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BEFORE THE
THE PENNSYLVANIA GAMING CONTROL BOARD

FILED
JUN 14 2010
1408-2010
Board Clerk PGCB

PA GAMING CONTROL BOARD
OFFICE OF ENFORCEMENT

COMMONWEALTH OF PENNSYLVANIA : PGCB DOCKET NO. 1367
 GAMING CONTROL BOARD :
 BUREAU OF INVESTIGATIONS :
 AND ENFORCEMENT, : ADMINISTRATIVE
 Complainant : HEARING
 PHILADELPHIA ENTERTAINMENT AND :
 DEVELOPMENT PARTNERS, L.P., D/B/A : REPLY TO NEW MATTER
 FOXWOODS CASINO PHILADELPHIA : OBJECTIONS AND
 SLOTS LICENSE 1367 : AFFIRMATIVE DEFENSES
 Respondent :

REPLY TO NEW MATTER, OBJECTIONS AND AFFIRMATIVE DEFENSES

Complainant Pennsylvania Gaming Control Board Bureau of Investigations and Enforcement, by and through the Office of Enforcement Counsel hereby files this Reply to New Matter, Objections and Affirmative Defenses, and states the following,

BACKGROUND

On April 29, 2010, Complainant filed a Complaint for Revocation of Slot Machine License against the Respondent. In accordance with 58 Pa. C.S. § 493a.5(a), the Respondent was required to file an Answer to the Complaint within 30 days. On May 13, 2010, Respondent filed a Motion for an extension of time to respond to the Complaint pursuant to 58 Pa. C.S. § 497a.5. On May 17, 2010, the Motion for Extension of time was denied by the Director of Hearings and Appeals of the Pennsylvania Gaming Control Board (hereinafter Board).

On May 19, 2010, Respondent filed a Petition in the Nature of an Appeal of the Order dated May 17, 2010 denying Respondent's request for an extension of time. Thereafter, on June 1, 2010, Respondent filed an Answer, New Matter, Legal Objections,

and Affirmative defenses in response to the Complaint for Revocation of Slot Machine License. On June 2, 2010, Respondent subsequently withdrew its Appeal of the Order denying the Motion for extension of time.

In accordance with 58 Pa. C.S. § 493a.5, Complainant files this reply to the New Matter, Objections, and Affirmative Defenses raised by Respondent in its Answer to the Complaint for Revocation of Slot Machine License.

REPLY

71. Denied. The Complaint for Revocation of Slot Machine License sets forth facts which, if proven, are sufficient to permit the Pennsylvania Gaming Control Board to revoke the slot machine license of Philadelphia Development and Entertainment Partners, L.P. in accordance with the Gaming Act and the Board Regulations. Strict proof is thereof demanded.

72. Denied. The factual and legal basis of the Complaint for Revocation of Slot Machine License are fully set forth in the Complaint and, if proven, are sufficient to permit the Pennsylvania Gaming Control Board to revoke the slot machine license of Philadelphia Development and Entertainment Partners, L.P. in accordance with the Gaming Act and the Board Regulations. Strict proof is thereof demanded.

73. Denied. The evidentiary basis of the Complaint for Revocation of Slot Machine License is fully set forth in the Complaint and, if proven, is sufficient to permit the Pennsylvania Gaming Control Board to revoke the slot machine license of Philadelphia Development and Entertainment Partners, L.P. in accordance with the Gaming Act and the Board Regulations. Strict proof is thereof demanded.

74. Denied. Respondent has failed to set forth any factual basis for its averment that BIE and OEC have made recommendations or were prepared to make recommendations in support of the relief requested by PEDP. Nor has Respondent set forth any legal or equitable basis for its averment that it is entitled to relief, or that the Board acted in an improper manner. Strict proof is thereof demanded.

75. Denied. Respondent has failed to set forth the factual basis or citations of evidence of record for its averment that it has a right to relief, past, present, or future. Nor has Respondent set forth any facts showing what type of relief it believes it is entitled to, or what relief it believes the Board has already denied. Strict proof is thereof demanded.

76. Denied. PEDP has failed to fully and substantially comply with the requirements of the Gaming Act, implementing regulations, and Orders and Adjudications of the Board, as set forth more fully in the Complaint for Revocation of Slot Machine License. Strict proof is thereof demanded.

77. Denied. PEDP has failed to fully and substantially comply with the requirements of the Gaming Act, implementing regulations, and Orders and Adjudications of the Board, as set forth more fully in the Complaint for Revocation of Slot Machine License. PEDP has offered no facts to show that alleged factors beyond their control contributed in any way with their failure to remain suitable for a slot machine license. Strict proof is thereof demanded.

78. Denied. PEDP has failed to fully and substantially comply with the requirements of the Gaming Act, implementing regulations, and Orders and Adjudications of the

Board, as set forth more fully in the Complaint for Revocation of Slot Machine License, and PEDP has offered no facts or proof of diligent and/or good faith efforts to comply. Strict proof is thereof demanded.

