

**STATE OF ILLINOIS
ILLINOIS GAMING BOARD**

Lucky Lincoln Gaming, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 24-UP-004
	)	
La Oficina Bar and Gaming, Inc.,	)	
d/b/a La Oficina Bar and Gaming Inc.,	)	
	)	
Respondent.	)	

RE: La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc. (Lic. No. 240700053)

FINAL BOARD ORDER

This cause is before the Illinois Gaming Board (the "Board") pursuant to the Video Gaming Act, 230 ILCS 40, and Section 1800.320(b) of the Board's Adopted Rules (the "Rules"). 11 Ill. Adm. Code 1800.320.

The Board has before it the entire record of *Lucky Lincoln Gaming, LLC, Petitioner v. La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc., Respondent, In Re La Oficina*, Docket No. 24-UP-004. The record includes the Petition, all Responses and other documents properly submitted, the Administrator's Recommended Decision, and all filed Exceptions. After careful review and consideration of the entire record the Board hereby:

- (1) Declines to address arguments and allegations in the Exceptions that go beyond the scope of Rule 320;
- (2) Adopts the Administrator's Recommended Decision as a Final Board Order; and
- (3) Grant in part, and deny in part, Lucky Lincoln's Petition.

This Final Order is subject to judicial review under the Administrative Review Law pursuant to 230 ILCS 10/17.1. The Board's Rules do not permit motions to reconsider this Order.

VOTED THIS 24th DAY OF OCTOBER 2024


Charles Schmadeke, Chairman


Dionne R. Hayden


James Kolar


Sean Brannon

**STATE OF ILLINOIS
ILLINOIS GAMING BOARD**

Lucky Lincoln Gaming, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 24-UP-004
	)	
La Oficina Bar and Gaming, Inc.,	)	
d/b/a La Oficina Bar and Gaming Inc.,	)	
	)	
Respondent.	)	

RE: La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc. (Lic. No. 240700053)

ADMINISTRATOR’S RECOMMENDED DECISION

This dispute comes before the Illinois Gaming Board (the “Board”) under Section 1800.320(b) of the Board’s Adopted Rules (the “Rules”). 11 Ill. Adm. Code 1800.320(b). This Recommendation issues under Rule 320(b)(6). 11 Ill. Adm. Code 1800.320(b)(6).

On February 9, 2024, terminal operator Lucky Lincoln Gaming, LLC (“Lucky Lincoln”) filed a Petition pursuant to 11 Adm. Code 1800.320(b)(1) asking the Board to: (1) declare a March 2, 2023 agreement between La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc., (“La Oficina”) and Lucky Lincoln (the “Lucky Lincoln Agreement”) as a valid and enforceable use agreement controlling the placement and operation of video gaming terminals (“VGTs”) in La Oficina; (2) declare any Use Agreements entered into between La Oficina and any other terminal operator after March 2, 2023 invalid and unenforceable; (3) declare any Use Agreement between La Oficina and any other terminal operator with dates overlapping the Lucky Lincoln Agreement as invalid and unenforceable. La Oficina did not file a response to

Lucky Lincoln’s Petition as permitted by Rule 320(b)(3). 11 Ill. Admin. Code 1800.320(b)(3). On March 5, 2024, Accel Entertainment Gaming, LLC (“Accel”) filed a timely Response as a party in interest pursuant to Rule 320. *Id.*

After considering the submissions, and for the following reasons, I recommend the Board grant in part, and deny in part, Lucky Lincoln’s Petition.

I. JURISDICTION

The Video Gaming Act (the “VGA”) confers jurisdiction and authority upon the Board to supervise all video gaming operations in Illinois. 230 ILCS 40/78; *J&J Gaming Ventures, LLC v. Wild, Inc.*, 2016 IL 119870 ¶¶ 3, 39-40. The Board has all powers necessary and proper to effectively execute the VGA, including authority to adopt regulations for the purpose of administering the VGA and “provide for the prevention of practices detrimental to the public interest and for the best interests of video gaming.” *Wild*, 2016 IL 119879 ¶ 3. The VGA provides “a comprehensive statutory scheme that vests jurisdiction over video gaming operations” with the Board. *Id.* ¶ 42. The Board’s broad authority over all aspects of video gaming includes the “exclusive, original jurisdiction” to determine the validity and enforceability over agreements that “purport to control placement and operation of video gaming terminals.” *Id.*; *see also*, 11 Ill. Adm. Code 1800.320(b)(1).

