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PA GAMING CONTROL BOARD  
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BEFORE THE

THE PENNSYLVANIA GAMING CONTROL BOARD

FILED
JUN 25 2010
1170-2009
Board Clerk PGCB

PHILADELPHIA ENTERTAINMENT AND : PGCB DOCKET NO. 1170-2009  
 DEVELOPMENT PARTNERS, L.P., D/B/A :  
 FOXWOODS CASINO PHILADELPHIA :  
 SLOTS LICENSE 1367 : ADMINISTRATIVE HEARING  
 Movant :  
 :

: ANSWER AND OBJECTION

COMMONWEALTH OF PENNSYLVANIA :  
 GAMING CONTROL BOARD :  
 BUREAU OF INVESTIGATIONS :  
 AND ENFORCEMENT, :  
 Respondent

**ANSWER AND OBJECTION TO MOTION BY PHILADELPHIA  
 ENTERTAINMENT AND DEVELOPMENT PARTNERS, L.P., D/B/A  
 FOXWOODS CASINO PHILADELPHIA TO EXTEND TIME**

AND, NOW comes the Bureau of Investigations and Enforcement, through the Office of Enforcement Counsel and file this Answer and Objection to the Motion of Philadelphia Entertainment and Development Partners, L.P., d/b/a Foxwoods Casino Philadelphia (hereinafter PEDP) to Extend Time.

**ANSWER**

1. Denied. This averment is a prayer for relief to which no responsive pleading is required. Strict proof is thereof demanded.
2. Denied. The record of the Board meeting of April 7, 2010 speaks for itself, and to the extent that the averments of this paragraph attempt to characterize remarks by persons present at the meeting, those averments are denied. The remaining averments are legal arguments and conclusions of law to which no responsive pleading is required. To the

extent that the averments in this paragraph allege facts relating to PEDP's efforts to develop a gaming facility, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averment. Strict proof is thereof demanded.

3. Admitted.

4. Admitted.

5. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

6. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averment. By way of further response, Petitioner was not the only slot machine licensee to face opposition to its efforts to construct a gaming facility. Strict proof is thereof demanded.

7. Denied. The actions of the Philadelphia City Council are a matter of record, and that record speaks for itself. As to the reasons for the actions by the Philadelphia City Council, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

8. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

9. Denied. The actions of the Philadelphia City Council, Mayor John F. Street, and the Pennsylvania Supreme Court are a matter of record, and that record speaks for itself. As to the reasons for the actions by the above, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

10. Denied. The actions of the Philadelphia City Council and Mayor John F. Street,

are a matter of record, and that record speaks for itself. As to the reasons for the actions by the above, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

11. Denied. The actions of the Philadelphia City Council and Mayor John F. Street, are a matter of record, and that record speaks for itself. As to the reasons for the actions by the above, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

12. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

13. Admitted.

14. Denied. The actions of the Philadelphia City Council are a matter of record, and that record speaks for itself. As to the reasons for the actions by the Philadelphia City Council, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. As to the reasons for Petitioner's pursuit of relief from the Pennsylvania Supreme Court, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded. Strict proof is thereof demanded.

15. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

16. Admitted.

17. Denied. The actions of the Philadelphia City Planning Commission are a matter of record, and that record speaks for itself. As to the reasons for the actions by the Philadelphia City Planning Commission, Respondent is without sufficient knowledge or

information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

18. Denied. The actions of certain State Legislators and the Pennsylvania Supreme Court are a matter of record, and that record speaks for itself. As to the reasons for those actions and the reasons for PEDP's request to the Pennsylvania Supreme Court for a Special Master, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

19. Admitted.

20. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

21. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

22. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

23. Denied. The actions of Keystone Redevelopment Partners, LLC are a matter of record, and that record speaks for itself. As to the reasons for those actions, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

24. Admitted in part. It is admitted that Petitioner did not begin construction within one year of the issuance of its slot machine license. The remaining averments are matters of record and speak for themselves. Strict proof is thereof demanded.

