



Offices of the
Inspector General

LUCY LANG
Inspector General

Empire State Plaza • Agency Building 2, 16th Floor • Albany, New York 12223 • (518) 474-1010 • ig.ny.gov

February 14, 2022

Hope Knight, Esq.
President and CEO-designate and Acting Commissioner
Empire State Development
633 Third Avenue, Floor 37
New York, NY 10017

Re: NYS IG 4732-319-2017

Dear President and CEO-designate and Acting Commissioner Knight:

On December 22, 2017, the Offices of the New York State Inspector General received a complaint about Minority- and Women-Owned Business Enterprise (M/WBE) compliance on the Tioga Downs Racetrack, LLC gaming facility capital project. During the investigation of that complaint, the Inspector General found that Mil-Ray Food Company (Mil-Ray), a certified MBE and WBE purportedly used on the project, performed no “commercially useful function” and instead acted as a “pass-through” entity for billing purposes.¹

By way of background, Tioga Downs was awarded a commercial gaming facility license on August 30, 2016, and undertook a construction project to expand its “racino” gambling facilities into a casino. All work on the project was subject to M/WBE requirements. The casino project was completed in or around September 2018.

In order to meet its M/WBE obligations, Tioga Downs contracted with Mil-Ray, a New Jersey-based company, to supply food to the casino project. However, the investigation found that two other food vendors, non-M/WBE suppliers Sysco Corporation and Maines Paper & Food Service, Inc. (Maines), instead provided these food supplies. Both Sysco and Maines had existing contracts with Tioga Downs at its racino.² Mil-Ray, acting only as a pass

¹ Tioga Downs listed Mil-Ray on utilization reports as an MBE for Q1 and Q2 of FY 2017-18 and subsequently listed it as a WBE for Q3 and Q4 of 2017-18 and Q1 and Q2 of 2018-19.

² In 2016, Tioga Downs paid Sysco \$636,043 and Maines \$1,194,883 for food for its restaurants.

through, then submitted invoices to Tioga Downs in which it misrepresented that it had supplied the food at issue to Tioga Downs.

Through these false representations, Tioga Downs was able to claim approximately \$3 million in M/WBE utilization credit on the project while Mil-Ray performed no commercially useful function.

Given these findings, the Inspector General recommends that Empire State Development (ESD) review Mil-Ray's continuing certification as a New York State MBE and WBE. The Inspector General's case file detailing the investigation of Mil-Ray is available for ESD's review.

Please advise me of any action taken by ESD in response to this recommendation within 45 days of this letter. If you require further information, please contact Deputy Inspector General Jeffrey J. Hagen at 716.847.7118.

Sincerely,



/ Robyn Adair
Chief Deputy Inspector General

cc: Goldie Weixel, Esq.
Acting General Counsel