

PHILADELPHIA'S MOTION FOR SUMMARY JUDGMENT, AND BRIEF, VERIFICATIONS, AND EXHIBITS IN SUPPORT THEREOF, BIE'S RESPONSE THERETO, ANY REPLY TO SUCH RESPONSE, AND ALL OTHER DOCUMENTS OR TESTIMONY FILED OR SUBMITTED IN SUPPORT OF ANY OF THE FOREGOING

Philadelphia Entertainment and Development Partners, L.P., d/b/a Foxwoods Casino

Philadelphia ("PEDP"), by and through its undersigned counsel, hereby files this Motion to Designate as Confidential and Filed Under Seal its Motion for Summary Judgment and Brief, Exhibits, and Affidavits in Support Thereof ("Motion for Summary Judgment"), BIE's Response Thereto, any Reply to such Response, and all other documents or testimony filed or submitted in support of any of the foregoing ("Motion to Seal"). In support thereof, PEDP avers as follows:

1. On or about April 29, 2010, the Bureau of Investigations and Enforcement ("BIE") filed a Complaint against PEDP seeking revocation of its Category 2 slots machine license ("BIE Complaint").
2. In the BIE Complaint, since BIE seeks the revocation of the Category 2 slot machine license issued to PEDP, the relief being sought is effectively the ultimate sanction that the Board can impose on a slot machine licensee ("Revocation Proceedings").
3. To date, the Gaming Board has never revoked any slot machine license issued under the Gaming Act or, indeed, held proceedings to consider the revocation of a slot machine license.
4. On or about June 1, 2010, among other things, PEDP filed its Answer, New Matter, Objections and Affirmative Defenses to BIE's Complaint, together with a Motion for a Discovery Conference.
5. On or about June 18, 2010, PEDP served BIE with its First Set of Interrogatories and its First Request for Production of Documents (collectively "PEDP's Requests").

6. On or about June 25, 2010, BIE served counsel for PEDP with copies of documents, upon which it allegedly relied and intends to rely upon in its initiation and prosecution of the Revocation Proceedings. This production was made by BIE, in addition to any production and other response to be made by BIE to PEDP's Requests.

7. On or about June 30, 2010, PEDP received BIE's Request for Production of Documents and Interrogatories (collectively "BIE's Requests"), which demanded the production of numerous proprietary, confidential, and privileged documents, including, but not limited to financial records, correspondence, loan documents, check registers, tax returns, and partnership records.

8. PEDP's Requests and BIE's Requests sought documents and information which were not generally available to the public. Indeed, PEDP at all relevant times has maintained and protected the confidentiality of the documents and information sought by BIE.

9. Pursuant to Section 1206(f)(1)¹ of the Gaming Act, 4 Pa. C. S. A. § 1101, *et seq.*, as amended, and Gaming Board Regulations §§ 407a.3² and 493a.10a³, on July 2, 2010, PEDP filed an Omnibus Motion to Protect Confidential Information seeking the issuance of an order designating as "CONFIDENTIAL" all written discovery requests, and responses thereto, any

¹ Section 1206(f)(1) of the Gaming Act provides that certain information submitted by an applicant in connection with a license application and information obtained by the Gaming Board or its staff through a background investigation shall be "confidential and withheld from public disclosure" including proprietary business information such as that requested in BIE's Requests.

² Section 407a.3 provides that confidential information includes proprietary business information such as that requested in BIE's Requests.

³ Board regulation 493a.10a provides that "[a] party or individual may designate information as confidential under § 407a.3 in any papers filed with the Clerk by filing a Motion to Protect Confidential Information." *See also* letter dated May 7, 2010 industry letter issued by Linda Lloyd, Director of Hearings and Appeals.

document productions, and any depositions and other testimony taken in support of or in opposition to BIE's Complaint.

10. In addition, PEDP requested that any discovery motions and responses thereto (including any and all exhibits thereto) should also be considered "Confidential" in accordance with Section 1206(f)(1) of the Gaming Act, 4 Pa. C. S. A. 1101, *et seq.*, as amended, and Gaming Board Regulations §§ 407a.3 and 493a.10a.

11. This request for confidentiality as set forth in the above paragraphs was warranted given the unique nature of the Revocation Proceedings, the sensitivity, confidential, privileged and proprietary nature of the information to be exchanged during the discovery proceedings, and the confidential, privileged, and proprietary nature of any testimony to be elicited during the discovery proceedings.

12. BIE and the Board did not oppose this Request, and by Order dated July 9, 2010, the Director Hearings and Appeals entered an Interim Order granting PEDP's Omnibus Motion.⁴

13. Thereafter, after the close of discovery, and by Order dated September 9, 2010, the Director ordered that all pretrial motions in this matter must be filed on or before Tuesday, October 5, 2010 ("September 9 Order"). A true and correct copy of the September 9, 2010 Order is attached hereto and made a part hereof as Exhibit "A".

