OHIO CASINO CONTROL COMMISSION

RESOLUTION 2012-56

CONSIDERATION OF TOLEDO GAMING 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 the licensed casino operators;

WHEREAS, R.C. 3772.09(A) prohibits, among others, any casino operator, holding company, or key employee 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 casino operator and key employee licenses:

(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) requires, among others, casino operators and key employees seeking licensure under R.C. Chapter 3772 to establish their suitability by clear and convincing evidence;

WHEREAS, R.C. 3772.11(A) requires 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 A.C. 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 A.C. 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 A.C. 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 A.C. 3772-4-06(A), if any, as required by A.C. 3772-4-06(C);

(C) Reimbursement of the costs for the criminal records checks, as required by R.C. 3772.07;

(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, A.C. 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, R.C. 3772.09(B) requires a licensed casino operator, before conducting casino gaming at a casino facility, to engage a third-party engineering or accounting firm, approved by the Commission, to certify expenses of the operator's initial investment, as required by R.C. 3772.27 and provide documentation to the Commission;

WHEREAS, on or about September 16, 2011, Toledo Gaming Ventures LLC (d/b/a Hollywood Casino Toledo) submitted an Application for a Casino Operator, Management Company, or Holding Company License to the Commission in accordance with R.C. 3772.11(A) and A.C. 3772-4-01 through 3772-4-05;

WHEREAS, Toledo Gaming Ventures LLC paid the non-refundable application fee, as required by R.C. 3772.17(B) and A.C. 3772-4-06(A);

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

WHEREAS, Toledo Gaming Ventures LLC submitted to the Commission information and materials necessary to demonstrate that Toledo Gaming Ventures LLC has obtained and maintains all of the requisite types of insurance and the amounts of each type;

WHEREAS, Toledo Gaming Ventures LLC engaged KPMG LLP, which the Commission approved as Toledo Gaming Ventures LLC's third-party accounting firm through adoption of Resolution 2012-15 on March 21, 2012, to certify expenses of Toledo Gaming Ventures LLC's initial investment and provided documentation to the Commission;

WHEREAS, in accordance with A.C. 3772-17-01, KPMG LLP issued an Examination Report to Toledo Gaming Ventures LLC and the Commission under the Statements on Standards for Attestation Engagements issued by the American Institute of Certified Public Accountants on the assertion that Toledo Gaming Ventures LLC has made an initial investment as required under R.C. 3772.27;

WHEREAS, the holding companies of Toledo Gaming Ventures LLC that appear on the attached list marked Exhibit A, ("Holding Companies") submitted to the Commission the information and documentation required of holding companies under R.C. 3772.11(B);

WHEREAS, Fortress Investment Group LLC ("Fortress"), as a discretionary qualifier appearing on Exhibit A, submitted to the Commission the information and documentation required by the Commission as part of Toledo Gaming Ventures LLC and Penn National Gaming Inc.'s ("Penn National") overall suitability reviews;

WHEREAS, Toledo Gaming Ventures LLC 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, R.C. 3772.13(B) and A.C. 3772-5-02(A) require any key employee seeking licensure to submit a Key Employee License Application;

WHEREAS, R.C. 3772.13 and A.C. 3772-5 authorize the Commission to issue key employee licenses to applicants after the Commission determines that the applicants are eligible for licensure and have paid all applicable fees;

WHEREAS, a key employee license applicant is eligible for licensure upon meeting the following criteria:

(A) Being at least 21 years of age, as required by R.C. 3772.13(C);

(B) Submission of a true and complete Key Employee License Application, as required by R.C. 3772.10(C) and 3772.131(D) and A.C. 3772-6-02(A);

(C) Submission, on a form provided by the Commission, of two sets of the applicant's fingerprints and a photograph, as required by R.C. 3772.13(E);

(D) Payment of the nonrefundable application fee of $2,000.00, as required by R.C. 3772.13(E) and 3772.17(D) and A.C. 3772-5-03(A), and all fees necessary to cover the cost of the background investigation in excess of the application fee set forth by A.C. 3772-5-03(A), if any, as required by A.C. 3772-5-03(B);

(E) Reimbursement of the costs for the background check, including the criminal records check, as required by R.C. 3772.07 and 3772.13(E);

(F) Not having been convicted of or pled guilty or no contest to a disqualifying offense, as defined and required by R.C. 3772.07; and

(G) Otherwise is suitable for licensure, as required by R.C. 3772.10(B) and (C);

WHEREAS, the owners, officers, directors, and key employees of Toledo Gaming Ventures LLC, who appear on the attached list marked Exhibit A, ("Key Employees") submitted their applications for licensure as key employees to the Commission in accordance with R.C. 3772.13(B) and A.C. 3772-5-02(A);

WHEREAS, the owners, officers, directors and key employees of the Holding Companies, who appear on Exhibit A, ("Key Employees") submitted their applications for licensure as key employees to the Commission;

WHEREAS, the inside directors of Fortress, who appear on Exhibit A, ("Key Employees") submitted their applications for licensure as key employees to the Commission;

WHEREAS, Spectrum Gaming Group ("Spectrum") has been appointed by the Commission to assist the Commission in the conduct of suitability investigations;

