

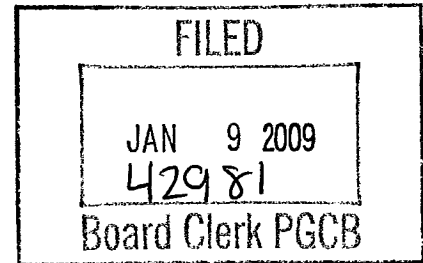
BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD

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

:PGCB DOCKET NO. 42920
:
:
:ADMINISTRATIVE HEARING
:
:
:ANSWER AND OBJECTION

LEGISLATORS FARNESE, O'BRIEN,
STACK, KELLER, MCGEEHAN, AND
TAYLOR
Petitioners

IN RE: THE APPLICATION OF HSP
GAMING, L.P. FOR AN EXTENSION OF
TIME



**ANSWER AND OBJECTION OF RESPONDENT BUREAU OF INVESTIGATIONS
AND ENFORCEMENT TO THE PETITION OF LEGISLATORS FARNESE, O'BRIEN,
STACK, KELLER, MCGEEHAN, AND TAYLOR TO INTERVENE IN THE
APPLICATION OF HSP GAMING, L.P. FOR AN EXTENSION OF TIME**

By and through the Office of Enforcement Counsel, Respondent, Commonwealth of Pennsylvania, Gaming Control Board, Bureau of Investigations and Enforcement, does hereby respond to the Petition of Legislators Farnese, O'Brien, Stack, Keller, McGeehan and Taylor (hereinafter Legislators) to intervene in the application of HSP Gaming, L.P. for an extension of time to make slot machines available to play, and states the following:

ANSWER

1. Admitted in part and denied in part. It is admitted that the districts of Senator Farnese and Representative O'Brien encompass the proposed site of the Sugarhouse casino. The remaining averments are denied as Respondent is without knowledge or information sufficient to admit or deny the facts contained therein. Strict proof is thereof demanded.

2. Admitted in part and denied in part. It is admitted that the districts of Senator Stack and Representatives Keller, McGeehan, and Taylor are contiguous to the

Delaware River and within the City of Philadelphia. The remaining averments are denied as Respondent is without knowledge or information sufficient to admit or deny the facts contained therein. Strict proof is thereof demanded.

3. Admitted in part and denied in part. It is admitted that the Pennsylvania Gaming Control Board issued a Category 2 Slot Machine License No F-1356 to HSP. It is denied that the license was issued on January 10, 2006. To the contrary, the license was issued on January 11, 2006. Strict proof thereof is demanded.

4. Admitted. By way of further explanation, 4 Pa. C.S. § 1210 provides that a slots licensee may be granted an additional period of time, not to exceed 24 months to operate 1500 machines, upon application to the Board for good cause shown.

5-6. Admitted.

7. Denied. The Legislators do not have a substantial, direct and immediate interest in seeing the legislative intent of the Act carried out, and no facts have been alleged in this petition to show that they do have such interest. Strict proof is thereof demanded.

8. Denied. HSP is the party who will be bound by the decision of the Board with regard to the Petition for an Extension of Time. Strict proof thereof is demanded.

9. Denied. It is denied that the alleged interests of the Legislators is not adequately represented by any party to the proceedings. The Office of Enforcement Counsel, Bureau of Investigations and Enforcement will adequately and thoroughly represent the interest of Legislators, taxpayers, and the public in general in the Petition for an Extension of Time. Strict proof is thereof demanded.

10-12. Denied. Respondent is without sufficient knowledge or information sufficient to admit or deny the facts contained in this paragraph. Strict proof is thereof demanded.

13. Admitted.

14. Denied. This averment is a legal argument to which no responsive pleading is required. By way of further explanation, Petitioner's allege no facts to support the averment to which a response could be made.

15. Denied. This averment is a legal argument to which no responsive pleading is required. By way of further explanation, Petitioner's allege no facts to support the averment to which a response could be made.

16. Admitted in part and denied in part. It is admitted that HSP chose the site on which it proposed to build a casino, and that the location was one of a number of factors considered by the board in awarding a slots license. It is denied that HSP's proposed

location has any relevance in this petition to intervene. Strict proof is thereof demanded.

17. 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.

18-19. Denied. Respondent is without sufficient knowledge or information sufficient to admit or deny the facts contained in this paragraph. Strict proof is thereof demanded.

20. Denied. Respondent is without sufficient knowledge or information sufficient to admit or deny the facts contained in this paragraph. Strict proof is thereof demanded.

21-33. Denied. Respondent is without sufficient knowledge or information sufficient to admit or deny the facts contained in this paragraph. Strict proof is thereof demanded. By way of further explanation, the averments in these paragraphs allege no facts to support Petitioner's request to intervene in this matter. Strict proof is thereof demanded.

34-35. Denied. Respondent is without sufficient knowledge or information sufficient to admit or deny the facts contained in this paragraph. Strict proof is thereof demanded. By way of further explanation, Petitioners are state legislators, do not speak for the City of Philadelphia, and offer no direct authority of facts for the allegations in these paragraphs.

36. Admitted.

36. Denied. (there are two paragraph number 36 in this petition to intervene) Respondent is without sufficient knowledge or information sufficient to admit or deny the facts contained in this paragraph. Strict proof is thereof demanded.

