

OHIO CASINO CONTROL COMMISSION

RESOLUTION 2019-30

**CONSIDERATION OF JACK CINCINNATI CASINO LLC'S APPLICATION  
FOR A NEW CASINO-OPERATOR LICENSE AND OF HARD ROCK  
INTERNATIONAL'S EXISTING DEBT FINANCING**

**WHEREAS**, Article XV, Section 6(C)(4) of the Ohio Constitution created the Ohio Casino Control Commission ("Commission") to ensure the integrity of casino gaming by, among other things, licensing and regulating all gaming authorized by Article XV, Section 6(C) of the Ohio Constitution;

***Consideration of Licensure***

**WHEREAS**, Article XV, Section 6(C)(1) and (C)(6) of the Ohio Constitution and R.C. 3772.08(A) permit casino gaming to be conducted only by licensed casino operators of the 4 constitutionally defined casino facilities or by licensed management companies retained by licensed casino operators;

**WHEREAS**, R.C. 3772.09(A) prohibits any casino operator, management company, holding company, or key employee from conducting or participating in conducting casino gaming without first being licensed by the Commission;

**WHEREAS**, R.C. 3772.10(A) mandates that the Commission consider all of the following, as applicable, when determining whether to grant the privilege of casino-operator and key-employee licenses:

- (A) The reputation, experience, and financial integrity of the applicant, its holding company, and any other person that directly or indirectly controls the applicant;
- (B) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond;
- (C) The past and present compliance of the applicant and its affiliates or affiliated companies with casino-related licensing requirements in the state of Ohio or any other jurisdiction, including whether the applicant has a history of noncompliance with the casino-licensing requirements of any jurisdiction;
- (D) Whether the applicant has been indicted, convicted, pleaded guilty or no contest, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations;

- (E) Whether the applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;
- (F) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years;
- (G) Whether the applicant is or has been a defendant in litigation involving its business practices;
- (H) Whether awarding a license would undermine the public's confidence in the casino-gaming industry in the state of Ohio; and
- (I) Whether the applicant meets other standards for the issuance of a license that the Commission adopts by rule, which is not arbitrary, capricious, or contradictory to the expressed provisions of R.C. Chapter 3772;

**WHEREAS**, R.C. 3772.10(B) requires casino operators and key employees seeking licensure under R.C. Chapter 3772 to establish their suitability by clear and convincing evidence;

**WHEREAS**, R.C. 3772.11(A) requires any casino operator seeking licensure to submit, under oath, a Casino Operator and Management Company License Application and Holding Company Form ("Casino Application");

**WHEREAS**, R.C. 3772.111 mandates that the Commission also consider the following when determining whether to grant a casino-operator license:

- (A) The facilities or proposed facilities for the conduct of casino gaming;
- (B) The prospective total revenue to be collected by the state of Ohio from the conduct of casino gaming; and
- (C) The extent to which the applicant exceeds or meets other standards adopted by the Commission;

**WHEREAS**, Article XV, Section 6(C)(4) of the Ohio Constitution, R.C. 3772.03, 3772.10, 3772.11, 3772.111, and 3772.17, and Ohio Adm.Code Chapter 3772-4 authorize the Commission to issue casino-operator licenses to applicants that the Commission determines are eligible for licensure and have paid all applicable fees;

**WHEREAS**, a new casino-operator license applicant is eligible for licensure upon meeting the following criteria:

- (A) Submission of a true and complete Casino Application, as required by R.C. 3772.10(C) and 3772.11(A) and Ohio Adm.Code 3772-4-01 through 3772-4-05;
- (B) Payment of the nonrefundable application fee of \$1,500,000, as required by R.C. 3772.17(C) and Ohio Adm.Code 3772-4-06(A), and all fees necessary to cover the costs of the background investigation in excess of the application fee set forth by Ohio Adm.Code 3772-4-06(A), if any, as permitted by R.C. 3772.17(C) and Ohio Adm.Code 3772-4-06(C);
- (C) Reimbursement of the costs for the criminal-records checks, as required by R.C. 3772.07;
- (D) Not having been convicted of or pled guilty or no contest to a disqualifying offense, as defined and required by R.C. 3772.07;
- (E) All holding companies and management companies, their directors, executive officers, members, managers, and any shareholder who holds more than 5% ownership of the holding companies and management companies, if any, submit the same information as the applicant, as required by R.C. 3772.11(B); and
- (F) Otherwise is suitable for licensure, as required by R.C. 3772.10(B) and (C);

