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FILED
December 7, 2018
8171-2018
Board Clerk PGCB

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In Re: Petition of Presque Isle Downs, Inc. :
(License # F1350) for Approval of :
Authorization to Conduct Sports Wagering and : Docket No.
Issuance of a Sports Wagering Certificate :
:

**PETITION OF PRESQUE ISLE DOWNS, INC.
FOR ISSUANCE OF A SPORTS WAGERING CERTIFICATE AND
AUTHORIZATION TO CONDUCT SPORTS WAGERING**

NOW COMES, Presque Isle Downs, Inc., License # F-1350 (“PIDI” or “Petitioner”), by and through its undersigned counsel, and submits the within petition pursuant to Section 13C12 of the Pennsylvania Race Horse Development and Gaming Act (“Gaming Act”), 4 Pa. C.S. §13C12, requesting that the Pennsylvania Gaming Control Board (“Board”) approve PIDI for a Sports Wagering Certificate authorizing PIDI to conduct sports wagering. As set forth herein, PIDI fully satisfies all of the statutory and regulatory requirements for the award of a Sports Wagering Certificate (“Certificate”), and respectfully submits that the Certificate should be issued by the Board to PIDI.

I. INTRODUCTION AND SUMMARY

On October 30, 2017, Pennsylvania Governor Tom Wolf signed House Bill 271 into law as Act No. 42 of 2017, which amends the Gaming Act to legalize the conduct of sports wagering by Pennsylvania slot machine licensees when Federal law is enacted or repealed or a Federal court decision is filed that permits a state to regulate sports wagering. On May 14, 2018, the United State Supreme Court issued a ruling striking down the Professional and Amateur Sports Protection Act (“PASPA”), thereby repealing Federal law and permitting states to regulate sports wagering. Pursuant to Section 13C12 of the amended Gaming Act, in order to conduct sports wagering, a slot machine licensee must submit a petition and qualify for issuance of a Certificate. Thereafter,

PUBLIC VERSION

the Board promulgated Temporary Regulations that authorize the implementation of sports wagering in the Commonwealth. All slot machine licensees, including PIDI, are authorized to submit a Petition and, upon meeting the regulatory requirements and operational standards, receive a Certificate to conduct sports wagering.

PIDI submits this petition for authorization to conduct sports wagering and for issuance of a Certificate (“Petition”). This Petition is submitted in conjunction with a proposed transaction whereby Churchill Downs Incorporated (“CDI”) intends to purchase, and PIDI and Eldorado Resorts, Inc. (“Eldorado”), PIDI’s corporate parent, have agreed to sell, on a going concern basis, substantially all of the assets and properties of Presque Isle Downs & Casino, a Category 1 Slot Machine facility located in Summit Township, Erie County, Pennsylvania (the “Proposed Transaction”). Following Board approval, and the closing of the Proposed Transaction, CDI will operate Presque Isle Downs & Casino through PID, LLC, CDI’s wholly-owned indirect subsidiary. In furtherance of the Proposed Transaction and in order to obtain a Category 1 Slot Machine License, PID, LLC has filed a Slot Operator and Management Company Application and Disclosure Information Form (“Slot Operator Application”) with the Board. As a principal affiliate of PID, LLC, CDI has also filed a Slot Operator Application with the Board.

This Petition is being submitted in contemplation of three possible scenarios. Although PIDI is currently the holder of the Category 1 Slot Machine License for Presque Isle Downs & Casino, and although the Board has preliminarily approved the Proposed Transaction, but not yet approved the license application of CDI and PID, LLC, this Petition has been prepared with (1) the expectation that the Proposed Transaction will occur in a timely manner such that PID, LLC will become the Certificate holder, while also taking into account; (2) the contemplation that the Proposed Transaction may be delayed beyond the issuance of the Certificate; or (3) the

PUBLIC VERSION

contemplation that the Proposed Transaction may not close at all. The primary focus of this Petition contemplates scenario (1) above, whereby PID, LLC, CDI's wholly owned indirect subsidiary, will become the holder of the Category 1 Slot Machine License and obtain the Certificate. In the case of scenario (2) above, this Petition will serve as the Petition for PIDI to obtain the Certificate and CDI expects to be the sports wagering operator under the Certificate held by PIDI, and the Certificate will be acquired by PID, LLC upon the closing of the Proposed Transaction. In the case of scenario (3) above, this Petition will serve as the petition for PIDI to obtain the Certificate and, upon determining that the Proposed Transaction will not close, PIDI reserves the right to seek approval of the Board to utilize a sports wagering operator other than CDI.