II. RELEVANT BACKGROUND

On March 2, 2023, Lucky Lincoln and La Oficina signed the Lucky Lincoln Agreement for the placement and operation of VGTs in La Oficina. (Petition ¶ 3, Ex. A.) When La Oficina signed the Lucky Lincoln Agreement, La Oficina was neither licensed by the Board nor an applicant for a video gaming establishment license. (Petition ¶ 4.) However, within one year of signing the Lucky Lincoln Agreement, La Oficina applied to become a licensed video gaming

establishment on January 13, 2024. (Petition ¶ 4; *Comprehensive List of Applicants and Licensees: Pending Applicants*, <https://www.igb.illinois.gov/VideoLists.aspx> (last visited September 11, 2024)¹.)

Shortly afterwards, on February 9, 2024, Lucky Lincoln filed this Petition alleging that La Oficina had “signed an additional agreement with a different Terminal Operator, Accel Entertainment, after executing” its agreement with Lucky Lincoln. (Petition ¶ 6.) Lucky Lincoln did not identify any other agreement between La Oficina and another Terminal Operator.

On February 14, 2024, Board staff served a copy of Lucky Lincoln’s Petition on La Oficina and Accel pursuant to 11 Ill. Admin. Code 1800.320(b)(3). Accel responded to the Petition on March 5, 2024. La Oficina did not file a Response.

On September 12, 2024, the Board granted La Oficina a video gaming establishment license. *See, View Licensees Approved by Board at Meeting Date: 9/12/2024*, <https://www.igb.illinois.gov/VideoLists.aspx> (last visited September 16, 2024).²

III. DISCUSSION

In its Petition, Lucky Lincoln claims the Lucky Lincoln Agreement controls the installation and operation of VGTs in La Oficina because La Oficina signed the Lucky Lincoln Agreement before endorsing its agreement with Accel (the “Accel Agreement”), and La Oficina later applied for a video gaming establishment license within one year of signing the Lucky Lincoln Agreement.

After receiving a copy of the Petition, Accel filed a response confirming that Accel is an interested party to Lucky Lincoln’s Petition. (Response at 1.) Accel, however, did not address

¹ The Board may take notice of public records it maintains. *See, e.g., May Department Stores Co. v. Teamsters Union Local No. 743*, 64 Ill.2d 153, 159 (1976); *First State Bank v. Leffleman*, 167 Ill. App. 3d 362, 367 (2nd. Dist. 1988).

² *See supra* note 1.

any substantive allegations in the Petition. Nor did Accel submit a copy of the Accel Agreement or provide the date of its execution. Instead, Accel asked the Administrator to stay consideration of the Petition until such time as the Board approved or denied La Oficina’s video gaming license application. (*Id.*)

As an initial matter, this Recommendation reviews Lucky Lincoln and Accel’s compliance with the pleading requirements of Rule 320(b). Rule 320(b)(1) permits the Board to “to determine the validity or enforceability of *an agreement*, or portion of *an agreement*, that purports to control” the placement and operation of VGTs in an establishment. 11 Ill. Admin. Code 1800.320(b)(1) (emphasis added). Lucky Lincoln’s Petition complies with Rule 320(b)(1) by identifying the Accel Agreement. However, the Petition also asks the Board to find invalid and unenforceable “*any Use Agreement* entered into between La Oficina and any other terminal operator after March 2, 2023,” and “*any Use Agreement*” with effective dates overlapping the Lucky Lincoln Agreement. (Petition at 3 (emphasis added).) Since the Petition does not identify those other agreements, this Recommendation considers only whether the Lucky Lincoln Agreement is valid and enforceable, and superior to the Accel Agreement.

