

ORDER 2007-8
ORDER OF THE INDIANA GAMING COMMISSION
APPROVING SETTLEMENT AGREEMENT
RE: ANDRES J. MARTINEZ

On January 23, 2007, the staff of the Indiana Gaming Commission ("Commission") sent a letter to Mr. Andres J. Martinez, Occ. Lic. No. RS8676-L3, which offered to settle a possible disciplinary matter before filing a complaint and pursuing disciplinary action. The matter necessitated consideration of disciplinary action due to the fact that Mr. Martinez was arrested on or about August 31, 2006 for the alleged commission of felony Operating While Intoxicated, and failed to report the arrest to the Commission or Resorts officials until approximately December 1, 2006, by which time Mr. Martinez had pleaded guilty to Class A misdemeanor OWI. By failing to report the arrest in a timely fashion, Mr. Martinez violated 68 IAC 2-3-9.1.

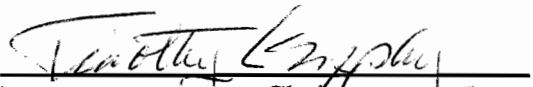
Commission staff and Mr. Martinez have agreed on a settlement of this matter. The terms of the settlement agreement have been reduced to writing, and in pertinent part, provide the following:

The above described actions of Licensee constitute a violation of Title 68 of the Indiana Administrative Code. The Commission and Licensee agree that a period of suspension of Licensee's occupational license shall be imposed on Licensee in settlement of this action. By agreement, Licensee's occupational license shall be suspended for one (1) working day at a time to be determined by the parties in cooperation with the Human Resources Department of Resorts East Chicago. Licensee will not work his regularly scheduled shift as a Porter at Resorts East Chicago during this period of suspension. Licensee agrees that no vacation or paid leave time shall be used while serving his suspension.

Having considered the foregoing, the Commission hereby APPROVES the proposed terms of the settlement agreement.

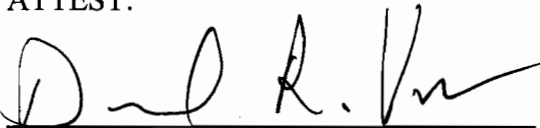
IT IS SO ORDERED THIS THE 8TH DAY OF MARCH, 2007:

THE INDIANA GAMING COMMISSION:



Timothy L. Murphy, Vice-Chair

ATTEST:



Donald R. Vowels, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE LICENSE OF:

**ANDRES J. MARTINEZ
LICENSE NO. RS-0676- L3**

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MATTER NO: 07-OL-RS-01

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (“Commission”), by and through its Executive Director Ernest E. Yelton, and Andres J. Martinez (“Licensee”) desire to settle and compromise this matter in lieu of a disciplinary action. In furtherance of this desire, the parties agree to the following recitations and settlement:

RECITATIONS OF LAW AND FACT

1. IC 4-33-8-8(4) provides that the Commission may suspend, revoke, or restrict an occupational licensee for any just cause.
2. 68 IAC 2-3-10 states in part that: “[i]f the commission determines that an occupational licensee is in violation of this rule or IC 4-33-8, the commission may initiate a disciplinary proceeding to revoke, restrict, or take any other disciplinary action with respect to the occupational license pursuant to 68 IAC 13.”
3. 68 IAC 13-1-18 states that settlement offers may be made at any time prior to the final disposition of an action, including prior to the initiation of proceedings.
4. As stated in 68 IAC 2-3-9.1 (in part):
 - (b) All occupational licensees must submit, in writing, to the commission agent the following information:
 - (5) That the occupational licensee has been arrested for, indicted of, charged with, convicted of, or plead guilty to any felony or misdemeanor offense.
 - (c) The written document setting forth the above information required by subsection (b) must also set forth the name and occupational license number of the individual.
 - (d) The written document must be submitted within ten (10) calendar days of the change or the occurrence of the event.
5. On or about October 18, 2000, Mr. Andres J. Martinez submitted a level 3 occupational license application to the Commission to work for (what is now) Resorts East Chicago. Licensee was issued a temporary level 3 occupational license on or about the same date.
6. On or about September 26, 2003, Licensee was issued a permanent occupational license.

7. On or about December 1, 2006, the Licensee submitted an Employee Personal Information Change Form, which included a disclosure that Licensee was arrested for Operating While Intoxicated on August 31, 2006.
8. Licensee submitted official documentation to the Commission showing that he pled guilty to Operating While Intoxicated, a Class A Misdemeanor.
9. Licensee failed to submit to a Commission Agent in writing the information relating to his arrest within ten (10) calendar days of the occurrence of the event, in violation of 68 IAC 2-3-9.1.
10. On January 23, 2007, Commission staff mailed a letter to Licensee offering settlement in lieu of disciplinary action.
11. On January 29, 2007, Licensee agreed to the terms set forth in Commission staff's settlement offer.

SETTLEMENT AGREEMENT

The above described actions of Licensee constitute a violation of Title 68 of the Indiana Administrative Code. The Commission and Licensee agree that a period of suspension of Licensee's occupational license shall be imposed on Licensee in settlement of this action. By agreement, Licensee's occupational license shall be suspended for one (1) working day at a time to be determined by the parties in cooperation with the Human Resources Department of Resorts East Chicago. Licensee will not work his regularly scheduled shift as a Porter at Resorts East Chicago during this period of suspension. Licensee agrees that no vacation or paid leave time shall be used while serving this suspension.

Licensee agrees to surrender his badge to the Human Resources Department at Resorts East Chicago at or before the time his shift would otherwise begin on the day of his suspension and may retrieve his badge after twenty-four (24) hours elapses from the time he turns in his badge, at which time he will be eligible to return to work. Licensee agrees that his failure to comply with this Settlement Agreement will result in further disciplinary action against his occupational license.

Upon execution and approval of this Settlement Agreement, Licensee waives all rights to an administrative hearing under 68 IAC 13 and judicial review. This agreement is subject to the approval of the Commission. Approval by the Commission makes this agreement a final Commission action. This Settlement Agreement shall be binding upon the Commission and Licensee.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement as set forth below.

 Ernest E. Yelton, Executive Director
 Indiana Gaming Commission

 Andres J. Martinez
 Occupational License Number RS8676-L3

Date: _____

Date: _____