Similarly, CDI represents that if the Proposed Transaction is approved by the Board and closes, that PID, LLC will provide the sports wagering offerings set forth in this Petition, and the benefits set forth below by PIDI shall equally apply to CDI and PID, LLC upon the closing of the Proposed Transaction. See Exhibit 1- Certification of Ian Williams, President, Online Gaming, (Representative of CDI).

PIDI is eminently suitable and qualified to receive a Certificate, and its conduct of sports wagering will provide substantial benefits to the public and the Commonwealth. PIDI was awarded a Category 1 Slot License on February 27, 2008, and was issued a Table Game Certificate by the Board on June 22, 2010. PIDI has maintained its license in good standing with the Board, which unanimously voted to renew PIDI's Category 1 slot machine license on July 20, 2011 and on September 2, 2015.

The success of PIDI is demonstrative of its business experience and abilities within the gaming and wagering industries, and has resulted in substantial economic benefit to the

PUBLIC VERSION

Commonwealth and its citizens. PIDI has paid substantial taxes to the Commonwealth, and in the past three calendar years has paid \$72,319,415 in 2017; \$74,657,379 in 2016; and \$75,768,021 in 2015 in tax payments to state and local governments. PIDI has benefited the local and state economies by employing over 800 people in its existing slot and table game operation and by conducting over \$22 million of business with vendors and related businesses. PIDI has also made significant contributions to notable charitable and community efforts.

This collective experience and economic contribution clearly renders PIDI qualified to conduct sports wagering. Based on its performance to date, there can be no doubt that the conduct of sports wagering by PIDI will significantly expand the positive economic impact the casino currently provides to the Commonwealth, its municipalities and residents.

II. SPECIFIC SUPPORT

A. Petition Requirements

Section 13C12 of the Gaming Act and Section 1401.4(b) of the Board's temporary regulations establish the required contents of a sports wagering petition. Each of these requirements is set forth below.

1. **Requirement # 1** - The name of the Petitioner is Presque Isle Downs, Inc. PIDI's business address is 8199 Perry Hwy., Erie, PA 16509. The contact person for purposes of this Petition is:

Stephen D. Schrier, Esquire
Eric G. Fikry, Esquire
BLANK ROME LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103
Phone: (215) 569-5651 / 5495
Fax: (215) 832-5651 / 5495
E-mail: Schrier@BlankRome.com
Fikry@BlankRome.com

PUBLIC VERSION

2. **Requirement # 2** – PIDI anticipates closing on the Proposed Transaction with CDI prior to the issuance of the Certificate. Kevin O’Sullivan, PIDI’s General Manager, and PIDI’s management team will oversee the implementation and operation of sports wagering at the licensed facility. If the Proposed Transaction is not closed at the date of issuance, PIDI is prepared to enter into an agreement with CDI under which CDI would provide a sports wagering system on behalf of PIDI. The business address of CDI and PID, LLC is 600 North Hurstbourne Parkway, Suite 400, Louisville, Kentucky 40222. The contact person for CDI and PID, LLC is as follows:

Kevin C. Hayes, Esquire
James A. Doherty, III, Esquire
DOHERTY HAYES, LLC
217 Wyoming Avenue
Scranton, PA 18503
Phone: (570) 346-7651
Fax: (570) 344-1542
E-mail: khayes@dohertyhayes.com
jdoherly@dohertyhayes.com

3. **Requirement # 3** – At this time, PIDI has determined that the principals and employees identified in **CONFIDENTIAL** Appendix A will be involved in the conduct of sports wagering. The name and business address, and job title of these principals and key employees is provided in Appendix A. Photographs are already in the Board’s possession.

4. **Requirement # 3** – The principals and employees of CDI identified in **CONFIDENTIAL** Appendix B will be involved in the conduct of sports wagering on behalf of PIDI. The name and business address, job title, and a photograph of those principals and key employees is provided in Appendix B.

5. **Requirement # 4** – PIDI is petitioning to offer the types of sports wagering and sporting events provided in Appendix C.

PUBLIC VERSION

6. **Requirement # 5** – PIDI is petitioning to offer land-based sports wagering, mobile sports wagering, and interactive sports wagering.

7. **Requirement # 6** – PIDI intends to utilize a portion of its existing gaming floor for its land-based sports wagering operations.

8. **Requirement # 7** – PIDI does not intend to offer land-based sports wagering in a nonprimary location at this time, but reserves the right to do so at a later date, if appropriate.

9. **Requirement # 8** – Based upon information provided by CDI, PIDI estimates that forty-two (42) full-time employment positions will be created in conjunction with its sports wagering operations, twenty-three (23) of which expect to be located in Louisville, Kentucky, nine (9) in Vancouver, Canada, and the remaining ten (10) positions to be filled in locations as required to meet regulatory requirements and customer service standards.

