUBMITTING YOUR INSTRUCTIONS BY PHONE, BY INTERNET OR BY COMPLETING, SIGNING, DATING AND MAILING THE ENCLOSED PROXY FORM PROMPTLY IN THE ENCLOSED ENVELOPE PROVIDED FOR THAT PURPOSE (NO POSTAGE NEED BE AFFIXED IF MAILED IN THE UNITED STATES).**

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## **Penn National Gaming, Inc.**

825 Berkshire Boulevard, Suite 200  
Wyomissing, Pennsylvania 19610

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### **PROXY STATEMENT ANNUAL MEETING OF SHAREHOLDERS**

JUNE 1, 2006

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This Proxy Statement and the enclosed Proxy are first being sent or given to shareholders of Penn National Gaming, Inc. (the Company) on or about April 28, 2006, in connection with the solicitation of proxies for use at the Company's 2006 Annual Meeting of Shareholders (Annual Meeting) to be held on Thursday, June 1, 2006 at 10:00 a.m., local time, or at any adjournment or postponement thereof, for the purposes set forth herein and in the accompanying Notice of Annual Meeting. The Annual Meeting will be held at Ballard Spahr Andrews & Ingersoll, LLP, 1735 Market Street, 51st Floor, Philadelphia, PA 19103. This solicitation is being made on behalf of the Board of Directors of the Company.

#### **INFORMATION CONCERNING SOLICITATION AND VOTING**

##### **Record Date and Shares Outstanding**

The Board of Directors has set the close of business on April 7, 2006 as the record date (Record Date) for the determination of shareholders of the Company entitled to notice of, and to vote at, the Annual Meeting. On the Record Date, 84,745,924 shares of the Company's Common Stock were issued and outstanding and entitled to vote at the Annual Meeting.

##### **Revocability of Proxies**

Any proxy given pursuant to this solicitation may be revoked by the person giving it at any time before its use by delivering to the Secretary of the Company written notice of revocation or a duly executed proxy bearing a later date or by attending the Annual Meeting and voting in person.

##### **Voting and Solicitation**

The presence, in person or by proxy, of shareholders entitled to cast at least a majority of the votes, which all shareholders are entitled to cast, is necessary for a quorum to be present at the Annual Meeting. Each share of the Company's Common Stock outstanding is entitled to one vote on each matter which may be brought before the Annual Meeting.

The shares represented by all valid proxies received by phone, by internet or by mail, unless previously revoked, will be voted at the Annual Meeting in accordance with the instructions contained therein, and if no choice is specified, will be voted for each of the nominees for director set forth in this Proxy Statement. Assuming a quorum is present, the two nominees for director receiving the highest number of votes cast by shareholders entitled to vote for directors will be elected to serve on the Company's Board of Directors. The Board knows of no other matters that are likely to be brought before the meeting other than the matter specifically referred to in the notice of the meeting. If any other matters properly come before the meeting, the persons named in the enclosed proxy or their duly appointed substitutes acting at the meeting will be authorized to vote or otherwise act with their judgment on those matters. For purposes of

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determining the number of votes cast, only those cast for or against are counted. Abstentions and broker non-votes are not considered cast but are counted for purposes of determining whether a quorum is present at the Annual Meeting.

It is expected that the solicitation of proxies will be conducted primarily by mail. The cost of this solicitation will be borne by the Company. In addition, the Company may reimburse brokerage firms and other persons representing beneficial owners of shares for their expenses in forwarding solicitation material to such beneficial owners. Proxies also may be solicited by certain directors, officers and employees of the Company, without additional compensation, personally or by telephone, telegram, teletype or via the internet.

## GOVERNANCE OF THE COMPANY

The Company's Board of Directors believes that the purpose of corporate governance is to ensure that shareholder value is maximized in a manner consistent with legal requirements and the highest standards of integrity. The Board adheres to corporate governance practices which the Board and senior management believe promote this objective and are sound. The Company regularly reviews these governance practices, Pennsylvania law (the state in which the Company is incorporated), the Marketplace Rules of the National Association of Securities Dealers, Inc. (the Marketplace Rules), and U.S. Securities and Exchange Commission (SEC) regulations, as well as best practices suggested by recognized governance authorities.

