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Media Contact  
Elaine Driscoll (MGC) 617-571-2964  
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## **The Massachusetts Gaming Commission Announces Suitability Decision Regarding Slots-Parlor Applicant, Ourway Realty LLC**

Today the Massachusetts Gaming Commission (Commission) announces the determination of suitability regarding gaming applicant, **Ourway Realty LLC (Plainridge Racecourse)**, in pursuit of the state's single slots-parlor license.

The application for a gaming license has two parts. The first, called the Phase 1 application, essentially focuses on the qualifications and suitability of the applicants and its "qualifiers" (entities and individuals) to hold a gaming license. The Phase 2 application is 'site specific' and focuses on site, design, finance, operation, community mitigation and other attributes of the gaming facility itself. As one of the prerequisites to submitting a Phase 2 (and final) application to the Commission outlining the specifics of its proposal for a gaming establishment, all applicants must first be issued a positive determination of suitability by the Commission. The burden is on each applicant to establish its suitability to hold a gaming license by "clear and convincing evidence." To that end, all applicants that submitted a Phase 1 application have subjected themselves to a thorough background investigation of all its qualifiers, both individuals and entities. The investigations are being conducted and remain ongoing by the Investigations and Enforcement Bureau (Bureau) of the Commission.

On July 25, 2013 at the Boston Convention and Exhibition Center, the Commission conducted an adjudicatory hearing relative to the completion of the background investigation based on the Phase 1 application submitted by Ourway Realty LLC. As a result of the comprehensive background investigation, a lengthy adjudicatory proceeding and an intensive deliberation conducted by the five- member gaming commission, the Commission has determined that Ourway Realty LLC has failed to meet its burden of proof, particularly as to "the business practices and the business ability of the applicant to establish and maintain a successful gaming establishment" and has therefore voted unanimously to issue a **NEGATIVE** determination of suitability.

In summary, the Commission was compelled to issue a negative determination to Ourway Realty LLC based on the following facts and circumstances among others which are detailed in the full written decision. Citing sections from the decision:

- For many years leading up to and including the commencement of the Bureau's investigation into Ourway, Gary Piontkowski was the functional head of the organization. The investigation unearthed a number of practices engaged in by Piontkowski that were deeply troubling. Though he is no longer part of the



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organization, we must consider the systemic issues that allowed those practices to take place, what has been done to remedy those deficiencies, and what the outlook for the future is vis-à-vis the operation of a category 2 (slots) gaming establishment. It is noteworthy that all of the adjustments, including the removal of Piontkowski, took place only after the Bureau brought the issues outlined in the Report to light. They were not detected by the principals of the organization themselves. Indeed, the principals, Stanley Fulton and Alfred Ross, purport to have been passive investors with no substantive oversight of the operation. Though we are unable to definitively determine what role Stanley Fulton and Alfred Ross played in the organization, we are able to conclude that they were either passive investors, as they claim, who offered little to no oversight or that they were more involved and poorly exercised their duties. In either event, we find their past involvement in the operation of Ourway troublesome.

- Gary Piontkowski was replaced by John Grogan as the president of Ourway on April 3, 2013. Grogan does have an impressive background. Unfortunately, little to none of his experience is in the gaming arena; nor does he have any relevant experience as a Chief Operating Officer, an organizational change agent, or a manager of performance standards and metrics.
- All of the improvements Grogan claims to have implemented, however positive, serve neither to entirely neutralize the past transgressions, nor to have the substance or commitment to ensure the dramatic operational and cultural changes that are required. The burden is on the applicant to demonstrate its suitability; not merely demonstrate that deficiencies are being addressed.
- Of the many inferences that can be drawn by Timothy Petersen's sudden resignation as Chief Financial Officer and failure to appear at the hearing, none of them cast Ourway in a positive light and do nothing by way of establishing clear and convincing evidence of sound business practices.
- The most notable problem raised by the Bureau's investigative report centered on Piontkowski's withdrawals from the money room....The point is, it is not enough for Fulton and Ross to simply assert that they were taken advantage of by Piontkowski and pledge that they will be more involved moving forward. The burden is on them to demonstrate their suitability to operate a gaming establishment. This lack of attention to detail, interest in the operation, and blind trust does not advance their case.
- The investigation has revealed that there appears to have been a culture of fear and concealment pervasive in the operations of Plainridge.
- Understanding the potential repercussions relative to the future of the Plainridge racetrack in the event of a negative finding of suitability of Ourway, the Commission



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attempted to view the present situation in the most positive light possible. Even in that light, however, clear and convincing evidence as to business practices that will likely lead to a successful gaming operation is lacking.

The written decision issued by the Commission regarding Ourway Realty LLC is available in its entirety [here](#).

Chairman Steve Crosby stated, “The Commission is painfully aware that these decisions impact the lives of many people and that the consequences may be difficult for many of those involved. But it has always been our commitment to establish that the integrity of this process is our single highest priority. No other considerations will compromise that commitment. I would like to take this opportunity to commend the tremendous work by the Investigations and Enforcement Bureau as well as our many partners in their ongoing efforts on these important matters.”



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