10. **Requirement # 9** – PIDI’s Diversity Plan Policy, in compliance with 4 Pa. C.S. § 1510(a), is included in **CONFIDENTIAL** Appendix D. By the time of authorization and to the extent any updates are necessary, PIDI shall provide the Board with an updated hiring plan.

11. **Requirement # 10** – PIDI’s sports wagering operations will bring significant economic benefits to the Commonwealth. Along with potential additional employment opportunities, PIDI anticipates long-term economic benefits. With strategic marketing and investment in technology and customer service, PIDI expects to drive customers to our products and increase revenue for the Commonwealth.

12. **Requirement # 11** – PIDI will, either directly or through its parent company, Eldorado, pay its additional costs as necessary. Based upon information provided by CDI, CDI will use cash on hand and capacity under its revolving credit facility to finance all aspects of its implementation of sports wagering.

PUBLIC VERSION

13. **Requirement # 12** – As is evident from its slot machine and table game operations, PIDI has the financial stability, integrity and responsibility to conduct sports wagering. Attached hereto as **CONFIDENTIAL** Appendix E (1) is PIDI’s most recent financial statements and Report of Independent Auditors which were submitted to the Board for year-end 2017. These documents provide clear and convincing evidence of the financial stability and responsibility of PIDI.

CDI also has the requisite financial stability, integrity and responsibility to operate a sports wagering system on behalf of PIDI, as evidenced by the 2017 annual audited financial statements filed on Form 10-K with the Securities and Exchange Commission (“SEC”), and the most recent unaudited quarterly financial statements for the third quarter of 2018 filed with the SEC on October 31, 2018, each of which are also included in **CONFIDENTIAL** Appendix E (2) and E (3).

14. **Requirement # 13** – CDI has entered into an agreement with SBTech Malta Ltd. (“SB Tech”) to provide software and technology services to CDI in its operations of the sports wagering platform. Upon information and belief, CDI has submitted said agreement with SB Tech to the Board confidentially under separate cover, as part of its licensing applications. CDI’s use of SB Tech’s software and technology services is subject to SB Tech obtaining the necessary licenses and approvals from the Board, which, upon information and belief, SB Tech is currently pursuing with the Board.

15. **Requirement # 14** – PIDI clearly has the experience and industry capabilities to develop, maintain and grow a successful sports wagering operation. Section 13C12(b)(6) of the Gaming Act explicitly states that the Board may consider the results of a petitioner’s slot machine and table game operations in determining that the petitioner has the experience and ability required to conduct sports wagering. In addition, CDI, through its wholly-owned subsidiary Churchill Downs Technology Initiatives Company (operating as TwinSpires.com and BetAmerica.com), is

PUBLIC VERSION

currently the largest online legal real-money wagering platform for pari-mutuel horse racing, with operations that span for more than a decade. In August of 2018, two of CDI's subsidiaries, Harlow's Casino and Riverwalk Casino, launched sports betting at their casino properties in Mississippi, offering first-to-market wagering on major professional sports including the NFL, NBA, NHL, MLB and collegiate sports, as well as sporting events happening all over the world. The sportsbook areas in these casinos feature convenient and easy to use sports wagering kiosks and all-new big screen displays broadcasting more than 100 different HD channels of sporting events and information. The sports wagering kiosks include in-game betting and cash-out features. CDI also has an agreement with Golden Nugget Atlantic City to enter the sports wagering market in New Jersey, where it expects to go live by the first quarter of 2019. This proven track record should give comfort to the Commonwealth that CDI has the requisite experience and technology to successfully operate sports wagering in a secure and compliant environment.

TwinSpires.com offers betting year-round from three hundred thirty (330) racetracks in sixteen (16) countries and is the official mobile betting partner of the Kentucky Derby, the Breeders' Cup World Championships and Churchill Downs Racetrack. TwinSpires.com continues to attract new customers to the horseracing industry and has consistently increased handle year after year since its inception in 2007 through best-in-class content, data driven marketing strategies and continued reinvestment to develop and improve its products. In addition to fostering organic growth, CDI has also grown its online wagering business through acquisitions of AmericaTAB, Bloodstock Research Information Services and the Thoroughbred Sports Network in 2007, YouBet.com, Inc. in 2010 and BetAmerica in 2017. CDI has established itself as a leader in a highly regulated industry and has continuously shown a willingness to make substantial investments to develop and improve its online products and platforms. As a result, CDI has

PUBLIC VERSION

developed expertise and assets that can be immediately deployed in CDI's expansion into sports wagering in Pennsylvania, including, without limitation, the following:

