



State of Indiana Indiana Horse Racing Commission

Eric Holcomb, Governor

www.in.gov/hrc

April 22, 2020

Jeff Hendricks
VP Regulatory & Compliance
Eldorado Resorts, Inc.

VIA EMAIL TO: jhendricks@eldoradoresorts.com

Dear Jeff:

I hope this letter finds you well during these difficult and uncertain times. As you are aware, the Indiana Horse Racing Commission ("IHRC") is continuing its investigation/evaluation of the Eldorado Resorts, Inc. ("ERI") transfer application. To this end, the IHRC is continuing to evaluate (among other things) the financial feasibility of the proposed merger with an eye on both the current market conditions and an anticipated market stabilization. As part of its inquiry, the IHRC continues to consider the possible implications of the exercise of the put/call option between ERI and VICI Properties ("VICI") as it may relate to one or both of the Indiana race tracks.

As ERI has acknowledged, in 2018, the Commission issued a Final Order approving the permit application of Caesars Entertainment. The Final Order included the following condition that was acknowledged and accepted by Caesars:

10. Caesars acknowledges and understands that the Commission takes no position in this proceeding as to whether a REIT operation would be appropriate **and/or permitted** at one of the Indiana racetracks or OTB facilities. **To date, neither VICI or [sic] any other REIT has been licensed or permitted by the Commission and there is no expectation or guarantee that this would be done in the future if an appropriate request were made to the Commission.** (Emphasis added).

With the above as background, IHRC sent a request letter to ERI, dated September 24, 2019, that included multiple questions about the put/call option, which if exercised and approved, could result in both racetracks being put to a REIT and the addition of VICI as a licensee of the IHRC. The letter included the following question:

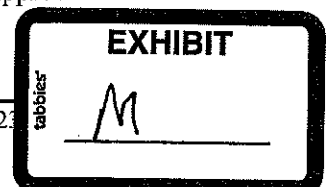
What alternatives are in place or would be put in place by Eldorado/CEC if the IHRC were to elect not to approve (or to disapprove) the Eldorado/VICI Agreement?

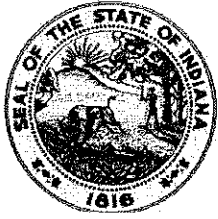
On October 17, 2019, ERI sent a response that acknowledged:

"Accordingly, any exercise of these put/call rights **would be specifically conditioned upon the IHRC's approval.** The put/call can only be exercised during the time period of January 1, 2022 through December 31, 2024 and **the parties can consummate the proposed transaction only after receiving approval from the IHRC.**" (ERI response, p. 3; emphasis added).

Moreover, ERI responded to question 1.v. (set forth above) as follows:

Eldorado currently has no intention to exercise its rights under the Put-Call Agreement, so no alternative plans have been developed in the event the contract is not approved or disapproved. (ERI response, p. 10).





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The IHRC would appreciate ERI's answers to the questions below, giving special consideration to current market conditions and the projected economic standing of ERI as the US economy "re-opens" following the initial COVID-19 health crisis.

- 1) Given the current (and anticipated) market conditions, does ERI consider the infusion/availability of the capital that would flow to ERI from an exercise of the Put-Call Agreement (from one or both of the Indiana horse racing tracks and related gaming facilities) necessary to the financial viability of the proposed merger agreement with Caesars from 2022 on forward? Please explain your answer in detail.
- 2) Are any of the financial models and/or projections that ERI has presented to (or is in the process of preparing to present to) Gaming Regulators in Nevada, New Jersey and/or Indiana since March 1, 2020 based upon an assumption that any capital will flow to ERI from an exercise of the Put-Call Agreement (from one or both of the Indiana horse racing tracks and related gaming facilities) in 2022, 2023 or 2024? If so, please identify which regulators have been presented with such financial models and projections and explain why ERI included these assumptions in the models and/or projections.
- 3) Is it still the position of ERI that it has no intention of exercising its rights under the Put-Call Agreement relative to either Hoosier Park or Indiana Grand?
- 4) If ERI's position has changed, please explain the factors that have been considered and provide reasons why ERI now believes it will exercise its rights under the Put-Call Agreement.
- 5) Additionally, if ERI's position has changed, please explain what alternatives are currently in place or would be put in place by ERI/Caesars Entertainment if the IHRC were to elect not to approve (or to disapprove) the Put-Call Agreement.
- 6) Does ERI believe that the transaction can be completed without the exercise of the Put-Call Agreement or in ERI's opinion has the Put-Call Agreement now become an absolutely essential part of the financing for this proposed transaction (i.e. the proposed merger agreement)?

While the IHRC is sympathetic to the ongoing, nationwide health crisis and all of the uncertainty that it has brought (and continues to bring), IHRC would appreciate ERI's effort to provide answers to the questions above, as soon as reasonably possible. If there are any questions or comments on the above, please contact me using the information below.

Sincerely,

Deena Pitman
Executive Director
dpitman@hrc.in.gov