

# Maryland Lottery and Gaming Control Agency

Larry Hogan, Governor • Gordon Medenica, Director



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TO: Maryland Lottery and Gaming Control Commission  
Gordon Medenica, Director  
Jim Nielsen, COO

FROM: John J. Mooney

DIVISION: Managing Director Regulatory Oversight

DATE: August 8, 2016

SUBJECT: Report for the August Commission Meeting

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## **Commission Action Items**

Manufacturer License Application – G & D, Inc.

Manufacturer License Renewal – Cummings-Allison Corporation

## **Commission Action Item – Consent Agenda**

License Denials / Revocations – Fifty (50)

## **Commission Action Item – Consent Agenda**

Horseshoe Casino – Underage Violations Case Nos. 2016-05-053, -085 and -095  
Horseshoe Casino – Regulatory Violations January and March, 2016

## **Licensing Division**

- Monthly statistics have been updated and included in your packet.
- There are fifty (50) denials/revocations this month; they are on the Consent Agenda.
- Maryland Lottery and Gaming was notified by Mr. William Rickman, Owner of Ocean Downs Casino that he was selling the casino. Staff met with Mr. Rickman and Mr. Daniel Gerrity, president of Saratoga Casino and Raceway, who will be one of the new owners. Quoting from the press release:

“Churchill Downs Incorporated (“CDI”) (CHDN) and Saratoga Casino Holdings, LLC (“SCH”) today announced their joint venture to purchase all of the equity interests of Ocean Enterprise 589 LLC, Ocean Downs LLC and Racing Services LLC (collectively, the “Companies”), which entities own and operate the Casino at Ocean Downs and Ocean Downs Racetrack (collectively, “Ocean Downs”) from a private ownership group led by Mr. William M. Rickman, Jr. CDI and SCH have formed a new company to execute the definitive agreement to acquire these equity interests, Old Bay Gaming & Racing, LLC (“Buyer”), which is fifty percent (50%) owned by

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CDI and fifty percent (50%) owned by SCH. By virtue of its twenty five percent (25%) ownership of SCH, CDI will indirectly own an additional twelve and one-half percent (12.5%) of Buyer for a total interest in Buyer of sixty-two and one-half percent (62.5%).”

Licensing Division has already begun the process of investigating the joint venture. We have met with general counsel from Churchill Downs and Saratoga Casino Holdings to determine the appropriate forms necessary for licensure of the new entity. We expect to complete the investigation by years end for the transfer of ownership, with a recommendation to the Commission at the December meeting.

## Casino Compliance Division

- Monthly statistics have been updated and included in your packet.
- Working with Human Resources to hire one (1) Lead position at Hollywood Casino, one (1) Compliance Representative at Hollywood Casino, one (1) Compliance Representative at Horseshoe Casino and eleven (11) Compliance Representatives at MGM National Harbor.

## Major Incidents at the Casinos

N/A

## Mandatory Exclusion List

We are in the process of developing a statewide mandatory exclusion list. The list is being developed in cooperation with the casinos. Individuals will be placed on the mandatory exclusion list for a variety of reasons related to the individual’s conduct and the integrity of the State’s gaming program.

## Commission Consent Agenda Item

### 1. Gaming License Application Denials/Revocations

There are fifty (50) gaming license applications being recommended for denial/revocation based on the applicant’s criminal history or failure to cooperate with, or provide requested information to, a background investigator.

#### Commission Action:

It is requested that the Commission adopt as final the recommendation of the Director, or the Director’s designee, for denial/revocation of the specified gaming

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license applications for the respective applicant's failure to establish his/her qualifications by clear and convincing evidence.

Please see the description below. A spreadsheet containing the denial/revocations is on the MLGCA shared drive under commission reports.

## **Gaming License Denials/Revocations**

Commissioners:

The spreadsheet contains names of fifty (50) gaming license applicants for whom Staff has recommended denial/revocation of their applications for gaming license for failure to prove by clear and convincing evidence that they meet the statutory requirements for licensure. *See* State Gov't, Section 9-1A-14 (below). The license applications were recommended for denial/revocation after Licensing Division Staff conducted an investigation.

COMAR sets forth the applicant's rights if his/her gaming license application is recommended for denial/revocation. An applicant has a right to timely request a reconsideration meeting, and, if he or she is dissatisfied with the recommendation following the reconsideration meeting, the applicant may timely request a full hearing before the Commission. If the applicant fails to exercise these rights, the Commission may adopt as final the Director's recommendation to deny the license. Only the Commission, not Staff, is authorized to deny/revoke a gaming license, which is why these recommended denials/revocations are being presented to the Commission.

