

**Plan for Expedited Disclosure of Records
Pertaining to EB-5 Projects in the Northeast Kingdom**

March 10, 2017

Background

On February 7, 2017, Governor Scott, through his Chief of Staff, directed the Department of Financial Regulation (DFR) to develop a plan to accelerate the release of documents related to the pending EB-5 litigation. The goal is to expedite public disclosure of documents while not jeopardizing the enforcement of Vermont's laws.

In April 2016, the State filed a civil lawsuit against Ariel Quiros, William Stenger, and multiple corporations and partnerships associated with EB-5 projects in the Northeast Kingdom of Vermont ("EB-5 Projects"). This civil enforcement case alleges multiple violations of the Vermont Uniform Securities Act and the Vermont Consumer Protection Act. The case was filed in Washington Superior Court. *See State v. Quiros, et al.*, Dkt. No. 217-4-16 Wncv.

Discovery has commenced and the State expects to produce a significant volume of documents from the State's files to the defendants on a rolling basis. Certain documents in the proceeding – for example, documents protected by the State's attorney-client privilege and the work-product doctrine – will not be produced to the defendants or others. Some documents may be produced to the defendants subject to court-issued protective orders, meaning they cannot be made public. Given the enormous volume of documents, the process of reviewing and producing documents in the litigation will take considerable time.

Prior to filing the civil enforcement case, state agencies responded to multiple requests for access to EB-5 documents in the State's files. State agencies produced voluminous documents and also withheld documents based on statutory exemptions such as privilege or trade secret. After

the civil enforcement case was filed, requests for access to EB-5 documents in the State's files have been denied, in part, based on the statutory relevant-to-litigation exemption. This exemption, contained in 1 V.S.A. § 317(c)(14), helps protect the integrity and ultimate outcome of the state's civil enforcement case, but also allows the disclosure of litigation records once they are ruled discoverable by the relevant court.

In response to the Governor's directive, DFR has consulted with the Attorney General's Office to develop a plan to release certain litigation records during the litigation. The plan detailed below balances the public interest in disclosure of records under the Access to Public Records Act and the public's interest in the effective enforcement of the Securities and Consumer Protection Acts.

EB-5 Project Document Disclosure Plan

1. As EB-5 Project documents from the State's files are produced to the defendants, the State will file a motion in the civil enforcement case asking the Court to rule the documents discoverable under 1 V.S.A. § 317 (c)(14), to the extent the documents are not subject to a protective order issued by the Court or other public record exemptions such as for private personal information (e.g., social security numbers) or trade secrets.
2. DFR will post the motion on its website upon filing.
3. The State will not object to media requests to intervene in the case for the limited purpose of being heard on whether the State's motion should be granted. Note, in this regard, that defendants would have a right to oppose the motion and might do so.
4. If the Court grants the State's motion and rules that particular EB-5 Project documents from the State's files are discoverable, the State will make those documents available to the public.

5. Additionally, if an EB-5 Project document is made publicly available by a third party outside the state's legal proceedings, the State will prioritize making the document available on its website barring a legal restriction that prevents its release.
6. It is anticipated that the discoverable EB-5 Project documents will be made available in electronic format on DFR's website. Given the volume of records in the case, this website publication likely will be done on a rolling basis.