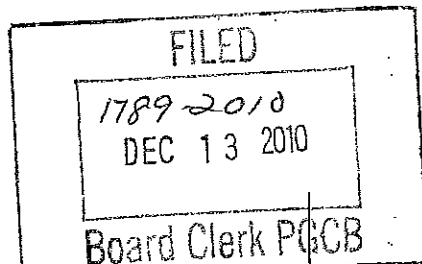


COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA GAMING CONTROL BOARD



In re: Application of Philadelphia
Entertainment and Development Partners,
L.P.

Docket No. 1367

MOTION OF PHILADELPHIA ENTERTAINMENT AND DEVELOPMENT PARTNERS, L.P.,
TO PROTECT CONFIDENTIAL INFORMATION IN LICENSEE'S NOTIFICATION OF
PROPOSED TRANSFER OF INTEREST FORM PURSUANT TO 58 Pa. Code § 493a.10(a), 4
Pa.C.S. § 1206(f)(1), and 58 Pa. Code § 407a.3

NOW COMES, Philadelphia Entertainment and Development Partners, L.P. ("PEDP"),
by and through its attorney, F. Warren Jacoby, Esquire of Cozen O'Connor, by motion to the
Pennsylvania Gaming Control Board (the "Board"), and states:

1. On December 20, 2006, the Board approved the issuance to PEDP of a
Category 2 slot machine license, License No. F-1367 (the "Slot Machine License"), pursuant to
Section 1304 of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §
1101 et seq. (the "Act"). See 4 Pa.C.S. § 1304. The Slot Machine License authorized PEDP
to develop, construct and operate a gaming facility with related amenities, as proposed by
PEDP (the "Facility"), to be located at approximately 1499 S. Christopher Columbus Boulevard
in Philadelphia (the "Property").

2. In connection with the Slot Machine License, on even date herewith, PEDP has
filed with the Board a Licensee's Notification of Proposed Transfer of Interest Form (the
"Form") in connection with PEDP's contemplated restructuring, as more fully described in

various petitions filed with the Board by PEDP under separate cover. PEDP also affixed to the Form and concurrently filed with the Board various documents in support of the Form (the "Attachments").

3. Section 1206(f) of the Act mandates that certain "information submitted by an applicant, permittee or licensee pursuant to Section 1310(a) (relating to slot machine license application character requirements) ... or obtained by the [B]oard ... as part of a background or other investigation from any source shall be confidential and withheld from public disclosure."

4 Pa.C.S. § 1206(f)(1). Such information includes:

(i) All information relating to character, honesty and integrity, including family, habits, reputation, history of criminal activity, business activities, financial affairs and business, professional and personal associations submitted under section 1310(a) or 1308(a.1) or otherwise obtained by the board or the bureau, [4 Pa.C.S. § 1206(f)(1)(i)]; and

....

Any documents, such as these, submitted to the Board in connection with an application under Section 1310(a) of the Act are confidential.

4 Pa.C.S. § 1206(f)(1).

4. Moreover, the Board's Regulations track the Act with respect to the types of information that shall remain confidential and allow the Board discretion to deem other information confidential. In particular, Section 493a.10a of the Regulations provides that a party may designate information as confidential under Section 407a.3 (relating to confidential information) in any papers filed with the Clerk by filing a Motion to Protect Confidential Information. Section 407a.3. of the Regulations provides that "confidential information" may include documents pertaining to the applicant or licensee's "financial condition", and/or

"[r]ecords or information that is designated confidential by statute or the Board." See 58 Pa. Code §§ 407a.3(a)(1), (5).

5. PEDP respectfully submits that the Form and Attachments contain confidential and proprietary information related to the business activities and financial affairs of PEDP and the proposed development and financing of the Facility on the Property. The Form and Attachments contain information including, but not limited to, a purchase agreement, proprietary financial information, organizational structure charts and other financial information which, if disclosed, would cause substantial harm to the competitive position of PEDP.

6. Further, the Form and Attachments are not subject to disclosure under the Pennsylvania Right To Know Law (the "RTKL"), 65 Pa. C.S. § 67.101 et seq. Section 3101.1 of the RTKL specifically provides that, if the confidentiality of a document is affected by another Federal or state law, the provisions of that other Federal or state law apply. Even if the Form and Attachments were not subject to the RTKL, the RTKL contains similar protections for confidential, proprietary information that would protect the Form and Attachments from disclosure. 65 Pa. C.S. §708(b)(11). Hence, the Form and Attachments are protected from access, disclosure, or release to third parties under the RTKL, the Act, and the Board Regulations promulgated pursuant to the Act.

7. In consideration of the foregoing, PEDP requests that the Board exercise its authority under 58 Pa. Code § 493a.10a, and issue its Order to Protect Confidential Information protecting as proprietary and confidential the Forms and Attachments until such time as appropriate redactions from such documents are completed, at which time such redacted documents may be included in the nonconfidential file maintained by the Board. See 58 Pa. Code § 493a.10a. Consistent with Board policy and practice, PEDP further requests

that the Board maintain as confidential and protected from public disclosure the Forms and Attachments until such time as the Board's Office of Hearings and Appeals has had the opportunity to consider such redacted documents. See 58 Pa. Code § 493a.10a(c).

WHEREFORE, PEDP respectfully requests that the Board:

- a. Enter a Protective Order, pursuant to 58 Pa. Code § 493a.10a, and under 4 Pa.C.S. § 1206(f)(1), , and 58 Pa. Code § 407a.3, declaring the Form and Attachments, and the information contained therein, to be confidential, proprietary and protected from public disclosure; and
- b. Grant such other relief as it may deem appropriate.

Respectfully submitted,

COZEN O'CONNOR

BY: 

F. Warren Jacoby (PA ID No. 10012)
Attorneys for Petitioner, PEDP

Dated: December 10, 2010

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2010, I caused a copy of the attached Motion to Deem Certain Information as Confidential upon the following persons or entities in the manner indicated:

By Hand Delivery and Electronic Filing:

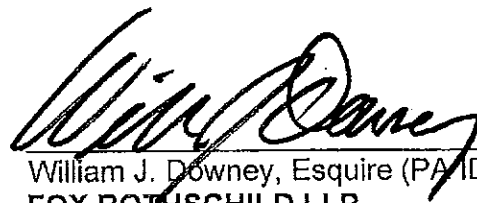
Pennsylvania Gaming Control Board
Bureau of Hearings and Appeals
Office of the Clerk
One Penn Center, Suite 502
2601 N. 3rd Street
Harrisburg, PA 17110
boardclerk@state.pa.us
adrayton-b@state.pa.us
lilloyd@state.pa.us

By Hand Delivery and E-mail:

R. Douglas Sherman, Esquire
Chief Counsel
Pennsylvania Gaming Control Board
Fifth Floor – Verizon Tower
303 Walnut Street/Strawberry Square
Harrisburg, PA 17101
rsherman@state.pa.us

Cyrus Pitre, Esquire
Chief Enforcement Counsel
Pennsylvania Gaming Control Board
Office of Enforcement Counsel
Tenth Floor – Verizon Tower
303 Walnut Street/Strawberry Square
Harrisburg, PA 17101
cpitre@state.pa.us

Date: December 10, 2010



William J. Downey, Esquire (PA ID No. 63401)
FOX ROTHSCHILD LLP
1301 Atlantic Avenue, Suite 400
Atlantic City, NJ 08401
(609) 345-4515