

OHIO CASINO CONTROL COMMISSION

RESOLUTION 2013-18

CONSIDERATION OF PENN NATIONAL GAMING INC.'S PROPOSED DEBT TRANSACTION RELATED TO ITS CORPORATE RESTRUCTURING AND REIT FORMATION

WHEREAS, Article XV, Section 6(C)(4) of the Ohio Constitution created the Ohio Casino Control Commission ("Commission") to ensure the integrity of casino gaming by, among other things, licensing and regulating all gaming authorized by Article XV, Section 6(C) of the Ohio Constitution;

WHEREAS, R.C. 3772.03 authorizes the Commission to adopt regulations as are necessary for completing the functions of licensing, regulating, investigating, and penalizing, among others, casino operators, management companies, and holding companies;

WHEREAS, R.C. 3772.03(D)(1) and (27) mandate that the Commission prescribe rules to, among other things, prevent practices detrimental to the public and provide for any other thing necessary and proper for successful and efficient regulation of casino gaming under R.C. Chapter 3772, respectively;

WHEREAS, R.C. 3772.28(C) authorizes the Commission to adopt rules governing its review and approval of proposed debt transactions, which it did through adoption of Ohio Adm. Code Chapter 3772-29;

WHEREAS, R.C. 3772.28(A) and (B) and Ohio Adm. Code 3772-29-01(B) require a licensed casino operator to obtain Commission approval before entering into a debt transaction, which is any transaction by the operator concerning a casino facility totaling \$500,000.00 or more in which the operator acquires debt;

WHEREAS, R.C. 3772.28(A) and Ohio Adm. Code 3772-29-01(B)(4) require the licensed casino operator's request for approval of a debt transaction to include, at a minimum, the following supporting documentation:

- (A) The names and addresses of all parties to the debt transaction;
- (B) The amount of the funds involved;
- (C) The type of debt transaction;
- (D) The source of the funds to be obtained;
- (E) All sources of collateral, including, but not limited to, all assets pledged by the operator as security for the debt transaction;
- (F) The purpose of the debt transaction;
- (G) The terms of the debt transaction;

- (H) All filings and documents that must be submitted to any regulatory agency in association with the debt transaction;
- (I) An executive summary of the debt transaction, including, but not limited to:
 - (i) all material terms of the debt transaction; (ii) an explanation of the projected debt to equity ratio after entering into the proposed debt transaction; (iii) an explanation of the terms and procedures in case of default by the casino operator; (iv) an explanation of the process used to select the persons involved in the debt transaction; (v) a list of prior debt transactions between the casino operator and the persons involved in the debt transaction; and (vi) an explanation of the due diligence conducted, including supporting documentation, as required by Ohio Adm. Code 3772-29-01(C);
- (J) All documents that memorialize the terms, conditions, and/or covenants of the debt transaction, including any supporting documents referenced therein;
- (K) A certification that the casino operator holds a direct or indirect ownership or leasehold interest in the casino facility; and
- (L) Any other information deemed necessary by the Commission;

WHEREAS, Ohio Adm. Code 3772-29-01(B)(1) requires that the request for approval and all supporting documentation be submitted to the Commission no later than 30 days before approval of the proposed debt transaction will be considered by the Commission, unless otherwise waived or modified by the Commission;

WHEREAS, Ohio Adm. Code 3772-29-01(B)(2) requires the presence of a representative from the requesting casino operator to answer any questions posed by the Commission;

WHEREAS, Penn National Gaming, Inc., the parent company of and on behalf of Central Ohio Gaming Ventures, LLC, and Toledo Gaming Ventures, LLC—licensed casino operators—(“Penn”) submitted to the Commission a timely request for approval of a proposed debt transaction and the requisite supporting documentation;

WHEREAS, Commission Staff has reviewed Penn’s request for approval of the proposed debt transaction related to its corporate restructuring and REIT formation and all documentation submitted in support thereof and, prior to the public meeting on August 21, 2013, filed a comprehensive report detailing the material terms of Penn’s proposed debt transaction and recommended approval thereof subject to certain conditions; and

WHEREAS, the Commission has considered Commission Staff’s comprehensive report and heard from representatives of the Commission and Penn at its public meeting on August 21, 2013.

NOW, THEREFORE, BE IT RESOLVED by the Commission that Penn’s proposed debt transaction is **APPROVED**, subject to the following conditions:

- (A) As a condition precedent to approval, but no later than January 31, 2014, Penn National Gaming, Inc., shall close all transactions related to the proposed corporate restructuring without any material changes and provide

executed copies of all related documents, including, but not limited to, fairness opinions, corporate conversion documents, asset transfer documents, the Master Lease Agreement, and debt transaction documents, within 10 days of their execution;

- (B) At the time of borrowing, the interest rates secured with respect to the new senior credit facilities and senior notes shall not exceed the maximum interest rate ranges provided by Penn to the Commission; if any of the interest rate figures secured at the time of borrowing exceed the maximum rate ranges provided, approval of the debt transaction is null and void;
- (C) Executed copies of all documents specifically relating to the debt transaction must be filed with the Commission within 10 days of execution;
- (D) The debt transaction documents must provide that the lender, noteholder, and/or secured party agrees that all liens, claims, and interests in favor of the State of Ohio have priority over any lien, claim, or interest in favor of the lender, noteholder, and/or secured party and any of their heirs, executors, affiliates (e.g., entities under common ownership directly or indirectly), administrators, legal representatives, predecessors, successors, and assigns;
- (E) Within 15 days of closing, and periodically thereafter if requested by the Commission, Penn must file with the Commission a list of all of the initial lenders and/or noteholders as applicable;
- (F) Concurrently with submitting any periodic financial reports or compliance certificates as required by the debt transaction documents, Penn must provide copies thereof to the Commission;
- (G) Penn must notify the Commission immediately upon the removal or resignation of any administrative agent, indenture trustee, or the like under the debt transaction documents;
- (H) Penn must notify the Commission immediately upon any known event of a breach of a representation, warranty, or covenant, or of a default, acceleration, breach, or similar matter;
- (I) Penn must provide the Commission copies of any proposed amendments and agreed upon amendments to the debt transaction documents; any material change, as determined by the Commission, to the debt transaction documents requires Commission approval;
- (J) Penn must cooperate with the Commission and its employees and agents and must produce any documentation as may be further requested with respect to this debt transaction; and
- (K) Penn must provide, upon approval of this debt transaction, quarterly reports regarding Penn's compliance with the payment terms of the transaction.

BE IT FURTHER RESOLVED, that Resolution 2013-18 does not in any way affect, negate, or otherwise absolve Penn, and any of its holding companies or subsidiaries, from their obligations to comply with R.C. Chapter 3772 and the rules adopted thereunder and all other conditions imposed by the Commission through resolution or otherwise.

BE IT FURTHER RESOLVED, that Resolution 2013-18 does not restrict or limit the Commission's future exercise of authority and discretion with respect to imposing additional conditions or taking further action with respect to Penn, and any of its holding companies or subsidiaries, under R.C. Chapter 3772 and the rules adopted thereunder.

Adopted:

August 21, 2013