

OHIO CASINO CONTROL COMMISSION

RESOLUTION 2013-19

CONSIDERATION OF PENN VENTURES, LLC'S (D/B/A HOLLYWOOD CASINO TOLEDO) APPLICATION FOR LICENSURE AS A CASINO OPERATOR

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, Article XV, Section 6(C)(1) and (C)(6) of the Ohio Constitution and R.C. 3772.08(A) permit casino gaming to be conducted only by licensed casino operators of the 4 constitutionally defined casino facilities or by licensed management companies retained by licensed casino operators;

WHEREAS, R.C. 3772.09(A) prohibits, among others, any casino operator, management company, or holding company from conducting or participating in conducting casino gaming without first being licensed by the Commission;

WHEREAS, R.C. 3772.10(A) mandates that the Commission consider all of the following when determining whether to grant the privileges of a casino operator license:

- (A) The reputation, experience, and financial integrity of the applicant, its holding company, if applicable, and any other person that directly or indirectly controls the applicant;
- (B) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond;
- (C) The past and present compliance of the applicant and its affiliates or affiliated companies with casino-related licensing requirements in the State of Ohio or any other jurisdiction, including whether the applicant has a history of noncompliance with the casino licensing requirements of any jurisdiction;
- (D) Whether the applicant has been indicted, convicted, pleaded guilty or no contest, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations;
- (E) Whether the applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;

- (F) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years;
- (G) Whether the applicant is or has been a defendant in litigation involving its business practices;
- (H) Whether awarding a license would undermine the public's confidence in the casino gaming industry in the State of Ohio; and
- (I) Whether the applicant meets other standards for the issuance of a license that the Commission adopts by rule, which is not arbitrary, capricious, or contradictory to the expressed provision of R.C. Chapter 3772;

WHEREAS, R.C. 3772.10(B) and Ohio Adm. Code 3772-4-08(A) require, among others, casino operators seeking licensure under R.C. Chapter 3772 to establish their suitability by clear and convincing evidence;

WHEREAS, R.C. 3772.11(A) and Ohio Adm. Code 3772-4-01(A) require any casino operator seeking licensure to submit, under oath, an Application for a Casino Operator, Management Company, or Holding Company License;

WHEREAS, R.C. 3772.111 mandates that the Commission also consider the following when determining whether to grant a casino operator license:

- (A) The facilities or proposed facilities for the conduct of casino gaming;
- (B) The prospective total revenue to be collected by the State of Ohio from the conduct of casino gaming; and
- (C) The extent to which the applicant exceeds or meets other standards adopted by the Commission;

WHEREAS, Article XV, Section 6(C)(4) of the Ohio Constitution, R.C. 3772.03, 3772.10, 3772.11, 3772.111, and 3772.17, and Ohio Adm. Code Chapter 3772-4 authorize the Commission to issue casino operator licenses to applicants that the Commission determines are eligible for licensure and have paid all applicable fees;

WHEREAS, a casino operator license applicant is eligible for licensure upon meeting the following criteria:

- (A) Submission of a true and complete Application for a Casino Operator, Management Company, or Holding Company License, as required by R.C. 3772.10(C) and 3772.11(A) and Ohio Adm. Code 3772-4-01 through 3772-4-05;

- (B) Payment of the nonrefundable application fee of \$1,500,000.00, as required by R.C. 3772.17(B) and Ohio Adm. Code 3772-4-06(A), and all fees necessary to cover the costs of the background investigation in excess of the application fee set forth by Ohio Adm. Code 3772-4-06(A), if any, as required by Ohio Adm. Code 3772-4-06(C);
- (C) Reimbursement of the costs for the criminal records checks, as required by R.C. 3772.07, if applicable;
- (D) Not having been convicted of or pled guilty or no contest to a disqualifying offense, as defined and required by R.C. 3772.07;
- (E) All holding companies and management companies, their directors, executive officers, members, managers, and any shareholder who holds more than 5% ownership of the operator, if any, submitted the same information as the operator, as required by R.C. 3772.11(B);
- (F) Posting, and thereafter maintaining, a surety bond in the amount of \$1,000,000.00 payable to the State of Ohio, conditioned on the operator complying with Article XV, Section 6(C) and R.C. Chapter 3772 and the rules adopted thereunder, as required by R.C. 3772.112; and
- (G) Otherwise is suitable for licensure, as required by R.C. 3772.10(B) and (C);

