

January 31, 2018

Dr. Tony Alamo
Nevada Gaming Commission
555 East Washington Ave
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RE: Further Questions Regarding Alex Meruelo's Suitability to Own and Operate the SLS Las Vegas

We are writing to alert Nevada gaming regulators of additional issues we have found that should raise serious questions about the financial background of Mr. Alex Meruelo, who is in the process of buying the SLS Las Vegas. For the protection of the reputation of the Nevada gaming industry and stakeholders involved in the revitalization of the "North Strip", we urge you to examine thoroughly the cases we describe below as you investigate Mr. Meruelo's suitability to purchase, own, and operate the SLS Las Vegas.

Last December, we contacted you with our concerns about the financial suitability of Alex Meruelo to own and operate the SLS Las Vegas. The letter outlined how, during Mr. Meruelo's ultimately unsuccessful bid to purchase the Atlanta Hawks of the NBA, concerns emerged as to "whether [he] indeed has the sufficient funds to purchase a majority stake in the franchise and operate an NBA team"¹ and that the deal "was too highly leveraged."² (We have attached our letter below.)

Since then, we have found more information that raises further questions about Mr. Meruelo's financial suitability and integrity to own and operate the SLS Las Vegas:

1. Last March, Commercial Bank of California, where Alex Meruelo is a founder and a member of the board of directors, extended a \$13 million loan to a Miami company facing foreclosure due to an unpaid \$34 million loan. The Miami company was (and still is) controlled by Richard Meruelo, who is Alex's brother and has a history of business failures.
2. During the course of a tax court case against Alex Meruelo and his wife, it was revealed that they were using an offshore tax shelter that was related to a criminal investigation.
3. A group of EB-5 investors in the SLS Las Vegas filed a lawsuit alleging fraud against the SLS and other parties and seeking, among other things, an injunction of the sale of the SLS to Alex Meruelo.

Bank Loan to Brother's Company

On March 22, 2017, Commercial Bank of California (CBC) made a \$13 million loan to Rebuild Miami-Edgewater LLC,³ even though the Florida firm was hit with a foreclosure lawsuit two months earlier when it failed to repay a \$34 million loan.⁴ Alex Meruelo is a founder and a member of the board of directors of CBC⁵ and has been described as the "controlling owner" of the bank.⁶ Richard Meruelo, a

brother of Alex Meruelo, is the sole owner of USA Capital Management, Inc.,⁷ which is the manager of Rebuild Miami-Edgewater, LLC, and “has sole and exclusive control of the management, business, and affairs of the Company.”⁸ Rebuild Miami-Edgewater LLC is owned 50-50 by two sons of Richard Meruelo, Stephen and Antony Meruelo. It is involved in a speculative hotel development project in Miami.⁹

Rebuild Miami-Edgewater LLC is trying to raise up to \$50 million through a debt offering, its offering document (filed with the SEC) shows that the firm has borrowed from Belinda Meruelo, the mother of Richard (\$10 million Belinda on January 19, 2017), Richard and his wife (\$7.5 million on March 9, 2017), and USA Capital Management (\$12.5 million on March 16, 2017). However, the document does not disclose Alex Meruelo’s role at Commercial Bank of California and the fact that he is a brother of Richard Meruelo.¹⁰ (The firm did pay off its \$34 million loan to its previous lender, which had initiated the foreclosure lawsuit, in April, 2017.)

While Rebuild Miami-Edgewater is planning to repay the CBC loan in full *if* it raises the full amount of \$50 million through its debt offering, it is unclear how CBC had assessed the many risks associated with the firm and its speculative hotel development project described in the offering document. For example, “[t]he Project and Project Site may not comply with current zoning laws upon completion” and the company “does not have an executed Franchise Agreement or Hotel Management Agreement in place.” It is unclear if Rebuild Miami-Edgewater had attempted to secure financing from other commercial banks and institutional lenders.¹¹

Richard Meruelo has experience with bankruptcy and foreclosures. Richard Meruelo has been in charge of two large scale projects that have been either foreclosed or gone bankrupt in the last ten years. In 2009, Meruelo Maddux Properties Inc., a company co-founded by Richard Meruelo, and fifty-three (53) of its direct and indirect subsidiaries, filed for Chapter 11 bankruptcy protection.^{12,13} The company, which was started in the 1990s, acquired several properties and became the largest landlord in downtown LA by the mid-2000s.¹⁴ But, by late 2008, Meruelo Maddux was facing \$368 million in debt even though the company had raised \$400 million in an IPO just a year earlier. After a two-year bankruptcy reorganization process, Meruelo was ousted to allow an outside investment group to take a majority share of the company for just \$23.6 million.¹⁵ Another company called The Merco Group, which was a subsidiary of Meruelo Maddux,¹⁶ lost at least \$88 million in foreclosure judgements in Florida around 2010.¹⁷

