

**FOR IMMEDIATE RELEASE**

April 14, 2016

**State Files Suit Alleging Investor Fraud at Jay Peak, Inc. EB-5 Projects**

*State complaint is in coordination with SEC case to preserve assets and restrain EB-5 activities by Quiros and Stenger in northeastern Vermont*

**MONTPELIER** – Gov. Peter Shumlin, Department of Financial Regulation (DFR) Commissioner Susan Donegan, Attorney General William Sorrell, and Agency of Commerce and Community Development (ACCD) Secretary Patricia Moulton today announced that the State and U.S. Securities and Exchange Commission (SEC) have filed similar civil actions alleging investor fraud dating back to 2008 at EB-5 development projects run by Florida resident Ariel Quiros and Bill Stenger. The State’s lawsuit filed in Washington Superior Court is the result of over a year-long investigation by DFR into the finances of the projects. The State’s complaint was filed in coordination with the SEC’s case filed in federal court in Florida.

**The Allegations:**

The complaints allege that Quiros and Stenger misused more than \$200 million of investor funds intended for EB-5 development projects in northeastern Vermont. The cases further allege that Quiros misappropriated an additional \$50 million of investor funds for his own personal use. According to the allegations, investor funds were unlawfully diverted, or misused, between and among various EB-5 projects over many years. In addition, Quiros’s alleged misappropriations of investor funds for personal use include: over \$2 million to purchase an apartment at Trump Place in New York City; millions of dollars to pay personal income taxes and other personal expenses; and over \$20 million to purchase Jay Peak and Q Burke Resorts.

In the SEC case in Miami, a federal judge has granted the SEC’s request for a temporary restraining order to freeze Quiros’s assets, and prohibit Quiros and Stenger from involvement in EB-5 projects while the federal case is pending. In addition, the federal court has appointed a receiver to oversee Jay Peak and Q Burke Resorts and the EB-5 projects at issue while the litigation is pending.

The fraud allegedly began when millions of investor funds intended for two EB-5 projects at Jay Peak – Jay Peak Hotel Suites L.P. (also known as Tram Haus Lodge or Phase I) and Jay Peak Hotel Suites Phase II L.P. (also known as Jay Hotel, Pump House or Phase II) – were used instead to purchase the Jay Peak Resort in 2008. Over the next seven years, investor funds were allegedly funneled through a complex web of accounts, which facilitated the misuse of funds between projects as well as the personal enrichment by Quiros. DFR has tracked over 100 accounts at ten financial institutions involved in the scheme.

In a typical EB-5 project, investor funds are raised and used to complete a specific project described in the project’s Private Placement Memorandum (PPM) or offering document. The complaints allege that, following the misappropriation of investor funds to purchase Jay Peak Resort in 2008, later investor funds were misused and comingled, and used for personal enrichment by Quiros.

## **Vermont's Unique EB-5 Oversight Structure:**

The growing popularity and complexity of the federal EB-5 program has led to enhanced SEC scrutiny of projects across the country. Recognition of the growing complexity of the program led Gov. Shumlin in September 2014 to ask ACCD and DFR to develop a partnership to better oversee EB-5 projects in Vermont.

In December 2014, DFR and ACCD signed a Memorandum of Understanding that brought DFR's financial and securities expertise to the oversight of EB-5 projects statewide. Vermont's EB-5 Regional Center, established in 1997, is unusual in that it is one of two active centers administered by a state for the purpose of economic development, not a private entity for the purpose of making money. As part of its role in helping to administer Vermont's EB-5 Regional Center, DFR has been conducting an in-depth financial review of the projects at issue in this case since January 2015.

"This is obviously a difficult day for Vermont and for the many people, myself included, who are so invested in growing jobs and economic opportunity in the Northeast Kingdom," said Gov. Shumlin. "Most of all, this is a difficult day for the hundreds of employees in the Northeast Kingdom who rely on Jay Peak, Q Burke, and the related projects that appeared to hold so much promise. My commitment as Governor is to do everything I can to protect these Vermonters' jobs, protect the investors who are victims of these allegations, and ensure that we do all we can to make the very best of a terrible situation."

"We allege that since 2008, the defendants have defrauded hundreds of millions of dollars from hundreds of investors," said Commissioner Donegan. "The duty of my Department is to ensure that Vermont's securities laws are followed, and that investors are protected. We are committed to ensuring that justice is served, and will continue to work closely with our federal partners as this matter proceeds."

"Vermont law prohibits unfair and deceptive acts and practices in commerce. There is no different standard when the marketing is to those residing overseas. This is early in a massive and complex case. We will continue to expend the necessary resources to see that justice is done," said Attorney General Sorrell.

"Today's actions show how the Vermont Regional Center projects are under greater scrutiny than is available for investors elsewhere," said Secretary Moulton. "While this is a very disturbing day for the investors and Vermonters impacted by these projects, my staff and I will be working as hard as we can to preserve jobs and economic opportunities for the people of that region and to assist the Department in protecting investors."

Filings in the case, as well as more information for investors and the public, are available at:

<http://www.dfr.vermont.gov/>

## **Status of the Projects While the Litigation is Pending:**

The federal court has appointed Michael Goldberg, a lawyer from Miami, as the receiver to oversee and administer the assets of the EB-5 projects at issue in the federal and state complaints. The receiver will act as a neutral party who will work to preserve all assets and property at issue while the litigation is pending and to keep the resorts operational with minimal, if any disruptions, to employment and services. Ultimately, the receiver will determine the amounts owed to individual creditors and investors, and will distribute available assets in accordance with a court order. The State and Vermont's Regional Center have been in contact with the receiver, and will work closely with him to help protect the investors, employees, contractors and other creditors of the defendants and all associated EB-5 projects.

The State will provide more information about the receiver as it becomes available.

## **The EB-5 Program:**

Congress created the EB-5 program in 1990. The program, which is administered nationally by the U.S. Citizenship and Immigration Services (USCIS), provides green cards to foreign residents who invest at least \$1 million — or \$500,000 in a high-unemployment or rural area like Vermont — in a U.S. business that then creates a certain number of jobs for U.S. workers.

Cities, states, and other entities may apply to USCIS for approval as a “Regional Center.” This allows the entity to partner with “new commercial enterprises” that accept investments from foreign nationals. USCIS first approved Vermont's ACCD as a Regional Center in 1997. The purpose of the Regional Center is to provide support for partnered EB-5 projects and to approve the terms of the project through a Memorandum of Understanding with the project. DFR formally joined in the administration of Vermont's EB-5 Regional Center in December 2014.

Vermont's EB-5 Regional Center, headquartered at ACCD, remains open and available to EB-5 projects unaffected by this case. Questions regarding other EB-5 projects in Vermont may be directed to:

[http://accd.vermont.gov/business/relocate\\_expand/eb5](http://accd.vermont.gov/business/relocate_expand/eb5)