



COMMONWEALTH CASINO COMMISSION
Commonwealth of the Northern Mariana Islands
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COMMISSION ORDER NO: 2020-003

Order Requiring Casino Licensee to Maintain Sufficient Working Capital to Pay Three Months' Payroll in a Bank in the CNMI or USA

For good cause determined at the June 25, 2020 public meeting of the Commonwealth Casino Commission, which was duly publicly noticed, and based on the authority granted by the laws of the Commonwealth (including but not limited to Public Laws 18-56 and 19-24) and the Regulations of the Commonwealth Casino Commission, NMIAC Chapter 175-10.1, the Commonwealth Casino Commission hereby finds and **ORDERS AS FOLLOWS:**

1. WHEREAS, Section 2314(b)(2) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations as may be necessary to properly supervise, monitor and investigate to ensure the suitability and compliance with the legal, statutory and contractual obligations of owners, operators, and employees of casinos; and
2. WHEREAS, Section 2314(b)(3) of Title 4 of the Commonwealth Code requires the Commission to promulgate regulations which provide for "[t]he examination, supervision and monitoring of the continuing fiscal and financial capability of casino owners, operators, concessionaires and other parties with any direct relation to the sole casino and to protect the public in the event that such capability is significantly diminished"; and
3. WHEREAS, the Commission has, pursuant to the above statutory mandate, promulgated regulations found at NMIAC Chapter 175-10.1 et. seq. which address the financial suitability of the casino licensee for the protection of the gaming industry and the residents of the Commonwealth of the Northern Mariana Islands; and
4. WHEREAS, Regulation §175-10.1-1805(a) states: "The Commission deems any activity on the part of the casino gaming licensee, its agents, or employees, that is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth, or that would reflect or tend to reflect discredit upon the Commonwealth of the Northern Mariana Islands or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the Commission in accordance with the Act and the regulations." and
5. WHEREAS, Regulation §175-10.1-1805(b)(15) declares the breaching of any contract an unsuitable method of operation which subjects the casino licensee to discipline; and
6. WHEREAS, Regulation §175-10.1-560(a) allows the Commission to adopt or revise a bankroll formula that specifies the minimum bankroll requirements applicable to the casino

gaming licensee, along with instructions for computing available bankroll. The formula adopted by the Commission may require the licensee to maintain a number of days of cash on hand, utilize a debt-to service ratio, or utilize any other ratio the Commission deems fit; and

7. WHEREAS, it has come to the attention of the Commission that the casino licensee has recently failed to pay its employees in a timely fashion as required by applicable law, regulation and business custom, for consecutive pay periods; and

8. WHEREAS, the Commission deems the licensee's unwillingness or inability to timely pay its employees as an unsuitable method of operation and indicia of unsuitability to hold a license, and further specifically deems that the failure to pay employees in a timely fashion is inimical to the public health, safety, morals, good order, and general welfare of the people of the Commonwealth and reflects discredit upon the gaming industry, and further calls into question the casino licensee's ability to pay winning patrons; and

9. WHEREAS, the failure to timely pay employees could be explained by difficulties with the bank wire transfer process, but ultimately is due to the fact that the casino licensee fails to keep sufficient funds on hand and readily available; and

10. WHEREAS, the Commission finds that, if the casino licensee fails to keep sufficient cash on hand to ensure timely payment of its employees, it likewise fails to keep sufficient cash or cash equivalents on hand in an amount sufficient to reasonably protect the licensee's patrons against defaults in gaming debts owed by the licensee such that the minimum bankroll formula must be supplemented by additional cash reserves; and

11. WHEREAS, the Commission deems it necessary and proper to ensure the casino licensee is financially suitable and operating suitably by requiring the casino licensee to maintain in the Commonwealth at all times funds sufficient to pay for three months' payroll, in addition to the previous minimum bankroll required by Regulation §175-10.1-560(a) as reflected in Commission Order 2019-002; **NOW, THEREFORE,**

12. **IT IS HEREBY ORDERED** that no later than thirty (30) calendar days from the effective date of this Order, the casino licensee shall maintain cash or cash equivalents in a restricted account in a bank in the CNMI or United States of America an amount sufficient to reasonably protect the licensee's employees against defaults of debts owed by the licensee as they become due; in no case shall the amount of cash or cash equivalents be less than three months worth of expected obligations, subject to the schedule listed in paragraph 13 below; and

13. **IT IS HEREBY FURTHER ORDERED** that: notwithstanding the foregoing:

A. For the first three months from the effective date of the Order, the casino licensee must reserve One (1) month payroll in advance for the August 2020 through October 2020 payrolls. Amount in reserve to be no less than \$1,400,000 regardless of actual payroll;

B. For the second three months, the casino licensee must reserve Two (2) months payroll in advance for the November 2020 through January 2021 payrolls. Amount in reserve to be no less than \$2,800,000 regardless of actual payroll;

C. For all months thereafter the casino licensee must reserve Three (3) Months payroll in advance beginning February 2021. Amount in reserve to be no less than \$4,200,000 regardless of actual payroll; and

14. **IT IS HEREBY FURTHER ORDERED** If at any time the licensee's available cash or cash equivalents should be less than the amount required by this Order, the licensee or operator shall immediately notify the Commission of this deficiency and shall also detail the means by which the licensee shall comply with the minimum capital requirements; and

15. **IT IS HEREBY FURTHER ORDERED** that the Commission Chairman or the Executive Director shall take steps necessary to ensure that this Order is published in the Commonwealth Register without reasonable delay; and

16. **IT IS HEREBY FURTHER ORDERED** that this Order is to take effect immediately or at the earliest time allowed by law, and shall remain in effect until it is repealed or replaced by subsequent Order of the Commission.

SO ORDERED this 25th day of June, 2020.

Signature: 
EDWARD DELEON GUERRERO
CHAIRMAN