79. Denied. Whether PEDP has kept BIE and OEC apprised of its efforts and progress in developing its licensed gaming facility is for the Board to determine. Strict proof is thereof demanded.

80. Denied. Respondent has offered no facts or proof of the allegations of this averment. By way of further response, whatever knowledge BIE and OEC may have had regarding PEDP's failed efforts to build its licensed gaming facility are not relevant to whether PEDP is suitable to maintain its slot machine license. Strict proof is thereof demanded.

81. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. Strict proof is thereof demanded.

82. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. Strict proof is thereof demanded.

83. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. Strict proof is thereof demanded.

84. Denied. The imposition of sanctions and the factual and legal basis thereof is a matter of record which speaks for itself, and is irrelevant to whether PEDP is suitable to maintain its slot machine license. Strict proof is thereof demanded.

85. Denied. The imposition of sanctions and the factual and legal basis thereof is a matter of record which speaks for itself, and is irrelevant to whether PEDP is suitable to maintain its slot machine license. Strict proof is thereof demanded.

86. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. By way of further response, the averments of this paragraph are irrelevant to the Complaint for Revocation of Slot Machine License. Strict proof is thereof demanded.

87. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. By way of further response, the averments of this paragraph are irrelevant to the Complaint for Revocation of Slot Machine License, and is part of a continuing effort by Respondent to blame others for their failure to maintain suitability. Strict proof is thereof demanded.

88. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. By way of further response, the averments of this paragraph are irrelevant to the Complaint for Revocation of Slot Machine License. Strict proof is thereof demanded.

89. Denied. Complainant does not have information sufficient to admit or deny the averments of this paragraph with respect to the Wynn agreement. The remaining averments are prayers for relief to which no responsive pleading is required.

90. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. By way of further response, PEDP through its own action and inaction has failed to fully and substantially comply with the requirements of the Gaming Act, implementing regulations, and Orders and Adjudications of the Board, as set forth more fully in the Complaint for Revocation of Slot Machine License. The

averments of this paragraph are part of a continuing effort to blame others for their failure to maintain suitability. Strict proof is thereof demanded.

91. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. By way of further response, PEDP through its own action and inaction has failed to fully and substantially comply with the requirements of the Gaming Act, implementing regulations, and Orders and Adjudications of the Board, as set forth more fully in the Complaint for Revocation of Slot Machine License. The averments of this paragraph are part of a continuing effort to blame others for their failure to maintain suitability. Strict proof is thereof demanded.

92. Denied. The averments of this paragraph are conclusions of law to which no responsive pleading is required. By way of further response, PEDP through its own action and inaction has failed to fully and substantially comply with the requirements of the Gaming Act, implementing regulations, and Orders and Adjudications of the Board, as set forth more fully in the Complaint for Revocation of Slot Machine License. The averments of this paragraph are part of a continuing effort to blame others for their failure to maintain suitability. Strict proof is thereof demanded.

93. Denied. Complainant does not have information sufficient to admit or deny the truth of the averments of this paragraph. By way of further response, whether or not PEDP has waived any legal rights, or released any claims is a legal conclusion to which no responsive pleading is required. Strict proof is thereof demanded.

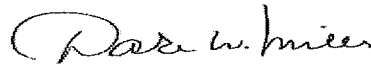
94-97. Denied. The averments of these paragraphs are conclusions of law to which no responsive pleading is required. Strict proof is thereof demanded.

98. Denied. Complainant hereby incorporates its previous responses to the appropriate paragraphs of Respondent's pleading.

99. Complainant joins in Respondent's request for a hearing.

Wherefore, Complainant Bureau of Investigations and Enforcement through the Office of Enforcement Counsel prays that the Board allow the Complaint to proceed, conduct an oral hearing on the matter, and revoke the slot machine license of Respondent.

Respectfully submitted
Office of Enforcement Counsel
Cyrus R. Pitre, Esquire
Chief Enforcement Counsel



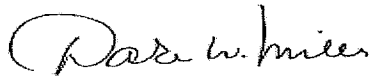
By: _____
Dale W. Miller, Esquire
Deputy Chief Enforcement Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of June, 2010 a copy of the Reply to New Matter, Objections and Affirmative Defenses was served upon attorneys for the Petitioner, Robert A. Graci, Esquire, F. Fred Jacoby, Esquire, who are authorized to accept such service by first class mail to:

F. Fred Jacoby, Esquire
Cozen O'Conner
1900 Market Street
Philadelphia, PA 19103

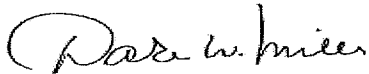
Robert A. Graci, Esquire
Eckert Seamans Cherin & Mellot, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101



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
Conshohocken, PA 19428-5300
(610) 943-7426

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).



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
Conshohocken, PA 19428-5300
(610) 943-7426