

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright

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In the Matter of)	
)	
)	
Pinnacle Entertainment, Inc.,)	
a corporation; and,)	
)	Docket No. 9355
)	
Ameristar Casinos, Inc.,)	
a corporation.)	
)	
_____)	

APPLICATION FOR APPROVAL OF DIVESTITURE OF
THE LUMIERE ASSETS

Pursuant to Section 2.41(f) of the Federal Trade Commission (“Commission”) Rules of Practice and Paragraph III of the Decision and Order (“D&O”) accepted for public comment by the Commission on August 12, 2013 in the above-captioned matter, Respondent Pinnacle Entertainment, Inc. (“Pinnacle”) respectfully submits this Application for Approval of Divestiture of the Lumiere Assets¹ (“Application”) to Tropicana St. Louis LLC (“Tropicana St. Louis”), a wholly owned subsidiary of Tropicana Entertainment, Inc. (“Tropicana”).

¹ Capitalized terms not defined in this Application have the definitions given to them in the D&O.

I. Background

On December 20, 2012, Pinnacle entered into an agreement to acquire Ameristar Casinos, Inc. (“Ameristar”) (together with Pinnacle, “Respondents”). On May 31, 2013, the Commission served on Respondents a Complaint alleging that the acquisition would result in increased prices and lower quality for customers in the St. Louis, Missouri area, where Pinnacle operates two casinos, River City and Lumiere Place, and Ameristar operates one casino. On August 2, 2013, Respondents executed an Agreement Containing Consent Orders (“Consent Agreement”) that included an Order to Hold Separate and Maintain Assets (“Hold Separate Order”) and a D&O, which, if approved, would require Respondents to divest the Lumiere Assets.² On August 5, 2013, the Commission entered an Order Withdrawing Matter from Adjudication for the Purpose of Considering a Proposed Consent Agreement. On August 12, 2013, the Commission accepted the Consent Agreement and issued the Order to Hold Separate and Maintain Assets. On August 13, 2013, Pinnacle closed its acquisition of Ameristar.

This Application seeks approval of the proposed divestiture of the Lumiere Assets to Tropicana St. Louis. Respondents desire to complete the proposed divestiture of the Lumiere Assets as soon as possible following the Commission’s approval of the D&O and this Application, and the satisfaction of other closing conditions, including the approval of the Missouri Gaming Commission (“MGC”). Prompt consummation of the proposed divestiture will further the purposes of the D&O and is in the interest of the Commission and the public.

² The Complaint also alleged that the acquisition would result in increased prices and lower quality for customers in the Lake Charles, Louisiana area, where Pinnacle operates a casino and Ameristar is building a casino scheduled to open in 2014. The D&O, if approved, requires Respondents to divest the Ameristar Louisiana Assets to remedy the alleged effects of the acquisition in the Lake Charles area. Pinnacle has previously submitted a divestiture application to the Commission to approve the proposed acquirer of the Ameristar Louisiana Assets.

II. Request for Confidential Treatment

This Application contains confidential and competitively sensitive information relating to Respondents, the divestiture of the Lumiere Assets, and the proposed Lumiere Acquirer. Pursuant to Sections 6(f) and 21(c) of the Federal Trade Commission Act, 15 U.S.C. §§ 46(f) and 57b-2(c), and Sections 2.41(f), 4.9 and 4.10 the Commission's Rules of Practice and Procedure, 16 C.F.R. §§ 2.41(f), 4.9 and 4.10, Pinnacle requests that nonpublic, commercially or competitively sensitive information contained in this Application be treated by the Commission as strictly confidential and not be made available to the public. The disclosure of this information would prejudice Pinnacle and Tropicana, cause harm to the ongoing competitiveness of the Lumiere Assets, and impair Pinnacle's ability to comply with its obligations under the D&O. Pinnacle requests that the Commission inform it immediately if the Commission cannot treat the confidential information contained in this Application as confidential in order to provide Pinnacle an opportunity to seek relief.

