

ORDER 2012-58
WAIVING 68 IAC 2-1-4(d) CONCERNING AN ENTITY CHANGE BY THE
MAJESTIC STAR II, INC.

Under 68 IAC 2-1-4(d), a casino licensee that changes its form of legal entity is considered a new applicant and must submit a casino owner's application along with an application fee.

On November 23, 2009, casino licensee The Majestic Star II, Inc. ("Majestic II"), along with other related entities, filed for voluntary relief under title 11, chapter 11 of the United States Code. In connection with its plan of reorganization Majestic II desired to convert from a Delaware corporation to a Delaware limited liability company.

On December 20, 2010, Majestic II requested a waiver of 68 IAC 2-1-4(d) on the grounds that 68 IAC 2-1-4(d) is impractical, that a waiver is in the best interest of the public and gaming industry, and that a waiver is not outside the technical requirements necessary to serve the purpose of the rule.

Indiana Gaming Commission ("Commission") staff completed a reinvestigation of all Majestic Star-related entities, including Majestic II, as noted at the September 16, 2010 Commission meeting. Commission staff completed an investigation of Majestic II's new substantial owner, Wayzata Opportunities Fund II, L.P., as reflected in Commission Order 2011-256. Additionally, the conversion to an LLC does not require licensure of any new persons and does not involve a change in ownership.

On December 28, 2010, Commission staff granted an interim waiver of 68 IAC 2-1-4(d), but other developments in the Bankruptcy case prevented Majestic II from acting on the interim waiver and converting to an LLC until November 28, 2011.

The Commission has determined that the provisions of 68 IAC 2-1-4(d) are impractical and burdensome in this instance, and that waiver of those provisions is in the best interest of the public and the gaming industry and is not outside of the technical requirements necessary to serve the purpose of the rule.


Based on the foregoing, the Commission hereby **WAIVES** 68 IAC 2-1-4(d) for purposes of Majestic II converting from a Delaware corporation to a Delaware LLC.

IT IS SO ORDERED THIS THE 15TH DAY OF MARCH, 2012.

THE INDIANA GAMING COMMISSION:


Timothy Murphy, Chair

ATTEST:


Mary Shy, Secretary