**WHEREAS**, R.C. 3772.112 requires a casino operator, before being licensed by the Commission, to post, and thereafter maintain, a surety bond in the amount of \$1,000,000 payable to the state of Ohio, conditioned on the operator complying with Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 and the rules adopted thereunder;

**WHEREAS**, R.C. 3772.112 further provides that:

- (A) The surety bond be issued by a surety that is licensed to do business in this state;
- (B) The surety bond be approved by the Commission;
- (C) The total aggregate liability of the surety is limited to the amount specified in the surety bond;
- (D) The surety not cancel the surety bond unless the surety has given the Commission, in the event of nonpayment of premium, 10 days' notice of the intention to cancel, and in the event of any other cause, 30 days' notice of the intention to cancel; and

- (E) If the surety bond is to be canceled, and if the casino operator fails to post and maintain a new surety bond in the specified amount on or before the day of cancellation, the operator's license is void;

**WHEREAS**, R.C. 3772.03(D)(5) mandates that the Commission adopt rules prescribing the minimum amount of insurance that must be maintained by casino operators;

**WHEREAS**, Ohio Adm.Code 3772-7-01(A) requires, among others, casino-operator licensees to obtain and maintain the following types of insurance in minimum amounts determined by the Commission:

- (A) Liability;
- (B) Casualty;
- (C) Fire;
- (D) Theft;
- (E) Worker's compensation; and
- (F) Any other type of insurance the Commission deems necessary to ensure the licensee is adequately insured;

**WHEREAS**, JACK Cincinnati Casino LLC ("JACK Cincinnati") submitted a Casino Application in accordance with R.C. 3772.11(A) and Ohio Adm.Code 3772-4-01 through 3772-4-05;

**WHEREAS**, JACK Cincinnati paid the nonrefundable application fee, as required by R.C. 3772.17(C) and Ohio Adm.Code 3772-4-06(A);

**WHEREAS**, JACK Cincinnati submitted information and materials necessary to demonstrate that the operator has posted, and thereafter will maintain, a surety bond in the amount of \$1,000,000, in accordance with and as required by R.C. 3772.112;

**WHEREAS**, JACK Cincinnati submitted information and materials (summaries of which are attached as Exhibit A) necessary to demonstrate that the operator has obtained and maintains all of the requisite types of insurance and the amounts of each type, required by R.C. 3772.03(D)(5) and Ohio Adm.Code 3772-7-01(A);

**WHEREAS**, the entities that appear on the attached Exhibit B will be post-transaction holding companies (collectively, "Holding Companies" or "Hard Rock International") and as such submitted information and documentation required of holding companies under R.C. 3772.11(B);

**WHEREAS**, R.C. 3772.13(C) and (E) and Ohio Adm.Code 3772-5-02(A) require any key employee seeking licensure to submit a Key Employee License Application (“Key Application”);

**WHEREAS**, R.C. 3772.13 and Ohio Adm.Code Chapter 3772-5 authorize the Commission to issue key-employee licenses after the Commission determines that the applicants are eligible for licensure and have paid all applicable fees;

**WHEREAS**, a key-employee license applicant is eligible for licensure upon meeting the following criteria:

- (A) Being at least 21 years of age, as required by R.C. 3772.13(D);
- (B) Submission of a true and complete Key Application, as required by R.C. 3772.10(C) and 3772.13(E) and Ohio Adm.Code 3772-5-02(A);
- (C) Submission, on a form provided by the Commission, of two sets of the applicant’s fingerprints and a photograph, as required by R.C. 3772.13(F);
- (D) Payment of the nonrefundable application fee of \$2,000, as required by R.C. 3772.13(F) and 3772.17(E) and Ohio Adm.Code 3772-5-03(A), and all fees necessary to cover the cost of the background investigation in excess of the application fee set forth by Ohio Adm.Code 3772-5-03(A), if any, as permitted by R.C. 3772.13(F) and 3772.17(E) and Ohio Adm.Code 3772-5-03(B);
- (E) Reimbursement of the costs for the background check, including the criminal-records check, as required by R.C. 3772.07 and 3772.13(F);
- (F) Not having been convicted of or pled guilty or no contest to a disqualifying offense, as defined by R.C. 3772.07 and required by R.C. 3772.07 and 3772.10(C); and
- (G) Otherwise is suitable for licensure, as required by R.C. 3772.10(B) and (C);