WHEREAS, R.C. 3772.03(D)(5) mandates that the Commission adopt rules prescribing the minimum amount of insurance that must be maintained by, among others, casino operators;

WHEREAS, Ohio Adm. Code 3772-7-01(A) requires, among others, casino operator licensees to obtain and maintain the following types of insurance in minimum amounts determined by the Commission:

- (A) Liability;
- (B) Casualty;
- (C) Fire;
- (D) Theft;
- (E) Worker's compensation; and
- (F) Any other type of insurance the Commission deems necessary to ensure the licensee is adequately insured;

WHEREAS, on or about July 2, 2013, Penn Ventures LLC (d/b/a Hollywood Casino Toledo) submitted an Application for a Casino Operator, Management Company, or Holding Company License (“Application”) to the Commission in accordance with R.C. 3772.11(A) and Ohio Adm. Code 3772-4-01 through 3772-4-05;

WHEREAS, Hollywood Casino Toledo paid the non-refundable application fee, as required by R.C. 3772.17(B) and Ohio Adm. Code 3772-4-06(A);

WHEREAS, Hollywood Casino Toledo reimbursed the Commission for the costs of the criminal records checks, as required by R.C. 3772.07;

WHEREAS, Hollywood Casino Toledo submitted to the Commission information and materials (a summary of which is attached as Exhibit A) necessary to demonstrate that Hollywood Casino Toledo has obtained and maintains all of the requisite types of insurance and the amounts of each type;

WHEREAS, as identified in and found by the Commission through adoption of Resolution 2012-56 on May 9, 2012, with respect to Toledo Gaming Ventures, LLC, and Resolution 2012-78 on September 12, 2012, with respect to Central Ohio Gaming Ventures, LLC—both of which are wholly owned subsidiaries of Penn National Gaming, Inc.—and as updated as part of Hollywood Casino Toledo’s Application, Delvest Corp. and Penn National Gaming, Inc., submitted to the Commission the information and documentation required of holding companies under R.C. 3772.11(B) and requested by the Commission;

WHEREAS, Penn Tenant, LLC, an entity formed on February 13, 2013, as a result of Penn National Gaming, Inc.’s proposed corporate restructuring, submitted to the Commission the information and documentation required of a holding company under R.C. 3772.11(B) and requested by the Commission;

WHEREAS, Hollywood Casino Toledo submitted to the Commission information and materials necessary to demonstrate that the operator has posted, and thereafter will maintain, a surety bond in the amount of \$1,000,000.00, in accordance with and as required by R.C. 3772.112, as evidenced by the Commission’s adoption of the surety bond through Resolution 2012-13 on March 21, 2012;

WHEREAS, the Commission’s Division of Licensing and Investigations (“Licensing Division”) reviewed Hollywood Casino Toledo’s Application, the information and documentation provided by its holding companies, and additional materials and information requested by the Licensing Division as well as conducted thorough suitability investigations of those entities;

WHEREAS, the Licensing Division filed with the Commission a report, dated August 14, 2013, captioned *Investigative Report on the Application of Penn Ventures, LLC, for a Casino Operator License* (“Investigative Report”);

WHEREAS, on May 9 and September 12, 2012, through adoption of Resolutions 2012-56 and 2012-78, the Commission initially licensed Toledo Gaming Ventures, LLC, and Central Ohio Gaming Ventures, LLC, respectively;

WHEREAS, the Investigative Report concludes that based upon the investigation, no derogatory information that adversely impacts upon the suitability of Hollywood Casino Toledo or its holding companies was uncovered and that Hollywood Casino Toledo is suitable for licensure as a casino operator subject to the following conditions;

- (A) As a condition precedent to licensure, 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) Hollywood Casino Toledo and its holding companies shall notify the Commission, in accordance with Ohio Adm. Code 3772-4-09, regarding:
 - (1) The status of all pending litigation and any litigation commenced subsequent to the issuance of Hollywood Casino Toledo's casino operator license;
 - (2) Any changes to the owners, officers, directors, and key employees; any new owners, officers, directors, and key employees are required to submit key employee license applications, as required under R.C. 3772.13 and Ohio Adm. Code Chapter 3772-5; and any new owners, officers, directors, and key employees must establish their suitability for licensure by clear and convincing evidence and be found eligible and otherwise suitable by the Commission, as required under R.C. 3772.10 and 3772.13;
 - (3) Any loans or additional debt incurred by them;
 - (4) Any event of default or any failure to meet any payment of interest or principal when due under any of their existing or future debt obligations;
 - (5) Any plans to refinance their existing debt or incur any additional capital debt obligations; and
 - (6) Any updates to the surety bond approved by the Commission through Resolution 2012-13 on March 21, 2012;
- (C) Hollywood Casino Toledo and its holding companies shall submit, as applicable, all information required to be provided to the Commission under R.C. 3772.18; and
- (D) Hollywood Casino Toledo, as a new casino operator licensee, shall pay all fees required by the Commission, including:

