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December 3, 2013

***VIA FACSIMILE (724-250-4118)***

The Honorable Debbie O'Dell-Seneca  
Washington County Courthouse  
1 South Main Street, Suite 2002  
Washington, PA 15301

**Re: Litman, et al. v. Cannery Casino Resorts, LLC, et al.**  
**Washington County Court of Common Pleas; No. 2012-8149**

Dear Judge O'Dell-Seneca:

As a follow-up to my letter dated November 22, 2013, in support of Defendants' Motion for Reconsideration, I am enclosing the December 2, 2013 Answer and Objection of the Pennsylvania Gaming Control Board's ("PGCB") Office of Enforcement Counsel to the patron Petition filed at Docket No. 2013-3354 seeking recovery of winnings. Notably, the Office of Enforcement Counsel did not object that the PGCB lacked jurisdiction or the ability to award the requested relief to the Petitioner.

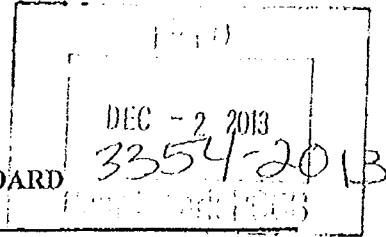
Very truly yours,

Patrick L. Abramowich

PLA:msh  
Enclosure

cc: Gregg R. Zegarelli, Esquire (via facsimile w/enc to 412-833-0601)

BEFORE THE  
PENNSYLVANIA GAMING CONTROL BOARD



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IN RE: : PGCB DOCKET NO. 3354-2013  
: :  
PETITION O :  
FOR RECOVERY OF WINNINGS : ADMINISTRATIVE HEARING  
WHILE ON THE VOLUNTARY :  
SELF-EXCLUSION LIST :  
: :  
: : RESPONSE TO PETITION  
:

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RESPONDENT'S ANSWER AND OBJECTION TO PETITION FOR RECOVERY OF  
WINNINGS WHILE ON THE VOLUNTARY SELF-EXCLUSION LIST

AND NOW, comes the Respondent, the Office of Enforcement Counsel (hereinafter referred to as "Respondent"), after consultations with the Bureau of Investigations and Enforcement, Bureau of Licensing, Bureau of Gaming Laboratory Operations, Office of Compulsive and Problem Gambling, Office of Racetrack Gaming, Bureau of Casino Compliance, and the Bureau of Gaming Operations, and files this response to the Petition of

for Recovery of Winnings While on the Voluntary Self-Exclusion List as follows:

ANSWER

As failed to number the paragraphs of her petition, Respondent will address each paragraph of her letter by location as follows:

Paragraph 1, Page 1. A prayer for relief to which no response is required.

Paragraph 2, Page 1. Admitted in part and denied in part. It is admitted that (hereinafter "Petitioner") completed a Request for Voluntary Self-Exclusion from Gaming Activities on March 1, 2012. It is denied that Petitioner was under legal duress at the time of her

request. By way of further information, Black's Law Dictionary, 6<sup>th</sup> Ed. defines "duress" as any unlawful threat or coercion used by a person to induce another to act (or to refrain from acting) in a manner he or she otherwise would not. Petitioner fails to aver any facts that support that she was forced to request to be placed on the self-exclusion list by another individual. After reasonable investigation, Respondent is without sufficient information or knowledge to form a belief as to the remaining averments in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 3, Page 1. Denied. After reasonable investigation, Respondent is without information or knowledge sufficient to form a belief as to what happened between Petitioner and her friends and family on March 2, 2012.

Paragraph 4, Page 1. Admitted in part and denied in part. It is admitted that on September 9, 2013 Petitioner engaged in gaming activity which resulted in a \$10,000.00 jackpot at a Casino. It is further admitted that, on the same date, the jackpot was confiscated and Petitioner was charged with Defiant Trespass With Actual Communication (18 Pa. C.S. §3503(b)(1)(i)) by Pennsylvania State Police because she remained on the Board's voluntary self-exclusion list at that time. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the remaining averments in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 5, Page 1. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 1, Page 2. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 2, Page 2. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 3, Page 2. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 4, Page 2. Admitted.

Paragraph 5, Page 2. Admitted.

Paragraph 6, Page 2. Admitted.

Paragraph 7, Page 2. Admitted in part and denied in part. It is admitted that Petitioner was found guilty of Defiant Trespass With Actual Communication and fined \$1.00 by the Magisterial District Judge . . . . After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the reasoning for Magisterial District Judge . . . . finding of guilty or sentence. Strict proof thereof is demanded at a hearing.

Paragraph 8, Page 2. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 9, Page 2. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 10, Page 2. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 1, Page 3. Denied. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the averments contained in this paragraph. Strict proof thereof is demanded at a hearing.

Paragraph 2, Page 3. Admitted in part and denied in part. It is admitted that Petitioner included a picture of an area inside Casino. After reasonable investigation, Respondent is without knowledge or information sufficient to form a belief as to the remaining averments contained in this paragraph. Therefore, these averments are denied. Strict proof thereof is demanded at a hearing.

Paragraph 3, Page 3. Denied. It is denied that Petitioner was under legal duress when she completed her Request for Voluntary Self-Exclusion from Gaming Activities on March 1, 2012. By way of further explanation, Petitioner has failed to aver any facts that would support that she was forced to request to be placed on the self-exclusion list by another individual. The remainder of this paragraph is a request for relief to which no response is required.