**WHEREAS**, the owners, officers, directors, and key employees of JACK Cincinnati and the Holding Companies who appear on the attached list marked Exhibit C (“Key Employees”) submitted Key Applications to the Commission in accordance with R.C. 3772.13(E) and Ohio Adm.Code 3772-5-02(A);

**WHEREAS**, each Key Employee’s nonrefundable application fee has been paid, as required by R.C. 3772.13(F) and 3772.17(E) and Ohio Adm.Code 3772-5-03(A);

**WHEREAS**, the Commission’s Division of Licensing and Investigations (“Division”) reviewed the Casino and Key Applications and other materials and information and conducted thorough suitability investigations of JACK Cincinnati, the Holding Companies, and the Key Employees;

### ***Consideration of Existing Debt Financing***

**WHEREAS**, R.C. 3772.03(A) authorizes the Commission to complete the functions of licensing, regulating, investigating, and penalizing, among others, casino operators, management companies, and holding companies, to ensure the integrity of casino gaming;

**WHEREAS**, R.C. 3772.033(D) authorizes the Commission to determine any facts, or any conditions, practices, or other matters, as it considers necessary or proper to aid in the enforcement of Chapter 3772 or the rules adopted thereunder;

**WHEREAS**, R.C. 3772.033(M) authorizes the Commission to perform all things it considers necessary to effectuate the intents and purposes of R.C. Chapter 3772 in executing the responsibilities vested in it by this Chapter;

**WHEREAS**, R.C. 3772.10(A)(1) requires the Commission to consider, among other things, the financial integrity of the persons it regulates, including casino operators, management companies, and holding companies;

**WHEREAS**, R.C. 3772.28(A) and (B) and Ohio Adm.Code 3772-29-01(B) require a licensed casino operator to obtain Commission approval before entering into a debt transaction, which is any debt-acquiring transaction by the operator concerning a casino facility totaling \$500,000 or more;

**WHEREAS**, during JACK Cincinnati's new-casino-operator-license suitability investigation, Hard Rock International notified the Commission that, upon closing of the acquisition, JACK Cincinnati (as a new wholly owned subsidiary of Hard Rock International) will become a guarantor and pledge its assets under the enterprise's existing credit and security agreements ("Existing Debt Financing Proposal");

**WHEREAS**, all parties (including successors of any kind) to the existing credit and security agreements recognize and acknowledge, through the terms of those agreements, that: no Commission-issued license is transferable; new majority ownership interest or control of a licensee requires a new Commission-issued license; and a significant change in or transfer of control, as determined by the Commission, requires a new license application be submitted and the license fee be paid to the Commission before any change or transfer of control is approved, as required by R.C. 3772.091(A);

**WHEREAS**, Hard Rock International thereafter submitted to the Commission for consideration all necessary information related to the Existing Debt Financing Proposal;

**WHEREAS**, because the Existing Debt Financing Proposal requires JACK Cincinnati to be added as a guarantor and pledgor of its assets under the credit and security agreements, the Proposal necessitates formal consideration and approval by the Commission, pursuant to its authority under R.C. 3772.03(A), 3772.033(M), 3772.10(A), 3772.28(A) and (B) and Ohio Adm.Code 3772-29-01;

**WHEREAS**, the Division thoroughly reviewed the Existing Debt Financing Proposal as part of JACK Cincinnati's licensure investigation, including how approval thereof will impact JACK Cincinnati's financial footing;

***Recommendations for Approval***

**WHEREAS**, the Division prepared a comprehensive report to the members of the Commission, dated September 11, 2019, captioned *Investigative Report on the Application of JACK Cincinnati Casino LLC for a Casino-Operator License* ("Report");

