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Board Clerk PGCB

BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD

COMMONWEALTH OF PENNSYLVANIA GAMING CONTROL BOARD BUREAU OF INVESTIGATIONS AND ENFORCEMENT, Complainant,	:	
	:	Docket No. 1367
	:	
v.	:	Office of Hearings and Appeals Docket Number: 1498-2010
	:	
PHILADELPHIA ENTERTAINMENT AND DEVELOPMENT PARTNERS, L.P. D/B/A FOXWOODS CASINO PHILADELPHIA SLOT MACHINE LICENSE 1367, Respondent.	:	ADMINISTRATIVE HEARING
	:	
	:	COMPLAINT, ORDER AND
	:	RULE TO SHOW CAUSE
	:	
Filed By: Philadelphia Entertainment and Development Partners, L.P.	:	<u>Counsel of Record:</u> Stephen A. Cozen, Esquire (PA ID #03492) F. Warren Jacoby, Esquire (PA ID #10012) John V. Donnelly III, Esquire (PA ID #93846) Jared D. Bayer, Esquire (PA ID #201211) COZEN O'CONNOR 1900 Market Street Philadelphia, PA 19103 (215) 665-2000 LeRoy S. Zimmerman, Esquire (PA ID #07278) Robert A. Graci, Esquire (PA ID #26722) ECKERT SEAMANS CHERIN & MELLOTT, LLC 213 Market Street, 8 th Floor Harrisburg, PA 17101 (717) 237-6000

**MOTION BY PHILADELPHIA
ENTERTAINMENT AND DEVELOPMENT PARTNERS, L.P.
FOR A DISCOVERY CONFERENCE PURSUANT TO 58 Pa. Code §**

MOVANT, Philadelphia Entertainment and Development Partners, LP d/b/a Foxwoods Casino Philadelphia ("PEDP"), by and through its undersigned counsel, hereby moves for a discovery conference pursuant to 58 Pa. Code §§ 491a.9 and 493a.11, and, in support thereof, avers as follows:

1. PEDP is the holder of a Category 2 slot machine license ("License").
2. On April 29, 2010, BIE, through OEC, filed a Complaint against PEDP seeking the revocation of its slot machine license.
3. Counsel for PEDP received the Complaint by electronic mail on April 29, 2010, and has filed its Answer and New Matter thereto on the date upon which PEDP has filed this Motion.
4. By way of the Complaint, BIE seeks the revocation of the License, which is effectively the ultimate sanction that the Board can impose on a slot machine licensee.
5. To date, the 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.
6. The slot machine licensure revocation proceedings commenced by the Complaint therefore involve matters of first impression, such that the parties have only limited guidance as to matters of procedure and substance.
7. PEDP has invested substantial sums to obtain the slot machine license, including the \$50 million licensing fee paid to the Commonwealth, as well as many millions of dollars more in its efforts to develop a licensed gaming facility.

8. PEDP has also expended substantial efforts to develop its licensed gaming facility as approved by the Board, including the substantial and highly visible, though ultimately unsuccessful, efforts invested in the PEDP's proposed transaction with Wynn Resorts, Limited and its affiliates ("Wynn") which was terminated unilaterally by Wynn (through no fault of PEDP).

9. Given the gravity of the ultimate sanction at issue, the substantial investment and efforts by PEDP in this project, and the resulting significant record at issue, a prehearing discovery conference is appropriate.

10. A prehearing discovery conference will aid in the orderly conduct and disposition of the proceedings by enabling the establishment of an appropriate discovery schedule, providing for, among other things, the production of documents by the parties, timelines for serving and responding to written discovery requests including interrogatories and requests for admissions, scheduling depositions of the parties' witnesses, and issuing subpoenas for the documents and depositions of third parties.

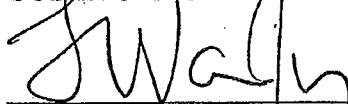
11. In addition, the schedule should include the timing and mechanism for resolving discovery disputes, a final prehearing settlement conference, timing for the exchange and acceptance of exhibits proposed to be offered into evidence, and timing for any stipulations regarding facts or the authenticity of documents.

12. The significant magnitude of this case and the fact that it is a case of first impression counsel in favor of providing a clear discovery schedule so that the parties may properly and sufficiently prepare their cases and marshal evidence in support of their claims and defenses.

WHEREFORE, for the foregoing reasons, Movant, Philadelphia Entertainment and Development Partners, LLP respectfully requests that the Pennsylvania Gaming Control Board (or presiding officer) schedule a prehearing discovery conference.

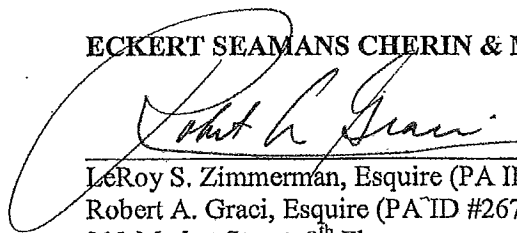
Respectfully submitted,

COZEN O'CONNOR



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*Attorneys for Philadelphia Entertainment and
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CERTIFICATE OF SERVICE

I certify that I am this day serving a complete copy of the foregoing Motion for Prehearing Discovery Conference by U.S. Mail upon the following:

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By: 

Robert A. Graci, Esquire

Dated: June 1, 2010

BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD

IN RE	:	
PHILADELPHIA ENTERTAINMENT AND	:	
DEVELOPMENT PARTNERS, L.P., d/b/a	:	PGCB Docket No. 1367
FOXWOODS CASINO PHILADELPHIA	:	
	:	

ORDER

AND NOW, this ___ day of June 2010, the Motion by Philadelphia Entertainment and Development Partners, L.P. ("PEDP") for a discovery conference pursuant to 58 Pa. Code §§ 491a.9 and 493a.11 is hereby GRANTED. Counsel for the parties shall appear for the conference on _____, 2010, at _____, Harrisburg, Pennsylvania.

By: _____

Pennsylvania Gaming Control Board