

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
233 RICHMOND STREET
PROVIDENCE, RHODE ISLAND 02903**

IN THE MATTER OF:

BLB INVESTORS, L.L.C.,

APPLICANT.

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DBR No.: 04-R&A-0091

DECISION

Hearing Officer: Catherine R. Warren, Esquire

Hearing Held: May 24, 2005

Appearances:

For BLB Investors, L.L.C., Applicant:

Stephen J. Carlotti, Esquire
Gilbert Brooks, Esquire
(by *pro hac vice* order)
William C. Murtha, Esquire

For Department of Business Regulation:

Barry G. Hittner, Esquire
Louis DeQuattro, Esquire
Daniel D. Rubino, Esquire
(by *pro hac vice* order)
Sean Maloney, Esquire
(by *pro hac vice* order)

For Lincoln Park:

John Tarantino, Esquire
Patricia Rocha, Esquire

I. INTRODUCTION

The above-entitled matter came before the Department of Business Regulation ("Department") as the result of BLB Investors, L.L.C.'s ("BLB") Facility Permit Transfer Application filed with the Department on March 30, 2004 which seeks to transfer Lincoln Park's ("Lincoln Park" or "Park") facility permit ("License") to BLB. A hearing was

scheduled for July 19, 2004 but it was continued at the request of BLB. On or about April 7, 2005, BLB filed an amended application for License. A prehearing conference was held on April 27, 2005 at which procedural issues for the hearing were discussed. A hearing was held on May 24, 2005. All parties were represented by counsel.

II. JURISDICTION

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws § 41-3.1-1 *et seq.*, R.I. Gen. Laws § 41-9-1 *et seq.*, R. I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

III. ISSUE

Whether BLB's application for transfer of License subject to certain conditions and contingencies should be granted.

IV. STANDARD OF REVIEW

There is an issue of what standard of review should be applied in determining whether the request for the transfer of License should be granted. See Joint Exhibit One (1). Joint Exhibit One (1) is the investigatory report about BLB conducted by the law firm of Wilkie Farr & Gallagher ("Wilkie Farr") on behalf of the Department to ascertain BLB's suitability for this License.

Pursuant to R.I. Gen. Laws § 41-3.1-1 *et seq.*, R.I. Gen. Laws § 41-9-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*, the Department has the authority to issue and transfer such a License. Implicit in the statutory scheme relating to racing and athletics and the Department's jurisdiction (e.g. R.I. Gen. Laws § 42-14-14, the Department's investigatory powers relating to license applications, and R.I. Gen. Laws § 41-3.1-4, powers and duties of the racing and athletics division), the Department has the

statutory authority and mandate to ensure the protection of the public in determining whether a license should be granted.

The Department's *Racing and Athletics Division Regulation Two - Greyhound Racing* ("R&AR2") does not currently include a substantive suitability standard for evaluating applicants that are seeking to operate a greyhound racing facility. R&AR2's standard for approving license applications applies to licensees such as dog owners, trainers, and agents rather than facility operators. The Department may refuse to license any applicant who has been refused a license by any other State Racing Commission or the Department may refuse to license any applicant whose previous conduct in Rhode Island or elsewhere in connection with racing is considered by the Department to have been "objectionable, obnoxious or detrimental to the best interest of racing." See R&AR2, Section 38.

Wilkie Farr examined the video lottery "Retailer" standards for the Lottery Commission, which is statutorily required to approve video lottery "Retailers" within Rhode Island. Section 21.6 of the Lottery Commission regulations provides that such an applicant must be of good character and with reputable background, who will act in accordance with the rules and regulations of the Lottery Commission. The applicant must demonstrate adequate financing for the type of business proposed and that the financing must be from reputable sources. The regulations allow, but do not require, the Lottery Commission to deny licensure if an applicant has committed a crime in any jurisdiction, has failed to disclose a material fact or has made an untrue statement of material fact to the Lottery Commission, associates with disreputable persons, or whose

past conduct may adversely affect the integrity, security, honesty or fairness of the Lottery Commission.¹

