

**DECISION OF THE MARYLAND LOTTERY AND
GAMING CONTROL COMMISSION**

**Application for Sports Wagering Facility License
Old Bay Gaming and Racing LLC
d/b/a Casino at Ocean Downs**

License Applicant No. 2021-SW-05

**Qualification Hearing before
the Maryland Lottery and Gaming Control Commission
October 21, 2021**

On October 21, 2021, the Maryland Lottery and Gaming Control Commission (“Commission”) held a public meeting that had a virtual option during which it conducted a hearing to determine whether Old Bay Gaming and Racing LLC d/b/a Casino at Ocean Downs (“Applicant” or “Ocean Downs”) is qualified for a sports wagering facility license under Maryland’s Sports Wagering Law.

FINDINGS OF FACT

Background Process

1. Sports wagering in Maryland is governed by the Sports Wagering Law, found in State Government Article (“SG”), Title 9, Subtitle 1E, Annotated Code of Maryland, and the regulations of the Maryland Lottery and Gaming Control Commission (“Commission”), found in the Code of Maryland Regulations (“COMAR”) 36.10. The Sports Wagering Law also incorporates the Gaming Law, which governs casino operations in Maryland, found in SG, Title 9, Subtitle 1A, and COMAR 36.03.

2. The Commission is authorized to issue licenses necessary for sports wagering in the State, one of which is a sports wagering facility license. Unless a person holds a valid sports wagering facility license issued by the Commission, the person may not conduct, offer, or operate in-person sports wagering at a location in the State.

3. An applicant for a license related to sports wagering must submit a Sports Wagering Facility License Application to the Commission. Before it can be issued a license, an applicant must meet all applicable qualification requirements in the Sports Wagering Law, and prove to the Commission, by clear and convincing evidence, that it is qualified under SG § 9-1E-07(e), and not disqualified under SG § 9-1E-07(g)(1). The Commission is required to deny the license application of an applicant that does not meet qualification requirements.

4. An applicant must submit to the Commission all information that is necessary for the Commission to determine its qualifications, and those of its principals, its principal entities, and any other necessary qualifiers.

5. The Commission may establish an abbreviated process for qualifying and licensing an applicant that holds a valid license in another state, if the Commission determines that the licensing standards of the issuing agency in the other state are comprehensive and thorough, and provide similar safeguards to those in the Sports Wagering Law. COMAR 36.10.02.12.

6. The Commission has approved 16 states with acceptable licensing standards: Arkansas, Colorado, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and Wisconsin. Because Maryland's licensing standards for casino-related licenses are identical to, and specifically incorporated into the Sports Wagering Law, those standards are sufficient for qualifying an applicant for a sports wagering license.

7. In accordance with the alternative licensing process, an applicant may be qualified for a license before the Agency conducts a full background investigation.

8. The Commission's decision to abbreviate an applicant's licensing process on the basis of alternative licensing standards is discretionary. The Commission may exercise its discretion to deny the request to apply alternative standards, and if granted, place conditions on a license, or take any other necessary action to protect the State's interests.

9. The Commission has delegated to Staff of the Maryland Lottery and Gaming Control Agency ("Agency") the authority to decide whether to grant an applicant's request to apply alternative licensing standards.

Application of Alternative Licensing Standards

10. The Applicant submitted a written request for the Commission to find it qualified for a sports wagering facility license under the alternative licensing process. Along with the request, the Applicant submitted an Affidavit in Support of Applicant's Request to Apply Alternative Licensing Standards, in which the Applicant acknowledged that Staff will conduct a full background investigation, and that Staff may take enforcement action against the license if it determines that the Applicant (or licensee, if licensed), does not meet a Commission requirement. Enforcement action may include license suspension or revocation.

11. Staff granted the Applicant's request to apply alternative licensing standards to determine the Applicant's qualifications.

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12. Staff of the Agency's Licensing Division provided the Applicant with written notice of the hearing. Bobbi Sample, General Manager of Ocean Downs, was present at the meeting on behalf of the Applicant. In advance of the meeting, John J.

Mooney, MLGCA's Managing Director of Regulatory Oversight, provided the Commission the confidential full background investigation summary. Mr. Mooney made publicly available Staff's executive summary of the background investigation, and Staff's recommendations.

Applicant's Regulatory History and Ownership

13. On December 15, 2016, the Commission issued a Video Lottery Operation License to Old Bay Gaming and Racing LLC d/b/a Casino at Ocean Downs, which expires on January 3, 2026.

14. Ocean Downs' direct parent company, Churchill Downs, Inc. is a qualified Principal Entity in Maryland.

15. There are no new Principals identified for Ocean Downs in its sports wagering application, which have not already been qualified or licensed under the Gaming Law. All current Principals and Principal Entities are in good standing.

16. Any additional Principals and Principal Entities who become involved in the Applicant's sports wagering operations must submit the appropriate applications for qualification and licensure.

Licensing Inquiry

17. The Applicant's Maryland Video Lottery Operation license is current, valid, and in good standing.

18. The Applicant's Request for Application of Alternative Licensing Standards identified its direct parent company's (Churchill Downs, Inc.), current licenses in these Commission-approved states, with which Staff inquired. Those states' licensing agencies reported:

- Pennsylvania Gaming Control Board
 - Type of License(s): Affiliate
 - Issued: 3/27/2018
 - Expiration Date: 01/08/2024
 - Status: Active and In Good Standing

- Colorado Department of Revenue
 - Type of License(s): Application Pending
 - Expiration Date: Unknown
 - Status: Pending

- Mississippi
 - Type of License(s): Gaming Manufacturer License
 - Issue Date: 05/20/2021
 - Status: Active and In Good Standing

Sports Wagering Facility License Application

19. In addition to the Request for Application of Alternative Licensing Standards and Affidavit, the Applicant submitted: a completed Sports Wagering Facility License Application; an affidavit attesting to the minority and women-owned interests of the applicant; all required fees; and proof of adequate bond.

20. Staff is not aware of information that would indicate Ocean Downs fails to meet the Commission's qualification requirements.

21. Staff recommends that the Commission determine the Applicant has established that it is qualified, by clear and convincing evidence, for a sports wagering facility license.

CONCLUSIONS OF LAW

1. The Applicant has established by clear and convincing evidence that it is qualified for, and is not disqualified from, a sports wagering facility license.

2. The Applicant remains under an ongoing obligation to comply with all

qualification requirements and to notify the Commission if any of the information submitted to the Commission or Agency changes.

3. The Applicant will undergo a full background investigation by the Agency, and if Staff determines that the Applicant or licensee, if licensed, does not meet a Commission standard, the Commission may take enforcement action, up to and including revocation of the license.

4. The Secretary of the Commission will transmit this decision statement to the Sports Wagering Application Review Commission.

REVIEW RIGHTS

A party aggrieved by this final administrative Decision may file a petition for judicial review with the circuit court for the county where any party resides or has a principal place of business within thirty days of the date of this Decision. SG § 10-222; Maryland Rules 7-201 – 7-211.



E. Randolph Marriner, Chair

10/21/21

Date