Richard Meruelo has faced other roadblocks when conducting business. In 2006, the Los Angeles Building and Safety Department banned Meruelo Maddux Properties from constructing anything for five years on a specific lot after determining that the firm had knocked down four buildings without a demolition permit. The ban was later shortened to 18 months.¹⁸ In 2007, NBC Los Angeles did an investigative report on the Seventh Street Produce Market in downtown LA, which was owned by Richard Meruelo at the time. The reporters found the “place crawling with rats,” water that smelled like “raw sewage” splashing onto boxes of produce, and no soap for workers to wash their hands.¹⁹ After the report, LA prosecutors filed criminal charges against Richard Meruelo alleging illegal construction, unsanitary conditions and rodent infestation.²⁰ The case was later dismissed.²¹

We urge you to look closely at the relationship between Alex Meruelo and Richard Meruelo when you consider the former’s suitability to purchase and operate the SLS Las Vegas.

IRS Tax Case and Related Criminal Investigation

Did Alex Meruelo have any dealings with an individual who was indicted by a grand jury in a criminal investigation into offshore tax shelters in 2004?

On October 10, 2003, the IRS issued a Notice of Deficiency (NOD) against Alex Meruelo and his wife indicating that they were not entitled to over \$4.5 million of reported loss from a pass-through entity (where they owned a minority interest) and that they thus owed over \$1.58 million of federal income tax and over \$632,000 in penalties for the 1999 tax year.²² The case was resolved when the Ninth Circuit Court in 2012 denied the appeal by the Meruelos against the IRS.

The court's published opinion on the case reveals there was a separate criminal investigation in 2004 that caused some delay in the proceedings:

On November 12, 2004, the IRS moved to stay the proceedings in this case pending the resolution of a federal criminal investigation, the progress and outcome of which may have affected the disposition of this case. The IRS stated that it had just learned that the Meruelos' reported loss was generated by a tax shelter related to a grand jury investigation and that investigation could affect or be affected by the criminal case.

After the Tax Court granted the IRS's request for a stay in the Meruelos' case, the IRS filed status reports with the court noting that an indicted individual "was involved in the transactions at issue in this case, and said transactions are part of the criminal investigation." (691 F.3d at 1113)

While we have not found additional information about the 2004 criminal investigation, we believe Nevada gaming regulators should look into the matter. We urge the Board to look into this matter in addition to any routine detailed review of the tax returns of Mr. Meruelo.

SLS's EB-5 Investors

As you may already be aware, sixty of the EB-5 investors in one the two \$200 million lender group have filed a lawsuit against the SLS Las Vegas and several other parties, including consultants and firms who were directly involved in raising the EB-5 funds.²³ The various defendants have called the lawsuit "baseless" and "without merit".

Even though Alex Meruelo is not a named defendant, the complaint alleges that the pending sale of the resort to Meruelo is based on a proposal that was not properly approved by the EB-5 investors. The proposal's terms include, among other things, rolling over the EB-5 loans with a "new maturity date in 2023" and repaying the balance of the debt with "a contingent amount based on a percentage of the equity value of the property (14%) when the maturity date occurs."²⁴ The plaintiffs are seeking, among other things, a permanent injunction against the defendants from moving forward with the proposal without "having a vote by the Class B Members [the EB-5 investors] whereby the Class B Members approve the 3rd Revised Proposal." It is unclear whether such a vote has taken place to approve the proposal to restructure the EB-5 loans.

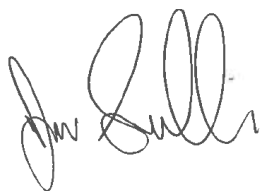
We urge you to monitor the lawsuit closely and ensure that the rights of the EB-5 investors are protected during this sale process.

Heightened Scrutiny Required

We believe that matters raised here clearly demonstrate the need for heightened scrutiny of Mr. Alex Meruelo's background as he seeks to expand his participation in the Nevada gaming industry. At a time when the "North Strip" is beginning to see renewed development interest and activity, the stakes couldn't be higher for all of the people whose livelihood, financial interests, and reputation are connected to the SLS Las Vegas and whatever it may become in the future. Even though Mr. Meruelo was found suitable to take over the Grand Sierra Resort several years ago, we believe we have found issues not addressed previously. To ensure continued public trust in the integrity and reputation of our gaming industry, we urge you to fully investigate Alex Meruelo's financial relationship with his brother Richard, his use of tax shelters, and the effect of his proposal on the EB-5 investors of the SLS.

Please feel free to contact me at 702-386-5106 or jsullivan@culinaryunion226.org if you have any questions.

Sincerely,



Jim Sullivan
Research Analyst

Cc: Nevada Gaming Commission
Board of Directors, Commercial Bank of California
Jeffery T. Bell, Esq.