### Board of Directors

The Company's Board of Directors currently consists of six members: Peter M. Carlino, Harold Cramer, David A. Handler, John M. Jacquemin, Robert P. Levy and Barbara Z. Shattuck. The Board has determined that all of the directors, other than Mr. Carlino, are independent under the current Marketplace Rules.

The Board of Directors held ten meetings during the fiscal year ended December 31, 2005. Each of the Company's directors attended at least 75% of the aggregate of all meetings of the Board during the fiscal year ended December 31, 2005. In addition, each of the Company's directors attended at least 75% of the aggregate of all meetings of all committees of the Board of which he or she was a member held during the fiscal year ended December 31, 2005.

The Company has four standing committees: the Audit Committee, the Compensation Committee, the Compliance Committee and the Nominating Committee.

**Audit Committee.** John M. Jacquemin (Chairman), Harold Cramer and Robert P. Levy are the members of the Audit Committee. The Board has determined that Messrs. Jacquemin, Cramer and Levy are independent under the current Marketplace Rules and SEC regulations. The Board has determined that Mr. Jacquemin, the Chairman of the Audit Committee, satisfies the SEC criteria of a financial expert and is financially sophisticated for the purposes of Marketplace Rules. Because of his position as one of five trustees for the Carlino Family Trust, an irrevocable trust (see Security Ownership of Principal Shareholders and Management beginning on page 8 of this Proxy Statement), Harold Cramer falls outside the SEC safe harbor providing that a person will not be deemed an affiliate for purposes of determining audit committee member independence if he or she beneficially owns 10% or less of an issuer's voting stock. Mr. Cramer's voting and investment power in connection with the shares of the Company's common stock held by the Carlino Family Trust is, however, restricted to limited matters and is shared with the other trustees. Peter M. Carlino has the sole power to vote the shares held by the Carlino Family Trust, except in the case of a sale of all or substantially all of the Company's assets, a merger where the Company will not be the surviving entity or a liquidation where the manner in which the trust's shares are voted is determined by a vote of all five trustees. As a result of Mr. Cramer's limited voting and

investment power, the Board has determined that Mr. Cramer is independent for the purpose of the SEC regulations and the Marketplace Rules.

The principal functions of the Audit Committee are to serve as an independent and objective party to monitor the integrity of the Company's financial reporting process and internal control system; appoint, compensate and, where appropriate, discharge and replace the Company's independent registered public accounting firm; oversee, review and appraise the audit efforts of the Company's independent registered public accounting firm; and maintain free and open communication with and among the independent registered public accounting firm, financial and senior management, and the Board of Directors. In addition, the Audit Committee is responsible for reviewing and appraising the audit efforts of the Company's internal auditors. The Audit Committee operates under a written charter adopted by the Board of Directors that complies with the current Marketplace Rules. A copy of the written charter was included as Appendix A to the Company's 2004 Annual Meeting Proxy Statement dated April 21, 2004, which was filed pursuant to Section 14(a) of the Securities Exchange Act of 1934. The Audit Committee met ten times in 2005.

**Compensation Committee.** Harold Cramer (Chairman), David A. Handler and Barbara Z. Shattuck are members of the Compensation Committee. The Board has determined that Messrs. Cramer and Handler and Ms. Shattuck are independent for the purposes of the Marketplace Rules. The principal functions of the Compensation Committee are to evaluate the annual performance of the Chief Executive Officer ( CEO ) and other executive officers and set their annual compensation; review the Company's executive compensation programs; assess the Company's management succession planning; recommend the structure and amount of compensation for non-employee directors; review and approve management recommendations regarding option grants to employees other than executive officers; and administer and interpret the Company's Amended and Restated 1994 Stock Option Plan, as amended, or 1994 Stock Option Plan, and 2003 Long Term Incentive Compensation Plan, or 2003 Equity Compensation Plan. The Compensation Committee operates under a written charter adopted by the Board of Directors and met five times in 2005.

**Compliance Committee.** The Compliance Committee has three members. David A. Handler and John M. Jacquemin are the current Board members of the Compliance Committee. Steve Ducharme, a consultant to the Company, is the Chairman of the Compliance Committee. The Compliance Committee was established to ensure, through self-regulatory procedures, compliance with applicable laws relating to the Company's gaming and racing businesses and to prevent, to the fullest extent possible, any involvement by the Company in any activities that would pose a threat to the reputation and integrity of the Company's gaming and racing operations. The Compliance Committee operates under a written charter adopted by the Board of Directors and met eleven times in 2005.