- (a) Successful and recognizable brands such as TwinSpires, BetAmerica and YouBet;
- (b) Existing databases of Pennsylvania customers;
- (c) Successful launch of 2 sportsbooks in wholly-owned casinos in Mississippi under the BetAmerica brand;
- (d) Valuable sponsorships and affiliations such as the Kentucky Derby, Breeder's Cup World Championships and Churchill Downs Racetrack;
- (e) Customer retention programs such as bonuses, reward programs, and promotions;
- (f) Exceptional customer service platforms;
- (g) Established and reliable funding methods for customer deposits and withdrawals; and
- (h) Problem gambling and fraud monitoring programs.

16. **Requirement # 15** – PIDI's gaming revenues, as set forth in **CONFIDENTIAL** Appendix F, and its financial statement and auditor's report contained in **CONFIDENTIAL** Appendix E (1) establish by clear and convincing evidence that Petitioner has the financial ability to pay the sports wagering authorization fee.

17. **Requirement # 16** – PIDI is in the process of considering the proper location where sports wagering operations will be managed, administered and controlled. Detailed plans for the proposed sports wagering areas will be submitted to the Board on a confidential basis and will include security and surveillance plans, as well as plans for operating in compliance with the Clean

PUBLIC VERSION

Indoor Air Act, 35 P.S. §§ 637.1—637.11. No location will be utilized for such purpose unless and until it meets the requirements and approval of the Board.

18. **Requirement # 17** – PIDI's system of internal and accounting controls currently in place at Presque Isle Downs & Casino have been approved by the Board, and are in the possession of the Board. PIDI and CDI will continue to comply with these existing controls, with modifications as may be necessary and approved by the Board. In addition, CDI will use standard Internet security measures to safeguard the privacy and security of its registered players. An overview of planned security measures is described in **CONFIDENTIAL** Appendix G. Petitioner and CDI are each committed to facilitating compliance with the requirements of Chapter 13C of Act 42 of 2017 and Section 802(a) of the Unlawful Internet Gambling Enforcement Act of 2006 (Public Law 109-347, 31 U.S.C. § 5362(10)(B)). Those requirements include, but are not limited to: (1) age, identity and location verification requirements; (2) appropriate data security standards to prevent unauthorized access by any person whose age, identity or location have not been verified or cannot be properly verified; and (3) generally, requiring that all wagers made in the conduct of interactive gaming be initiated and received or otherwise made exclusively within the Commonwealth. Additional descriptions of how PIDI and CDI will facilitate compliance with these requirements is provided in **CONFIDENTIAL** Appendix H.

19. **Requirement # 18** – PIDI's present accounting systems are in the possession of the Board. PIDI shall provide the Board with complete accounting systems to address accounting for sports wagering accounts, charges, transparency and reporting to the Board and the Pennsylvania Department of Revenue, distribution of revenue to the Commonwealth and winnings

PUBLIC VERSION

to registered players, and ongoing auditing and internal control compliance reviews prior to obtaining approval to offer sports wagering.

20. **Requirement # 19** – PIDI does not expect that the introduction of sports wagering will have any impact on the number of slot machines and table games in operation at its licensed facility.

21. **Requirement # 20** – PIDI is in the process of considering the necessary additions to its Compulsive and Problem Gambling Plan due to sports wagering. No additions will be made for such purpose unless and until they meet the requirements and approval of the Board.

22. As set forth above, if for any reason the Proposed Transaction is not consummated, or if the Board does not approve the Proposed Transaction, PIDI represents that it still intends to provide the sports wagering offerings as set forth in this Petition. In that instance, however, PIDI reserves the right to seek approval of the Board to utilize a sports wagering operator other than CDI, and will provide the Board with the required information to meet the Board's requirements at that time.

23. Similarly, CDI represents that if the Proposed Transaction is approved by the Board and closes, that it represents that it will provide the sports wagering offerings, and fulfill the requirements as set forth in this Petition. See Exhibit 1- Certification of Ian Williams, President, Online Gaming, (Representative of CDI).

B. Standard for Review

24. Section 13C12 of Act 42 of 2017 and the Board's temporary regulations, at 58 Pa. Code § 1401.4(b), require that petitioners provide clear and convincing evidence that the aforementioned regulatory and operational requirements are met.

PUBLIC VERSION

25. As demonstrated herein and in the accompanying appendices, it is respectfully submitted that PIDI has met its burden.

26. PIDI is a slot machine licensee in good standing with the Board. The conduct of sports wagering by PIDI will generate additional tax revenue for the Commonwealth. PIDI's conduct of sports wagering will result in new jobs, many of which will be filled by Pennsylvania residents, and will result in substantial new economic activity.