For the convenience of maintaining the public record, Pinnacle is submitting two versions of this Application. The confidential version contains the information necessary to enable the Commission to assess the Application. The public version has been redacted to exclude confidential and proprietary information.

III. The Proposed Divestiture

On August 16, 2013, Pinnacle and Tropicana entered into an agreement for the sale of the Lumiere Assets.³ The principle terms of the sale of the Lumiere Assets to Tropicana are described in the Equity Interest Purchase Agreement dated August 16, 2013 among Tropicana St. Louis, Casino One Corporation, PNK (ES) LLC, PNK (St. Louis RE) LLC, PNK (STLH), LLC,

³ In the previous year, there were no sales or other transactions between Pinnacle and Tropicana.

and Casino Magic, LLC, and Pinnacle Entertainment, Inc. (the “Purchase Agreement”), which is attached as Confidential Exhibit A. Additional documents discussing the divestiture are attached in Confidential Exhibit B.

As consideration for the Lumiere Assets, Tropicana will pay Pinnacle \$260 million at closing, which amount will be subject to certain adjustments, including adjustments for working capital overages (if any) and shortages (if any) at closing. The formula for determining the Purchase Price is defined in the Purchase Agreement.⁴ Tropicana has deposited \$15 million pursuant to an escrow agreement executed by Pinnacle and Tropicana, which, along with accrued interest, will be credited against the Purchase Price upon closing.⁵

As provided in Sections IV and V below, the proposed Lumiere Acquirer, Tropicana St. Louis (along with its parent, Tropicana), has the necessary financial, professional, and operational capacity to ensure that the Lumiere Assets will continue to be operated as a competitive casino in the St. Louis, Missouri area, and the proposed divestiture conveys all the Lumiere Assets. Consequently, the proposed divestiture will accomplish the purposes of the D&O as they relate to the St. Louis area by creating an independent, viable, and effective competitor in the relevant market, and thus will remedy any lessening of competition resulting from Pinnacle’s acquisition of Ameristar as alleged in the Commission’s Complaint.

IV. The Proposed Lumiere Acquirer is Well-Qualified to be a Viable Competitor

A. Tropicana has the Financial Capability to Acquire and Operate the Lumiere Assets

Tropicana St. Louis is a wholly owned subsidiary of Tropicana, a publicly traded owner and operator of regional casino and entertainment properties with headquarters in Las Vegas,

⁴ See Purchase Agreement Sections 2 and 3 and Schedule B.

⁵ See Purchase Agreement Section 2.1(b).

Nevada. Tropicana currently has seven casino properties and holds gaming licenses in five states (Nevada, New Jersey, Mississippi, Indiana and Louisiana) and a casino resort development in Aruba, which properties include an aggregate of approximately 6,046 hotel rooms, 7,048 slot machines, 212 table games and approximately 6,700 employees.⁶ In 2012, Tropicana's total net revenues and EBITDA were approximately \$612.8 million and \$82 million respectively, and as of June 30, 2013, Tropicana held approximately \$242 million in cash and approximately \$173 million total long term debt. Tropicana currently has one of the strongest balance sheets in the gaming industry and sufficient financial resources and capability to acquire the Lumiere Assets.

Icahn Enterprises L.P., a master limited partnership ("Icahn"), is the beneficial owner of approximately 68% of Tropicana's common stock. Icahn is a diversified holding company owning subsidiaries engaged in business in following areas: Gaming, Investment, Automotive, Energy, Railcar, Food Packaging, Metals, Real Estate and Home Fashion.⁷ Icahn had total consolidated net sales of \$14.6 billion in 2012, and as of June 30, 2013, it held approximately \$3.34 billion in consolidated cash and cash equivalents.

