

**ORDER 2012-53
IN RE SETTLEMENT AGREEMENT**

**INDIANAPOLIS DOWNS, LLC
11-IL-04**

After having reviewed the attached Settlement Agreement, the Indiana Gaming Commission hereby:

Approves

APPROVES OR DISAPPROVES

the proposed terms of the Settlement Agreement.

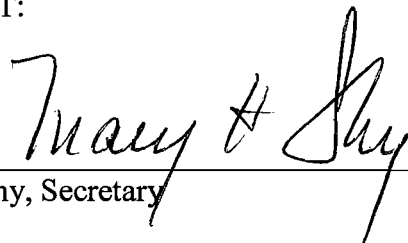
IT IS SO ORDERED THIS THE 15th DAY OF MARCH, 2012.

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Mary Shy, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE THE MATTER OF:)	
)	SETTLEMENT
INDIANAPOLIS DOWNS, LLC)	11-IL-04
)	

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (“Commission”) by and through its Executive Director Ernest E. Yelton and Indianapolis Downs, LLC (“Indiana Live”), (collectively, the “Parties”) desire to settle this matter prior to the initiation of a disciplinary proceeding pursuant to 68 IAC 13-1-18(a). The Parties stipulate and agree that the following facts are true:

FINDINGS OF FACT

1. IC 4-35-3-4 declares that it was the legislature’s intent to “maintain the public’s confidence and trust through ...the strict regulation of the facilities, persons, associations and gambling games at racetracks.
2. IC 4-35-4-2(a)(1)(A) states that the commission shall adopt rules that the commission determines are necessary to protect or enhance the credibility and integrity of gambling at racetracks.
3. IC 4-35-4-7(b) states that “where applicable, 68 IAC applies to racetracks conducting gambling games...”
4. 68 IAC 1-16-1(c) states the riverboat licensee or riverboat license applicant is responsible for the following:
 1. Ensuring that all aspects of the riverboat gambling operation are conducted in accordance with the Act, this title, and all other state, federal, and local laws.
 2. The acts of its employees and agents in the course of their employment.
5. 68 IAC 2-1-11 states that the commission may initiate a disciplinary proceeding against a casino licensee if the commission determines that a casino licensee has violated the applicable statutes or regulations.
6. 68 IAC 2-3-5(c) states the applicant shall meet the following standards, qualifications, or criteria to be issued an occupational license of any level:
(14) An applicant must be of good moral character and reputation.
7. 68 IAC 2-3-5(d) states the occupational licensee must continue to meet all conditions or restrictions for licensure after the issuance of the permanent occupational license. If an occupational licensee fails to adhere to these conditions

or restrictions or fails to maintain suitability for licensure, the commission may initiate a disciplinary action under 68 IAC 13.

8. 68 IAC 2-3-9.3 states no occupational licensee may:
 1. loan money to a patron;
 5. assist the patron;in any manner not authorized by [68 IAC], in obtaining chips, tokens, cash, or cash equivalents with which the patron may place a wager.
9. 68 IAC 2-3-10(a) states the commission may take action, including, but not limited to, revocation, suspension, or restriction of an occupational license at any time that the commission determines the occupational licensee is in violation of the Act or this rule.

(b) If the commission determines that an occupational licensee is in violation of this rule or IC 4-33-8, the commission may initiate a disciplinary proceeding to revoke, restrict, or take any other disciplinary action with respect to the occupational license pursuant to 68 IAC 13.
10. On August 8, 2011 a Gaming Agent was approached by another Agent regarding unusual activity that occurred in the Rumors entertainment venue from Friday night August 5th into Saturday morning August 6th. The Agent reviewed video and found that tables had been moved around inside the venue after the Icandy Burlesque show. A sign had also been added outside of the venue informing patrons that it would be a dance club after the last Icandy show of the nights that they performed. Further review showed that at 2100 hours the Indiana Live interim General Manager/CFO entered Rumors with a former female employee and an unidentified female. The group watched the Icandy show and then proceeded to the Maker's Mark Steakhouse. The three left the Steakhouse just after midnight and went back to Rumors. At approximately 0132 hours the Beverage Manager entered Rumors and began speaking to the trio. He eventually began drinking with them. At 0200 hours the Banquet Manager closed Rumors by shutting the front doors as well as placing stanchions in front of the doors. She then joined the Beverage Manager, Interim General Manager/CFO and two females for alcoholic beverages. At 0300 hours the Bartender got another round of alcoholic beverages for the group as this is the cut off point for serving. The Bartender clocked out at 0304 hours and joined the group, with an alcoholic beverage. At 0317 hours the interim General Manager/CFO took cash out of his pants pocket and gave the money to the unidentified female. She left the venue, sat at a slot machine, placed the money in the machine and began playing. At 0338 hours the Security Shift Manager entered Rumors to speak with the group. When interviewed the Security Shift Manager stated that he reminded the group that per state law all of the alcoholic beverages should be cleared already. The Beverage Manager told the Security Shift Manager that he would get someone to clear all of the beverages. The group stayed at the bar until 0401 hours when the Banquet Manager finished her alcoholic beverage and helped clean up the bar. At 0410 hours the interim General Manager/CFO left the venue with the two females. During the investigation, the interim General

