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April 13, 2015

Honorable Kathleen G. Kane, Attorney General  
Attorney General's Office  
Strawberry Square  
Harrisburg, PA 17120

Dear Attorney General Kane:

We are writing to request that you investigate whether Penn National Gaming, Inc. and Western PA Gaming Ventures, LLC (collectively referred to as "Penn National"), committed actionable fraud and/or engaged in criminal conduct in regard to the application and pursuit of a Category 1 Gaming License from the Pennsylvania Gaming and Control Board (PGBC) as alleged in a lawsuit filed by SDSSL Tuxepo, LP, individually and on behalf of Endeka Entertainment, LP, with the Court of Common Pleas of Lawrence County, Pennsylvania. A copy of that lawsuit is enclosed.

On October 25, 2012, Endeka was awarded a harness license by the Pennsylvania Horse and Harness Racing Commission subject to the ultimate granting of a Category 1 Gaming License from the PGBC to develop and operate a horse racetrack and casino, which was to include slot machines and table games, in Mahoning Township, Lawrence County, Pennsylvania, known as Lawrence County Downs. On May 31, 2013, Endeka filed the application for the Category 1 Gaming License with PGBC. According to the Complaint, on that same date, Penn National acquired a 51% interest in the sole general partner of Endeka and "became and was the managing member of the general partner of Endeka with full and total control of the operations and actions of Endeka, including the submission of its application to the PGBC" (Paragraphs 70 and 71 of the Complaint).

During the application review process, Penn National developed a horse racetrack and casino in Austintown, Ohio, approximately 25 miles away from the proposed Lawrence County Downs site. The Complaint alleges that Penn National "derailed the project (Lawrence County Downs) from the outset through fraud, and ultimately destroyed the project, all to protect Penn National's own financial interest in its Austintown, Ohio casino" (Paragraph 4 of the Complaint). The Complaint also alleges that Penn National not only harmed Endeka, but "also the Commonwealth of Pennsylvania, Lawrence County, and their residents, depriving them of tax revenue, economic stimulus, and jobs that would accompany the development and operation of a racetrack and casino in Lawrence County" (Paragraph 6 of the Complaint). It is further alleged in the Complaint that the development of Lawrence County Downs would not only compete with Penn National's Austintown, Ohio racetrack and casino, but that it would pose a significant threat to the same since Lawrence County Downs would offer table games and the ability for patrons to smoke, which the Austintown, Ohio facility could not do due to Ohio law (Paragraphs 47-51 of the Complaint).

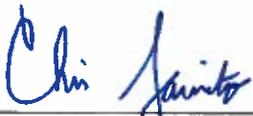
The Complaint states that the gaming application specifies criminal penalties under Section 4903 of the Crimes Code for false representations contained therein (Paragraphs 68 and 69 of the Complaint). It further states that Penn National reviewed and approved the application before it was submitted by Endeka (Paragraph 70 of the Complaint). It is then alleged that Penn National made formal commitments

to the PGBC, through the application, that "it could and would be funding the Category 1 facility" (Paragraph 78 of the Complaint). However, it is alleged in the Complaint that Penn National later represented, in the "11<sup>th</sup> hour" that it would only participate in the project if it can be guaranteed an internal rate of return of 7%, despite the fact that its own study showed an internal rate of return of 3.2% at the time it approved the filing of the application; that it backed away from \$50 million in financing through CanAm Regional Center, LLC which is already licensed as an EB-5 lender through PGBC, in favor of similar financing through Maryland Center for Foreign Investment, LLC, which is not licensed as an EB-5 lender through PGBC and therefore cannot provide such financing until completing a lengthy licensing process; that Penn National engaged in an "18 month period of inactivity" and delays and requests for extensions in the PGBC process; and that Penn National ultimately advised that it was withdrawing from the project (Paragraphs 80-82; 112-131; 90).

In addition, on May 14, 2014, a public input hearing was held in Lawrence County and the complaint alleges that the representations at that hearing "are also subject to criminal violations of the Act (Pennsylvania Race Horse Development and Gaming Act) as it relates to perjury, false swearing and unsworn falsification to authorities as the Act covers both written and oral representations" (Paragraphs 93-95 of the Complaint). The Complaint then alleges that B.J. Fair, Senior Vice President and Chief Development Officer of Penn National made a presentation at the public input hearing and that it was represented that "the project was financially sound and that it could and would be completed within a maximum of 18 months from the date of license issuance" and that Penn National did not represent "any hesitancy or questions regarding the ability to obtain financing for the project or concerns over the revenue projections and market assessments for the proposed facility" (Paragraphs 97-102 of the Complaint).

Given the allegations of the Complaint, which are in the nature of actionable fraud and criminal conduct, that this matter is before a state agency, the PGBC, and that, if the allegations are true, the citizens of the Commonwealth of Pennsylvania and Lawrence County and surrounding counties would be harmed by such actions in the form of lost tax revenues, economic stimulus and jobs, we call on you, as the Chief Law Enforcement Officer of the Commonwealth of Pennsylvania to promptly investigate this matter and use all of the lawful powers of your office to deal with and remedy this matter, if your investigation determines actionable fraud or criminal conduct on the part of Penn National.

Sincerely,



Representative Chris Sainato  
9<sup>th</sup> Legislative District



Senator Elder Vogel, Jr.  
47<sup>th</sup> Senatorial District



Representative Jaret Gibbons  
10<sup>th</sup> Legislative District



Representative Mark Longietti  
7<sup>th</sup> Legislative District



Representative Robert Matzie  
16<sup>th</sup> Legislative District



Representative James Marshall  
14<sup>th</sup> Legislative District

CS/tak  
Enclosure