Wilkie Farr analyzed Colorado, New Jersey, and Nevada gaming statutes which contain more detailed standards than Rhode Island statutes. Colorado's gaming statutes provide both mandatory criteria for disqualification of an applicant as well as positive

¹ Said section of the of the Video Lottery System Rules and Regulations states in part as follows:

VI. General Criteria

A. [An applicant must] meet[s] all the following qualifications:

(i) The applicant, its officers, directors, shareholders, partners, other owners, principal supervisory employees, its operator or contractor, as applicable, and any person having an interest in the premises are of good character, honesty and integrity;

(ii) The applicant, its officers, directors, shareholders, partners, other owners, principal supervisory employees, its operator or contractor, as applicable, and any person having an interest in the premises are persons whose backgrounds, including criminal, civil, and financial records, reputation, and associations do not pose a threat to the public interest of the state or the security and integrity of the Lottery;

(iii) The applicant demonstrates business ability and experience to establish, operate, and maintain the business for the type of contract for which application is made and for this purpose provides a sworn statement that.

(iv) The applicant demonstrates adequate financing for the business proposed under the type of contract for which application is made. The Executive Director shall consider whether financing is from a source that meets the qualifications in subdivisions (i), (ii), and (iii) of this section and is in an amount to ensure the likelihood of success in the performance of the contract.

B. The Commission may deny approval as a Retailer to any pari-mutuel licensee...or any of their respective officers, directors, shareholders, other owners, partners, principal supervisory employees, its operator or contractor, as applicable, who:

(i) Has been convicted of any crime in any jurisdiction;

(ii) Has been convicted of any gambling offense in any jurisdiction;

(iii) Is subject to a civil judgment based in whole or in part upon conduct which allegedly constituted a crime, which judgment is not subject to appeal;

(iv) Failed to disclose any material fact to the Commission or its authorized Retailers during the background investigation or any subsequent background or security investigation;

(v) Makes a misstatement or untrue statement of a material fact;

(vi) Associates with persons of known criminal background, or persons of disreputable character that may adversely affect the general credibility, security, integrity, honesty, fairness, or reputation of the Commission;

(vii) The Commission determines that any aspect of the applicant's past conduct would adversely affect the integrity, security, honesty or fairness of the Commission;

(viii) In evaluating whether to deny a license based on (i), (ii), and (iii) above, the Commission may consider the following factors:

A. The nature and severity of the conduct that constituted the offense or crime;

B. The time that has passed since satisfactory completion of the sentence, probation imposed or payment of fine;

C. The number of offenses or crimes; and

D. Any extenuating circumstances that affect or reduce the impact of the offense or crime on the security, integrity, honesty and fairness of the Lottery.

standards that an applicant should meet for licensure. The Colorado Racing Commission has the discretion to deny an application if the applicant fails to follow the rules of the Commission, commits fraud, engages in willful misrepresentation, or deceit in racing, has had a racing license in another jurisdiction either suspended or revoked or possessed at a racetrack any device or substance which could alter the performance of a racing animal. A license must be denied if the applicant has committed any gambling-related offense or theft by deception. See C.R.S. §12-60-507 and C.R.S. §12-60-507.5.

The New Jersey Casino Control Act provides a list of disqualifying criteria that require an application for a casino to be denied. Reasons for disqualifications include failure of the applicant to prove by clear and convincing evidence that the applicant is qualified within the provisions of the act, conviction of various crimes including manslaughter, burglary, robbery, perjury, possession of a gambling device, or failure to provide information requested by the Commission or supplying false or misleading information. See N.J. Stat. § 5:12-86.

In Nevada, an applicant for a gaming license must be a person of good character, honesty and integrity, whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of the state or to the effective regulation of gaming, and has adequate business probity, competence and experience and that the proposed financing of the entire operation is adequate and from a suitable source. See NRS § 463.170.

While R&AR2 does not provide a comprehensive standard for such a transfer as requested in this matter, pursuant to R.I. Gen. Laws § 41-3.1-4(3), Section 36 of R&AR2 lists information that a person seeking to be licensed for dog racing in Rhode Island must

submit. While some of the information listed is not relevant to a transfer (e.g. where the dog track building is to be built), it is obvious that the information sought relates to an applicant's good character, honesty and integrity, sufficient financial resources, and experience.

