

OHIO CASINO CONTROL COMMISSION

RESOLUTION 2020-01

CONSIDERATION OF JACK OHIO LLC'S PROPOSED DEBT TRANSACTION

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;

WHEREAS, R.C. 3772.03 authorizes the Commission to adopt regulations as are necessary for completing the functions of licensing, regulating, investigating, and penalizing, among others, 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 transaction by the operator concerning a casino facility totaling \$500,000 or more in which the operator acquires debt;

WHEREAS, R.C. 3772.28(A) and Ohio Adm.Code 3772-29-01(B)(3) require the licensed casino operator's request for approval of a debt transaction to include, at a minimum, the following supporting documentation:

- (A) The names and addresses of all parties to the debt transaction;
- (B) The amount of the funds involved;
- (C) The type of debt transaction;
- (D) The source of the funds to be obtained;
- (E) All sources of collateral, including, but not limited to, all assets pledged by the operator as security for the debt transaction;
- (F) The purpose of the debt transaction;
- (G) The terms of the debt transaction;
- (H) All filings and documents that must be submitted to any regulatory agency in association with the debt transaction;
- (I) An executive summary of the debt transaction, including, but not limited to:
 - (i) all material terms of the debt transaction;
 - (ii) an explanation of the projected debt to equity ratio after entering into the proposed debt transaction;
 - (iii) an explanation of the terms and procedures in case of default by the casino operator;
 - (iv) an explanation of the process used to select the persons involved in the debt transaction;
 - (v) a list of prior debt transactions between the casino operator and the persons involved in the debt transaction; and
 - (vi) an explanation of the due diligence conducted, including supporting documentation, as required by Ohio Adm.Code 3772-29-01(C);

- (J) All documents that memorialize the terms, conditions, and/or covenants of the debt transaction, including any supporting documents referenced therein;
- (K) A certification that the casino operator holds a direct or indirect ownership or leasehold interest in the casino facility; and
- (L) Any other information deemed necessary by the Commission;

WHEREAS, Ohio Adm.Code 3772-29-01(B)(1) requires that the request for approval and all supporting documentation be submitted to the Commission no later than 30 days before the proposed debt transaction will be considered by the Commission, unless otherwise waived or modified by the Commission;

WHEREAS, Ohio Adm.Code 3772-29-01(B)(2) requires the presence of a representative from the requesting casino operator to answer any questions posed by the Commission;

WHEREAS, JACK Ohio LLC, the parent company of and on behalf of its subsidiaries—including JACK Cleveland Casino LLC, a licensed casino operator—(collectively, “JACK”) submitted to the Commission a timely request for approval of and documentation related to a proposed debt transaction;

WHEREAS, the Division of Licensing and Investigations (“Division”) reviewed JACK’s request to approve the debt-transaction proposal, including the supplied documentation, and filed a comprehensive, due-diligence report, dated January 8, 2020, captioned *Consideration of JACK Ohio LLC’s Debt-Transaction Proposal in connection with the Sale-Leaseback of JACK Cleveland Casino and JACK Thistledown Racino to VICI Properties Inc.* (“Report”);

WHEREAS, the Report concludes that the Division’s review did not uncover any material derogatory information that would negatively impact JACK’s financial suitability;

WHEREAS, based on this conclusion, the Report recommends that the Commission approve the proposed debt transaction; and

WHEREAS, the Commission considered the matter, and JACK had a representative available to answer questions, at the agency’s public meeting held on January 15, 2020.

NOW, THEREFORE, BE IT RESOLVED by the Commission that JACK’s debt-transaction proposal is **APPROVED**, subject to the following conditions:

- (A) As a condition precedent to approval, JACK must effectuate the proposal 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 March 18, 2020; if the proposal 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 March 18, 2020, approval thereof is null and void, unless further approved by the Commission;
- (B) JACK must provide the Commission with executed copies of all related documents within 10 days of execution;

- (C) JACK must use the proceeds obtained in connection with the proposal in the manner represented to the Commission; any proposed deviation from the previously represented uses requires JACK to immediately notify the Commission in writing and receive Commission approval before implementation;
- (D) The transaction documents 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;
- (E) Within 15 days of closing, and periodically thereafter if requested by the Commission, JACK must file with the Commission a list of all of the initial lenders and/or noteholders as applicable;
- (F) Concurrently with submitting any periodic financial reports or compliance certificates as required by the transaction documents, JACK must provide copies thereof to the Commission;
- (G) JACK must notify the Commission immediately upon the removal or resignation of any administrative agent, indenture trustee, or the like under the transaction documents;
- (H) JACK must notify the Commission immediately upon any known event of a breach of a representation, warranty, or covenant, or of a default, acceleration, breach, or similar matter;
- (I) JACK must provide the Commission copies of any proposed amendments and agreed upon amendments to the transaction documents; any material change, as determined by the Commission, to the transaction documents requires Commission approval;
- (J) JACK must cooperate with the Commission and its employees and agents and must produce any documentation as may be further requested with respect to this transaction or any modification thereto; and
- (K) JACK must provide, upon approval of this transaction, quarterly reports regarding JACK's compliance with the payment terms.

BE IT FURTHER RESOLVED, that Resolution 2020-01 does not in any way affect, negate, or otherwise absolve JACK, and any of its holding companies or subsidiaries, 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 2020-01 does not restrict or limit the Commission's future exercise of authority and discretion with respect to imposing additional conditions or taking further action with respect to JACK, and any of its holding companies or subsidiaries, under R.C. Chapter 3772 and the rules adopted thereunder.

Adopted: January 15, 2020