14. In accordance with the September 9 Order, and contemporaneous with the filing of this Motion, PEDP has prepared and filed a Motion for Summary Judgment, which

⁴ As suggested by the July 9 Interim Order, on or about October 5, 2010, PEDP has filed a Motion Seeking a Final Order as to its Omnibus Motion to Protect Confidential Information. This Motion is pending.

incorporated by reference various Exhibits and Verification(s) identified or referenced in PEDP's Brief in Support of its Motion for Summary Judgment.

15. In making its arguments as set forth in its Brief in Support of its Motion for Summary Judgment, PEDP relies upon, cites to, and incorporates the Exhibits attached to such Brief and incorporated by reference in its Motion for Summary Judgment, which include various documents, deposition transcripts, verifications, and other materials which, in part, are subject to the Confidentiality Provisions of the July 9, 2010 Interim Discovery Order, and which may be subject to the Confidentiality Provisions of any Order entered granting PEDP's Motion For A Final Order, dated October 5, 2010, and the Confidentiality Provisions of any Order which may be entered granting PEDP's Motion to Close Hearings, dated October 5, 2010.

16. The documents, deposition transcripts, verifications, and other materials attached as Exhibits to PEDP's Brief in support of (incorporated by reference in) its Motion for Summary Judgment are central to this action and concern and detail, among other things, PEDP's trade secrets, financial, proprietary, and other confidential, private, privileged and/or sensitive non-public information.

17. It is also anticipated that BIE, in responding to PEDP's Motion for Summary Judgment, and PEDP's opposition in response thereto, may attach, rely, or refer to exhibits, affidavits, verifications, deposition testimony, or other information concerning and detailing, among other things, PEDP's trade secrets, financial, proprietary, and other confidential, private, privileged and/or sensitive non-public information.

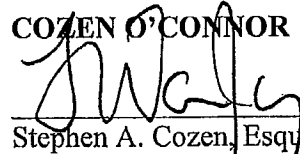
18. Accordingly, as set forth in Section 1206(f)(1) of the Gaming Act, 4 Pa. C. S. A. 1101, *et seq.*, as amended, and Gaming Board Regulations §§ 407a.3 and 493a.10a, there is a good faith basis for PEDP's Motion to Seal, and PEDP requests that an order issue designating

PEDP's Motion for Summary Judgment, Brief, Verifications and Exhibits in Support Thereof, BIE's Response, any Reply to such Response, and all other documents or testimony filed in support of any of the foregoing as "CONFIDENTIAL" and filed under Seal.

WHEREFORE, Respondent, Philadelphia Entertainment and Development Partners, L.P., d/b/a Foxwoods Casino Philadelphia, respectfully requests that an Order be entered designating (1) PEDP's Motion for Summary Judgment, Brief, Verifications and Exhibits in Support Thereof; (2) BIE's Response; (3) any Reply by PEDP to such Response; and (4) all other documents or testimony filed in support of any of the foregoing as "Confidential" and filed under Seal. For the convenience of the Board, a proposed form of order is attached hereto as Exhibit "B".

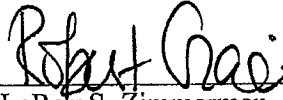
Respectfully submitted,

COZEN O'CONNOR



Stephen A. Cozen, Esquire (PA ID #03492)
F. Warren Jacoby, Esquire (PA ID #10012)
Jennifer M. McHugh, Esquire (PA ID #66723)
John V. Donnelly III, Esquire (PA ID #93846)
Jared D. Bayer, Esquire (PA ID #201211)
1900 Market Street
Philadelphia, PA 19103
(215) 665-2000

ECKERT SEAMANS CHERIN & MELLOTT, LLC



LeRoy S. Zimmerman, Esquire (PA ID #07278)
Robert A. Graci, Esquire (PA ID #26722)
213 Market Street, 8th Floor
Harrisburg, PA 17101
(717) 237-6000

*Attorneys for Philadelphia Entertainment and
Development Partners, L.P.*

Dated: October 5, 2010

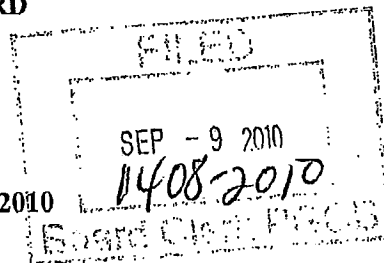
EXHIBIT A

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In Re:

**Complaint for Revocation of
Philadelphia Entertainment and
Development Partners, L.P. d/b/a
Foxwoods Casino Philadelphia
Slot Machine License 1367**

Docket # 1408-2010



ORDER

AND NOW, this 9th day of September, 2010, the following is **ORDERED**.