All of the applicants identified on the attached spreadsheet were mailed notification of the recommended denial/revocation, and of their right to timely request a reconsideration meeting with the Director of the Director's designee. The majority of the recommended denials/revocations are applicants who did not exercise that right. A smaller group of the recommended denials/revocations are applicants who received a reconsideration meeting and were notified of their right to timely request a full hearing before the Commission, but did not exercise that right.

Staff is requesting that the Commission adopt as final the Director's recommendation to deny/revoke the gaming license applications of the fifty (50) applicants identified on the attached spreadsheet.

Located on the Agency's Shared Drive under Commission files (August 2016) there are PDF files for your review. The PDF files contain documentation for each of the recommended denials, including: notice of recommended denial (which includes the basis for the recommendation and notice of right to request reconsideration meeting); documentation that Staff mailed the required notices; and relevant documents from the background investigation

conducted by Staff that supports the recommended denial/revocation of the applicant's license application.

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## NOTICE OF AGENCY ACTION

Applicable law and regulation.

The Commission oversees, and has broad authority to regulate, the State's Gaming Program, which is the operation of video lottery terminals and table games. SG § 9-1A-01, et seq. As part of that authority, the Commission is required to establish, by regulation, the licensing requirements of an applicant for a license. SG § 9-1A-04(d).

The obligation to prove one's license qualifications is ongoing. "Applicants and licensees shall have the affirmative responsibility to establish by clear and convincing evidence the person's qualifications." SG § 9-1A-07(c)(1) (emphasis added). Those qualifications specifically include "the applicant's good character, honesty, and integrity" (SG § 9-1A-07(c)(7)(iii)); indeed, the failure to prove good character, honesty, and integrity requires the denial of a license application. SG § 9-1A-14(c)(1). The Commission may also deny a video lottery employee license to an applicant "whose past or present conduct would bring the State into disrepute." COMAR 36.03.02.01.D(2).

An applicant who is awarded a license is under a continuing obligation to conform to all of the information contained in their license applications and to meet all licensing requirements. COMAR 36.03.02.01.G(1), 36.03.04.03.C(1), (2). A licensee is required to immediately submit written notification to the Commission of any change in information that was included in the license application. COMAR 36.03.02.01.G(2). The failure to conform to all of the information in a license application, and the failure to immediately notify, in writing, the Commission of any change to the information in the application, "*shall be grounds for the Commission taking enforcement action against the licensee under COMAR 36.03.04.*" COMAR 36.03.02.01.G(4) (emphasis added).

[If individual licensee has incurred a conviction for a disqualifying crime. . . .] An individual is disqualified from eligibility for a video lottery employee license for the individual's "conviction, active parole, or probation for any crime involving moral turpitude or gambling under the laws of the United States or any state within the prior 7 years." SG § 9-1A-14(c)(3).

[If the individual is currently being prosecuted for a moral turpitude or gambling crime. . . .] An individual is disqualified from eligibility for a video lottery employee license for the individual's "current prosecution for any crime involving moral turpitude or gambling under the laws of the United States or any state. . . ." SG § 9-1A-14(c)(4).

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COMAR 36.03.04.03 in relevant part provides that a licensee may not:

A. Violate:

- (1) A provision of State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland;
- (2) A regulation adopted under State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland;

...

B. Take, or attempt to take, any action that is intended to:

...

- (3) Interfere with the regular operation of:
  - (a) The central monitor and control system;
  - (b) A video lottery terminal;
  - (c) Associated equipment or software; or
  - (d) A table game; or

C. Fail to:

- (1) Conform to the information contained in a license application;
- (2) Meet a licensing requirement;
- (3) Promptly submit to the Commission a change to the information contained in a license application

....

The Agency's Director may initiate Commission proceedings for the imposition of a penalty or sanction – up to and including license revocation – against a licensee if a licensee violates any provision of COMAR 36.03.04.03 (violations) [quoted immediately above] or “[e]ngages in any conduct that exposes the State’s gaming program to a serious and imminent risk of harm to its integrity, security, or profitability.” COMAR 36.03.04.07.A.

The Licensee will be advised of the basis for the recommendation to revoke the license.

The licensee will also be advised that their actions have violated specific license requirements established by the Commission’s laws and regulations, and demonstrate that you are no longer eligible for a video lottery employee license.

The licensee will be advised that they have the opportunity to request a formal hearing before (the full Commission or an administrative law judge) before their license is revoked.