Icahn has a demonstrated history of successfully acquiring assets and improving their operations. Icahn acquired a controlling interest in Tropicana assets in March 2010 out of Chapter 11 bankruptcy proceedings initiated by affiliates of Columbia Sussex, and since that

⁶ A copy of Tropicana's most recent Form 10-K for the year ending December 31, 2012, including Financial Statements and Schedules, is available at <http://www.sec.gov/Archives/edgar/data/1476246/000144530513000541/a2012-12x3110k.htm>. Tropicana's most recent Form 10-Q for the quarter ending June 30, 2013 is available at <http://www.sec.gov/Archives/edgar/data/1476246/000144530513001889/a2013-06x3010q.htm>. Tropicana's corporate address is 8345 W. Sunset Road, Suite 200, Las Vegas, Nevada 89113. Staff may obtain, as necessary, additional confidential information directly from Tropicana's General Counsel, William C. Murtha (Telephone: 609-340-4321; e-mail: Wmurtha@tropicana.net), or its Chief Financial Officer, Lance J. Millage (Telephone: 702-589-3900; e-mail: Lmillage@tropicanaentertainment.com).

⁷ A copy of Icahn's most recent Form 10-K for the year ending December 31, 2012, including Financial Statements and Schedules, is available at <http://www.sec.gov/Archives/edgar/data/813762/000081376213000018/iep-2012x10k.htm>. Icahn's most recent Form 10-Q for the quarter ending June 30, 2013 is available at <http://www.sec.gov/Archives/edgar/data/813762/000081376213000074/iep-63013x10q.htm>.

time, Tropicana has undergone a transformation and successfully grown revenues at its properties from approximately \$359.9 million in 2009 to approximately \$612.8 million in 2012.

B. Tropicana Has Substantial Experience Operating Casinos

Similar to Pinnacle and Ameristar, Tropicana owns and operates seven regional riverboat and land-based casinos in the United States.⁸ With three casinos in Nevada, and one casino in each of Indiana, Louisiana, Mississippi, and New Jersey, Tropicana also has a geographic footprint similar to Pinnacle and Ameristar. Together Tropicana's properties comprise approximately 6,046 hotel rooms and over 380,000 square feet of gaming space. Through these properties, Tropicana tailors its gaming and entertainment operations and experience to meet the needs of local, regional and national customers.

Because Tropicana's facilities are geographically diversified, they are not subject to reliance on any single gaming market, which Tropicana believes mitigates the impact of potential market cycles. The majority of Tropicana's gaming facilities offer multi-denominational, state-of-the-art slot machines as well as a full range of table games and betting minimums and limits, catering to a wide range of potential customers. Tropicana's casino properties include hotel rooms, which both diversify its revenue base and help extend the average length of patrons' stay at its facilities.

Tropicana believes its facilities provide its guests with an attractive price-to-value relationship by offering an exciting gaming atmosphere in attractive surroundings. Tropicana seeks to apply this positioning across its gaming and related amenities while maintaining attentive and friendly guest service. Tropicana also emphasizes professional and courteous

⁸ Tropicana also has an operating casino resort development project in Aruba consisting of approximately 362 rooms and a small temporary casino. One of Tropicana U.S. casinos, River Palms, located in Laughlin, Nevada is under contract to be sold in 2013.

attitudes consistent with its high hospitality standards.

Tropicana is a longstanding and recognizable brand in the gaming industry. Tropicana continuously strives to identify marketing and promotion innovations that strengthen brand awareness and improve customer flow. Trop Advantage, Tropicana's player loyalty card program, offers customers discounts and other benefits across its properties. Tropicana has also implemented strategically targeted direct mail and social media marketing programs to enhance brand loyalty with current customers and attract new patrons to its properties.

Tropicana has implemented a number of capital investment programs and operational "best practices" aimed at growing revenue, improving margins at its properties, and reducing corporate overhead expenses. In 2012, Tropicana consolidated its operations of two riverboat casinos in Greenville, Mississippi while developing a landside casino and rebranding the operation "Trop Casino Greenville." Due to the success of the new landside casino, Tropicana is planning an expansion of the landside casino to be commenced in 2013. In 2012, Tropicana also completed renovations of its hotel rooms at Casino Aztar in Evansville, Indiana, and in 2013, rebranded the property "Tropicana Evansville". Similarly, Tropicana completed hotel room renovations at its Tropicana Laughlin property in 2012. In 2012, Tropicana also completed major renovations at its Tropicana Atlantic City property by adding seven new food and beverage outlets, including a "Chickie's & Pete's" branded sports bar.