The Lottery Commission Regulations and Colorado, New Jersey, and Nevada's statutes detail both what the Lottery Commission and those states have determined to impact on an applicant's honesty, integrity, good character, financial resources, and experience. For example, the Lottery Commission and Nevada require that an applicant have adequate business experience and that the proposed financing is adequate and from a suitable source. Another example is that the three (3) states' statutes and the Lottery Commission detail in various ways how felony convictions impact any application. In addition, failure to provide information or providing misleading information are grounds for denial pursuant to New Jersey and Colorado statutes and the Lottery Commission Regulations. During its investigation of BLB, Wilkie Farr applied the highest of statutory standards that it found. See Joint Exhibit One (1). Furthermore, reviewing BLB's honesty, integrity, good character, financial resources, and experience is consistent with standards for other licenses that the Department issues. See R.I. Gen. Laws § 19-14-7.²

² In determining whether to grant a license for a lender, small loan lender, loan broker, check casher, or electronic money transmitter, the Department considers as follows:

R.I. Gen. Laws § 19-14-7 Issuance or denial of license. – (a) Upon the filing of a completed application, the payment of fees and the approval of the bond, the director or the director's designee shall commence an investigation of the applicant. The director or the director's designee shall issue and deliver the license applied for in accordance with the provisions of this chapter at the location specified in the application if he or she shall find:

(1) That the financial responsibility, experience, character, and general fitness of the applicant, and of the applicant's members, if the applicant is a partnership, limited liability company or association, or of the officers and directors and the principal owner or owners of the issued and outstanding capital stock, if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this title.

Wilkie Farr's use of the highest standard of review further provides for the protection of the public.

The question before the undersigned is whether BLB possesses the requisite good character, honesty, integrity, sufficient financial resources, and experience to obtain the License.

V. MATERIAL FACTS AND TESTIMONY

Howard Kerzner ("Kerzner") testified on behalf of BLB. He is the Chief Executive Officer of Kerzner International ("KI") and is Co-Chief Executive Officer of BLB. Kerzner Investments BLB ("KIBLB") is a 100% wholly owned subsidiary of Kerzner International North America ("KINA") which is a 100% wholly owned subsidiary of KI. KIBLB owns 37.5% of BLB. See Joint Exhibit One (1).³

Kerzner testified regarding KI's experience in developing and operating destination resorts, gaming, and luxury hotel properties. Kerzner testified that such experience includes the renovation and management of the Atlantis resort in the Bahamas, the development and management of the Mohegan Sun in Connecticut, and the management of several resort hotels world-wide under the "One&Only" brand name. See Joint Exhibit One (1) and BLB's Exhibit One (1). In addition, Kerzner testified that KI has a market capitalization of \$2 billion.

Kerzner also testified to the licensing and compliance history of KI. Kerzner testified that KI is a publicly traded company and is listed on the New York Stock Exchange ("NYSE") so is compliant with all Securities Exchange Commission and NYSE rules. Kerzner testified that KI holds gaming licenses in Connecticut, the Bahamas, the United Kingdom, New Jersey, and Colorado. See BLB's Exhibit One (1).

³ See Exhibit A of Joint Exhibit One (1) for the BLB Organizational Chart.

According to Joint Exhibit One (1), Kerzner himself (via BLB) is licensed in Colorado. Kerzner also testified regarding KI's audit committee, compliance committee, code of business conduct and ethics for all senior personnel, and responsible gaming policy. See BLB's Exhibit One (1).

