



August 3, 2010

*Via email: [Thomas.Auriemma@pngaming.com](mailto:Thomas.Auriemma@pngaming.com)*

Thomas N. Auriemma  
Vice President/Chief Compliance Officer  
Penn National Gaming, Inc.  
825 Berkshire Boulevard  
Wyomissing, PA 19610

Re: New York Gaming Ventures, LLC and Related Entities and Individuals – May 11, 2010 Request for Proposals for Development and Operation of a Video Lottery Facility at Aqueduct Racetrack

Dear Mr. Auriemma:

This is in response to your letter dated July 23, 2010 which identified portions of the proposal submitted by Penn National Gaming, Inc. (“Penn National Proposal”) pursuant to the Request for Proposals for Development and Operation of a Video Lottery Facility at Aqueduct Racetrack, dated May 11, 2010 (“RFP”) as confidential information and offered explanations of Penn National’s claims that those portions should be withheld from public disclosure under the Freedom of Information Law (“FOIL”) and the Personal Privacy Protection Law.

The New York State Division of the Lottery (the “Lottery”) has reviewed the portions of the Proposal and the explanations offered in your letter and determined that some of the portions Penn National identified as confidential do not fall within exceptions permitted under FOIL and therefore, may be publicly disclosed.

Penn National asserted its Quality Assurance and Property Inspection Guidelines is a confidential program developed by Penn National that is not available to the public and, if disclosed publicly, would cause substantial injury to the competitive position of Penn National. The Lottery disagrees with that assertion because portions of the Guidelines contain general information about the quality assurance program and objectives that are not concepts unique to Penn National, but general industry-wide practices. Specifically, the Introduction contained in Section 1 generally describes the program and its objective of quality assurance to assist Penn National’s general managers in providing positive guest services. The information contained in Section 1 of the quality assurance program may not be withheld from disclosure under FOIL.

Penn National asserted that its entire marketing plan is confidential because it could be used to undermine future marketing. The Lottery disagrees with that assertion because the entire marketing plan cannot be considered confidential because portions of the plan describe generally

*New York Lottery, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500  
(518) 388-3408  
[www.nylottery.org](http://www.nylottery.org)*

**When New Yorkers Play Responsibly, We All Win.**

available geographic information, general marketing objectives and well-known strategies. The following pages of the marketing plan cannot be considered confidential or trade secrets: 1-7 and 10-13.

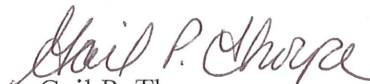
Penn National asserted that the Employer Identification Number (“EIN”) for New York Gaming Ventures, LLC is confidential and release of that number “could compromise the business activities of the entity and of its ultimate parent company, Penn National Gaming, Inc. and potentially cause financial injury to Penn and its affiliated companies if disclosure of this tax number occurred.” You did not provide any further justification. The Lottery disagrees with that assertion because the Lottery cannot deduce how release of the EIN would cause any competitive disadvantage to those entities.

For the foregoing reasons, the portions of Penn National’s Proposal cited in this letter do not fall within exceptions permitted under FOIL and therefore, may be publicly disclosed by the Lottery.

Penn National also asserted that portions of the entity and individual Video Lottery Gaming License applications submitted by Penn National should be withheld from public disclosure. Please be assured that the personal information that the members or officers of your company provided to the Lottery are protected from disclosure pursuant to FOIL and the Personal Privacy Protection Law.

Pursuant to Public Officers Law Section 89 (5)(b), you may submit a written appeal of this denial of exemptions from public disclosure within seven (7) business days of receipt of this denial by writing to Lottery Director Gordon Medenica.

Sincerely,



Gail P. Thorpe  
Contracting Officer