

ORDER 2008-26

**AN ORDER CONCERNING THE
APPLICATION OF INDIANAPOLIS DOWNS, LLC
FOR A GAMBLING GAME LICENSE
UNDER INDIANA CODE 4-35**

Indianapolis Downs, LLC (“Indianapolis Downs”), the current holder of a permit issued under IC 4-31-5 to conduct pari-mutuel horse racing meetings, requests that the Indiana Gaming Commission (“Commission”): (1) issue to it a license to conduct gambling games at its racetrack in Shelbyville, Indiana; (2) authorize it to conduct gambling games in a temporary facility; and (3) approve the design, appearance, aesthetics, and construction of its proposed permanent slot machine facility.

The Commission has considered the following factors in contemplating Indianapolis Downs’ request for a gambling game license and facility approval:

1. Indianapolis Downs has submitted to the Commission the appropriate gambling game license application and personal disclosure forms for all Substantial Owners and Key Persons deemed necessary by Commission staff to award the initial license.
2. The Commission has received a confidential analysis of Indianapolis Downs’ financing package from the Commission’s outside financial expert, Dr. Charlene Sullivan.
3. Indianapolis Downs has indicated and established to the Commission’s satisfaction that it has sufficient capital at its disposal to build the proposed temporary and permanent slot machine facilities and to commence gambling game operations.
4. The Commission’s Background and Financial Investigations Section has completed a comprehensive investigation of Indianapolis Downs, as well as all Substantial Owners and Key Persons deemed necessary by Commission staff to award the initial license, and final investigative reports have been presented to the Commission for consideration.
5. Indianapolis Downs has presented sufficient evidence that it meets or possesses the standards, qualifications, or criteria necessary to be issued a gambling game license under IC 4-35, including but not limited to the requirement that its gambling game facility include capital expenditures of at least one hundred million dollars (\$100,000,000).
6. Indianapolis Downs has addressed the Commission at a public meeting to present information and respond to questions relevant to its licensure and its temporary and permanent slot machine facilities.
7. 68 IAC 5-3-6 authorizes the commission to waive, alter, or restrict any requirement or procedure set forth in 68 IAC 5-3 relating to debt transactions.
8. Given the timing and circumstances surrounding the passage and effectiveness of House Enrolled Act 1835 in 2007, it was impractical and burdensome to require Indianapolis Downs to fully abide by the procedures and requirements set forth in 68 IAC 5-3-2 prior to closing on its financing package and paying its initial license fee installment of \$150 million. A waiver, alteration, or restriction of such rules was and remains in the best

interest of the public and the gaming industry, and is not outside the technical requirements necessary to serve the purpose of the rule.

COMMISSION ACTION

I. Gambling Game License and Proposed Slot Machine Facility

Based on the foregoing, and in accordance with IC 4-35, the Commission hereby **GRANTS** a gambling game license to Indianapolis Downs for an initial licensure period of five (5) years, from March 31, 2008 through March 30, 2013; **AUTHORIZES** it to conduct gambling games in a temporary facility; and **APPROVES** the design, appearance, aesthetics, and construction of its proposed permanent slot machine facility.

The Commission's grant of the gambling game license is contingent upon the continuing conditions that: (1) Indianapolis Downs and all relevant affiliates refrain from commencing slot machine gambling in Indiana until formal approval to do so has been given by the Executive Director; (2) Gomes + Cordish Gaming Management, LLC, or another suitable operator, receive a permanent supplier's license to serve as the gaming operations manager for Indianapolis Downs no later than September 30, 2008; and (3) Indianapolis Downs and all relevant affiliates maintain the casino gambling operation in substantial compliance with all applicable state and local laws, including but not limited to IC 4-35 and Commission regulations, resolutions, orders and/or other directives relating to the gambling game license, or to the lawful operation or conduct of gambling games and/or pari-mutuel horse racing meetings in Indiana.

II. Financing

Based on the documentation and information provided by Indianapolis Downs to date, the Commission hereby **APPROVES** the financing package proposed as the funding mechanism for the slot machine facility. In granting such approval, the Commission also hereby **WAIVES** the procedural requirements and deadlines in 68 IAC 5-3-2.

The Commission's approval of Indianapolis Downs' financing package is contingent upon the continuing conditions that Indianapolis Downs: (1) submit to the Commission, quarterly financial reports (i.e., balance sheets and income statements) for each entity that is directly reliant on or affected by the proceeds and/or obligations associated with the financing package approved herein; and (2) maintain adequate capitalization to provide and maintain facilities for gambling games for the duration of the license, as required by IC 4-35-5-2.4(6). Should Indianapolis Downs or any affiliate fail to abide by said terms and conditions, the Commission reserves the right to withdraw this financing approval; require Indianapolis Downs or any affiliate to amend terms or conditions of its financing package; and/or take other appropriate disciplinary action.

IT IS SO ORDERED THIS THE 31st DAY OF MARCH, 2008.

THE INDIANA GAMING COMMISSION:



William W. Barrett, Chair

ATTEST:



Thomas Swihart, Secretary