Like Lucky Lincoln’s Petition, Accel’s response also fails to meet the pleading requirements of Rule 320; in this instance by not providing “[a] clear and concise statement admitting or denying” the allegations in Lucky Lincoln’s Petition. 11 Ill. Admin. Code 1800.320(b)(3)(B). Instead, Accel’s response requests that the Administrator stay consideration of the Petition. However, Accel’s request for a stay is not contemplated by Rule 320. *See generally*, 11 Ill. Admin. Code 1800.320. In fact, Rule 320 anticipates the opposite by (1) permitting a terminal operator to file a Petition before the Board grants or denies an establishment license to an applicant, (*see generally*, 11 Ill. Admin. Code 1800.320(b)), and (2)

requiring any Response to a Petition to be filed within 21 days of service. 11 Ill. Admin. Code 1800.320(b)(3)(B). Additionally, while Rule 320 recognizes the superiority of first-in-time agreements only after an establishment is licensed, (11 Ill. Admin. Code 1800.320(a)(2)), this does not abrogate Rule 320’s requirement that a Response address the claims in a Petition.

Notwithstanding Accel’s failure to respond properly to Lucky Lincoln’s Petition, a Recommendation is appropriate and equitable based upon the application of Rule 320 to the following information properly before the Board. First, as noted above, the Petition record establishes March 2, 2023, as the uncontested date La Oficina executed the Lucky Lincoln Agreement. (Petition ¶ 3, Ex. A.) Second, a review of the Board’s records confirms that Accel and La Oficina signed the Accel Agreement on December 5, 2023.³ Third, both the Petition record and public records available on the Board’s website establish that La Oficina applied for a video gaming establishment license within one year of signing the Lucky Lincoln Agreement on January 13, 2024. (Petition ¶ 4; *Comprehensive List of Applicants and Licensees: Pending Applicants*, <https://www.igb.illinois.gov/VideoLists.aspx> (last visited September 11, 2024).) Finally, the Board granted La Oficina a video gaming establishment license on September 12, 2024. *See, View Licensees Approved by Board at Meeting Date: 9/12/2024*, <https://www.igb.illinois.gov/VideoLists.aspx> (last visited September 16, 2024).

Pursuant to Rule 320 a Use Agreement is as an agreement between “[a] licensed terminal operator that, beginning July 15, 2014, is licensed by the Board at the time the Use Agreement is signed” and “any person that applies to become a licensed video gaming location within one year of executing the Use Agreement.” 11 Ill. Admin. Code 1800.320(a)(1). Because Lucky Lincoln and Accel were licensed terminal operators when La Oficina signed the Lucky Lincoln and

³ See *supra* note 1.

Accel Agreements, and since La Oficina applied within one year of signing the Lucky Lincoln Agreement, both agreements are Use Agreements under Rule 320.

Rule 320 further provides that, if an applicant for video gaming establishment license is licensed by the Board, the “first-in-time Use Agreement, and any amendments thereto, shall control from the date the Use Agreement is executed, and be superior to any Use Agreements executed by the applicant after the first-in-time Use Agreement’s execution.” 11 Ill. Admin. Code 1800.320(a)(2). As noted above, the Board granted La Oficina a video gaming establishment license on September 12, 2024. At that point, the first-in-time Lucky Lincoln Agreement controlled the installation of VGTs in La Oficina from March 2, 2023, forward, and became superior to the later executed Accel Agreement.

Lastly, a review of the Lucky Lincoln Agreement shows that it meets the remaining minimum requirements for Use Agreements listed in Rule 320(a).

Accordingly, I recommend the Board grant Lucky Lincoln’s Petition with respect to the Accel Agreement and deny Lucky Lincoln’s Petition with respect to any agreements not identified in the Petition.

