

**ORDER 2012-52  
IN RE SETTLEMENT AGREEMENT**

**INDIANAPOLIS DOWNS, LLC  
12-IL-01**

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

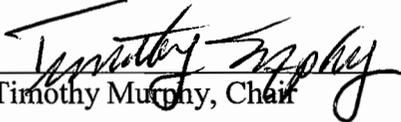
Approves

APPROVES OR DISAPPROVES

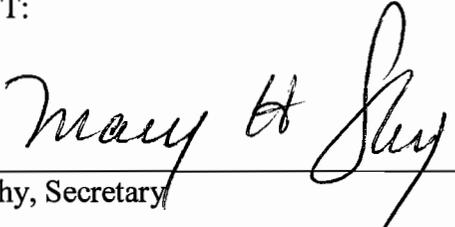
the proposed terms of the Settlement Agreement.

**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**

<b>IN RE THE MATTER OF:</b>	)	
	)	<b>SETTLEMENT</b>
<b>INDIANAPOLIS DOWNS, LLC</b>	)	<b>12-IL-01</b>
	)	

**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**

**COUNT I**

1. Pursuant to IC 4-35-7-2 and 68 IAC 1-11-1(c), a person who is less than twenty-one (21) years of age may not be present in the area of a riverboat where gambling is being conducted.
2. On October 22, 2011, a Gaming Agent was notified that a minor was on the casino floor. The minor was first denied entry at the garage entrance. She left, altered her appearance and returned to gain entry to the casino by blending in with a group of eight individuals. She stayed as far as possible from Security Officer and walked alongside a large male.

**COUNT II**

3. 68 IAC 2-6-18(a) states the internal space of an electronic gaming device must not be readily accessible when the door is closed.
4. On September 23, 2011, a Gaming Agent was notified by a Slot Technician that a belly door was found open and unsecured. A review of surveillance coverage shows that the door was opened during the drop process. The machine’s cash box was swapped but the door was never secured. All other doors in that bank of slot machines had been secured. Two Count Room Attendants walked past the open belly door but they failed to secure the door or alert anyone that it had been left open.

### COUNT III

5. 68 IAC 6-3-3(b) states the voluntary exclusion list is confidential and may be disseminated only to a riverboat licensee or operating agent for purposes of enforcement or to any other entity designated by statute.
6. 68 IAC 6-3-4(b) states that internal controls must address at a minimum the following: (4) make all reasonable attempts to ensure that voluntarily excluded persons do not receive direct marketing. A riverboat licensee or operating agent will satisfy this requirement if the riverboat licensee or operating agent removes the individual's name from the list of patrons to whom direct marketing materials are sent, and the individual does not receive direct marketing materials more than forty-five (45) days after the riverboat licensee receives notice, under section 3(a) of this rule, that the individual has appeared on the voluntary exclusion list.
7. 68 IAC 6-3-4(e) A riverboat licensee or operating agent shall be subject to disciplinary action under 68 IAC 13 for failure to comply with the requirements of this section and the internal control procedures outlined pursuant to this section, including, but not limited to, the following: (1) Release of confidential information for a purpose other than enforcement.
8. 68 IAC 11-1-6(b) states failure to comply with approved internal control procedures may result in the initiation of a disciplinary action. According to Indiana Live's Internal Controls, Section 8-13 pg. 2, it states that no information about the guest being in a voluntarily excluded status will be released or acknowledged by any Casino employee to any company, individual or entity outside the Casino corporate structure. The internal controls also state that when notifying companies of person's inability to receive credit and check cashing privileges, the Casino will not make any reference to the Voluntary Exclusion Program.
9. On September 9, 2011, the Commission's VEP Coordinator was notified by a VEP participant that she had received a promotional mailer via email from the casino. An investigation was conducted by Gaming Agents in which it was determined that the casino uses a 3<sup>rd</sup> party Marketing and Advertising Firm to do their "email blasts" to their patrons. It was explained by the casino's VP of Compliance and Internal Audit that the standard practice is for the casino's Marketing Analyst to take a list of patrons from the Patron Management Database and remove all excluded patrons (VEP's, Casino Exclusions, and Casino Self-Bans). The list is to be double-checked prior to uploading it to the Marketing and Advertising Firm's website.
10. The problem in this process that led VEPs' to receive the email blast occurred when the Marketing and Advertising Firm mistakenly deleted the most current list sent to them by the casino. Instead of contacting the casino for a replacement file, the Marketing and Advertising Firm used a master file of all active email accounts

for this email blast which included all active email accounts ever used by the casino since they had been doing business with the firm. The email blast highlighted three promotional campaigns and was sent to 66 VEPs. In total, the email was sent to 63 VEPs, as 3 of the emails were returned with an invalid email address. 11 of the 63 emails were confirmed to be opened and viewed.