Len Wolman ("Wolman") also testified for BLB. He is Chairman and Chief Executive Officer of Waterford Group, LLC. Waterford Group Investments, a 100% wholly owned subsidiary of Waterford Group, LLC owns 25% of BLB. See Joint Exhibit One (1). Wolman testified that the Waterford Group has four (4) business components: hotel management, construction, hospitality, and gaming. He testified that Waterford manages 28 hotels in ten (10) states. Wolman testified that Waterford began working on the Mohegan Sun project in 1992. In about 1993-4, Wolman testified that Waterford partnered with KI on the Mohegan Sun project. Wolman testified that Waterford and KI financed, developed, and managed the Mohegan Sun. He testified that in January, 2000 the Mohegan Nation took over the management of Mohegan Sun and purchased KI's and Waterford's management rights. In addition, Wolman testified KI and Waterford were Mohegan Sun's development partner in a one billion dollar expansion which was completed in 2002. He also testified that the tribe purchased Waterford's and KI's development rights. See BLB's Exhibit One (1). Wolman holds gaming licenses in Connecticut and Colorado. See Joint Exhibit One (1).

Wolman testified to BLB's plans for renovating and expanding Lincoln Park. Wolman testified that BLB plans to spend \$435 million to purchase Lincoln Park and \$125 million in renovations and new construction. Wolman testified that BLB plans to modernize the facility and the site. Wolman presented BLB's plan for the renovations to

be implemented in phases so that renovations would not affect the sales and revenue stream at the Park. Wolman testified that the renovation would create 500 new permanent jobs and 1,500 construction jobs. Wolman testified that BLB planned to work with the unions at Lincoln Park and to enter into a labor agreement with the union for the renovations. See Joint Exhibit One (1) and BLB's Exhibit One (1).

Madison Grose ("Grose") testified for BLB. Grose is Managing Director and Co-General Counsel of Starwood Capital Group ("Starwood"). Starwood through various entities owns 37.5%* of BLB. See Joint Exhibit One (1). Grose testified that Starwood is a real estate investment company that since 1991 has acquired approximately \$9 billion in real estate assets and investments in more than 300 separate transactions. In addition, Grose testified that the Starwood investment fund involved in this transaction has \$567 million in total equity commitments that have been drawn and invested and the fund currently has approximately \$4.1 billion in assets.

Grose testified to the structure of BLB's proposed acquisition of Lincoln Park. The Park is owned by Wembley, PLC. Grose testified that the proposed transaction ensures that the liabilities relating to the indictments relating to Lincoln Park and its two (2) former executives will not transfer to BLB.

In addition, Grose testified to the financing of BLB's acquisition of Lincoln Park. BLB's Exhibit One (1) set forth that BLB has \$125 million in revolving credit/cash from operations, \$245 million in a first priority loan, \$125 in a second priority loan, \$116 in BLB equity, and \$5 million cash on hand. Grose testified that this represents the \$455 million purchase price (including \$20 million for the Colorado holdings of Wembley, PLC), \$36 million in fees and expenses, and \$125 million for the Park's renovation.

* Erratta. May 31, 2005.

Grose testified that financing is through Merrill Lynch as lead lender with Deutsche Bank and JP Morgan Chase as co-lenders. See Joint Exhibit One (1). Grose has gaming licenses in New Jersey, Nevada, and Colorado. See Joint Exhibit One (1).

George Papanier ("Papanier") next testified on behalf of BLB. He is the Chief Operating Officer of BLB. He testified that he has twenty-three (23) years experience in the gaming industry with the first fifteen (15) years in a financial management capacity. He testified that he was Chief Financial Officer for the Mohegan Sun in 1995-96 where he was one (1) of three (3) key employees when that facility opened. In that capacity, Papanier testified that he was responsible for establishing a system of internal controls, accounting policies and procedures, and employee policies. Between 1997-2000, Papanier testified that he was Chief Operating Officer of Resorts Casino Hotel in Atlantic City, New Jersey which had multiple restaurants, a casino, race book, and hotel operations. Papanier testified that prior to joining BLB from 2000-2004, he was Chief Operating Officer for a gaming company in Iowa and Louisiana.

Papanier testified to BLB's compliance program which would include a compliance committee, the implementation of code of business conduct and ethics, compliance with gaming laws and regulations, and background checks on principal employees,⁴ business partners, and key vendors. See BLB's Exhibit One (1), BLB's Exhibit Two (2), BLB's Compliance Program, and BLB's Exhibit Three (3), Code of Business Conduct and Ethics. In addition, Papanier testified that BLB will develop an annual audit plan. He also testified that he holds gaming licenses in New Jersey, Colorado, Connecticut, Iowa, and Louisiana. See Joint Exhibit One (1).

