

ORDER 2019-254

**AN ORDER OF THE INDIANA GAMING COMMISSION CONCERNING
GRANTING TRANSFER OF INDIRECT OWNERSHIP INTEREST IN
RIVERBOAT OWNER'S LICENSE**

I. BACKGROUND

On October 16, 2019, the Indiana Gaming Commission ("Commission") received a Riverboat Owner License Transfer Application (the "Application") from Hard Rock Gary, LLC ("Hard Rock Gary"). The Application requests a transfer of a minority share in the indirect ownership of The Majestic Star Casino, LLC and The Majestic Star Casino II, LLC (collectively referred to hereafter as the "Majestic Star Casinos") located at Buffington Harbor in Gary, Indiana. The ultimate parent of the Majestic Star Casinos is Spectacle Gary, LLC (f/k/a Spectacle Entertainment, LLC) ("Spectacle Gary"). Hard Rock Gary and Spectacle Gary have entered into a subscription agreement whereby, upon the satisfaction of certain closing conditions, including the approval of the Commission, Hard Rock Gary will purchase an equity interest in Spectacle Gary.

As a part of the transaction:

(i) a new entity, Spectacle Gary Holdings, LLC was created ("Spectacle Holdings") as a wholly owned subsidiary of Spectacle Gary; and

(ii) the current owners of Spectacle Gary have agreed to contribute their equity interests in Spectacle Gary to a newly formed entity, Spectacle Entertainment Group, LLC ("Spectacle Entertainment Group") in exchange for equity interests in Spectacle Entertainment Group.

Following the consummation of the equity purchase in Spectacle Gary by Hard Rock Gary, the members of Spectacle Gary will be Spectacle Entertainment Group and Hard Rock Gary. Spectacle Entertainment Group will hold a majority position in Spectacle Gary.

Summit Partners and its related funds (collectively, "Summit") will retain detachable warrants for an equity interest in Spectacle Gary. Therefore, the terms concerning Summit and the warrants set forth in Order 2019-58 continue to be applicable. Further, an exercise or transfer of those warrants could trigger the requirements set forth in 68 IAC 5-2.

Hard Rock Gary is a newly formed company with a business address of 5701 Stirling Road, Davie, Florida, 33314. Seminole Hard Rock International, LLC ("Seminole Hard Rock") is the parent to Hard Rock Gary. Seminole Hard Rock and its subsidiaries have extensive experience designing, developing and operating destination casino resort projects. James F. Allen is the President and Chief Executive Officer of Seminole Hard Rock.

Spectacle Gary will continue managing day-to-day operations of the Majestic Star Casinos in Buffington Harbor. Hard Rock Gary will exert no control over the day-to-day gaming operations at Buffington Harbor, but Mr. Allen will serve as a member of the Spectacle Gary

Board of Managers. Further, as part of the transaction, Spectacle Gary has entered into a Management Agreement with Hard Rock Gary Manager, LLC (“Hard Rock Manager”). The Management Agreement contemplates that Hard Rock Manager will take over management of day-to-day operations if an inland facility owned by Spectacle Gary, as authorized by Ind. Code § 4-33-6-4.5 and if approved by Commission order, begins operations. Consistent with Commission practice, the Management Agreement does not require formal Commission approval. Pursuant to 68 IAC 2-2-1, Hard Rock Manager must obtain a supplier’s license from the Commission in order to manage the gaming operations of an approved inland facility in Gary. Hard Rock Manager has submitted a complete Supplier’s License Application and caused to be submitted complete personal disclosure forms and other appropriate applications for Hard Rock Manager and all key persons, as deemed necessary by Commission staff. Following Commission action on this Order, Commission staff will issue a temporary supplier’s license to Hark Rock Manager.

The parties have requested the Commission to act on two items related to the Application. First, Hard Rock Gary seeks Commission approval for its equity purchase of membership interests issued by Spectacle Gary, which will result in Hard Rock Gary, through its minority interest in Spectacle Gary, indirectly owning a minority stake in the Majestic Star Casinos. Ind. Code § 4-33-4-21 provides that a licensed owner must apply for and receive Commission approval before an owner’s license is transferred, sold or purchased. The transfer of ownership protocol is prompted when there is a transfer of ownership interest of five percent (5%) or greater in a casino licensee. 68 IAC 5-2-1.

Second, as part of this transaction, Spectacle Gary and Spectacle Holdings will also undertake debt activity which must be approved by the Commission pursuant to Ind. Code § 4-33-4-21 and 68 IAC 5-3-2. Debt transactions are analyzed to ensure the financial health of casino licensees and to ensure that a casino owner’s license is not leased or hypothecated and that money is not borrowed or loaned against a casino owner’s license. Here, the financing package includes a senior secured loan, a support agreement, unsecured notes, contribution agreements, a subscription agreement and a warrant buyback agreement (the “Financing Package”). Detailed financial information regarding the various credit facilities and related agreements relating to the Financing Package was included in the Commission’s confidential materials.