Tropicana's analytical approach to running its properties and in-depth research of gaming operations have allowed it to identify further cost saving opportunities across its portfolio of assets. Most of these savings do not impact customer service but rather involve a more efficient use of resources. These changes include centralizing purchasing to reduce costs, and consolidating and streamlining back office operations, including utilizing third parties for certain

services and reconfiguring gaming floor layouts. Other identified initiatives include developing a database and campaign manager system, and consolidating business functions in areas where there are geographic synergies.

Tropicana's primary focus has been the stabilization of revenue degradation driven by gaming market declines, implementation of operational improvements, renovation of its existing properties and development of strategic business initiatives at its existing properties. Tropicana also considers expansion opportunities in new gaming jurisdictions and underserved markets and acquisition opportunities and other strategic transactions that may arise periodically.

Tropicana does not currently intend to rebrand the Lumiere assets because of the significant brand awareness and value Lumiere has developed in the St. Louis market. Tropicana has, however, developed a comprehensive business plan to integrate Lumiere Place Casino and Hotels into Tropicana's portfolio of properties and operations.

C. Tropicana's Officers and Directors Have Significant Experience in the Casino Industry

Tropicana's Officers and Directors have substantial experience in the casino industry – specifically in operating local and regional casinos – and proven backgrounds for successfully investing in companies and creating value. The names of Tropicana's Directors and Executive Officers are provided below along with a detailed description of Tropicana's Chairman of the Board and Executive Officers.

Carl C. Icahn- Chairman of the Board. Mr. Icahn has been Chairman of the Board of Directors since March 2010 and is a member of its Nominating and Governance Committee, its Investment Committee and its Financing Committee. Mr. Icahn has served as Chairman of the Board of Icahn Enterprises G.P. since 1990. From August 8, 2007 until December 31, 2007, Mr. Icahn served as Chief Executive Officer of Icahn Capital Management and, since January 1,

2008, Mr. Icahn has served as Chief Executive Officer of Icahn Capital LP. Since 1984, Mr. Icahn has also served as Chairman of the Board and a director of Starfire Holding Corporation, or Starfire, a privately held holding company. Mr. Icahn was also Chairman of the Board and President of Icahn & Co., Inc., a registered broker-dealer and a member of the National Association of Securities Dealers, from 1968 to 2005. From October 1998 through May 2004, Mr. Icahn was the President and a director of Stratosphere Corporation, the owner and operator of the Stratosphere Hotel and Casino in Las Vegas, which, until February 2008, was a subsidiary of Icahn Enterprises. From September 2000 to February 2007, Mr. Icahn served as the Chairman of the Board of GB Holdings, Inc., which owned an interest in Atlantic Coast Entertainment Holdings, Inc., or Atlantic Coast, the owner and operator of The Sands Hotel and Casino in Atlantic City until November 2006. Mr. Icahn is uniquely qualified based on his historical background for creating value in companies across multiple industries.

Anthony P. Rodio - Director, President and Chief Executive Officer. Mr. Rodio has served as a Director and President and Chief Executive Officer of Tropicana since May 2012. Mr. Rodio also served as Tropicana's President and Chief Operating Officer from February 2012 through April 2012 and as President and Chief Executive Officer of Tropicana's subsidiary, Tropicana Atlantic City Corp., or Tropicana AC, from May 2011 through April 2012. Prior to joining Tropicana, Mr. Rodio served in numerous executive positions in the gaming industry over more than 20 years including serving as General Manager for Penn National Gaming's Hollywood Casino in Lawrenceburg, Indiana from October 2008 through May 2011, President of Colony Capital's AC Hilton and Resorts Atlantic City operations from June 2005 through September 2008, Senior Vice President Finance and later Regional Chief Financial Officer for Harrah's Resort Atlantic City from October 1998 through May 2005, Vice President Finance at

Trump Marina from May 1997 through September 1998 and as Vice President Finance for Merv Griffin's Resorts Casino Hotel in Atlantic City between September 1990 and May 1997.