⁴ It should be noted that all relevant employees of the Park are required to be licensed by the Department and have criminal background checks performed. See R.I. Gen. Laws § 41-4-9.1 and R.I. Gen. Laws § 42-14-14.

The Department then made a presentation. Two (2) attorneys from Wilkie Farr & Gallagher detailed Wilkie Farr's methodology of its investigation of BLB's suitability. The investigation included as follows: 1) review of BLB's offer to purchase Wembley, PLC; 2) review of the BLB Application and Multi-Jurisdictional Personal History Disclosure Forms and other materials; 3) review of press and Internet information on key individuals and entities; 4) inspection and/or review of ten (10) other jurisdictions where key individuals and entities hold gaming licenses, including interviews with regulatory authorities, review of licensing files and, in some cases, inspection of facilities; 5) review of existing operations and BLB's plans for development; 6) retention of an international private investigation firm to perform an independent investigation including a comprehensive search of criminal records, court records, tax liens and judgments, Uniform Commercial Code filings and regulatory actions, as well as consultation with confidential sources in law enforcement, regulatory, financial and business communities with respect to all of the relevant individuals and entities associated with BLB; 7) personal interviews by Wilkie Farr of key individuals associated with BLB; and 8) review and reliance upon the Representation Letters by key BLB individuals.

One issue touched upon was Solomon Kerzner ("Solomon"), the father of Kerzner and Chairman of KI. In 1986, he was accused of bribing a Chief of a then Black homeland in South Africa in order to obtain exclusive gaming rights. Solomon was never convicted of this charge and it was ultimately dismissed in 1997. Wilkie Farr found that these allegations were extensively reviewed by regulators in New Jersey, Connecticut, the Bahamas, and the United Kingdom, all which licensed him and/or KI. Solomon is

Chair of KI. Through a family trust, Solomon owns 12.5% in KI. He will not be a director or officer of BLB. See Joint Exhibit One (1).⁵

Willkie Farr did not find that any of the entities involved or key personnel involved with BLB have been denied gaming licenses in the United States or elsewhere. See Joint Exhibit One (1).

Willkie Farr concluded that based on its review of the key personnel and entities involved in the BLB transaction that it had uncovered no information that would render any individual or entity unsuitable to operate Lincoln Park or that would warrant a denial of the transfer application. Wilkie Farr recommended certain conditions and contingencies be placed on the transfer of the License. See Joint Exhibits One (1) and Two (2).

Lincoln Park's attorney stated that the Park was in favor of the transfer and requested that certain conditions be included in any recommendation for the transfer of License. By agreement of the parties, such language was emailed to the undersigned later that day.

Upon questioning from the undersigned, the Department's attorney stated that it was the Department's position that BLB possesses the requisite good character, honesty

⁵ In general, when deciding whether to license a felon, the Department considers factors set forth *In the Matter of William J. Stanton*, DBR No. 98-L-0035 (12/15/98). These factors include but are not limited to nature and circumstance of the misconduct, conduct and reformation, present character, and present qualifications. This case is inapplicable to Solomon because he is not a convicted felon. However, it is interesting to note that based on New Jersey's review of the case that Solomon would apparently comply with the *Stanton* criteria. See Joint Exhibit One (1).

and integrity, sufficient financial resources, and sufficient experience to obtain the License.

After the presentation by the parties, members of the public spoke. Christine Dorchak ("Dorchak") testified on behalf of Grey2K USA, a greyhound protection society. Dorchak testified that she opposed the transfer of the License. She testified that she felt that there was no difference between Lincoln Park, which is under indictment, and BLB because of the allegations against Solomon Kerzner. She testified that if the Department approves the transfer that it would be trading one bad apple for another bad apple. Dorchak stated that she believed the bidding process should be reopened so that a more responsible party may buy Lincoln Park.

Dennis Tabella ("Tabella") testified on behalf of Defenders of Animals, Inc. He testified that Solomon Kerzner had taken advantage of apartheid in South Africa to make his money and that Rhode Island should not allow his company to come into Rhode Island. In addition, Tabella testified that because of the harm caused by greyhound racing to greyhounds, the track should be closed.