**WHEREAS**, with respect to the considerations of licensure, the Report concludes that based upon the investigations, no material derogatory or other negative information that adversely impacts the suitability of JACK Cincinnati, the Holding Companies, or the Key Employees was uncovered and that JACK Cincinnati and the Key Employees are eligible to be approved for licensure;

**WHEREAS**, with respect to the consideration of the existing debt financing, the Report concludes that based upon the investigation, the Existing Debt Financing Proposal does not negatively impact JACK Cincinnati's financial suitability or that of the Holding Companies;

**WHEREAS**, the Division recommends that the Commission grant JACK Cincinnati's new casino-operator license, subject to the conditions specified herein, as well as the Key Employees' initial licenses;

**WHEREAS**, the Division recommends that the Commission approve the Existing Debt Financing Proposal, subject to the conditions specified herein; and

**WHEREAS**, the Commission has reviewed the Report and considered the matters at its public meeting held on September 18, 2019.

***Formal Action by the Commission***

**NOW, THEREFORE, BE IT RESOLVED** by the Commission that JACK Cincinnati's surety bond is **APPROVED**.

**BE IT FURTHER RESOLVED** that JACK Cincinnati and the Key Employees are **SUITABLE** and **ELIGIBLE** for licensure.

**BE IT FURTHER RESOLVED** that the new Casino Application is **APPROVED** and JACK Cincinnati is **LICENSED** as a casino operator for a period not to exceed 3 years, subject to continued compliance with R.C. Chapter 3772 and the rules adopted thereunder and the following conditions:

- (A) As a condition precedent to licensure, JACK Cincinnati and the Holding Companies must close the proposed equity and operating-asset acquisition in a substantially similar form and without any material or substantial changes to the terms or documentation

provided in support thereof, as determined by the Commission, no later than November 21, 2019, and provide executed copies of all related documents within 10 days of their execution; if the acquisition closes in a substantially different form or with one or more material or substantial changes, as determined by the Commission, or does not close by November 21, 2019, approval thereof is null and void, unless further approved by the Commission;

(B) JACK Cincinnati and the Holding Companies shall notify the Commission, in accordance with Ohio Adm.Code 3772-4-09, regarding:

- (1) The status of all pending litigation and any litigation commenced subsequent to the issuance of JACK Cincinnati's new casino-operator license;
- (2) Any changes to the owners, officers, directors, and key employees; any new owners, officers, directors, and key employees are required to submit key-employee license applications, as required under R.C. 3772.13 and Ohio Adm.Code Chapter 3772-5; and any new owners, officers, directors, and key employees must establish their suitability for licensure by clear and convincing evidence and be found eligible and otherwise suitable by the Commission, as required under R.C. 3772.10 and 3772.13;
- (3) Any loans or additional debt incurred by them; and
- (4) Any event of default or any failure to meet any payment of interest or principal when due under any of their existing or future debt obligations;

(C) JACK Cincinnati and the Holding Companies shall submit, as applicable, all information required to be provided to the Commission under R.C. 3772.18;

(D) JACK Cincinnati and the Holding Companies shall comply with all applicable and effective internal controls, standard operating procedures, governance documents, and agreements, whether or not approved by the Commission;

(E) Seminole HR Holdings' Board of Managers, Corporate Governance, Compliance and Compensation Committee, and Audit Committee shall keep and retain complete and accurate minutes of all their formal and informal meetings (including any discussion, issues, or reports of fraud, noncompliance, or concerns raised internally, externally, or otherwise), whether the meetings take place in person, telephonically, or by some other means of communication, in accordance with Ohio Adm.Code 3772-1-07 and any applicable

internal controls, standard operating procedures, governance documents, and agreements, whether or not approved by the Commission;

- (F) Seminole HR Holdings' Corporate Governance, Compliance and Compensation Committee, and Audit Committee shall notify the Commission's Executive Director no later than 30 days from when either conducts any due diligence efforts, takes any action, or makes any recommendations concerning current or future business; and
- (G) JACK Cincinnati shall pay all fees required by the Commission, including a nonrefundable new license fee of \$1,500,000, as required by R.C. 3772.17(B) and Ohio Adm.Code 3772-4-07(B).

