

ORDER 2009-142
ORDER APPROVING SETTLEMENT AGREEMENT BETWEEN
INDIANA GAMING COMMISSION AND JAMES SCOTT JR.

On March 20, 2009, James Scott Jr. filed renewal paperwork for his Level 2 occupational license renewals for 2008 and 2009. His 2008 renewal was more than a year overdue, and his 2009 renewal was nearly two weeks overdue.

68 IAC 2-3-8(a) requires an occupational license to be renewed annually and requires the renewal application to be completed and filed with the Indiana Gaming Commission ("commission") no less than thirty (30) days before expiration. Mr. Scott violated this provision by failing to renew his license for an extended period of time.

On May 26, 2009, commission staff sent a letter to Mr. Scott. This letter offered to settle the potential disciplinary matter stemming from his violation in lieu of commission staff filing a complaint and pursuing disciplinary action.

Commission staff and Mr. Scott have agreed on a settlement of this matter. The terms of the settlement agreement have been reduced to writing, and in pertinent part, provide the following:

Licensee's occupational license shall be voluntarily relinquished for two (2) working days at a time to be determined by the parties in cooperation with the Human Resources Department of Majestic Star Casino. Licensee will not work his regularly scheduled shift ... during this period of suspension. Licensee agrees that no vacation or paid leave time shall be used while serving this voluntary relinquishment.

Having considered the foregoing, the Commission hereby APPROVES the proposed terms of the settlement agreement.

IT IS SO ORDERED THIS THE 17TH DAY OF SEPTEMBER, 2009:

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Marc Fine, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE LICENSE OF:)
)
) **MATTER NO: 09-OL-MS-00**
JAMES SCOTT JR.)
LICENSE NO. MS 4710-L2)

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (the "Commission"), by and through its Executive Director, Ernest E. Yelton, and James Scott, Jr. ("Licensee") desire to settle and compromise this matter in lieu of a disciplinary action. In furtherance of this desire, the parties agree to the following recitations and settlement:

RECITATIONS OF LAW AND FACT

1. IC 4-33-8-8(4) provides that the Commission may suspend, revoke, or restrict an occupational licensee for any just cause.
2. 68 IAC 2-3-9 states that "all occupational licensees have a continuing duty to maintain suitability for licensure."
3. 68 IAC 2-3-10 states in part that: "[i]f 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."
4. 68 IAC 13-1-18 states that settlement offers may be made at any time prior to the final disposition of an action, including prior to the initiation of proceedings.
5. 68 IAC 2-3-8(a) requires an occupational license to be renewed annually. The application for renewal must be completed and provided to the Commission no less than thirty (30) days before the expiration of the occupational license.
6. On or about March 6, 1999, the Commission issued to Licensee a permanent level 2 occupational license to work for Majestic Star Casino as a Count Room Attendant.
7. Licensee failed to timely renew his occupational license for 2008 and 2009. Licensee's occupational license should have been renewed on March 6th of each year the licensee held an occupational license. Licensee renewed both his 2008 and 2009 license on March 20, 2009.
8. On May 26, 2009, Commission staff mailed a letter to Licensee offering settlement in lieu of disciplinary action.
9. On June 12, 2009, Licensee agreed, in writing, to the terms set forth in Commission staff's settlement offer.

SETTLEMENT AGREEMENT

The above described actions of Licensee constitute a violation of Title 68 of the Indiana Administrative Code. The Commission and Licensee agree that a period of voluntary relinquishment of Licensee's occupational license shall be imposed on Licensee in full settlement of this violation. By agreement, Licensee's occupational license shall be voluntarily relinquished for two (2) working days at a time to be determined by the parties in cooperation with the Human Resources Department of Majestic Star Casino. Licensee will not work his regularly scheduled shift as a Hard Count Room Attendant at Majestic Star Casino during this period of voluntary relinquishment. Licensee agrees that no vacation or paid leave time shall be used while serving this voluntary relinquishment.

Licensee agrees to surrender his badge to the Human Resources Department at Majestic Star Casino at or before the time his shift would otherwise begin on the day of his voluntary relinquishment and may retrieve his badge after two (2) working days have elapsed from the time he turns in his badge, at which time he will be eligible to return to work. Licensee agrees that his failure to comply with this Settlement Agreement will result in further disciplinary action against his occupational license.

Upon execution and approval of this Settlement Agreement, Licensee waives all rights to an administrative hearing under 68 IAC 13 and judicial review. This agreement is subject to the approval of the Commission. Approval by the Commission makes this agreement a final Commission action. This Settlement Agreement shall be binding upon the Commission and Licensee.

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



Ernest E. Yelton, Executive Director
Indiana Gaming Commission



James Scott, Jr.
Occupational License Number MS 4710-L2

Date: 6-30-09

Date: 07-06-09