Jenna Karlin spoke on behalf of the Unite Here Local 217 and is a union representative for two (2) collective bargaining agreements at the Park. She stated the union supported the transfer of the License because BLB is committed to the continuation of good union jobs and the expansion of good union jobs.

Wilfred Greene ("Greene"), Chief of the Seekonk Wampanoag Tribe, stated that the Seekonk Wampanoag tribe still owns the land where Lincoln Park is situated.

Milton Nachbar ("Nachbar") raised questions relating to the value of Lincoln Park's shares, the value of the assets at Lincoln Park, if the good will associated with the License is being sold, and the price that BLB is paying for Lincoln Park. In addition, Nachbar felt that the transfer of the License was premature, as one does not know the outcome of the trial of the Lincoln Park indictments. And, Nachbar further felt that Lincoln Park was transferring something (License) in which it did not have title.

After the members of the public spoke, BLB's attorney referred to BLB's Exhibit One (1) relating to the structuring of the acquisition of Lincoln Park by BLB.

VI. DISCUSSION

The issue before the undersigned is whether approval should be granted by the Department for the License to be transferred from Lincoln Park to BLB. BLB is seeking to obtain the License because it wishes to buy Lincoln Park. BLB's proposed acquisition of Wembley, Inc.* is contingent on several factors including obtaining the approval from the Department for the License to be transferred from Lincoln Park to BLB. It is the Department that possesses the statutory authority to issue or transfer said License. The License is valid and the Department can grant said transfer if it is found to be appropriate in the circumstances.

Furthermore, the question of whether the transfer should be granted or denied revolves around a determination of whether the proposed transferee possesses the requisite good character, honesty, integrity, sufficient financial resources, and experience. This decision is solely related to that determination. Therefore, issues regarding the ownership of the land where the Park is located or whether greyhound racing should be prohibited are not relevant to the issue in this matter.

Wilkie Farr stated that in the course of its investigation, it did not uncover any information that under Rhode Island law or regulations or under the provisions of other established gaming jurisdictions would render BLB or its key entities or its key personnel unsuitable to operate Lincoln Park or that would warrant a denial by the Department of BLB's application to transfer the License. See Joint Exhibit One (1).

Subject to the conditions and contingencies set forth by Wilkie Farr, the Department supports BLB's application for transfer of License. The Department believes that BLB meets the criteria necessary for approval of the transfer of the License. There has been no evidence introduced that would contradict the findings set forth in Joint Exhibit One (1).

VII. FINDINGS OF FACT

1. On or about March 30, 2004, BLB filed an application for the transfer of License.
2. On or about April 7, 2005, BLB filed an amended application for transfer of License.
3. A prehearing conference was held in this matter on April 27, 2005.
4. A hearing in this matter was held on May 24, 2005.
5. The facts as detailed in Section V are incorporated herein by reference.
6. The facts, evidence, and testimony presented demonstrates that BLB is financially sound, that key entities and key personnel have met the requisite character requirements and received gaming licenses in the United States and other jurisdictions, that the key entities and key personnel have not been denied gaming licenses within the United

States or in other jurisdictions, and that the key entities and key personnel have suitable experience for this undertaking.

VIII. CONCLUSIONS OF LAW

Based on the testimony and facts presented:

1. The Department has jurisdiction over this matter pursuant R.I. Gen. Laws § 41-3.1-1 *et seq.*, R.I. Gen. Laws § 41-9-1 *et seq.*, R. I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

2. BLB demonstrated that it has the requisite honesty, integrity, good character, financial resources, and experience to obtain this License.

3. The Department and BLB have set forth sufficient facts pursuant to the Department's statutory and regulatory mandates to support a finding that BLB meets the honesty, integrity, good character, financial resources, and experience requirements to obtain this License.

IX. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends as follows:

- 1) The Department hereby approves the merger of Lincoln Park, Inc. with and into LPRI, LLC.