25. Admitted.

26. Admitted. By way of further response, the Board Order of September 1, 2009 imposed nine (9) conditions on PEDP, the fulfillment of which are the subject of the Complaint for Revocation of Slot Machine License filed on April 29, 2010. Strict proof is thereof demanded.

27. Admitted. By way of further response, the Board Order of September 1, 2009 imposed nine (9) conditions on PEDP, the fulfillment of which are the subject of the Complaint for Revocation of Slot Machine License filed on April 29, 2010. Strict proof is thereof demanded.

28. Admitted in part. It is admitted that in the September 1, 2009 Order, the board imposed nine (9) conditions on PEDP. The Board Order and conditions speak for themselves, and to the extent that the averments of this paragraph attempt in any way to characterize that Order or those conditions, those averments are denied. Strict proof is thereof demanded.

29. Admitted in part, and denied in part. It is admitted that PEDP submitted certain documents to BIE. To the extent that PEDP avers that those documents satisfy or fulfill conditions of Board Orders which are the subject of the Complaint for Revocation of Slot Machine License filed on April 29, 2010, those averments are denied. Strict proof is thereof demanded.

30. Admitted in part, and denied in part. It is admitted that PEDP submitted certain documents to BIE. To the extent that PEDP avers that those documents satisfy or fulfill conditions of Board Orders which are the subject of the Complaint for Revocation of Slot Machine License filed on April 29, 2010, those averments are denied. Strict proof is thereof demanded.

31. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
32. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
33. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
34. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
35. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
36. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
37. Admitted in part. It is admitted that Steven Wynn testified at a hearing of the board on March 3, 2010. Mr. Wynn's remarks are a matter of record and speak for themselves. To the extent that the averments in this paragraph attempt to characterize those remarks, those averments are denied. As to the remaining averments, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
38. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.
39. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

40. Admitted.

41. Denied. The February 10, 2010 Order and Adjudication of the board is a matter of record and that record speaks for itself. To the extent that the averments in this paragraph attempt to characterize that record, Order and Adjudication, those averments are denied. Strict proof is thereof demanded.

42. Admitted in part and denied in part. It is admitted that Petitioner paid a monetary penalty of \$186,000. The remaining averments are denied. The February 10, 2010 Order and Adjudication of the board is a matter of record and that record speaks for itself. To the extent that the averments in this paragraph attempt to characterize that record, Order and Adjudication, those averments are denied. Strict proof is thereof demanded.

43. Admitted.

44. Admitted.

45. Denied. The record of the board hearing on March 3, 2010 speaks for itself. To the extent that the averments in this paragraph attempt to characterize that record, Order and Adjudication, those averments are denied. Strict proof is thereof demanded. Strict proof is thereof demanded.

46. Admitted in part. It is admitted that Steven Wynn testified at a hearing of the board on March 3, 2010. Mr. Wynn's remarks are a matter of record and speak for themselves. To the extent that the averments in this paragraph attempt to characterize those remarks, those averments are denied. As to the remaining averments, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

47. Admitted in part, and denied in part. It is admitted that Petitioner submitted certain documents to BIE, and presented certain testimony to the board. To the extent that Petitioner avers that those documents and that testimony satisfy or fulfill conditions of Board Orders which are the subject of the Complaint for Revocation of Slot Machine License filed on April 29, 2010, those averments are denied. Strict proof is thereof demanded. The remaining averments are conclusions of law to which no responsive pleading is required.

48. Denied. The record of the Board meeting of April 7, 2010 speaks for itself, and to the extent that the averments of this paragraph attempt to characterize remarks by persons present at the meeting, those averments are denied. Strict proof is thereof demanded.

49. Denied. The record of the Board meeting of April 7, 2010 speaks for itself, and to the extent that the averments of this paragraph attempt to characterize remarks by persons present at the meeting, those averments are denied. Strict proof is thereof demanded.

50. Admitted.

51. Admitted in part and denied in part. It is admitted that on April 6, 2010, PEDP submitted certain documents. As to the remaining averments, The record of the Board meeting of April 7, 2010 speaks for itself, and to the extent that the averments of this paragraph attempt to characterize remarks by persons present at the meeting, those averments are denied. Strict proof is thereof demanded.