11. In an effort to remedy this situation and prevent it from occurring in the future, Indiana Live's Marketing Analyst provided the Marketing and Advertising Firm with the casino's excluded patron list, so they could correct the master list they had on file. The list provided to the Marketing and Advertising Firm included the names of 2,822 VEP participants and it also noted their excluded status was due to their participation in the VEP. The Advertising Manager at Indiana Live signed off on this.

#### COUNT IV

12. 68 IAC 2-2-1(c) states the following persons or business entities are required to hold a supplier's license:
  - (1) The gaming operations manager if the manager is a business entity. If the gaming operations manager is an individual, the applicant shall hold a Level 1 occupational license. All employees of a gaming operations manager who have any duty, authority, or function relating directly or indirectly to a casino gambling operation will be required to hold an occupational license in accordance with 68 IAC 2-3-1.
  - (2) All manufacturers of:
    - (J) any other equipment that the commission determines directly affects gaming; shall be licensed as a supplier. All suppliers under this subdivision shall be manufacturers of the devices listed in this subdivision.
  - (3) A supplier of gaming equipment maintenance or repair.
  - (7) Any other purveyor of goods or services to a casino gambling operation that the commission deems necessary to ensure compliance with IC 4-33, IC 4-35, and this title.
13. 68 IAC 2-2-1(g) states casino licensees shall not purchase goods or services covered by this rule from a person who does not hold a supplier's license issued by the commission.
14. 68 IAC 2-2-6.1(a) states all key persons and substantial owners of supplier licensees and supplier license applicants must obtain a Level 1 occupational license.
15. On December 5, 2011, the IGC Audit Director was sent to the casino to inquire who the acting Interim General Manager was. During this investigation, the Audit Director discovered that a vendor had been hired in September of 2011 to analyze the slot machines play and payouts. The Commission staff was not

informed by the casino that they were contracting with this vendor and neither party (casino nor vendor) inquired if the vendor needed a supplier's or occupational license. Upon review of the information that the vendor would need to perform his analysis, the Commission decided that a license would be required.

### COUNT V

16. 68 IAC 2-3-9.2(b) states riverboat licensees must advise the enforcement agent, on a form prescribed or approved by the commission, when one (1) of the following events occurs with an occupational licensee:
- (1) The occupational licensee's employment with the riverboat licensee is terminated for any reason.
  - (2) The occupational licensee:
    - (A) is suspended by the riverboat licensee;
    - (B) is on a leave of absence; or
    - (C) transfers to another position with the riverboat licensee.
- The form must be submitted to the enforcement agent within fifteen (15) days of the occurrence of the change or action.
17. On October 20, 2011, a Gaming Agent asked a Cage Supervisor why a Cage Cashier was not in her usual uniform. The Agent was informed that the Cage Cashier was working as a Lead Cashier/Supervisor that day. The Agent asked what duties were involved with the job title and was told they could do anything a Supervisor could do. The Agent then asked the Director of Human Resources about the job title "Lead Cashier/Supervisor" and was informed that this was not a job title but rather a training initiative conducted by the Cage Management to help promotable performers to learn other positions. The training employee was to shadow and observe the Supervisors and Main Bank processes, but did not have authority to act as a Supervisor or Main Banker. Due to the inquiry by the Agent, an e-mail was sent to Cage Management to update the employees on how the management trainees were to operate (to shadow and observe). The Agent spoke with several employees who were training as "Lead Cashier/Supervisor" and found that prior to the e-mail they performed the duties of a Supervisor. A total of four employees were training under this title.

### 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 \$116,500 (\$6,000 for Count I; \$1,500 for Count II; \$75,000 for Count III; \$30,000 for Count IV; and \$4,000 for Count V) 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 \$116,500 and shall waive all rights to further administrative or judicial review.

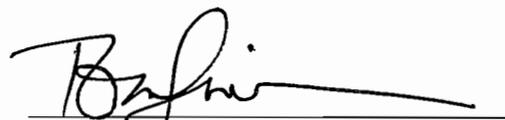
This Settlement Agreement constitutes the entire agreement between the parties. No prior or subsequent understandings, agreements, or representations, oral or written, not specified or referenced within this document will be valid provisions of this Settlement Agreement. This Settlement Agreement may 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

3.5.12  
Date

  
Tom Dingman, General Manager  
Indiana Live

2/20/2012  
Date