**BE IT FURTHER RESOLVED** that the initial Key Applications are **APPROVED** and the Key Employees are **LICENSED** for a period not to exceed 3 years, subject to continued compliance with R.C. Chapter 3772 and the rules adopted thereunder, including payment of the following fees:

- (A) The cost of any key-employee background investigation that exceeded the application fee set forth by Ohio Adm.Code 3772-5-03(A), as required by) and 3772.17(E) and permitted by Ohio Adm.Code 3772-5-03(B); and
- (B) A nonrefundable license fee of \$500, as required by R.C. 3772.17(E) and Ohio Adm. Code 3772-5-03(C).

**BE IT FURTHER RESOLVED** that the Existing Debt Financing Proposal does not negatively impact JACK Cincinnati's financial suitability and thus is **APPROVED**, subject to the following conditions:

- (A) As a condition precedent to approval, the Proposal must be effectuated in a substantially similar form and without any material or substantial changes to the terms or documentation provided in support thereof, as determined by the Commission, no later than November 21, 2019, and provide executed copies of all related documents within 10 days of execution; if the transaction closes in a substantially different form or with one or more material or substantial changes, as determined by the Commission, or does not close by November 21, 2019, approval thereof is null and void, unless further approved by the Commission;
- (B) The debt documentation must provide that the lender, noteholder, and/or secured party agrees that all liens, claims, and interests in favor of the state of Ohio have priority over any lien, claim, or interest in favor of the lender, noteholder, and/or secured party and any of their heirs, executors, affiliates (e.g., entities under common ownership directly or indirectly), administrators, legal

representatives, predecessors, successors, and assigns;

- (C) Within 15 days of effectuation, and periodically thereafter if requested by the Commission, Hard Rock International must file with the Commission a list of all lenders and/or noteholders;
- (D) Concurrently with submitting any periodic financial reports or compliance certificates as required by the debt documents, Hard Rock International must provide copies thereof to the Commission;
- (E) Hard Rock International must immediately notify the Commission upon the removal or resignation of any administrative agent, indenture trustee, or the like under the debt documents;
- (F) Hard Rock International must immediately notify the Commission upon any known event of a breach of a representation, warranty, or covenant, or of a default, acceleration, breach, or similar matter;
- (G) Hard Rock International must provide the Commission copies of any proposed, agreed upon, or executed amendments to the transaction documents; any material or substantial change, as determined by the Commission, to the debt documents requires Commission approval;
- (H) Hard Rock International must cooperate with the Commission and its employees and agents and must produce any documentation as may be further requested with respect to this Proposal or any modification or amendment thereto; and
- (I) Hard Rock International must provide quarterly reports regarding its compliance with the payment terms.

**BE IT FURTHER RESOLVED** that Resolution 2019-30 does not in any way affect, negate, or otherwise absolve JACK Cincinnati, the Holding Companies, or the Key Employees from their duties to update information in accordance with Ohio Adm.Code 3772-4-09 and 3772-5-04, as applicable, or from their obligations to comply with R.C. Chapter 3772 and the rules adopted thereunder and all other conditions imposed by the Commission through resolution or otherwise.

**BE IT FURTHER RESOLVED** that Resolution 2019-30 does not restrict or limit the Commission's future exercise of authority and discretion with respect to requesting additional information from or imposing additional conditions or taking further action upon JACK Cincinnati, the Holding Companies, the Key Employees, or other affiliated persons under R.C. Chapter 3772 and the rules adopted thereunder.

Adopted: September 18, 2019

**Exhibit A**  
**Resolution 2019-30**

**JACK Cincinnati Casino LLC**

Types of Insurance Policies

Commercial General Liability	\$5,000,000
Automobile Liability	\$1,000,000
Workers' Compensation – Participates in the Ohio State Insurance Fund as required by law	
Employers Liability	\$1,000,000
Property- All Risk	\$500,000,000
Employee Dishonesty (includes crime)	\$5,000,000

**Exhibit B**  
**Resolution 2019-30**

Holding Companies

1. HR Cincinnati, LLC
2. Seminole Hard Rock Entertainment, Inc.
3. Seminole HR Holdings, LLC
4. SHRE/SHRI, LLC

**Exhibit C**  
**Resolution 2019-30**

James Allen

Agnes Billie-Motlow

John Eder

Robert Gips

Carla Gopher

Henry Hornbostel

Alexander Johns

Jim Shore

Connie Whidden