

STATE OF NEW JERSEY
DIVISION OF GAMING ENFORCEMENT
PETITION No. 2611401

_____)
IN THE MATTER OF THE PETITION)
OF FERTITTA ACQUISITIONSCO,)
LLC, d/b/a ULTIMATE GAMING)
FOR APPROVALS NECESSARY)
FOR THE CESSATION OF IGAMING))
OPERATIONS AND PERMISSION)
TO WITHDRAW ITS CASINO)
SERVICE INDUSTRY ENTERPRISE)
LICENSE APPLICATION)
_____)

ORDER

WHEREAS, FERTITTA ACQUISITIONSCO, LLC d/b/a ULTIMATE GAMING (hereinafter "Ultimate Gaming"), is an applicant for a gaming related CSIE licensee, pursuant to *N.J.S.A. 5:12-92a*; and

WHEREAS, Trump Taj Mahal Associates, LLC, d/b/a Trump Taj Mahal (hereinafter "Trump Taj Mahal") holds a casino licensee with a valid operation certificate and has been issued a permit to conduct Internet gaming pursuant to *N.J.S.A. 5:12-95.21*; and

WHEREAS, on June 24, 2013, Ultimate Gaming and Trump Taj Mahal entered into an Online Gaming Agreement; and

WHEREAS, on November 8, 2013, pursuant to *N.J.S.A. 5:12-92a(1)* and *N.J.A.C. 13:69J-1.2(b)*, a transactional waiver was granted to Ultimate Gaming and Trump Taj Mahal permitting igaming business to be conducted; and

WHEREAS, September 3, 2014, Ultimate Gaming served Trump Taj Mahal with written notice that Ultimate Gaming was terminating the Agreement; and

WHEREAS, by letter dated September 10, 2014, the Director instructed Ultimate Gaming to maintain the status quo with regard to the gaming websites and, further, that there be no interruption, interference, or termination of gaming offered by Ultimate Gaming without an explicit Order from the Division; and

WHEREAS, Ultimate Gaming filed a Petition, PRN 2611401, with the Division on September 18, 2014, seeking declaratory rulings related to the cessation of internet gaming operations and the withdrawal of its application for a gaming related CSIE; and

WHEREAS, Ultimate Gaming seeks approval of the procedures it submitted regarding Notice(s) to the public related to the cessation of internet gaming activity. Specifically, Ultimate Gaming represents that:

- a) The notices will include the date of cessation and information regarding the closure of their accounts, the redemption of other liabilities, the termination of promotions and the handling of their data;
- b) All registered players will be notified via email to the address provided when each player registered;
- c) Prominent banner notifications within the casino and poker client will be posted;
- d) Prominent notifications will be posted on the websites www.ucasino.com and www.ultimatepoker.com; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures notifying the public of the cessation of Internet gaming are approved, subject to the following:

- i. Ultimate Gaming shall maintain its websites for 60 days from the date of this Order to facilitate the proper distribution of patron promotional benefits;
- ii. Ultimate Gaming shall provide confirmation to the Division that notices were sent to registered patrons in accordance with its representations; and;
- iii. Ultimate Gaming shall obtain prior approval of the Division before it deactivates its websites; and

WHEREAS, Ultimate Gaming seeks approval of the procedures it submitted regarding the protection of patron funds. Specifically, Ultimate gaming represents that:

- a) All player funds will remain in the player account until paid out as part of the player withdrawal process;
- b) Following the cessation of igaming, patrons will no longer be able to deposit funds into their accounts;
- c) All patrons will be requested, via E-mail notification, to close their accounts and withdraw all account balances;
- d) Any patron account having an account balance one week following the initial E-mail notification will be advised, via E-mail, to withdraw any remaining balance and will be further advised that any remaining balance will be returned to each such person paid by check;
- e) Two (2) weeks after the initial notification, all accounts with a remaining balance will be closed and balances will be sent by check to the customer's registered mailing address;
- f) With the cooperation of Trump Taj Mahal, the player account and player disbursement account will be closed when all player amounts have been dispersed;
- g) With the cooperation of Trump Taj Mahal, the ACH account, the revenue account, and the incoming funds account will become inactive at the cessation of igaming;
- h) Both the revenue account, and the incoming funds account will all be closed in an orderly fashion within approximately two (2) months; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures to notify its patrons of the procedures to protect patron funds associated with Internet gaming are approved, subject to the following:

- i. Trump Taj Mahal shall cooperate in all respects with Ultimate gaming in the process of returning funds to patrons;
- ii. Ultimate Gaming shall provide confirmation to the Division that notices were sent to registered patrons in accordance with its representations; and
- iii. Ultimate Gaming shall provide to the Division an accounting and reconciliation of patron account balances within 30 days following the cessation of igaming operations;
- iv. Any checks issued to patrons as a refund which remain uncashed will be considered a dormant account in accordance with the statute and regulations;

- v. The bank account utilized to return funds to patrons shall remain active for 1 year from the date of cessation of igaming; and

WHEREAS, Ultimate Gaming seeks approval of the procedures it submitted regarding the removal of igaming equipment from the premises of Trump Taj Mahal and/or its affiliate. Specifically, Ultimate Gaming represents that:

- a) The server equipment will be deactivated on the date the igaming site closes;
- b) In the presence of its Chief Technology Officer, the server equipment will be secured and shipped to Ultimate Gaming's location;
- c) All player data and internal control procedures will remain in effect until the equipment is deactivated; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures regarding the removal of the igaming equipment are approved, subject to the following:

- i. The igaming equipment may be deactivated immediately provided that Ultimate Gaming's websites remain operational for the purposes of this Order;
- ii. Ultimate Gaming shall promptly notify Trump Taj Mahal and the Division of the date on which the igaming equipment will be removed; and
- iii. Ultimate Gaming shall certify to the Division that the equipment has been deactivated, secured and shipped; and

WHEREAS, Ultimate Gaming seeks approval of the procedures it submitted regarding the retention of records. Specifically, Ultimate Gaming represents that:

- a) Immediately upon deactivation the complete database will be reproduced in three copies;
- b) One copy of the database will be provided to Trump Taj Mahal;
- c) One copy of the database will be provided to the Division;
- d) One copy of the database will be retained by Ultimate Gaming in its Las Vegas location under the direction of its Chief Technology Officer;

- e) Ultimate Gaming will provide support to the Division regarding any requests for reports or other information;
- f) Ultimate Gaming will retain its copy of the database for a period of five (5) years as required by *N.J.A.C. 13:69J-1.9*; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures regarding the retention of records are approved, subject to the following:

- i. Ultimate Gaming shall retain the complete database for a period of 10 years as required by *N.J.A.C. 13:69O-1.8(d)*; and
- ii. The deactivated hardware must be purged of all patron data prior to its removal from the premises of Trump Taj Mahal or its affiliate; and;

WHEREAS, Ultimate Gaming seeks approval of the procedures it submitted regarding promotional activities. Specifically, Ultimate Gaming represents that:

- a) No new promotions will be implemented effective with the cessation of igaming;
- b) All existing promotions will be removed or halted; and
- c) Unused "Upoints" shall be forfeited; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures regarding promotional activities are approved, subject to the following:

- i. Ultimate Gaming shall, for a period of 60 days, honor all promotional benefits which have accrued to patrons prior to the cessation of igaming activity by permitting withdrawal or redemption;
- ii. Ultimate Gaming shall submit to the Division procedures to enable patrons to use accrued but unused "Upoints" after cessation of igaming; and
- iii. Ultimate Gaming shall provide to the Division an accounting of all promotional benefits which have accrued to patrons but which are outstanding on the date of cessation of igaming activity; and

WHEREAS, Ultimate Gaming seeks approval of the procedures it submitted regarding patron complaints and inquiries. Specifically, Ultimate Gaming represents that:

- a) Patron inquiries will be directed to Trump Taj Mahal for a period of 30 days following the disbursement of patron funds;
- b) Ultimate Gaming will provide support to the licensee for an additional term of 60 days; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures regarding patron complaints and inquiries are approved, subject to the following:

- i. Trump Taj Mahal shall cooperate with Ultimate Gaming in responding to patron complaints and inquiries;
- ii. Ultimate Gaming shall, until deactivation, provide notice to patrons on its website regarding the process to make inquiry or file a patron complaint;
- iii. Ultimate Gaming shall provide support to the licensee and/or the Division to respond to patron complaints and inquiries for 6 months; and
- iv. Ultimate Gaming shall submit a summary report to the Division of patron inquiries and complaints, including the number, a description of the inquiry and the resolution of the inquiry or complaint; and

WHEREAS, Ultimate Gaming seeks approval for procedures related to the payment of fees and taxes. Specifically, Ultimate Gaming represents that its Monthly Internet Gross Revenue Report, required pursuant to *N.J.A.C. 13:69J-1.6(e)1*, will be timely filed; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures related to the payment of fees and taxes are approved, subject to the following:

- i. All fees, interest, penalties and taxes will be paid in accordance with applicable statutes and regulations;
- ii. The Monthly Internet Gross Revenue Report shall be filed on the 10th calendar day of the month as required by *N.J.A.C. 13:69D-1.6(e)1* and *N.J.A.C. 13:69L-1.7(b)*; and
- iii. All costs associated with the investigation of the CSIE application of Ultimate Gaming will be paid; and

WHEREAS, Ultimate Gaming seeks approval of the various miscellaneous procedures associated with an orderly cessation of igaming activity it submitted. Specifically, Ultimate Gaming represents that:

- a) All W2-G reports will be delivered to patrons and filed with the IRS in accordance with Federal requirements;
- b) All AML reports in progress will be completed and filed in accordance with Federal Requirements;
- c) Taj Mahal and Ultimate Gaming will continue to cooperate with investigations by the Division or the New Jersey State Police which are currently underway or pending; and the Division having considered the law and the submission of Ultimate Gaming;

IT IS ORDERED that the procedures related to various miscellaneous procedures associated with an orderly cessation of igaming, subject to the following:

- i. Trump Taj Mahal is directed to cooperate with the Division and the New Jersey State Police in any and all investigations which are currently underway or which may be prospectively initiated; and
- ii. Ultimate Gaming shall establish procedures to provide patrons, upon request, with detailed account of activity for the 6 months preceding the request and/or a summary statement of all patron activity during the past year as required by *N.J.A.C. 13:69O-1.3*; and
- iii. Ultimate Gaming shall comply with all State, County and Municipal laws, regulations, ordinances and rulings; and

WHEREAS, Ultimate Gaming, pursuant to *N.J.A.C. 13:69A-8.6*, seeks permission to withdraw its application for a CSIE license. Specifically, Ultimate Gaming represents that:

- a) It no longer desires to continue with its application as it no longer has any business with New Jersey casinos;
- b) It does not intend to do business with New Jersey casinos in the near future; and the Division having considered the law and the submission of Ultimate Gaming;

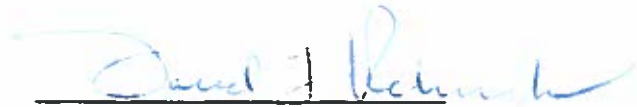
IT IS ORDERED that Ultimate Gaming be permitted to withdraw its application for a CSIE license, pursuant to *N.J.A.C. 13:69A-8.6*, subject to the following:

- i. Ultimate Gaming shall pay all remaining fees and costs associated with the investigation of its CSIE application; and

- ii. Ultimate Gaming shall not conduct business, directly or indirectly, in the State of New Jersey without first having completed a filing for a new application for licensure and obtaining a transactional waiver as required by law;

I **HEREBY ORDER** that the relief requested by Ultimate Gaming is granted subject to the conditions set forth above.

Dated: September 19, 2014



DAVID L. REBUCK
DIRECTOR