IV. CONCLUSION

For the foregoing reasons, I recommend that the Board enter an Order:

1. Adopting this Recommended Decision;
2. Declaring the Lucky Lincoln Agreement to be a valid and enforceable Use Agreement;
3. Declaring that the Lucky Lincoln Agreement controls the placement and operation of VGTs in La Oficina from the date of its execution on March 2, 2023, and is superior to the later in time Accel Use Agreement;
4. Denying Lucky Lincoln’s request for a finding that any Use Agreement entered into between La Oficina and any terminal operator after March 2, 2023, that are not identified in this Petition, are invalid and unenforceable;

5. Denying Lucky Lincoln's request for a finding that any Use Agreement between La Oficina and any terminal operator with dates overlapping the Lucky Lincoln Agreement, that are not identified in this Petition, are invalid and unenforceable;
6. Directing Accel to remove its VGTs from La Oficina within seven (7) calendar days of the entry of a Final Board Order; and
7. Directing that all further proceedings be cancelled, and this matter concluded.

Pursuant to Rule 320(b)(7), any party to this Petition wishing to file exceptions must do so by 5:00 p.m. central standard time on the 14th day after receipt of this Recommend Decision.

DATED: October 2, 2024

RESPECTFULLY SUBMITTED,

A large black rectangular redaction box covering the signature of Marcus D. Fruchter.

**MARCUS D. FRUCHTER, ADMINISTRATOR
ILLINOIS GAMING BOARD**

SERVICE LIST

Pursuant to Board Rules 1800.320(b)(12), and 1800.140, this Final Order is being served via e-mail upon all parties of record to *Lucky Lincoln Gaming, LLC, Petitioner* (“Lucky Lincoln”) v. *La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc., Respondent* (“La Oficina”), *In Re La Oficina*, Docket No. 24-UP-004 at the following addresses:

Attorneys for Lucky Lincoln Gaming, LLC

Michael J. McGrath

Lauren M. DaValle

Odelson, Murphey, Frazier & McGrath, LTD.

MMcgrath@omfmlaw.com

LDavalle@omfmlaw.com

Jeffery Rehberger

Lucky Lincoln Gaming, LLC

3945 N. Neenah Ave

Chicago, IL 60634

jeff@luckylincolngaming.com

Jeffrehberger01@gmail.com

Attorneys for Accel Entertainment Gaming, LLC

Derek Harmer

James Pllum

Emily Mattson

20W267 101st Street, Unit C

Lemont, IL 60439

DerekH@accelentertainment.com

jimp@accelentertainment.com

eblawfirm@outlook.com

Miguel Guzman

La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc.

8412 Collinsville Rd.

Collinsville, IL 62234

MIGUELGUZMAN1322@GMAIL.COM

CERTIFICATE OF SERVICE

I, Agostino Lorenzini, certify that on October 24, 2024, I served a copy of the attached Final Order to all parties of record in *Lucky Lincoln Gaming, LLC, Petitioner* (“Lucky Lincoln”) v. *La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc., Respondent* (“La Oficina”), *In Re La Oficina*, Docket No. 24-UP-004 to the following e-mail addresses:

Attorneys for Lucky Lincoln Gaming, LLC

Michael J. McGrath

Lauren M. DaValle

Odelson, Murphey, Frazier & McGrath, LTD.

MMcgrath@omfmlaw.com

LDavalle@omfmlaw.com

Jeffery Rehberger

Lucky Lincoln Gaming, LLC

3945 N. Neenah Ave

Chicago, IL 60634

jeff@luckylincolngaming.com

Jeffrehberger01@gmail.com

Attorneys for Accel Entertainment Gaming, LLC

Derek Harmer

James Pllum

Emily Mattson

20W267 101st Street, Unit C

Lemont, IL 60439

DerekH@accelentertainment.com

jimp@accelentertainment.com

eblawfirm@outlook.com

Miguel Guzman

La Oficina Bar and Gaming, Inc. d/b/a La Oficina Bar and Gaming Inc.

8412 Collinsville Rd.

Collinsville, IL 62234

MIGUELGUZMAN1322@GMAIL.COM

Agostino Lorenzini

Illinois Gaming Board

160 North LaSalle, Ste. 300

Chicago, IL 60601