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# MCDANIEL WOLFF & BENCA

PLLC

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Scott Richardson  
Jon Shirron  
Vincent Ward  
Rufus Wolff\*\*\*

March 25, 2020

**SENT VIA EMAIL**

Mr. Smokey Campbell  
Executive Director  
Arkansas Racing Commission  
P.O. Box 3076  
Little Rock, AR 72203  
smokey.campbell@dfa.arkansas.gov

*Re: Cherokee Nation Businesses, LLC Casino License Application*

Dear Mr. Campbell:

At several key points since August 2019, Cherokee Nation Businesses, LLC, (“CNB”) has asked the Arkansas Racing Commission (“ARC”) for a hearing on CNB’s request that its application for a casino license be accepted “for good cause shown.” At the last ARC hearing to address this matter, the ARC declined to rule on the request until the Circuit Court had addressed Gulfside Casino Partnership’s (“Gulfside”) current lawsuit. Late on March 24, 2020, the Court issued orders remanding this matter back to the ARC. Gulfside had asked the Court to order that its application be accepted, but the Court specifically denied this request and preserved the ARC’s discretion to deny Gulfside’s application. Given these developments, CNB respectfully suggests that the time has come for the ARC to accept its application.

Attached to this letter are CNB’s prior letters requesting that CNB’s application be accepted for “good cause shown.” These letters outline the reasons for CNB’s request and the circumstances that support CNB’s request. CNB has followed the directions of Pope County, this Commission and its staff and counsel for how to best proceed in this matter. CNB has been repeatedly assured that the “good cause shown” provision was included in the Casino Rules so that the County Judge and/or Quorum Court of Pope County would have time past the May 2019 application period to consider which operator it would provide a letter or resolution of support and for that potential casino operator to be considered for the Pope County casino license. That support was decided and given to CNB in August 2019. CNB then immediately submitted its application for a casino license with the support of the Pope County Judge and Pope County Quorum Court. CNB requests that the ARC set a hearing on CNB’s request for acceptance as soon as reasonably possible. Respectfully, CNB suggests that no action be taken on any other application until CNB is granted the due process that it has

\*Licensed in Arkansas and California \*\*Licensed in Arkansas and Washington DC \*\*\*Licensed in Arkansas and Texas

requested and been denied up to this point. Given the current pandemic, CNB agrees to a video or telephone conference hearing regarding this matter.

Please forward this letter to the Commission and whomever else you deem appropriate. Thank you for your attention to this matter.

Best Regards,

*Scott Richardson*

Scott P. Richardson

cc: Mr. Byron Freeland (via email)  
Mrs. KaTina Guest (via email)  
Mr. Chuck Garrett (via email)  
Mr. Clay McCall (via email)



DUSTIN MCDANIEL • SCOTT RICHARDSON • BART CALHOUN

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August 15, 2019

Mr. Smokey Campbell  
Arkansas Racing Commission  
1515 W. 7<sup>th</sup> St., Ste. 505  
Little Rock, AR 72201

Re: Application for Pope County Casino License

Dear Mr. Campbell:

On behalf of Cherokee Nation Business and Legends Hotel & Resort, I am proud to deliver to you their application for a casino license in Pope County, Arkansas in the recently opened 90-day application period. This application is accompanied by a resolution of support from the Quorum Court of Pope County.

Arkansas Racing Commission Rule 2.13.4.(b) provides as follows:

Applications for a casino license will be accepted by the Commission for a period of thirty (30) days, beginning on the date established by the Commission and published as a legal notice by the Commission. No applications will be accepted after the thirty (30) day period, except for good cause shown.

At the August 15, 2019, Racing Commission meeting, the Commission voted to reopen the application period for an additional ninety (90) days in response to the Quorum Court's resolution of support for CNB's application for a casino license. In order to comply with Rule 2.13.4(b), and to avoid any confusion in the future, CNB requests that the Racing Commission officially accept CNB's application "for good cause shown." We respectfully suggest that good cause is demonstrated by the fact that in the initial thirty day window no applications were submitted with a letter or resolution of support from the Pope County Judge or Quorum Court holding office at the time of the application as required by Amendment 100, Ark. Code Ann. § 23-117-101, and Arkansas Racing Commission Rule 2.13.5.(b). This application now comes to you with that resolution.

Best regards,

A handwritten signature in blue ink, appearing to read 'Scott Richardson', is written over a light blue horizontal line.