27. As evident from the ongoing economic benefits of PIDI's slot and table game operations (and the impending deal with CDI), PIDI has the financial stability, integrity and responsibility, as well as the experience and industry capabilities to conduct a vibrant sports wagering operation.

28. In order to protect the aforementioned **CONFIDENTIAL** Appendices from disclosure, Petitioner has filed a Motion to Protect Confidential Information contemporaneously with this Petition.

III. CONCLUSION

29. PIDI's Petition fulfills all of the requirements of Section 13C12 of Act 42 of 2017. Furthermore, through this Petition and accompanying appendices, PIDI has demonstrated by clear and convincing evidence that the relief requested in this Petition should be granted and that the Board should issue a sports wagering certificate to PIDI.

PUBLIC VERSION

WHEREFORE, for the foregoing reasons, the Petitioner, Presque Isle Downs, Inc., respectfully requests that the Board:

- A. Approve the within Petition to Issue a Sports Wagering Certificate to Presque Isle Downs, Inc. pursuant to Section 13C12 of Act 42 of 2017; and 58 Pa. Code § 1401.4;
- B. Provide for such other relief that the Board deems appropriate.

Respectfully submitted,

BLANK ROME LLP

By:



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Attorneys for Petitioner, Presque Isle Downs, Inc.

Dated: December 7, 2018

PUBLIC VERSION

VERIFICATION

I, Stephen D. Schrier, Esquire, hereby state that the facts set forth in the Petition of Presque Isle Downs, Inc. Requesting the Issuance of a Sports Wagering Certificate and Authorizing PIDI to Conduct Sports Wagering is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: December 7, 2018



STEPHEN D. SCHRIER

CERTIFICATE OF SERVICE

I, STEPHEN D. SCHRIER, ESQUIRE, hereby certify that on this 7th day of December, 2018, a true and correct copy of the Petition of Presque Isle Downs, Inc. Requesting Issuance of a Sports Wagering Certificate and Authorizing PIDI to Conduct Sports Wagering was served by Electronic Mail to:

Cyrus Pitre, Esquire
Chief Enforcement Counsel
Pennsylvania Gaming Control Board
Office of Enforcement Counsel
P.O. 69060

Harrisburg, PA 17106-9060
cpitre@pa.gov

Ms. Lyndsey Wanich
Board Clerk
Office of Hearings & Appeals
Pennsylvania Gaming Control Board
P.O. 69060
Harrisburg, PA 17106-9060
boardclerk@pa.gov



STEPHEN D. SCHRIER

Exhibit 1

CHURCHILL DOWNS INCORPORATED

OFFICER'S CERTIFICATE

DATED AS OF DECEMBER 7, 2018

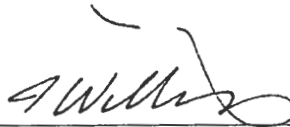
The undersigned, Ian Williams, hereby certifies that I am the duly elected, qualified and acting President, Online Gaming, for Churchill Downs Incorporated (the "Company"). As such, I am familiar with the matters herein certified, and I am authorized to execute and deliver this Certificate in the name and on behalf of the Company.

Solely in my capacity as President, Online Gaming of the Company and not in my individual capacity, I hereby further certify as of the date hereof on behalf of the Company, that:

If the proposed transaction, whereby the Company intends to purchase from Presque Isle Downs, Inc. ("PIDI") and its parent company Eldorado Resorts, Inc., substantially all of the assets and properties of Presque Isle Downs & Casino in Summit Township, Erie County, Pennsylvania (the "Proposed Transaction"), is approved by the Pennsylvania Gaming Control Board ("Board") and closes, that PID, LLC (a wholly-owned subsidiary of the Company) will provide the sports wagering offerings as set forth in the accompanying Petition, and the benefits set forth in the Petition by PIDI shall equally apply to CDI and PID, LLC upon the closing of the Proposed Transaction.

IN WITNESS WHEREOF, this Certificate is executed as of the date first written above.

CHURCHILL DOWNS INCORPORATED

By: 
Name: Ian Williams
Title: President, Online Gaming

APPENDIX C

Types of Events upon which the Book will Accept Wagers

Professional football
College football
Canadian football
Arena football
Professional baseball
College baseball
College softball
Professional basketball
Women's professional basketball
College basketball
Euroleague basketball
Professional hockey
College hockey
Soccer
Golf
Tennis
Auto racing
Boxing/UFC
Olympics
Rugby
Australian rules football
Cricket
Cycling
Darts
E-sports
Lacrosse
Rowing/sailing