Lance J. Millage - Executive Vice President, Chief Financial Officer and Treasurer. Mr. Millage served as Tropicana's Executive Vice President, Chief Financial Officer and Secretary from February 2011 through November 2011 and, since November 2011, has served as Tropicana's Executive Vice President, Chief Financial Officer and Treasurer. Mr. Millage was originally appointed to the position of Treasurer in November 2009. From November 2009 to February 2011, Mr. Millage served as Senior Vice President, Finance. Mr. Millage served as Senior Vice President, Finance and Treasurer at Tropicana Entertainment Holdings, LLC, a predecessor of Tropicana, from November 2009 through March 8, 2010. Prior to accepting his position with Tropicana Entertainment Holdings, LLC, Mr. Millage was with Resorts International Holdings, LLC, a company that strategically purchases and resells casino properties, since 2005 as the Senior Vice President and Corporate Controller and prior to that the Assistant General Manager and CFO for its Resorts East Chicago property, where he oversaw the operations of the company. Prior to that Mr. Millage was the Managing Director of Casino Operations for the Nevada region for Hyatt Gaming Services from 2004 to 2005, where he directed and coordinated gaming operations. Mr. Millage has over 20 years of experience in the casino and hospitality industry with Resorts International Holdings, LLC, Hyatt Gaming Services and Harrah's Entertainment serving in key financial positions combined with general management responsibilities. Mr. Millage graduated from the University of Missouri—St. Louis with a Bachelor of Science in Accounting.

William C. Murtha -Senior Vice President, General Counsel and Secretary. Mr. Murtha joined Tropicana in September 2011 as Corporate Counsel and has served as Senior Vice

President, General Counsel and Secretary since November 2011. Mr. Murtha has over 25 years of experience in the casino and resort hospitality industry, having worked in a legal capacity for a number of gaming companies. Prior to joining Tropicana, Mr. Murtha was Senior Vice President and Corporate Counsel for Kerzner International from 1997 to 2009, Vice President and General Counsel for Resorts International Hotel, Inc. from 1994 to 1997, Vice President and General Counsel for the Casino Association of New Jersey from 1990 to 1993 and Assistant Corporate Counsel for Resorts International, Inc. from 1986 to 1990.

Names of Other Individuals Serving on Tropicana's Board of Directors. Daniel A.

Ninivaggi; Daniel A. Cassella; Hunter C. Gary; James L. Nelson; and Daniel H. Scott.

V. The Proposed Divestiture Conveys All the Lumiere Assets Required to be Divested and is Consistent with the Terms and Purposes of the Order

A. The Proposed Divestiture is Consistent with the Terms of the Order

Paragraph III of the D&O requires the divestiture of the Lumiere Assets no later than the earlier of six months from the Order Date or six months from the Acquisition Date. If the only remaining condition to closing the Purchase Agreement is obtaining the MGC's approval of the proposed change in control and related gaming applications, however, the D&O provides eight months from the earlier of the Order Date and the Acquisition Date to divest the Lumiere Assets. The transaction described in the Purchase Agreement conveys all of the Lumiere Assets as described in Paragraph I.FFF of the D&O. Section 1.1 of the Purchase Agreement provides for the purchase and sale of the "Equity Interests," which are defined as all the issued and outstanding stock of Casino One Corporation, and the outstanding membership interest of PNK (ES), LLC, PNK (St. Louis RE), LLC, and PNK (STLH), LLC.

