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May 24, 2016

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Re: Urgent Policy Level Questions – Jay Peak Resorts

To Whom It Concerns:

The Vermont Regional Center, along with the court appointed Receiver of Jay Peak and related projects, are writing this letter to advocate for all Jay Peak EB-5 investors currently in the immigration petitioning process (whether I526 or I829) for Jay Peak Phases I through VIII.

As you are well aware, the State of Vermont initiated a civil action alleging investor fraud at EB-5 projects run by Jay Peak. The State of Vermont action is taken in coordination with the U.S. Securities and Exchange Commission (SEC), which filed a similar action in the United States District Court for the Southern District of Florida (the “U.S District Court”) on April 11, 2016. Filings in these cases are available at www.dfr.vermont.gov and www.jaypeakreceivership.com

Since December 2014, Vermont’s EB-5 Regional Center, in partnership with the Vermont Department of Financial Regulation, has been conducting an in-depth financial review of the aforementioned projects. The U.S. District Court appointed a receiver who has assumed control of all Jay Peak assets and is in the early stages of seeking to stabilize the business operations, coordinate with the EB-5 investors, and develop a plan to meet the investors’ immigration requirements and protect their investment.

Given the unique circumstances of this particular alleged fraud, we trust USCIS will acknowledge the verifiable job creation that exists in several of the Jay Peak projects as well as the associated quality of the underlying assets and income streams. Taken together, these tangible and definable measures provide Jay Peak EB-5 investors and, ultimately the USCIS, the optionality to formulate favorable investor outcomes.



In an effort to find solutions that permit Jay Peak investors the opportunity to achieve green card status, we respectfully submit for your review several reasoned proposals that can be taken individually and / or collectively. For example:

- i. **Public Policy Concerns:** Reflecting public policy concerns, especially the possible deportation of EB-5 investors facing I829 “timing out” issues, we recommend that USCIS designate “extraordinary exemption status” to all Jay Peak EB-5 investors given that the fraud perpetuated upon these investors, which was implemented by the projects’ principals, was not of their doing. Since USCIS legislation nor regulations appear to prohibit this suggestion, USCIS could conceivably choose to make policy in this extraordinary situation, especially if the business plan is executed and job creation is achieved or progressing as planned.
- ii. **Job Pooling Concept:** Where excess jobs were created in the earlier Jay Peak projects versus a clear deficiency in the latter projects, the Vermont Regional Center and the Receiver propose the concept of pooling all jobs under one-project umbrella versus analyzing each project independent of the other given the nature of the alleged fraud and misappropriation of EB-5 investor monies. According to our analysis, a surplus of jobs exists thereby permitting such consideration. This is also consistent with the “in good faith, substantially met” approach in regulations 8 CFR 216.6 and is consistent with the fact that the projects’ principals commingled money amongst the projects so that investors’ money actually did create jobs, albeit not in the intended project.
- iii. **Transfer of Investors to Other Projects Within the Jay Peak Umbrella:** Given the dearth of job creation in Phase VII (ANC Biomedical Research Park), we suggest transferring ANC Bio investors to other projects such as Phase VIII (Burke Hotel) and to a lesser extent Phase VI (Stateside). Additionally, we propose that this transfer process allow investors to maintain priority date status.
- iv. **A Coordinated Effort Between the Receiver, USCIS and Vermont Regional Center:** Understanding that a sale of an individual asset(s) could be considered a failure of the EB-5 investors to sustain the planned investment pursuant to the initial business plan, thereby jeopardizing an investor’s eligibility for U.S. permanent residence, we respectfully propose that USCIS permit the modification of business plans to allow the Receiver to continue to develop unfinished Jay Peak projects (notably Phase VI Stateside) or sell projects under an arrangement that allows for the continued operation of the projects under the EB-5 program in order to preserve the EB-5 investors’ claims for benefits. Furthermore, we ask USCIS to allow the Receiver to restore diverted capital through other financing options specifically additional capital raises from existing and / or new prospective investors or from damages recovered from the third party wrongdoers.

As we proceed forward in administering our duties as an approved USCIS designated EB-5 regional center and as a court appointed receiver, it is imperative that we address collectively this high profile situation and the urgent policy implications surrounding the unique issues facing the Jay Peak EB-5 investors and their

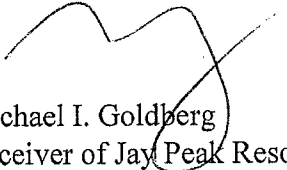
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attainment of green cards. Accordingly, we would welcome the opportunity to meet in-person with the appropriate USCIS personnel in Washington D.C. to discuss the proposals raised in this letter to collectively remedy the situation for all investors.

Sincerely,



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