52. Admitted in part. It is admitted that Wynn terminated the purchase agreement and other related documents between Wynn and PEDP. As to the remaining averments, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.



53. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

54. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

55. Admitted in part. It is admitted that PEDP did not prepare or develop documents, or provide such documents to the board or BIE, which would have satisfied, or attempted to satisfy Conditions 4,5, and 6 of the Extension Order. As to the remaining averments, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

56. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

57. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

58. Admitted in part and denied in part. It is admitted that PEDP has not submitted documents or other information which would satisfy Conditions 4,5, and 6 of the Extended Order, and that it will not be able to do so unless and until it identifies the source, manner, timing and amounts of funding for the development of its facility. By way of further response, the averments of this paragraph are admissions that PEDP has failed to comply with the Conditions of the Extended Order. It is denied that the reasons and extenuating circumstances for this failure to comply with the Conditions are defenses or excuses for the failure to comply. Strict proof is thereof demanded.

59. Admitted in part. It is admitted that BIE and PEDP entered into a consent agreement that was rejected by the board. As to the remaining averments, Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

60. Denied. The averments in this paragraph are arguments, conclusions and interpretations of the law, and constitute a prayer for relief to which no responsive pleading is required. Strict proof is thereof demanded.

61. Respondent hereby incorporates its response to paragraphs 1-60 as if fully set forth herein.

62. Admitted.

63. Denied. The averments in this paragraph are legal arguments and conclusions of law to which no responsive pleading is required. Strict proof is thereof demanded. By way of further response, the board's Adjudication of September 1, 2009, speaks for itself.

64. Denied. The averments in this paragraph are legal arguments and conclusions of law to which no responsive pleading is required. By way of further response, it is for the board to determine if Petitioner or any other person seeking relief has met the burden required. Strict proof is thereof demanded.

65. Denied. This averment is a prayer for relief to which no responsive pleading is required. Strict proof is thereof demanded.

66. Denied. The board Orders, Adjudications, and Conditions relating to the Extension Order and other related Orders are matters of record and speak for themselves. To the extent that Petitioner attempts to characterize, conjecture and guess the reasons for

the board's decisions and determinations in this regard, those averments are denied. Strict proof is thereof demanded.

67. Denied. To the extent that PEDP avers that documents and other submissions satisfy or fulfill conditions of Board Orders which are the subject of the Complaint for Revocation of Slot Machine License filed on April 29, 2010, those averments are denied. Strict proof is thereof demanded.

68. Denied. The board Orders, Adjudications, and Conditions relating to the Extension Order and other related Orders are matters of record and speak for themselves. To the extent that PEDP attempts to characterize, conjecture and guess the reasons for the board's decisions and determinations in this regard, those averments are denied. Strict proof is thereof demanded.

69. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

70. Denied. The averments of this paragraph are admissions that PEDP has failed to comply with the Conditions of the Extended Order, and has no funding or financing to begin and complete the development of its gaming facility, or complete the construction of the gaming facility itself. It is denied that the reasons and extenuating circumstances for this failure to comply with board Orders and Conditions or the requirement to maintain its suitability are defenses or excuses for the failure to comply and maintain suitability. Strict proof is thereof demanded.

71. Denied. This averment is a prayer for relief to which no responsive pleading is required. By way of further response, it is for the board to determine if PEDP has complied with any board Orders and Conditions. Strict proof is thereof demanded.

72. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

73. Denied. Respondent is without sufficient knowledge or information to form a belief as to the truth of the averments. Strict proof is thereof demanded.

74. Denied. The averments in this paragraph are arguments, conclusions and interpretations of the law, and constitute a prayer for relief to which no responsive pleading is required. Strict proof is thereof demanded.

