

**ORDER 2021-121**

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

**I. BACKGROUND**

On July 10, 2020, the Indiana Gaming Commission (the "Commission") issued Order 2020-87 approving Eldorado Resorts, Inc.'s ("Eldorado") acquisition of Caesars Entertainment Corporation. As a condition of the approval granted in Order 2020-87, the Commission required Eldorado to enter into definitive agreements to divest three (3) of its five (5) Indiana casino owner's licenses on or before December 31, 2020<sup>1</sup>. Accordingly, on February 2, 2021, the Commission received a request from EBCI Holdings LLC ("Holdings") and Holdings' wholly-owned subsidiary CSI Acquisition LLC f/k/a EBCI Mezzco LLC ("CSI Acquisition"; and together with Holdings, "EBCI") seeking the Commission's approval to acquire Caesars Riverboat Casino, LLC d/b/a Caesars Southern ("Caesars Southern"), including the casino owner's license held by Caesars Southern, from Caesars Entertainment, Inc. f/k/a Eldorado ("CEI") for \$250 million.

At closing, EBCI will cause Caesars Southern to enter into a triple-net lease with Caesars Southern Indiana Propco LLC, a subsidiary of VICI Properties, Inc. ("VICI") with respect to the real property associated with Caesars Southern. VICI is a publicly traded gaming-focused real estate investment trust, and it currently holds a supplier's license issued by the Commission pursuant to 68 IAC § 2-2-1(c)(5) and through Order 2017-112, which was most recently renewed under Order 2021-72.

As part of this transaction, EBCI 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.

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.

In consideration of EBCI's request, the Commission has considered the following factors:

1. EBCI has submitted a complete transfer of ownership interest application and caused to be submitted complete personal disclosure forms and other appropriate applications for EBCI and all key persons, as deemed necessary by Commission staff;
2. EBCI has submitted payment of \$50,000 required by Ind. Code ch.4-33-6 and 68 IAC 2-1-2 to acquire an Indiana casino owner's license;

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<sup>1</sup> Order 2020-87 was later amended in part through Order 2020-167 and 2021-113.

3. The approvals required by the board of directors has occurred;
4. The Commission's Background and Financial Investigations Divisions have completed a comprehensive investigation of EBCI, including key persons and Commission staff has presented the final investigative reports to the Commission for review;
5. The Commission's Financial Investigations Division has completed a comprehensive investigation of EBCI's proposed debt activity related to this transaction and provided its confidential analysis of the debt activity to the Commission for review;
6. Representatives of EBCI have addressed the Commission at a public meeting to present information relevant to the proposed transfer of the casino owner's license; and
7. EBCI 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).

## II. COMMISSION ACTION

### Conditional Approval of the Transfer.

The Commission hereby:

1. **APPROVES** the acquisition of Caesars' Southern by EBCI, including the transfer of ownership interest in the casino owner's license for Caesars Southern.
2. **APPROVES** EBCI's debt financing package related to the acquisition of Caesars Southern. 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. No adverse rulings or decisions are entered by the Federal Trade Commission, the Office of the Indiana Attorney General, or the Internal Revenue Service that would materially impact the transaction;
2. The terms articulated in the final financing documentation do not materially differ from the terms EBCI has presented to date, the terms of the final financing documentation do not violate Ind. Code § 4-33-4-21, and upon execution of the final financing documents EBCI shall provide to the Commission with a legal opinion demonstrating compliance with Ind. Code § 4-33-4-21, as required by 68 IAC 5-3-2(c)(11);
3. Successful closing of the financing package approved herein;
4. EBCI, key persons of EBCI, and relevant affiliates, persons and/or entities holding an economic, beneficial, or other interest in EBCI remaining in compliance with laws, regulations, and/or other directives that are applicable to a casino owner's licensee;
5. Upon the transaction's closing, EBCI shall submit to the Commission a written power of attorney identifying a trustee-in-waiting for Caesars Southern;

In addition, the Commission hereby requires EBCI and VICI (sometimes collectively referred to as the “the parties”) to provide notice to Commission staff regarding the following:

1. EBCI shall annually report capital expenditures at Caesars Southern as a percentage of net revenue;
2. The parties shall report all EBCI capital expenditure requests submitted to VICI for its consent and VICI’s response;
3. The parties shall report the annual rental amount by January 31<sup>st</sup> of each year;
4. The parties shall promptly report the details of any lease dispute submitted to an arbitration panel pursuant to the lease;
5. The parties shall report any uncured lease event of default immediately;
6. The parties shall report any bankruptcy filing or any default on the terms of any financing agreement immediately;
7. The parties shall report any material lease amendment 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;
8. The parties shall report any lease renewal thirty (30) days before the renewal date;
9. The parties shall promptly report any change in their respective bond rating from Fitch Ratings, Inc., Standard & Poor’s Ratings Services, Inc., Moody’s Investors Service, Inc., (as may be applicable) or any other rating agency designated by the Commission;
10. VICI shall report any new financing or refinancing of any of its debt obligations; and
11. VICI shall report any material changes in corporate structure, including but not limited to, any changes in directors and executive officers named in its filings with the Securities and Exchange Commission.

The foregoing notice requirements, as applied to VICI, also extend to all Indiana real properties to which VICI is authorized to be a supplier licensee.

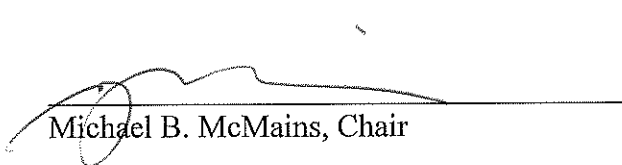
**III. EFFECTIVE DATE**

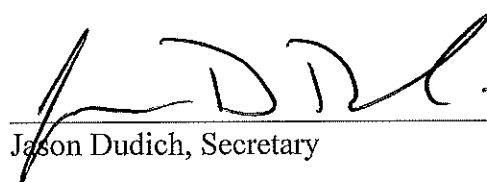
This Order shall be effective on the date set forth below at the request of the parties to facilitate the closing of the transaction. The parties have been informed that this request means that their respective appeal rights related to this Order as set forth in Ind. Code § 4-21.5-3-5 will be waived.

**IT IS SO ORDERED THIS 18<sup>th</sup> DAY OF AUGUST, 2021.**

**THE INDIANA GAMING COMMISSION:**

ATTEST:

  
Michael B. McMains, Chair

  
Jason Dudich, Secretary