Casino One Corporation, PNK (ES), LLC, PNK (St. Louis RE), LLC, and PNK (STLH), LLC (collectively the "Companies") own all the Facility Assets used by, necessary for, or

relating to the Lumiere Casino.⁹ Additionally, Tropicana will receive all Books and Records used by, necessary for, or relating to, the Lumiere Casino.¹⁰ The Purchase Agreement also conveys to Tropicana the contracts used by, necessary for, or relating to the Lumiere Casino other than the Pinnacle Corporate Contracts.¹¹

The Companies also own, and the Purchase Agreement conveys, all the Intellectual Property used by, necessary for, or relating to, the Lumiere Casino (other than the Intellectual Property expressly excluded in the D&O from the definition of Lumiere Assets).¹² Specifically, under Section 4.2(d) of the Purchase Agreement, the parties will enter into the Trademark Assignment Agreements substantially in the form attached in Exhibit B to the Purchase Agreement prior to closing, which convey the relevant Intellectual Property, including the lists in Exhibit B of the Purchase Agreement of all United States Federal Trademarks and Common Law Trademarks to be assigned by Pinnacle to the Companies being acquired by Tropicana. Pinnacle will provide the Commission with executed copies of the Trademark Assignment Agreements as soon as they are finalized. Section 8.15 of the Purchase Agreement also provides that Pinnacle will transfer to Tropicana St. Louis the Customer Database Records.

Paragraph III.B of the D&O requires Pinnacle to enter into a Transition Services Agreement relating to the Lumiere Assets at the option of the Lumiere Acquirer and subject to

⁹ See Purchase Agreement Sections 4.2(q) and 6.6, and Section 6.6(a) of the Company Disclosure Letter. In the case of certain real property described in Section 8.22 of the Purchase Agreement as the Bronson Hide Parcels and the Port St. Louis Parcels, Tropicana may notify Pinnacle that it does not wish to include either or both parcels as part of the acquisitions. The Bronson Hide Parcels are owned by the Companies. The Port St. Louis Parcels are owned by the Port St. Louis Condominium, LLC, and will be conveyed to the Companies prior to closing, unless Tropicana notifies Pinnacle that it does not elect to include them in the acquisition. Pinnacle will notify the FTC in the event that Tropicana elects not to acquire either or both parcels.

¹⁰ See Purchase Agreement Section 8.5.

¹¹ See Purchase Agreement Sections 4.2 (j), 4.2(o), 4.2(p), 6.8, and Schedule A.

¹² See Purchase Agreement Sections 4.2(d) and 6.7, and Schedule A.

the prior approval of the Commission. Section 4.2 of the Purchase Agreement provides that at the election of the Lumiere Acquirer the parties shall enter into a Transition Services Agreement. Pinnacle has received a draft Transition Services Agreement from Tropicana, and will submit a copy of the final executed version to the Commission as soon as it is available.

Paragraph III.C.1 of the D&O requires Pinnacle to obtain all consents that relate to or are necessary to divest the Lumiere Assets to the Lumiere Acquirer, provided that Pinnacle does not have to secure consents of any Governmental Agency that Pinnacle has no legal right to divest or transfer. In particular, under Section 8.8 of the Purchase Agreement, Pinnacle agrees to use its commercially reasonable efforts to obtain the consents set forth on Section 8.8(a) of the Company Disclosure Letter. Additionally, Section 4.2 of the Purchase Agreement requires Pinnacle to deliver to Tropicana all consents set forth in Section 4.2(o) of the Sellers Disclosure Letter and all assignments with respect to the Contracts set forth on Section 4.2(p) of the Sellers Disclosure Letter.¹³ Accordingly, consistent with the Purchase Agreement, Pinnacle shall secure all consents that relate to or are necessary to divest the Lumiere Assets.

