

## ORDER 2013-1

**AN ORDER OF THE INDIANA GAMING COMMISSION CONCERNING:  
(1) THE APPLICATION OF CENTAUR ACQUISITION, LLC TO TRANSFER THE  
LICENSE HELD BY INDIANAPOLIS DOWNS, LLC; AND  
(2) THE DEBT TRANSACTION PROPOSED BY CENTAUR ACQUISITION, LLC**

On April 7, 2011, gambling game licensee Indianapolis Downs, LLC (“Downs”) and an affiliate filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Delaware (“Bankruptcy Court”). On September 20, 2012, Downs filed a Motion for Entry of an Order: (I) Authorizing the Sale of Substantially All of the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; (II) Approving Asset Purchase Agreement; (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (IV) Granting Related Relief (“Sale Motion”) with the Bankruptcy Court, which requested, among other things, that the Bankruptcy Court approve the sale of most of Downs’s assets to Centaur Acquisition, LLC (“Centaur Acquisition”), including the gambling game license that the Indiana Gaming Commission (“Commission”) issued to Downs in Commission Order 2008-26. On October 31, 2012, the Bankruptcy Court approved the Sale Motion. Centaur Acquisition has requested Commission action on two items related to the Sale Motion.

First, Centaur Acquisition seeks Commission approval under IC 4-35-5-7(a) and 68 IAC 5 to transfer the gambling game license from Downs to Centaur Acquisition. Second, Centaur Acquisition seeks Commission approval to issue three tranches of new debt, the proceeds of which it will use, in part, to finance the acquisition of the assets of Downs. Specifically, Centaur Acquisition intends to enter into a first lien credit agreement, a second lien credit agreement, and an unsecured term loan agreement that will result in Centaur Acquisition obtaining term loans and a revolving credit facility totaling up to \$801.7 million. The unsecured term loan agreement provides that the unsecured lenders will receive warrants that are non-detachable from the unsecured notes. If any of the unsecured lenders wish to exercise their warrants and that exercise would result in the acquisition of a 5% or more ownership interest in Centaur Acquisition after the exercise, they must first obtain Commission approval.

In addition to the foregoing, the Commission has considered the following factors:

1. Terms in this Order shall have the meanings ascribed to them in Indiana Code 4-35-2 and 68 IAC 1-1, as applicable.
2. Centaur Acquisition has submitted a complete transfer of ownership application and caused to be submitted complete personal disclosure forms and other documents as deemed necessary by Commission staff.
3. Centaur Acquisition has indicated to the Commission’s satisfaction that the proposed debt financing package will provide adequate capital to support successful and continuing operations of its operations and its affiliates’ operations, including the Indiana Grand racetrack casino in Shelbyville and the Hoosier Park racetrack casino in Anderson.
4. The Commission has received and reviewed a financial analysis of the proposed debt financing package from the Commission’s outside financial analyst, Dr. Charlene Sullivan, who recommends approval.

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5. The Commission's Background and Financial Investigations Section has completed a comprehensive investigation of Centaur Acquisition and its key persons. Commission staff has presented the final investigative reports to the Commission for review.
  6. Representatives of Centaur Acquisition have addressed the Commission at a public meeting to present information and respond to questions relevant to the proposed transfer of ownership and financing.
  7. At its December 14, 2012 meeting, the Indiana Horse Racing Commission issued a conditional approval of the transfer of Downs's pari-mutuel horse racing permit to Centaur Acquisition.
  8. Centaur Acquisition has presented evidence that it meets or possesses the standards, criteria, and qualifications necessary to hold a gambling game license under IC 4-35-5.

## **COMMISSION ACTION**

### **I. Transfer of Gambling Game License:**

Based on the foregoing, the Commission hereby **APPROVES** the application of Centaur Acquisition to transfer the gambling game license from Downs to Centaur Acquisition.

The Commission's approval of this transfer is conditioned upon: (1) Centaur Acquisition and/or an affiliate successfully closing the financing package approved in this Order; (2) submission to Commission staff of all final documents material to the financing package approved in this Order; (3) Centaur Acquisition, key persons of Centaur Acquisition, and relevant affiliates, persons, and/or entities holding an economic, beneficial or other interest in Centaur Acquisition remaining in compliance with laws, regulations and/or other directives that are applicable to a gambling game licensee; and (4) the process under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 concluding in a fashion that would permit closing of Centaur Acquisition's purchase of the assets of Downs.

The Commission reserves the right to require additional approvals or take appropriate action against Centaur Acquisition and/or its affiliates based on information gathered from or ultimately derived as a result of the above conditions.

The transfer approved in this Order does not trigger the transfer fee listed in Indiana Code 4-35-5-7(d), pursuant to the exemption in Indiana Code 4-35-5-7(e)(i), because the transfer is occurring as a result of Downs filing for bankruptcy.

### **II. Financing:**

Based on the information provided by Centaur Acquisition, along with the aforementioned recommendation from Dr. Sullivan, the Commission hereby **APPROVES** the debt financing package proposed by Centaur Acquisition. The Commission also **WAIVES** the so-called "two meeting requirement" of 68 IAC 5-3-2(b)(2) and (3).

The Commission's approval of this financing package is conditioned upon (1) the terms articulated in the final financing documentation not materially differing from the terms Centaur Acquisition has presented to date; (2) the terms of the final financing documentation not violating IC 4-35-5-7; and (3) Centaur Acquisition providing the Commission with a legal opinion demonstrating compliance with IC 4-35-5-7. The determination of whether a term articulated in the final financing documentation materially differs from the terms presented to date shall rest solely with the Executive Director and the Chairman. Should Centaur Acquisition or an affiliate thereof fail to abide by the terms and conditions set forth in this Order, the Commission will withdraw its approval of the financing package and require Centaur Acquisition or an affiliate thereof to obtain additional approval(s) at a future Commission meeting.

**EFFECTIVE DATE**

This Order shall be effective upon the occurrence of both:

- (1) Successful closing of Centaur Acquisition's purchase of the assets of Downs; and
- (2) Successful closing of the debt financing package approved herein.

**IT IS SO ORDERED THIS THE 10<sup>TH</sup> DAY OF JANUARY, 2013.**

**THE INDIANA GAMING COMMISSION:**

  
Timothy Murphy, Chair

**ATTEST:**

  
Marc Fine, Vice-Chair