STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

P.O. Box 30005
LANSING, MICHIGAN 48909

BILL SCHUETTE
ATTORNEY GENERAL

April 9, 2012

CERTIFIED MAIL

Person in Charge
Flint Business Center
4835 Fenton Road
Flint, MI 48507

RE: Cease and Desist Illegal Gambling

Dear Madam/Sir:

This office has confirmed that Flint Business Center at 4835 Fenton Road in Flint, Michigan, constitutes an illegal gambling house and, thus, a public nuisance. This conclusion arises from the business's ongoing practice of receiving money from customers in exchange for internet access and chances to win prizes by playing computer-based casino-style games. Accordingly, the business and anyone affiliated with its operation, as well as the building's owner and lessee, are ordered to cease this illegal activity or face possible criminal charges or civil action to abate the nuisance.

Specifically, the parties mentioned above must cease and desist their ongoing practice of providing paying customers with opportunities to play casino-style games and awarding prizes to successful players. This activity violates the Michigan Gaming Control and Revenue Act (the Gaming Act), MCL 432.201 *et seq.*, and multiple provisions of the Michigan Penal Code, MCL 750.1 *et seq.*, such as MCL 750.372. Michigan's gambling prohibitions do not contain an exception for what are sometimes described as Internet Sweepstakes businesses.

More specifically, the Gaming Act prohibits a party from conducting a gambling operation without a license issued by the Michigan Gaming Control Board. A party who operates an unlicensed gambling operation is guilty of a felony punishable by imprisonment for up to 10 years or a fine of up to $100,000.00, or both. MCL 432.218(1)(a).

Additionally, unless an exception applies, the Michigan Penal Code broadly prohibits any kind of gambling, which generally involves the elements of consideration, prize, and chance. The continued operation of Flint Business Center violates several provisions of the Penal Code that prohibit certain gambling-related activity. For example, MCL 750.301 prohibits accepting money with the understanding that money will be paid to any person contingent upon the happening of an uncertain event:

> Any person or his or her agent or employee who, directly or indirectly, takes, receives, or accepts from any person any money or valuable thing with the agreement, understanding or allegation that any money or valuable thing will be paid or delivered to any person where the payment or delivery is alleged to be or will be contingent upon the result of any race, contest, or game or upon the happening of any event not known by the parties to be certain, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

The Penal Code further prohibits keeping or occupying a building used for gambling, MCL 750.302; keeping or maintaining a gaming room, gaming table, or game of skill for hire, gain, or reward, MCL 750.303; using a computer program, computer, computer system, or computer network to commit a crime, MCL 752.796; promoting a lottery for money, MCL 750.372(1); and setting up or aiding in the setting up, managing, or drawing of a lottery or gift enterprise, *id.*

Michigan's Courts broadly interpret the anti-gambling laws in this state "'with the view of remedying the mischief intended to be prevented, and to suppress all evasions for the continuance of the mischief.'" *Attorney General v Powerpick Players Club of Michigan*, 287 Mich App 13, 37 (2010) (quoting *People v McPhee,* 139 Mich 687, 690 (1905)). Internet Sweepstakes businesses, such as Flint Business Center, subject the public to the "mischief intended to be prevented" by Michigan's gambling prohibitions. Without the type of regulations that govern legalized gambling in Michigan, the public lacks assurance that these businesses accurately pay winning players or appropriately follow tax and other laws. Additionally, lack of oversight could lead to increased crime and compulsive gambling.

Notably, Michigan law allows for the seizure of any evidence of gaming, including but not limited to money, records, gambling devices, and material used in connection with promoting gambling or the gambling place. MCL 750.308. Further, items seized as evidence of gambling are subject to forfeiture and disposition by the seizing agency. MCL 750.308a.

The Public Nuisance statute, through an order of abatement, also allows for "remov[ing] from the building or place all furniture, fixtures and contents therein and [directing] the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of 1 year." MCL 600.3825.

Flint Business Center is also violating the Consumer Protection Act (CPA) by promoting and falsely representing to the public that its business is legal. Section 3 of the CPA, MCL 445.903(1)(a), prohibits representations that cause a probability of confusion or misunderstanding as to their approval. A persistent and knowing violation of this law may result

in a court assessing a civil penalty of $25,000, along with costs and attorney fees, in favor of the Attorney General. See MCL 445.905.

The statutes and possible legal actions stated in this letter are by no means exhaustive; this letter is intended only to place Flint Business Center and persons affiliated with its operation, including the owner and lessee of the premises where it is located, on notice that the business is violating the laws prohibiting this form of gambling. If this activity fails to cease within 14 days of your receipt of this letter, our office will take legal action to stop it. This may include filing criminal charges or a civil action to abate the nuisance, as well as seizure and forfeiture of evidence of gambling.

Sincerely yours,

Donald S. McGehee
Division Chief
Alcohol and Gambling Enforcement Division
(517) 241-0210
Fax: (517) 241-1074

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April 9, 2012

CERTIFIED MAIL

Person in Charge
South Flint Plaza, LLC
16 E. 34th Street
New York, NY 10016

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Donald S. McGehee
Division Chief
Alcohol and Gambling Enforcement Division
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Fax: (517) 241-1074

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April 9, 2012

CERTIFIED MAIL

Dickinson Wright, PLLC
Registered Agent, Flint Business Center, LLC
215 S. Washington Square, Suite 200
Lansing, MI 48933

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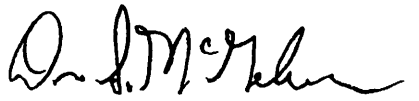

Donald S. McGehee
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Alcohol and Gambling Enforcement Division
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April 9, 2012

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Broder & Sachse Real Estate Services, Inc.
Registered Agent, South Flint Plaza, LLC
260 E. Brown St., Suite 200
Birmingham, MI 48009

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