Scott Richardson  
Partner  
scott@mrcfirm.com



**M<sup>c</sup>DANIEL  
WOLFF &  
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Little Rock, AR 72201

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January 6, 2019

**SENT VIA EMAIL**

Mr. Smokey Campbell  
Executive Director  
Arkansas Racing Commission  
P.O. Box 3076  
Little Rock, AR 72203  
Smokey.campbell@dfa.arkansas.gov

*Re: Casino License Application of Cherokee Nation Businesses*

Dear Mr. Campbell:

This firm represents Cherokee Nation Businesses, LLC, ("CNB") and Legends Resort & Casino, LLC, in applying for the casino license for Pope County, Arkansas. CNB is the sole qualified applicant with the full support of the incumbent Pope County Judge, Pope County Quorum Court, the Mayor of Dover, and with a Resolution of Welcome from the Russellville City Council. Pope County's commitment to support CNB, and CNB only, has been formalized by an economic development agreement worth over \$40 million to the people of Pope County. Despite this level of support from the local community, CNB has yet to have its casino application considered by the ARC.

The Arkansas Racing Commission ("ARC") Casino Gaming Rules ("the Rules") provide two routes for the ARC to consider applications for a casino license after the close of the May 2019 application period. (1) If no applications were received, the ARC could open another application period after written request by a casino applicant to the ARC. Rule 2.10.13.4(d). (2) The ARC can accept applications after the 30-day May 2019 application deadline passed "for good cause shown." Rule 2.10.13.4(b). On August 15, 2019, CNB submitted an application for a casino license. Included with the casino license was a cover letter asking that CNB's application be considered via both routes.

Last week, the Pulaski County Circuit Courts issued a temporary restraining order blocking the ARC from considering CNB's application pursuant to the second application period opened under Rule 2.10.13.4(d). But, the ARC has never formally addressed CNB's request that its application be considered pursuant to the second route; i.e. for "good cause shown" under Rule 2.10.13.4(b). That request remains pending to this day.

We understand that another meeting of the ARC has been scheduled for later in January 2020. Please accept this as our formal request that CNB's request for consideration of its application under Rule 2.10.13.4(b) for "good cause shown" be added to the agenda of the next meeting of the ARC so that CNB's application can be formally accepted under the good cause

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standard. We further request that ARC take no adverse action on CNB's application while this request for a hearing is pending.

Best regards,

*Scott P. Richardson*

Scott Richardson

Partner

[scott@mrcfirm.com](mailto:scott@mrcfirm.com)

SPR/kaa

cc: Mr. Byron Freeland (*via email*)

Ms. Katina Guest (*via email*)

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January 10, 2019

**SENT VIA EMAIL**

Mr. Smokey Campbell  
Executive Director  
Arkansas Racing Commission  
P.O. Box 3076  
Little Rock, AR 72203  
Smokey.campbell@dfa.arkansas.gov

*Re: January 10, 2020 Racing Commission Meeting*

Dear Mr. Campbell:

We were notified that the Arkansas Racing Commission ("Commission") is set to meet today, January 10, 2020 at 12:30 p.m., to discuss the litigation pending before Circuit Judge Wendell Griffen. For the sake of clarity, I want to reiterate Cherokee Nation Businesses, LLC's ("CNB") position in regards to its application for a casino license in Pope County, Arkansas. When CNB submitted its application with the necessary letters and resolution of support from incumbent county officials on August 15, 2019, it stated, through counsel Scott Richardson, "[i]n order to comply with Rule 2.13.4(b), and to avoid any confusion in the future, CNB requests that the Commission officially accept CNB's application 'for good cause shown.'" That was our position then, and that remains our position now, before the Commission and the courts.

The Casino Gaming Rules provided two routes for the Commission to receive an application following the initial application period: Rule 2.13.4(b) and Rule 2.13.4(d). The Commission chose to proceed under Rule 2.13.4(d) and opened a second application period, but now the legality of the sub-section (d)'s application has been called into question. However, CNB expressly submitted its application pursuant to Rule 2.13.4(b) and "good cause shown" to avoid the confusion that now surrounds Rule 2.13.4(d). The current controversy around the second application period does not affect CNB's request or the Commission's authority to accept CNB's application "for good cause shown." Certainly, if the courts invalidated the second application period and directed the Commission to reject any applications submitted pursuant to the second application period, CNB's application would be unaffected by that action and remain pending because it was also submitted under Rule 2.13.4(b) "for good cause shown."

As stated in our January 6, 2020 letter to the Commission, we ask that CNB's request for consideration of its application under Rule 2.13.4(b) for "good cause shown" be added to the agenda of the January 16, 2020 Commission meeting so that CNB's application can be formally accepted under the good cause standard. Of course, we understand Judge Griffen has issued a temporary restraining order enjoining the Commission from taking certain

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actions. His order pertains only to Rule 2.13.4(d), but we have requested clarification from Judge Griffen (*see* attached letter), and a hearing is set in his Court on January 14, 2020. Lastly, we reiterate CNB's request that ARC take no adverse action on CNB's application, at its meeting today or otherwise, while CNB's request for consideration for "good cause shown" is pending.

Best regards,

*Bart W. Calhoun*

Bart Calhoun

Partner

[bcalhoun@mrcfirm.com](mailto:bcalhoun@mrcfirm.com)

BWC/kaa

cc: Mr. Byron Freeland (*via email*)

Ms. Katina Guest (*via email*)

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