

ORDER 2017-172
AN ORDER OF THE INDIANA GAMING COMMISSION CONCERNING
A TRANSFER OF OWNERSHIP IN A CASINO OWNER'S LICENSEE
AND WAIVER OF CERTAIN PROVISIONS

Tropicana Entertainment, Inc. ("Tropicana") is the parent company of Indiana casino owner's licensee Aztar Indiana Gaming Company, LLC, located in Evansville, Indiana.

On June 23, 2017, Tropicana and Icahn Enterprises L.P. ("IEP") announced the commencement of a cash tender offer for outstanding shares of Tropicana's common stock. Following the conclusion of the tender offer, IEP's beneficial ownership interest in Tropicana's common stock increased. These shares are currently held by a wholly owned IEP subsidiary, Icahn Enterprises Holdings, L.P. ("Icahn Holdings").

IEP is seeking to transfer its shares of Tropicana stock from Icahn Holdings to American Entertainment Properties Corp. ("AEPC"). AEPC is a wholly owned subsidiary of Icahn Building, LLC, which in turn is a wholly owned subsidiary of Icahn Holdings.

Pursuant to 68 IAC 5-1-1, any "direct or indirect ownership interest of five percent (5%) or more in a casino licensee...that is a publicly traded corporation may only be transferred in accordance with this rule." Under 68 IAC 5-1-2, the person acquiring the ownership interest is required to complete and submit to the Commission a transfer of ownership form. Further, the applicant is required to submit a transfer application fee in the amount of \$50,000. See 68 IAC 2-1-2(b) and 68 IAC 5-1-3(b). Lastly, a person that directly or indirectly "acquires the beneficial ownership of five percent (5%) or more of...the beneficial interest in a casino licensee..., directly or indirectly, through a class of voting securities of a holding or intermediary company of a casino licensee..." must apply to the Commission for a finding of suitability within forty-five (45) days after acquiring the securities. 68 IAC 5-1-4(a).

The proposed Tropicana stock transfer is considered a transfer of ownership in a publicly traded company under 68 IAC 5-1; thus, it is subject to the provisions set forth above. However, Tropicana requested a waiver under 68 IAC 1-2-13 from the application requirements in 68 IAC 5-1-2. The rationale behind the waiver request was that both Icahn Building and AEPC are wholly owned subsidiaries of IEP, which already has been found suitable by the Commission to hold a 5% or greater interest in a casino licensee. In addition, both Keith Cozza, who is President of AEPC and Icahn Building, and SungHwan Cho, who is Chief Financial Officer of both entities, already hold Level I licenses in connection with their posts at IEP. Further, this transaction does not require Commission financing approval.

The transfer of ownership contemplated was reviewed by Commission Financial Investigator Bill Murphy. Mr. Murphy's confidential report was provided to the Commissioner's for review and consideration. Staff has analyzed this transfer of ownership request and respectfully recommends that the Commission grant the transfer of ownership and waive the application requirements for the aforementioned reasons.

COMMISSION ACTION

The Commission hereby takes the following actions:

1. **APPROVES** the transfer of ownership interest in casino owner's licensee Tropicana from Icahn Enterprises Holdings, L.P. to American Entertainment Properties Corp.; and
2. **WAIVES** the transfer application requirements of 68 IAC 5-1-2 in accordance with its power to permit deviations from provisions under 68 IAC 1-2-13.

IT IS SO ORDERED THIS THE 29th DAY OF SEPTEMBER, 2017.

THE INDIANA GAMING COMMISSION:



Cris Johnston, Chair

ATTEST:



Joseph Svetanoff, Secretary