75. Admitted in part and denied in part. It is admitted that counsel for PEDP and BIE met, negotiated and executed a Consent agreement which was ultimately rejected by the board. The remaining averments are denied as improper pleadings and requests for support from the very entity which has filed a Complaint for Revocation of PEDP's slot machine license. By way of further response, PEDP has the right to seek support for its position, but in other forums. Strict proof is thereof demanded.

WHEREFORE, Respondent requests that the board conduct a hearing in this matter.

#### **OBJECTION**

76. Respondent hereby incorporates its response above to paragraphs 1-75 as if fully set forth herein.

77. PEDP has failed to comply with the conditions set forth in board Orders as more fully pleaded in the Complaint for Revocation of Slot Machine License as filed by Respondent on April 29, 2010 and pending before the board.

78. If the board were to grant PEDP's request for extension of time to comply

with the board Orders, it would greatly prejudice Respondent's case in the Complaint for Revocation of Slot Machine License.

79. PEDP has failed to set forth any good cause which might entitle them to relief.

80. PEDP is not entitled to relief during the pending litigation of the Complaint for Revocation of slot machine license.

WHEREFORE, Respondent OBJECTS to Movant's request for an extension of time, and respectfully requests that the board deny PEDP's Motion and request for relief.

Respectfully submitted,  
Cyrus R. Pitre  
Chief Enforcement Counsel



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By: Dale W. Miller, Esquire  
Deputy Chief Enforcement Counsel  
Pennsylvania Gaming Control Board  
Office of Enforcement Counsel Eastern Region  
1001 Hector Street, Suite 410  
Conshohocken, PA 19428-5300  
(610) 943-7426

**BEFORE THE  
PENNSYLVANIA GAMING CONTROL BOARD**

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<b>PHILADELPHIA ENTERTAINMENT AND DEVELOPMENT PARTNERS, L.P., D/B/A FOXWOODS CASINO PHILADELPHIA SLOTS LICENSE 1367 Movant</b>	<b>:</b>	<b>PGCB DOCKET NO. 1170-2009</b>
	<b>:</b>	
	<b>:</b>	<b>ADMINISTRATIVE HEARING</b>
	<b>:</b>	
	<b>:</b>	<b>ANSWER AND OBJECTION</b>
<b>COMMONWEALTH OF PENNSYLVANIA GAMING CONTROL BOARD BUREAU OF INVESTIGATIONS AND ENFORCEMENT, Respondent</b>	<b>:</b>	
	<b>:</b>	
	<b>:</b>	
	<b>:</b>	

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**ORDER**

AND NOW, this,            day of            , 2010, it is hereby Ordered that  
the Motion of Philadelphia Entertainment and Development Partners, L.P., d/b/a/  
Foxwoods Casino Philadelphia to Extend Time is DENIED.

BY THE BOARD:

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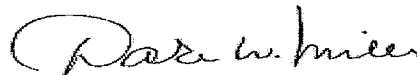
The Honorable Gregory C. Fajt  
Chairman

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 25<sup>th</sup> day of June, 2010 a copy of the Answer and Objection was served upon attorneys for the Petitioner LeRoy S. Zimmerman, Esquire, Robert A. Graci, Esquire, who are authorized to accept such service by first class mail to:

LeRoy S. Zimmerman, Esquire  
Eckert Seamans Cherin & Mellot, LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101

Robert A. Graci, Esquire  
Eckert Seamans Cherin & Mellot, LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17101

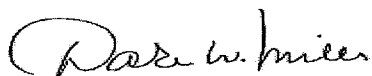


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Dale W. Miller, Esquire  
Pennsylvania Supreme Court ID # 33520  
Deputy Chief Enforcement Counsel  
Commonwealth of Pennsylvania  
Pennsylvania Gaming Control Board  
Office of Enforcement Counsel Eastern Region  
1001 Hector Street, Suite 410  
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**VERIFICATION**

I, Dale W. Miller, Esquire, hereby state that the facts above set forth 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: June 25, 2010

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Dale W. Miller, Esquire  
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Deputy Chief Enforcement Counsel  
Commonwealth of Pennsylvania  
Pennsylvania Gaming Control Board  
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