Manager/CFO indicated he was intoxicated when he subsequently drove his vehicle from the property.

11. Due to the significance of the position held by the interim General Manger/CFO, the Commission has determined that his presence and participation in these events encouraged the non-compliant behavior of the subordinate employees. These activities also created an atmosphere that is far short of the level of integrity expected of licensees, both casino and occupational, in Indiana pursuant to statute.
12. In addition to the gaming violations described above, on August 31, 2011 Indiana Live also received tickets from the Excise Police for the following violations:

905 IAC 1-10-1 states no retailer permittee shall have or allow any container whatsoever, of or for alcoholic beverages, anywhere on the licensed premises open to the public of said permittee (including the counter and/or bar, but not the back bar) for longer than thirty minutes after the legal hour when the sale, dispensing, giving away or otherwise disposing of alcoholic beverages shall cease as provided by the Alcoholic Beverages Law of the State of Indiana.

905 IAC 1-10-2 states no retailer permittee shall allow the consumption of alcoholic beverages by any person whatsoever on any part of the licensed premises of the permittee for longer than thirty (30) minutes after the legal hour when the sale, dispensing, giving away, or otherwise disposing of alcoholic beverages shall cease as provided by the alcoholic beverages law of the state of Indiana.

TERMS AND CONDITIONS

Commission staff alleges that the acts or omissions of Indiana Live by and through its agents as described herein constitute a breach of IC 4-35, 68 IAC or Indiana Live's approved internal control procedures. The Commission and Indiana Live hereby agree to a monetary settlement of the alleged violations described herein in lieu of the Commission pursuing formal disciplinary action against Indiana Live. This agreement is being entered into to avoid the potential expense and inconvenience of disciplinary action.

Indiana Live shall pay to the Commission a total of \$40,000 in consideration for the Commission foregoing disciplinary action based on the facts specifically described in each count of this agreement. Neither this agreement nor any action performed pursuant to it will constitute an admission of any violation by Indiana Live. This agreement extends only to known incidents specifically alleged in this agreement and wholly based on the facts described herein. If the Commission subsequently discovers additional facts, which are not described in this agreement, that may support an independent determination that a violation has occurred, the Commission may pursue disciplinary action for such violations even if the facts are related to an incident described herein.

Upon execution and approval of this Settlement Agreement, Commission staff shall submit this Agreement to the Commission for review and final action. Upon approval of the Settlement Agreement by the Commission, Indiana Live agrees to promptly remit payment in the amount of \$40,000 and shall waive all rights to further administrative or judicial review.

This Settlement Agreement constitutes the entire agreement between the parties. No prior or subsequent understandings, agreements, or representations, oral or written, not specified or referenced within this document will be valid provisions of this Settlement Agreement. This Settlement Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all Parties.

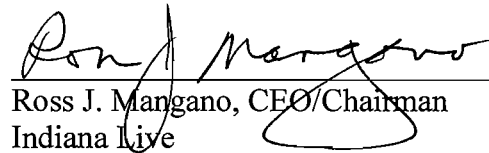
This Settlement Agreement shall be binding upon the Commission and Indiana Live.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date and year as set forth below.



Ernest E. Yelton, Executive Director
Indiana Gaming Commission

1.5.12
Date



Ross J. Mangano, CEO/Chairman
Indiana Live

12/8/11
Date