Pinnacle is filing this Application to obtain the approval of the FTC. With respect to Paragraph III.C.2 of the D&O, which requires Pinnacle to assist the Lumiere Acquirer to obtain the transfer from Pinnacle or issuance to the Lumiere Acquirer of any permit, license, asset, or right that Respondents have no legal right to divest or transfer, Pinnacle has agreed to cooperate with Tropicana and Tropicana St. Louis and use reasonable best efforts to obtain all necessary consents and approvals, including any consents and approvals from the MGC.¹⁴ On August 27, 2013, Tropicana executives had a preliminary meeting with the MGC related to the proposed

¹³ See also Purchase Agreement Sections 5.2 and 6.2.

¹⁴ See Section 8.6 of the Purchase Agreement.

acquisition of Lumiere by Tropicana St. Louis. Pinnacle understands that, on September 13, 2013, Tropicana St. Louis and its affiliated key persons and key business entities, including Tropicana, will have filed with the MGC Riverboat Gaming Applications, Key Person Applications and Key Business Entity applications respectively for such individuals and entities as required by the MGC staff along with licensing fees totaling \$285,000. Collectively, twenty-one applications will be submitted to the MGC which, along with the related fees, will allow for the initiation of the suitability investigation necessary for Tropicana St. Louis to obtain the MGC approval required for the eventual transaction closing.

Paragraph IV.A of the D&O provides that Respondents shall cooperate and assist any proposed Lumiere Acquirer to evaluate independently and retain any Key and Knowledgeable Employees of the Lumiere Assets, including providing the proposed Lumiere Acquirer with a list of all Key and Knowledgeable Employees and an opportunity to meet with and interview such employees. Pinnacle has agreed to cooperate with and assist Tropicana consistent with the terms of Paragraph IV.A of the D&O.¹⁵ Section 8.14(c) of the Purchase Agreement complies with Paragraphs IV.B-C of the D&O, as it contains Pinnacle's agreement not to solicit for employment certain employees of the Companies and the Buyer.

B. The Proposed Divestiture Is Consistent With The Purpose Of The Order

Paragraph III.F of the D&O provides that the purpose of the divestiture of the Lumiere Assets is to create an independent, viable and effective competitor in the relevant market, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint.

By divesting the Lumiere Assets as contemplated by the D&O, the proposed divestiture

¹⁵ See Sections 8.4, 8.5, 8.14, and 6.12(a) of the Purchase Agreement.

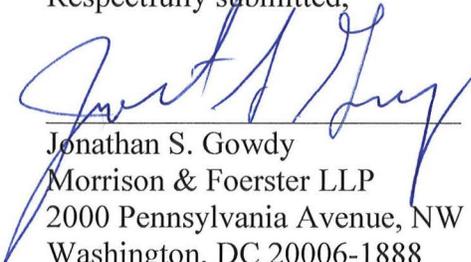
will ensure that the Lumiere Assets will continue to be operated as a viable and effective competitor in St. Louis, Missouri. As discussed in Section IV above, Tropicana has the financial capability and the necessary experience to operate a viable, competitive casino in St. Louis, Missouri. Moreover, Tropicana's management team has the necessary experience to operate the Lumiere Assets. In short, as Tropicana has the ability to create and operate an independent, viable and effective competitor in the St. Louis area, Respondent's sale of the Lumiere Assets to Tropicana will remedy the competitive harm alleged in the Complaint.

VI. Conclusion

Because the proposed divestiture of the Lumiere Assets to Tropicana is pro-competitive, in the public interest and addresses the competitive concerns raised in the Complaint and the D&O, and for the additional reasons set forth above, Respondents respectfully request that the Commission approve the divestiture of the Lumiere Assets to Tropicana St. Louis.

Dated: September 13, 2013

Respectfully submitted,



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Docket No. 9355

**CONFIDENTIAL EXHIBITS TO
APPLICATION FOR APPROVAL OF
DIVESTITURE OF THE LUMIERE ASSETS**

CONFIDENTIAL EXHIBIT A

Confidential Exhibit A

This exhibit has been redacted.

CONFIDENTIAL EXHIBIT B

Confidential Exhibit B

This exhibit has been redacted.