

ORDER 2019-58

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

I. BACKGROUND

On December 10, 2018, the Indiana Gaming Commission ("Commission") received a Riverboat Owner License Transfer Application (the "Application") from Spectacle Entertainment, LLC ("Spectacle"). The Application requests a transfer in ownership of The Majestic Star Casino, LLC and The Majestic Star Casino II, LLC, (hereinafter collectively referred to as the "Majestic Star Casinos") located at Buffington Harbor in Gary, Indiana through a merger with Majestic Holdco, LLC via a cash transaction. Majestic Holdco, LLC is the parent of Majestic Star Casinos. In addition to ownership of the Majestic Star Casinos, Spectacle would also acquire a 300-room hotel, 2,000-space parking garage, and a pavilion containing land-based restaurants, bars and meeting facilities.

Spectacle was incorporated in 2018 with a principal address located in Indianapolis, Indiana. Its principal investors are Chairman and CEO, Rod Ratcliff and Vice Chairman, Greg Gibson. The Majestic Star Casinos began gaming operations at their facilities in June, 1996. Wayzata Opportunities Fund II, LLP is the majority owner of Majestic Holdco, LLC, parent company of Majestic Star Casinos.

Spectacle has requested Commission action on two items related to the Application. First, Spectacle seeks Commission approval to transfer the casino owner's licenses from 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.

Second, as part of this transaction, Spectacle 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 term loan. The senior secured term loan provides that the lender will also receive detachable warrants representing 15% of the fully diluted common equity of Spectacle. As the warrants are a part of the financing, any transfer or exercise of the warrants before retirement of the debt will require Spectacle to submit a request to undertake debt activity as set forth above. However, transfers among affiliated funds sponsored, managed and controlled by Summit, which funds are explicitly identified in the secured term loan and warrant agreement, are excepted and Spectacle must instead provide written notice to the Commission of such transfers. After the debt is retired, Spectacle must provide written notice to the Commission of any transfer or exercise of the warrants. Further, a transfer or exercise of the warrants could trigger the requirements set forth in 68 IAC 5-2.

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

1. Spectacle has submitted a complete transfer of ownership interest application and caused to be submitted complete personal disclosure forms and other appropriate applications for Spectacle and all key persons, as deemed necessary by Commission staff.
2. The Commission's Background and Financial Investigations Divisions have completed a comprehensive investigation of Spectacle, 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's proposed debt activity related to this transaction and provided analysis of the debt activity to the Commission for review.
4. Representatives of Spectacle have addressed the Commission at a public meeting to present information relevant to the proposed transfer of ownership of both casino owner's licenses and its accompanying financing.
5. Spectacle 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 ch. 4-33-6 and 68 IAC 2-1-5(c).
6. Spectacle has submitted to the Commission a written power of attorney identifying a trustee-in-waiting for both casino owner's licenses, which was approved by the Executive Director.

II. COMMISSION ACTION

A. Transfer Fee Under Ind. Code § 4-33-4-21(d)

The transfer of ownership before the Commission results in Spectacle acquiring controlling interest in a second casino owner's license as the Majestic Star Casinos are separately licensed. The Commission finds that Ind. Code § 4-33-4-21(d) requires Spectacle to pay a two million dollar (\$2,000,000) transfer fee for acquiring controlling interest in the second casino owner's license.

B. Conditional Approval of the Transfer and Change in Substantial Ownership and Financing

The Commission hereby:

1. **APPROVES** the transfer of ownership interest in the casino owner's licenses for Majestic Star Casino, LLC and Majestic Star Casino II, LLC, which are ultimately owned by Majestic Holdco, LLC to Spectacle Entertainment, LLC.;

2. **APPROVES** Spectacle's debt financing package related to Spectacle's acquisition of the Majestic Holdco, LLC owner of Majestic Star Casinos. 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:

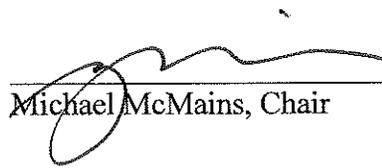
1. The terms articulated in the final financing package shall not materially differ from the terms Spectacle has presented to date, the terms of the final financing package shall not violate Ind. Code § 4-33-4-21 and Spectacle shall provide the Commission a legal opinion demonstrating compliance with Ind. Code § 4-33-4-21, as required by 68 IAC 5-3-2(c)(11);
2. Successful closing of the financing package approved herein;
3. Spectacle shall ensure that key persons of Spectacle, and relevant affiliates, person's and/or entities holding an economic, beneficial, or other interest in Spectacle remain in compliance with laws, regulations, and/or other directives that are applicable to a casino owner's license; and
4. Spectacle shall submit payment of the two million dollar (\$2,000,000) transfer fee assessed upon Spectacle under Ind. Code § 4-33-4-21(d) for the acquisition of a second casino owner's license.

III. EFFECTIVE DATE

This Order shall be effective on the date set forth below.

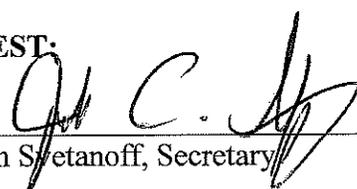
IT IS SO ORDERED THIS THE 8th DAY OF MARCH, 2019

THE INDIANA GAMING COMMISSION:



Michael McMains, Chair

ATTEST:



Joseph Smetanoff, Secretary