WHEREAS, Spectrum, as an agent of the Commission, reviewed Toledo Gaming Ventures LLC's Application for a Casino Operator, Management Company, or Holding Company License, the information and documentation provided by the Holding Companies and Fortress, and additional materials and information requested by Spectrum as well as conducted thorough suitability investigations of Toledo Gaming Ventures LLC, the Holding Companies, Fortress, and the Key Employees;

WHEREAS, Spectrum filed Investigative Reports for the Ohio Casino Control Commission regarding Applicants Toledo Gaming Ventures LLC, Central Ohio Gaming Ventures LLC, and Penn National Gaming Inc. and Principals, dated April 16, 2012, and Applicants Fortress Investment Group LLC, FIF V PLC, and Fortress PNG Voteco LLC and Principals, dated April 30, 2012 ("Investigative Reports");

WHEREAS, Spectrum's Investigative Reports conclude that based upon its investigation, no derogatory information that adversely impacts upon the suitability of Toledo Gaming Ventures LLC, the Holding Companies, Fortress or the Key Employees was uncovered and that Toledo Gaming Ventures LLC is suitable for licensure as a casino operator subject to certain conditions;

WHEREAS, the Commission's Division of Licensing and Investigation has reviewed the Spectrum Investigative Reports and recommends that the Commission grant a casino operator license to Toledo Gaming Ventures LLC subject to the following conditions:

(A) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, regarding the status of all pending litigation and any litigation commenced subsequent to the issuance of Toledo Gaming Ventures LLC's casino operator license;

(B) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, regarding 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 A.C. 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;

(C) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, regarding any loans or additional debt incurred by them;

(D) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, about any event of default or any failure to meet any payment of interest or principal when due under any of its existing or future debt obligations;

(E) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission of any plans to refinance its existing debt or incur any additional capital debt obligations;

(F) Toledo Gaming Ventures LLC and the Holding Companies shall submit, as applicable, all information required to be provided to the Commission under R.C. 3772.18; and

(G) Toledo Gaming Ventures LLC, as an initial licensed casino operator, shall pay all fees required by the Commission, including a nonrefundable upfront license fee of $50,000,000.00 as required by Article XV, Section 6(C)(4), R.C. 3772.17(A), and A.C. 3772-4-07(A); and

WHEREAS, the Commission has considered Spectrum's Investigative Reports and heard from representatives of the Commission's Division of Licensing and Investigation, Spectrum, Toledo Gaming Ventures LLC, and the Holding Companies at its public meetings on May 2 and 9, 2012.

NOW, THEREFORE, BE IT RESOLVED, by the Commission that Toledo Gaming Ventures LLC's Application for a Casino Operator, Management Company, or Holding Company License is **APPROVED** and Toledo Gaming Ventures LLC is hereby **LICENSED** as a casino operator for a period not to exceed three years, effective today, subject to continued compliance with R.C. Chapter 3772 and the rules adopted thereunder and the following conditions:

(A) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, regarding the status of all pending litigation and any litigation commenced subsequent to the issuance of Toledo Gaming Ventures LLC's casino operator license;

(B) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, regarding 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 A.C. 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;

(C) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, regarding any loans or additional debt incurred by them;

(D) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission, in accordance with A.C. 3772-4-09, about any event of default or any failure to meet any payment of interest or principal when due under any of its existing or future debt obligations;

(E) Toledo Gaming Ventures LLC and Penn National Gaming Inc. shall notify the Commission of any plans to refinance its existing debt or incur any additional capital debt obligations;

(F) Toledo Gaming Ventures LLC and the Holding Companies shall submit, as applicable, all information required to be provided to the Commission under R.C. 3772.18; and

(G) Toledo Gaming Ventures LLC, as an initial licensed casino operator, shall pay all fees required by the Commission, including a nonrefundable upfront license fee of $50,000,000.00 as required by Article XV, Section 6(C)(4), R.C. 3772.17(A), and A.C. 3772-4-07(A).

BE IT FURTHER RESOLVED, that the Key Employee License Applications of the Key Employees contained on Exhibit A are **APPROVED** and those persons are hereby **LICENSED** as key employees for a period not to exceed three years, effective today, subject to continued compliance with R.C. Chapter 3772 and the rules adopted thereunder, including payment of the nonrefundable license fee of $500.00 per key employee license as required by R.C. 3772.17(D) and A.C. 3772-5-03(C).

BE IT FURTHER RESOLVED, that Resolution 2012-56 does not in any way affect, negate, or otherwise absolve Toledo Gaming Ventures LLC, the Holding Companies, or the Key Employees from their duties to update information in accordance with A.C. 3772-4-09 and A.C. 3772-5-04.

BE IT FURTHER RESOLVED, that Resolution 2012-56 does not restrict or limit the Commission's future exercise of authority and discretion with respect to imposing additional conditions or taking further action upon Toledo Gaming Ventures LLC, the Holding Companies, Fortress, or the Key Employees under R.C. Chapter 3772 and the rules adopted thereunder.

Adopted:

May 9, 2012

Katherine L. Kelly
Commission Clerk