**Nominating Committee.** Harold Cramer (Chairman), David A. Handler and Barbara Z. Shattuck are the members of the Nominating Committee. The Board has determined that Messrs. Cramer and Handler and Ms. Shattuck are independent under the Marketplace Rules. The Nominating Committee is responsible for identifying and recommending, for the Board's selection, nominees for election to the Board and advising the Board with respect to Board structure, composition and size of the Board and its committees. The Nominating Committee operates under a written charter adopted by the Board of Directors that complies with the current Marketplace Rules. A copy of the written charter is not currently on the Company's website but was included as Appendix B to the Company's 2004 Annual Meeting Proxy Statement dated April 21, 2004, which was filed pursuant to Section 14(a) of the Securities Exchange Act of 1934. The Nominating Committee met one time in 2005.

The Nominating Committee considers candidates for Board membership suggested by, among others, its members, other Board members and management. The Nominating Committee has authority to retain

a search firm to assist in the identification of director candidates. In selecting nominees for director, the Nominating Committee considers a number of factors, including, but not limited to:

- whether a candidate has demonstrated business and industry experience that is relevant to the Company, including recent experience at the senior management level (preferably as chief executive officer or a similar position) of a company as large or larger than the Company;
- a candidate's ability to meet the suitability requirements of all relevant regulatory agencies;
- a candidate's ability to represent interests of the shareholders;
- a candidate's independence from management and freedom from potential conflicts of interest with the Company;
- a candidate's financial literacy, including whether the candidate will meet the audit committee membership standards set forth in the Marketplace Rules;
- whether a candidate is widely recognized for his or her reputation, integrity, judgment, skill, leadership ability, honesty and moral values;
- a candidate's ability to work constructively with the Company's management and other directors; and
- a candidate's availability, including the number of other boards on which the candidate serves, and his or her ability to dedicate sufficient time and energy to his or her board duties.

During the process of considering a potential nominee, the Committee may request additional information about, or an interview with, the potential nominee.

The Nominating Committee will also consider recommendations of nominees for director to be elected at the Company's 2007 annual meeting of shareholders by shareholders who have owned beneficially at least 1% of the Company's common stock for a continuous period of not less than 12 months before making such recommendation, provided that such recommendation must be in proper written form (containing certain information specified in the bylaws about the shareholder and the person recommended) and must be received by the Secretary of the Company between January 2 and February 1, 2007 at the Company's principal executive office. In evaluating recommendations received from shareholders, the Committee will apply the criteria and follow the process described above.

#### **Compensation of Directors**

The Company pays director's fees to each director who is not an employee of the Company. During the year ended December 31, 2005, each outside director received an annual retainer fee of \$50,000 and reimbursement for out-of-pocket expenses in connection with their attendance at such meetings. In addition, members of the Audit Committee and Compensation Committee each received an annual retainer fee of \$10,000 and \$5,000, respectively. Non-employee directors did not receive a separate retainer fee for membership on the Nominating or Compliance Committee. In addition, in 2005, the Compensation Committee approved a grant to each non-employee director of options to purchase 60,000 shares of Common Stock of the Company (adjusted to reflect the Company's March 7, 2005 two-for-one stock split). The exercise price of the options granted to non-employee directors is equal to the fair market value of the Company's Common Stock on the date of the grant. The options vest over four years, 25% on the first anniversary of date of grant and 25% on each succeeding anniversary.

#### **Shareholder Access Policy**

Shareholders who wish to communicate with directors should do so by writing to Penn National Gaming, Inc., Wyomissing Professional Center, 825 Berkshire Boulevard, Suite 200, Wyomissing,



PA 19610, Attention: Secretary. The Secretary of the Company reviews all such correspondence and forwards to the Board a summary of all such correspondence and copies of all correspondence that, in the opinion of the Secretary, deals with the functions of the Board or Board committees or that he otherwise determines requires their attention. Directors may at any time review a log of all correspondence received by the Company that is addressed to members of the Board and request copies of any such correspondence. Concerns relating to accounting, internal controls or auditing matters will be brought to the attention of the Company's Audit Committee.

#### **Director Attendance at Annual Meetings**

The Company encourages all of its directors to attend the Company's annual meeting of shareholders. Last year, all of the individuals then serving as directors of the Company attended the Company's 2005 annual meeting of shareholders.