Furthermore, the Hearing Officer recommends that the License currently held by Lincoln Park be transferred to UTGR, Inc. upon the occurrence of the following conditions:

- 1) the adoption of enabling legislation related to the long-term revenue-sharing arrangement with the State of Rhode Island;
- 2) the completion of the Lincoln Park Reorganization;
- 3) the receipt of regulatory approval from the Lottery Commission; and

- 4) the consummation and closing of the Current Transaction and the other transactions contemplated by the Stock Purchase Agreement (the agreement between BLB and Wembley, PLC for BLB to purchase Lincoln Park by purchasing Wembley, Inc.*).

Furthermore, the Hearing Officer recommends that granting of such a transfer of License be contingent on BLB complying with the following terms and conditions to ensure that operations at Lincoln Park continue to be consistent with the best interests of the State of Rhode Island:

- 1) BLB and its officers, directors and 5% owners agree to submit to an annual License renewal process through which they will be subject to criminal background checks and required to affirm that there have been no material adverse changes to their applications on file with the Department;
- 2) BLB agrees to continued compliance with the current rules and regulations of the Department and the Lottery Commission as well as any such rules and regulations that may be promulgated from time to time;
- 3) BLB agrees to adopt and implement (within 180 days following the closing of the Current Transaction) industry "best practice" codes, standards and procedures relating to the business and operations at Lincoln Park, including, but not limited to, such areas as: accounting and internal controls; financial reporting and audited financial statements; internal audit and compliance; record retention; gaming facility revenue and net terminal income computation; business ethics; personnel and employee policies and practices; cash handling and management; surveillance and security; risk and facility management; asset preservation; corporate governance and legal compliance; vendor and contractor selection; and such other areas as shall be deemed appropriate by the Department;
- 4) BLB agrees to submit to periodic examinations by the Department of the business and operations of Lincoln Park;
- 5) BLB agrees to grant the Department access to all books, records, facilities, and personnel of business and operations at Lincoln Park as well as the entities who directly own or operate Lincoln Park;
- 6) BLB agrees that if a gaming license or permit applied for or granted to BLB or any of its principals in another jurisdiction is revoked or denied, the Department may revoke or deny BLB's permit in Rhode Island if, after an independent investigation, it agrees with the conclusions reached in the other jurisdiction; provided, however, if the revocation or denial involved a principal of BLB and not BLB itself, and BLB caused the affected

principal to completely divest its interest in BLB, and such principal shall no longer be affiliated with BLB through any affiliate or otherwise, then the divestiture of such affected principal may eliminate the need for an independent investigation by the Department and the revocation or denial of the divested principal in the other jurisdiction shall not be the sole basis for the revocation or denial by the Department of BLB's License in Rhode Island;

- 7) BLB agrees generally to cooperate with the Department to ensure the soundness of the business and operations at Lincoln Park; and
- 8) BLB agrees to reimburse and pay to the Department (or to such entities that the Department may identify) all reasonable costs and expenses associated with the Department's oversight over and review of the business or operations at Lincoln Park, including such items as ongoing auditing, investigation, veterinarian services and other related matters.

Furthermore, if the consummation and closing of the proposed Current Transaction and other transactions contemplated by the Stock Purchase Agreement does not close within ninety (90) days, the Department has the discretion to reconsider all issues and make any order as deemed appropriate.

Dated: 5/27/05



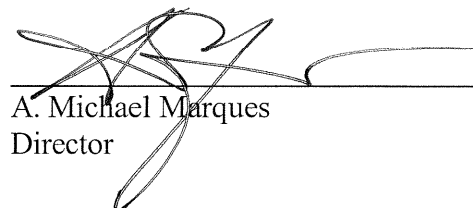
Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

☒ ADOPT
☐ REJECT
☐ MODIFY

Dated: 5/27/05



A. Michael Marques
Director

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this 27th day of May, 2005 that a copy of the within Decision and Notice of Appellate Rights was sent by first class mail, postage prepaid to

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and by hand delivery to Louis DeQuattro, Esquire, Department of Administration, One Capitol Hill, Providence, RI 02903 and Jeffrey Greer, Associate Director, Department of Business Regulation, 233 Richmond Street, Providence, RI 02903.

A Brooke Ellison