#### OBJECTION

1. Bureau of Casino Compliance (hereinafter "BCC") Representative conducted the voluntary Self-Exclusion List intake interview of Petitioner at Casino on March 1, 2012.
2. Present during the interview were Representative and the Petitioner.
3. Petitioner told Representative that she was seeking to be placed on the voluntary Self-Exclusion List.
4. As the Self-Exclusion List intake procedure directs, Representative read the entire document titled the "Pennsylvania Gaming Control Board Request for

Voluntary Self-Exclusion Process Checklist” and the “Pennsylvania Gaming Control Board Request for Voluntary Self-Exclusion From Gaming Activities” form (hereinafter referred to as the “Request Form”) to Petitioner.

5. The instructions state, in relevant part, that by signing and submitting the Request Form, along with its Release and Acknowledgement, you are expressing to the PGCB that you are a problem gambler and that you are agreeing to be excluded from all gaming activities at licensed facilities within the Commonwealth of Pennsylvania.
6. The instructions on the Request Form further dictate that the individual must choose the minimum period that his/her name will remain on the voluntary Self-Exclusion List.
7. Petitioner, with Representative assistance, completed the Request Form, including all of Petitioner’s personal identifying information.
8. Petitioner signed the Request Form on March 1, 2012, as witnessed by Representative
9. Respondent asserts Petitioner made a voluntary, knowing and intelligent decision regarding her voluntary exclusion.
10. Representative specifically looked for signs of sobriety, coherence, and non-coercion in the Petitioner during the intake interview.
11. If any sign of intoxication, coercion, or lack of understanding was observed, Representative would not have accepted the signed Request Form from the Petitioner.

12. Representative [redacted] also asked the Petitioner whether she was “under the influence of any alcoholic beverages, controlled substances, or prescription medication that would prevent the person from making a sober and informed decision” and Petitioner responded that she was not.
13. The instructions for the Request Form the Petitioner completed and signed state: “You must choose one of three options for the minimum length of time your name will remain on the Self-Exclusion List. You must select to be excluded for one year, five years or for life....”
14. The Petitioner chose to be excluded for one year.
15. In the written instructions for filling out the Request for Voluntary Self-Exclusion from Gaming Activities, it states, “[i]f you select to be excluded for one or five years, your name will remain on the self-exclusion list indefinitely unless you request that it be removed pursuant to §503A...” (bold in original).
16. This information was also verbally communicated to Petitioner by Representative [redacted] as Representative [redacted] explained the self-exclusion program to Petitioner.
17. Directly above Petitioner’s signature, under the heading “ACKNOWLEDGEMENT”, the Request for Voluntary Self-Exclusion From Gaming Activities states:

I am voluntarily requesting exclusion from all gaming activities at all licensed facilities in the Commonwealth of Pennsylvania. I am a problem gambler. I certify that the information that I have provided in this Request for Voluntary Self-Exclusion is true and accurate. I have read and understand and agree to the Release included with this Request for Self-Exclusion. I agree to provide updates to the information provided in this Request within 30 days of the change. I am aware that my signature authorizes the PGCB to direct all slot machine licensees to restrict my gaming activities in accordance with this request and, unless I have



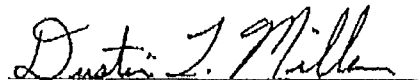
requested to be excluded for life, until such time as the PGCB removes my name from the self-exclusion list in response to my request to terminate my voluntary self-exclusion. I am aware and agree that during any period of self-exclusion, if I am identified on the gaming floor or if I engage in gaming activity at any licensed facility I will be subject to removal, I will be subject to arrest for criminal trespass and I may not collect any winnings or recover any losses resulting from the gaming activity and that any money or thing of value obtained by me from, or owed to me by, a slot machine licensee as a result of wagers made by me while on the self-exclusion list shall be subject to remittance to the PGCB. (bold added)

18. 4 Pa.C.S. §1516(a) states that "Any person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the board that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at licensed facilities."
19. The fact that individuals on the self-exclusion list may not collect any winnings or recovery any losses from gaming activity at Pennsylvania casinos is provided to the individual in writing in the instructions for filling out the Request for Voluntary Self-Exclusion From Gaming Activities and also in the aforementioned "Acknowledgement" above the person's signature on the request and it is also provided verbally by the PGCB employee assisting the self-excluded individual.
20. Representative . . . indicated that he did not observe any conditions or circumstances that could have impaired Petitioner's ability to hear, read or understand the forms or information presented to Petitioner.
21. Petitioner indicates in her petition that she was under "duress" when she requested to be placed on the self-exclusion list.
22. At no time did Petitioner indicate these circumstances to Representative

23. In fact, Petitioner specifically indicated on the intake documents that she was not being coerced upon questioning by Representative \_\_\_\_\_.
24. At no time does Petitioner allege that she did not comprehend the information explained to her during the voluntary Self-Exclusion List intake process on March 1, 2012.

WHEREFORE, based on the above facts, the Pennsylvania Race Horse Development and Gaming Act and Petitioner's own knowing, intelligent and voluntary action in placing herself on the Pennsylvania Self-Exclusion List and the attendant consequences thereof, Respondent respectfully requests this Board issue an Order DENYING Petitioner's Request for the Recovery of Winnings While on the Voluntary Self-Exclusion List.

Respectfully submitted,



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