#### **Employee Code of Conduct**

The Company has a Code of Conduct, which is applicable to all employees of the Company, including the Company's principal executive officer, the principal financial officer and the principal accounting officer. The Code of Conduct is designed, among other things, to deter wrongdoing and promote ethical conduct, full and accurate reporting in the Company's SEC filings, and compliance with applicable laws. A copy of the current Code of Conduct has been included as Exhibit 14.1 to the Company's Current Report on Form 8-K filed on April 24, 2006 and is available on the Company's website at [www.pngaming.com](http://www.pngaming.com). The Corporate Director of Regulatory Affairs has been named the Chief Compliance Officer under the Company's Code of Conduct. Compliance personnel at the Company's properties report to the Corporate Director of Regulatory Affairs.

**PROPOSAL 1: ELECTION OF CLASS I DIRECTORS****Information about Nominees and Other Directors**

The Company's Board of Directors consists of six members: Peter M. Carlino, Harold Cramer, David A. Handler, John M. Jacquemin, Robert P. Levy and Barbara Z. Shattuck. The Board has determined that all of the directors, other than Mr. Carlino, are independent under the current Marketplace Rules. Two Class I directors will be elected at the Annual Meeting to hold office, subject to the provisions of the Company's bylaws, until the annual meeting of shareholders of the Company to be held in the year 2009 and until their respective successors are duly elected and qualified.

The following table sets forth the name, age, principal occupation and respective service dates of each person who has been nominated to be a director of the Company. Each nominee has consented to be named as a nominee and, to the knowledge of the Company, is willing to serve as a director, if elected. Should either of the nominees not remain a nominee at the end of the meeting (a situation which is not anticipated), solicited proxies will be voted in favor of the one who remains as a nominee and may be voted for a substitute nominee.

Name of Nominee	Age	Principal Occupation	Director Since	Term Expires
David A. Handler	41	Senior Managing Director, Bear Stearns & Co., Inc.	1994	2006
John M. Jacquemin	59	President, Mooring Financial Corporation	1995	2006

Messrs. Handler and Jacquemin are standing for re-election based upon the judgment, skill and dedication they have previously demonstrated as Board members.

The following table sets forth the name, age, principal occupation and respective service dates of each person who will continue as a director after the Annual Meeting.

Name	Age	Principal Occupation	Director Since	Term Expires
<i>Class III Directors:</i>				
Peter M. Carlino	59	Chairman of the Board and Chief Executive Officer of the Company	1994	2008
Harold Cramer	78	Retired Partner, Schnader Harrison Segal & Lewis LLP; Retired Chairman and Chief Executive Officer of the Graduate Health System	1994	2008
<i>Class II Directors:</i>				
Robert P. Levy	75	Chairman of the Board, DRT Industries, Inc.	1995	2007
Barbara Z. Shattuck	55	Principal, Shattuck Hammond Partners, LLC	2004	2007

*David A. Handler.* Mr. Handler has been a director since 1994. Since April 2000, he has been a Senior Managing Director at Bear Stearns & Co., Inc. ( Bear Stearns ). From July 1995 to April 2000, Mr. Handler was employed by Jefferies & Company, Inc. where he became a Managing Director in March 1998.

*John M. Jacquemin.* Mr. Jacquemin has been a director since 1995 and is President of Mooring Financial Corporation companies. Mooring Financial Corporation is a group of financial services companies founded by Mr. Jacquemin in 1982 that specialize in the purchase and administration of commercial loan portfolios and equipment leases.

*Peter M. Carlino.* Mr. Carlino has served as the Company's Chairman of the Board and Chief Executive Officer since April 1994. Since 1976, he has been President of Carlino Financial Corporation, a holding company which owns and operates various Carlino family businesses, in which capacity he has been continuously active in strategic planning and monitoring the operations.

*Harold Cramer.* Mr. Cramer has been a director since 1994. Until November 1996, Mr. Cramer was the Chairman and Chief Executive Officer of the Graduate Health System. From November 1996 to July 2000, Mr. Cramer was Counsel to Mesirov Gelman Jaffe Cramer & Jamieson, LLP, which merged with Schnader Harrison Segal & Lewis LLP in July 2000. Mr. Cramer is now a retired partner of Schnader Harrison Segal & Lewis LLP.