- (1) The cost of the background investigation that exceeded the application fee set forth by Ohio Adm. Code 3772-4-06(A), if any, as required by Ohio Adm. Code 3772-4-06(C); and
- (2) A nonrefundable license fee of \$1,500,000.00, as required by R.C. 3772.17(B) and Ohio Adm. Code 3772-4-07(B); and

WHEREAS, the Commission has considered the Licensing Division's Investigative Report and heard from representatives of the Commission and Hollywood Casino Toledo and its holding companies at its public meeting on August 21, 2013.

NOW, THEREFORE, BE IT RESOLVED, by the Commission that Hollywood Casino Toledo's Application is **APPROVED** and Hollywood Casino Toledo is hereby **LICENSED** as a casino operator for a period not to exceed 3 years, effective on the date in which all transactions related to Penn National Gaming, Inc.'s proposed corporate restructuring are closed, subject to continued compliance with R.C. Chapter 3772 and the rules adopted thereunder and the following conditions:

- (A) As a condition precedent to licensure, 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) Hollywood Casino Toledo and its holding companies shall notify the Commission, in accordance with Ohio Adm. Code 3772-4-09, regarding:
 - (1) The status of all pending litigation and any litigation commenced subsequent to the issuance of Hollywood Casino Toledo's casino operator license;
 - (2) Any changes to the owners, officers, directors, and key employees; any new owners, officers, directors, and key employees are required to submit key employee license applications, as required under R.C. 3772.13 and Ohio Adm. Code Chapter 3772-5; and any new owners, officers, directors, and key employees must establish their suitability for licensure by clear and convincing evidence and be found eligible and otherwise suitable by the Commission, as required under R.C. 3772.10 and 3772.13;
 - (3) Any loans or additional debt incurred by them;
 - (4) Any event of default or any failure to meet any payment of interest or principal when due under any of their existing or future debt obligations;

- (5) Any plans to refinance their existing debt or incur any additional capital debt obligations; and
- (6) Any updates to the surety bond approved by the Commission through Resolution 2012-13 on March 21, 2012;
- (C) Hollywood Casino Toledo and its holding companies shall submit, as applicable, all information required to be provided to the Commission under R.C. 3772.18; and
- (D) Hollywood Casino Toledo, as a new casino operator licensee, shall pay all fees required by the Commission, including:
 - (1) The cost of the background investigation that exceeded the application fee set forth by Ohio Adm. Code 3772-4-06(A), if any, as required by Ohio Adm. Code 3772-4-06(C); and
 - (2) A nonrefundable license fee of \$1,500,000.00, as required by R.C. 3772.17(B) and Ohio Adm. Code 3772-4-07(B).

BE IT FURTHER RESOLVED, that Hollywood Casino Toledo's insurances, including the amounts for each type, are **APPROVED**.

BE IT FURTHER RESOLVED, that Resolution 2013-19 does not in any way affect, negate, or otherwise absolve Hollywood Casino Toledo, its holding companies, or key employees from their duties to update information in accordance with Ohio Adm. Code 3772-4-09 and 3772-5-04.

BE IT FURTHER RESOLVED, that Resolution 2013-19 does not restrict or limit the Commission's future exercise of authority and discretion with respect to requesting additional information from or imposing additional conditions or taking further action upon Hollywood Casino Toledo, its holding companies, affiliated corporate entities, or key employees under R.C. Chapter 3772 and the rules adopted thereunder.

Adopted:

August 21, 2013

Exhibit A
Resolution 2013-19

**Penn National Gaming, Inc. and Subsidiaries (including
Penn Ventures, LLC, d/b/a Hollywood Casino Toledo)**

Types of Insurance	Coverage
Commercial General Liability	\$2,000,000
Automobile Liability	\$1,000,000
Umbrella Liability	\$25,000,000
Workers Compensation and Employers' Liability	\$1,000,000
Excess Layer Liability	\$25,000,000
Property Insurance- all risk of direct physical loss or damage, including business income (includes fire and theft)	\$700,000,000
Crime (covers employee theft)	\$10,000,000