1. All pre-hearing Motions in the above captioned matter must be filed on or before the close of business Tuesday October 5, 2010.
2. All Answers or Responses to any pre-hearing Motions must be filed within ten (10) calendar days from the date of service of the Motion.
3. An Order setting a pre-hearing conference and the date and time of the hearing will be forthcoming at a later date.

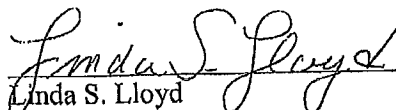

Linda S. Lloyd
Director of Hearings and Appeals

EXHIBIT B

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

IN RE :
PHILADELPHIA ENTERTAINMENT AND : Docket No. 1367
DEVELOPMENT PARTNERS, L.P., d/b/a :
FOXWOODS CASINO PHILADELPHIA : Office of Hearings and Appeals Docket
: Number: 1408-2010

ORDER

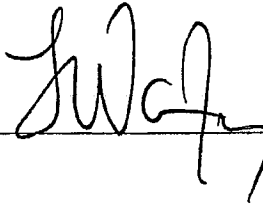
AND NOW, on this ___ day of _____, 2010, upon consideration of Respondent, Philadelphia Entertainment and Development Partners, L.P., d/b/a Foxwoods Casino Philadelphia's Motion to File Under Seal ("Motion to Seal") its Motion for Summary Judgment and Brief and Exhibits in Support Thereof ("Motion for Summary Judgment") and any response thereto, it is hereby ORDERED that the Motion to Seal is granted. It is ordered that (1) PEDP's Motion for Summary Judgment, Brief, Affidavits and Exhibits in Support Thereof; (2) any Response filed by BIE, and any Brief, Affidvits, and Exhibits in support thereof; (3) any all Cross-Motions, Briefs, Affidavits and Exhibits in support thereof; and (4) any and all Briefs in Opposition or in Reply, together with all Affidavits, and Exhibits in support thereof are hereby designated as "Confidential" and filed under Seal.

Linda S. Lloyd, Director
Hearings and Appeals

VERIFICATION

I hereby state that I am authorized to make this Verification, and state that the facts above set forth in the foregoing Motion to Seal are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C. S. § 4904 (relating to unsworn falsification to authorities).

Date: October 5, 2010



A handwritten signature in black ink, appearing to read "J. Wolf", is written over a horizontal line.

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

IN RE :
PHILADELPHIA ENTERTAINMENT AND : Docket No. 1367
DEVELOPMENT PARTNERS, L.P., d/b/a :
FOXWOODS CASINO PHILADELPHIA : Office of Hearings and Appeals Docket
: Number: 1408-2010

ORDER

AND NOW, on this ___ day of _____, 2010, upon consideration of Respondent, Philadelphia Entertainment and Development Partners, L.P., d/b/a Foxwoods Casino Philadelphia's Motion to File Under Seal its Motion for Summary Judgment and Brief, Verifications, and Exhibits in Support Thereof ("Motion for Summary Judgment"), BIE's Response, And Any Reply To Such Response, and All other documents and testimony filed in support of the foregoing, it is hereby ORDERED that the Motion to Seal is granted. It is ordered that (1) PEDP's Motion for Summary Judgment, Brief, Affidavits and Exhibits in Support Thereof; (2) BIE's Response; (3) any all Reply to such Response; and (4) all other documents and testimony filed in support of any of the foregoing are hereby designated as "Confidential" and filed under Seal.

Linda S. Lloyd, Director
Hearings and Appeals

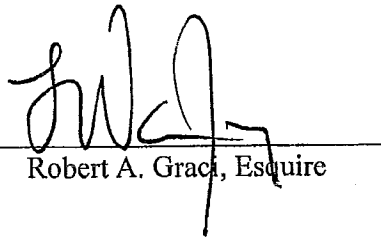
CERTIFICATE OF SERVICE

I certify that I am this day serving a complete copy of the foregoing Motion to Seal by E-Mail upon the following:

Cyrus R. Pitre, Esquire
Chief Enforcement Counsel
Strawberry Square — Verizon Tower
303 Walnut Street, 5th Floor
Harrisburg, PA 17101-1825

Dale William Miller, Esquire
Deputy Chief Enforcement Counsel
Pennsylvania Gaming Control Board
1001 Hector Street, Suite 410
Conshohocken, PA 19428-5300

By: _____



Robert A. Graci, Esquire

Dated: October 5, 2010