Information the Commission has considered includes the foregoing and the following:

1. Hard Rock Gary submitted a complete Transfer of Ownership Interest Application for a minority share in the indirect ownership of the Majestic Star Casinos and caused to be submitted complete personal disclosure forms and other appropriate applications for Hard Rock Gary and all key persons, as deemed necessary by Commission staff. Licensing decisions made by Commission staff at this time are based upon current facts and circumstances. Commission staff reserves the right to revisit any licensing determination should facts and circumstances change, including but not limited to, amendments to operating agreements, changes in the board of managers, changes in ownership percentage and changes to key persons.

2. The Commission's Background and Financial Investigations Divisions have completed a comprehensive investigation of Hard Rock Gary, including key persons. Commission staff has presented the final investigative reports to the Commission for review.
3. The Commission's Financial Investigations Division has completed a comprehensive investigation of Spectacle Gary's and Spectacle Holdings' proposed debt activity related to this transaction and provided analysis of the debt activity to the Commission for review.
4. Representatives of Hard Rock Gary, Hard Rock Manager and Spectacle Entertainment Group have addressed the Commission at a public meeting to present information relevant to the proposed transaction.
5. Hard Rock Gary has presented evidence that it meets or possesses the standards, criteria, and qualifications necessary to be issued a casino owner's license pursuant to Ind. Code § 4-33-6 and 68 IAC 2-1-5(c).

II. COMMISSION ACTION

A. Conditional Approval of the Transfer and Change in Substantial Ownership and Financing and Issuance of a Supplier's License

The Commission hereby:

1. **APPROVES** the acquisition by Hard Rock Gary of a minority share of an indirect ownership interest in The Majestic Star Casinos, which are ultimately owned by Spectacle Gary;
2. **APPROVES** Spectacle Gary, LLC's and Spectacle Holdings' Financing Package request, including all documents relating thereto. The Commission also **WAIVES** the so-called "two meeting" requirement of 68 IAC 5-3-2(b)(2) and (3).

The Commission's approval is subject to and contingent upon satisfaction of the following continuing conditions:

- a. The terms articulated in the final Financing Package shall not materially differ from the terms Spectacle Gary and Spectacle Holdings have presented to date, the terms of the final Financing Package shall not violate Ind. Code § 4-33-4-21 and Spectacle Gary shall provide the Commission a legal opinion demonstrating compliance with Ind. Code § 4-33-4-21, as required by 68 IAC 5-3-2(c)(11);
- b. Successful closing of the Financing Package approved herein;
- c. Hard Rock Gary shall ensure that key persons of Hard Rock Gary, and relevant affiliates, person's and/or entities holding an economic, beneficial, or other

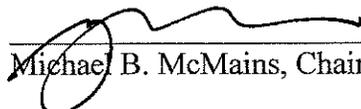
- interest in Hard Rock Gary remain in compliance with laws, regulations, and/or other directives that are applicable to a casino owner's license;
- d. Hard Rock Gary shall report any changes in corporate structure, including but not limited to, any change in key personnel and any amendments to the operating agreement of Seminole HR Holdings, LLC;
 - e. Hard Rock Gary shall satisfactorily complete an Application Supplement provided by Commission staff concerning the Seminole Tribe of Florida;
 - f. Hard Rock Gary shall notify the Commission in writing within three (3) business days prior to making or accepting an offer to acquire additional equity interest in Spectacle Gary;
 - g. Hard Rock Manager and Spectacle Gary shall promptly report any dispute concerning the Management Agreement that remains unresolved for more than fifteen (15) days of the dispute occurring;
 - h. Hard Rock Manager and Spectacle Gary shall report any material breach of the Management Agreement immediately;
 - i. Hard Rock Manager and Spectacle Gary shall report a termination request of the Management Agreement immediately;
 - j. Hard Rock Manager shall report any bankruptcy filing or any default on the terms of any financing agreement immediately;
 - k. Hard Rock Manager and Spectacle Gary shall report any amendment to the Management Agreement thirty (30) days before the amendment would become effective, unless such amendment is necessary to comply with any material law, rule or regulation, in which case such amendment may be effective immediately and reported promptly; and
 - l. Hard Rock Manager and Spectacle Gary shall report any renewal of the Management Agreement thirty (30) days before the renewal date.

III. EFFECTIVE DATE

This Order shall be effective on the date set forth below at the request of the parties to facilitate the transaction closing date. The parties have been informed that this request means that their respective appeal rights related to the Order as set forth in Ind. Code § 4-21.5-3-5 will be waived.

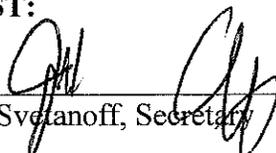
IT IS SO ORDERED THIS THE 17th DAY OF DECEMBER, 2019

THE INDIANA GAMING COMMISSION:



Michael B. McMains, Chair

ATTEST:



Joseph Svetanoff, Secretary