*Robert P. Levy.* Mr. Levy has been a director since 1995. He is the past Chairman of the Board of the Atlantic City Racing Association and served a two-year term from 1989 through 1990 as President of the Thoroughbred Racing Association. Mr. Levy has served as the Chairman of the Board of DRT Industries, Inc., a diversified business based in the Philadelphia metropolitan area, since 1960. Mr. Levy owns the Robert P. Levy Stable, a thoroughbred racing and breeding operation. Mr. Levy is a director of Fasig-Tipton Company, an equine auction company.

*Barbara Z. Shattuck.* Ms. Shattuck has been a director since January 29, 2004. She is a Principal of Shattuck Hammond Partners LLC, an investment banking firm. Prior to co-founding Shattuck Hammond in 1993, Ms. Shattuck spent 11 years at Cain Brothers, Shattuck & Company, Inc., an investment banking firm she co-founded. From 1976 to 1982 she was a Vice President of Goldman, Sachs & Co. Ms. Shattuck began her career as a municipal bond analyst at Standard & Poor's Corporation. Ms. Shattuck is a member of the board of directors of Sun Life Insurance & Annuity Company of New York.

**The Board of Directors unanimously recommends that the shareholders vote FOR each of the nominees.**



**EQUITY COMPENSATION PLAN INFORMATION**

The following table summarizes certain information with respect to our compensation plans and individual compensation arrangements under which our equity securities have been authorized for issuance as of the fiscal year ended December 31, 2005:

<b>Plan Category</b>	<b>(a) Number of securities to be issued upon exercise of outstanding options, warrants and rights</b>	<b>(b) Weighted-average exercise price of outstanding options, warrants and rights</b>	<b>(c) Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column(a))</b>
Equity compensation plans approved by shareholders	7,638,814	\$ 17.207	6,169,500
Equity compensation plans not approved by shareholders	95,000	\$ 7.95	
<b>Total</b>	<b>7,733,814</b>	<b>\$ 17.091</b>	<b>6,169,500</b>

*Option Grant to the Company's Chairman*

On February 6, 2003, the Compensation Committee granted Peter M. Carlino a stock option to purchase 95,000 shares of the Company's common stock at an exercise price of \$7.95 per share (adjusted to reflect the Company's March 7, 2005 two-for-one stock split), which was the closing price of the Company's common stock on the day before the option was granted. This stock option, which was granted prior to the adoption of the Company's 2003 Equity Compensation Plan, was not granted under the 1994 Stock Option Plan because sufficient shares did not remain available for grant under such plan. The stock option vests 25% on each of February 6 of 2004, 2005, 2006 and 2007 and expires on February 6, 2013. The terms of the stock option may be amended only by a written agreement between Peter M. Carlino and the Company that is approved by the Compensation Committee.

**SECURITY OWNERSHIP OF PRINCIPAL  
SHAREHOLDERS AND MANAGEMENT**

The following table sets forth certain information with respect to beneficial ownership of the Company's Common Stock as of April 7, 2006, by each person known to the Company to own beneficially more than 5% of the Company's outstanding Common Stock, each director, the chief executive officer and each of the four other most highly compensated executive officers of the Company and all of the executive officers and directors of the Company as a group. The persons named in the table have sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by them except as otherwise shown in the footnotes to the table. Unless otherwise indicated in the footnotes to the table, the address of each such person is c/o the Company, 825 Berkshire Boulevard, Suite 200, Wyomissing, Pennsylvania 19610.

Beneficial ownership is determined in accordance with the rules of the SEC. Shares of Common Stock subject to options currently exercisable or exercisable within 60 days of April 7, 2006, are deemed outstanding for computing the percentage beneficially owned by such holder, but are not deemed outstanding for purposes of computing the percentage beneficially owned by any other person. Except as otherwise indicated, the Company believes that the beneficial owners of the Common Stock listed below, based on information furnished by such owners, have sole investment and voting power with respect to such shares, subject to community property laws where applicable, and that there are no other affiliations among the shareholders listed in the table. The percentage for each beneficial owner is calculated based on (i) the aggregate number of shares reported to be owned by such group or individual and (ii) the aggregate number of shares of Common Stock outstanding as of April 7, 2006 (84,745,924 shares).

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Name and Address	Number of Shares Beneficially Owned	Percentage of Class
Peter M. Carlino(1)(2)	12,018,129	14.16 %