Notes

¹ Stein, Marc. "Sources: Sale of Hawks in jeopardy." *ESPN*, Oct. 26, 2011.

http://www.espn.com/nba/story/_/id/7153495/sale-atlanta-hawks-alex-meruelo-jeopardy-sources-say

² Wharton, David. "Alex Meruelo terminates plan to buy NBA's Atlanta Hawks." *LA Times*, Nov. 4, 2011.

<http://articles.latimes.com/2011/nov/04/sports/la-sp-meruelo-hawks-20111105>

³ Rebuild Miami-Edgewater, LLC, SEC Form 1-A, filed 7/25/2017.

⁴ The company had borrowed to acquire a 7.35-acre site for hotel development in 2015. See: Bandell, Brian. "Miami development site targeted with \$34M foreclosure." *South Florida Business Journal*, Jan. 26, 2017.

<https://www.bizjournals.com/southflorida/news/2017/01/26/miami-development-site-targeted-with-34m.html>

⁵ Commercial Bank of California website. <https://www.cbcocal.com/who-we-are/board-of-directors>

⁶ James, Meg. "Meruelo Media, buyer of KDAY, prizes diversity." *LA Times*, Jan. 21, 2014.

<http://www.latimes.com/entertainment/envelope/cotown/la-et-ct-meruelo-media-20140115-story.html>

⁷ USA Capital Management, Inc., 10-K filed 3/27/2017.

⁸ Rebuild Miami-Edgewater, LLC, SEC Form 1-A, filed 7/25/2017.

⁹ <http://miamivib.com>

¹⁰ Rebuild Miami-Edgewater, LLC, SEC Form 1-A, filed 7/25/2017. See NOTE 3: Subsequent Event in Notes of the Balance Sheet.

¹¹ Rebuild Miami-Edgewater, LLC, SEC Form 1-A, filed 7/25/2017. See “Risks Related to the Company and the Offering.”

¹² Vaillancourt, Ryan. “Where Meruelo Maddux Failed, Evoq Hopes Thrive.” *LA Downtown News*, Oct. 15, 2012. http://www.ladowntownnews.com/news/where-meruelo-maddux-failed-evoq-hopes-to-thrive/article_cb3e692c-14cc-11e2-b18f-001a4bcf887a.html

¹³ Rebuild Miami-Edgewater, LLC, SEC Form 1-A, filed 7/25/2017, p. 36.

¹⁴ Vincent, Roger. “Meruelo Maddux Properties faces bankruptcy protection.” *LA Times*, Mar. 27, 2009. <http://articles.latimes.com/2009/mar/27/business/fi-meruelo27>

¹⁵ Vaillancourt, Ryan. “Where Meruelo Maddux Failed, Evoq Hopes Thrive.” *LA Downtown News*, Oct. 15, 2012. http://www.ladowntownnews.com/news/where-meruelo-maddux-failed-evoq-hopes-to-thrive/article_cb3e692c-14cc-11e2-b18f-001a4bcf887a.html

¹⁶ Meruelo Maddux, Form 10K, List of Subsidiaries, March 16, 2009

¹⁷ Bandell, Brian. “Developer Meruelo sues Ocean Bank over no construction loan.” *South Florida Business Journal*, Apr. 26, 2010. <http://melandrussin.com/in-the-news/developer-meruelo-sues-ocean-bank-construction-loan/>

¹⁸ McGreevy, Patrick. “City atty. charges L.A. developer.” *LA Times*, Apr. 4, 2007. <http://articles.latimes.com/2007/apr/04/local/me-rocky4>

¹⁹ Grover, Joel & Goldberg, Matt. “Produce Market Investigation.” *NBC4 Los Angeles*, Feb. 2007. https://www.nbclosangeles.com/news/Produce_Market_Investigation.html

²⁰ Winton, Richard. “Produce market’s owner is charged.” *LA Times*, Mar. 13, 2007. <http://articles.latimes.com/2007/mar/13/local/me-produce13>

²¹ <http://www.lacourt.org/criminalcasesummary/ui/Selection.aspx>

²² Opinion by Judge N.R. Smith of US Court of Appeals for the Ninth Circuit re Alex Meruelo and Liset Meruelo v. Commissioner of Internal Revenue (No. 11-70015, Tax Ct. No. 624-04), filed August 16, 2012.

²³ Martin, Hugo. “Chinese investors in SLS Las Vegas sue after failing to secure green cards,” *LA Times*, Dec. 8, 2017. <http://www.latimes.com/business/la-fi-sls-investors-20171208-story.html> and Prince, Todd. “SLS Las Vegas on ‘verge of bankruptcy,’ investors allege.” *Las Vegas Review-Journal*, Dec. 8, 2017.

<https://www.reviewjournal.com/business/casinos-gaming/sls-las-vegas-on-verge-of-bankruptcy-investors-allege/>

²⁴ Complaint filed 11/9/2017 in Hongfei Qu et al. v. Henry Global Consulting et al., in Superior Court of the State of California, County of Los Angeles, Central District, case no. BC685035.