37-38. Denied. The averments in these paragraphs mischaracterize the recommendation of each letter, and are taken out of context of the letters themselves. By way of further explanation, these averments state no facts to support Petitioner's request to intervene and are irrelevant to said Petition. Strict proof is thereof demanded.

39-40. Denied. Respondent is without knowledge or information sufficient to admit or deny the facts contained in these paragraphs. Strict proof is thereof demanded.

41. Admitted. By way of further explanation, these averments state no facts to support Petitioner's request to intervene and are irrelevant to said Petition. Strict proof is thereof demanded.

42. Denied. Respondent is without knowledge or information sufficient to admit or deny the facts contained in these paragraphs. Strict proof is thereof demanded.

43. Admitted in part. It is admitted that the Pennsylvania Gaming Control Board issued a press release with the partially quoted language stated in the averment. The remaining allegations are denied. Strict proof is thereof demanded.

44. Denied as stated. Only HSP can state with certainty that it has or has not obtained all permits necessary to begin construction of its facility. Strict proof is thereof demanded.

45-46. Denied. These averments are legal arguments and conclusions of law to which no responsive pleading is required. By way of further explanation, these averments state no facts to support Petitioner's request to intervene and are irrelevant to said Petition. Strict proof is thereof demanded.

47. Admitted in part. It is admitted that the language quoted in this averment is from paragraph 38 of the adjudication of the Pennsylvania Gaming Control Board for Category 2 Slot Machine Licenses in the City of the First Class, Philadelphia. The remaining averments are denied as stated. Strict proof is thereof demanded.

48-49. Denied. Respondent is without knowledge or information sufficient to admit or deny the facts contained in these paragraphs. Strict proof is thereof demanded.

50. Denied. These averments are conclusions of law to which no responsive pleading is required. Strict proof is thereof demanded.

51. Denied. These averments are prayers for relief to which no responsive pleading is required. Strict proof is thereof demanded.

52. Denied. These averments are conclusions of law to which no responsive pleading is required. Strict proof is thereof demanded.

53. Denied. Respondent is without knowledge or information sufficient to admit or deny the facts contained in these paragraphs. Strict proof is thereof demanded.

WHEREFORE, The Office of Enforcement Counsel respectfully requests that the Board deny the Legislators' Petition for Intervention, and deny the requests for intervention by the Legislators.

OBJECTION

54. "The decision to grant a petition to intervene in a proceeding before the Board or a presiding officer is within the sole discretion of the Board." 58 Pa. C.S. §493a.12 (a).

55. The Board may grant a petition to intervene if it determines:

- (1) The person has an interest in the proceeding which is substantial, direct and immediate.
- (2) The interest is not adequately represented by a party to the proceeding.
- (3) The person may be bound by the action of the Board in the proceeding.

58 Pa. C.S. §493a.12 (c).

56. "Petitions to intervene must be in writing and set out clearly and concisely the facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds of the proposed intervention, and the position of the petitioner in the proceeding. The petitioner shall fully advise the parties and the Board of the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering specifically and in detail, each material allegation of fact or law asserted in the petition or complaint initiating the proceeding, and citing by appropriate reference provisions or other authority relied on". 58 Pa. C.S. §493a.12 (e).

57. Petitioners have failed to state or allege any facts which would fully advise the Board of the specific issues of fact or law to be raised or controverted, and have failed to cite by appropriate reference provisions or other authority relied upon.

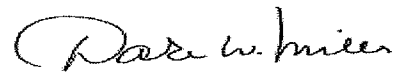
58. Petitioners have failed to comply with 58 Pa. C.S. §493a.12 (e).

59. Although Petitioners assert that they meet the requirements of 58 Pa. C.S. §493a.12, Petitioners have failed to state or allege any facts which would form the basis for the board to determine that they have an interest in the proceeding which is substantial and immediate, that their interest is not adequately represented by a party to the proceeding, and that they may be bound by the action of the Board in the proceeding.

60. The Legislators' Petition for Intervention is deficient on its face, is not in compliance with 58 Pa. C.S. §493a.12 , and fails to state a basis upon which relief could be granted.

WHEREFORE, the Office of Enforcement Counsel OBJECTS to the Petition to intervene, and respectfully requests that the Pennsylvania Gaming Control Board deny the Petition and the relief requested.

Respectfully submitted,



Dale W. Miller, Esquire
Pennsylvania Supreme Court I.D. # 33520
Deputy Chief Enforcement Counsel
Pennsylvania Gaming Control Board
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Conshohocken, PA 19428-5300
(610) 943-7426

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COMMONWEALTH OF PENNSYLVANIA	:PGCB DOCKET NO. 42920
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Petitioners	:

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ORDER

AND NOW, this, day of ,2009, it is hereby Ordered that
the Petition of Legislators Farnese, O'Brien, Stack, Keller, McGeehan, and Taylor is
DENIED.

BY THE BOARD:

The Honorable Mary DiGiacomo Colins
Chairman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2009 a copy of the Answer and Objection was served upon attorney for the Petitioner Mary Elisa Reeves, Esquire, who is authorized to accept such service by first class mail to:

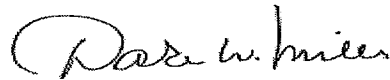
Elisa Reeves, Esquire

Donna Adelsberger & Associates, P.C.

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P.O. Box 530

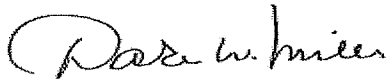
Glenside, PA 19038



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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).



Dale W. Miller, Esquire
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Date: January 9, 2009