

IN THE UNITED STATES DISTRICT COURT FOR THE
 WESTERN DISTRICT OF TEXAS
 AUSTIN DIVISION

DELIVERANCE POKER, LLC,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 1:10-CV-00664-JRN
	§	
	§	
MICHAEL MIZRACHI,	§	
Defendant.	§	

ADVISORY TO THE COURT

In accordance with the Court’s Order dated October 12, 2010 (Clerk’s Dkt. #17), Plaintiff Deliverance Poker, LLC submits the following report on service of documents on both Defendant Michael Mizrachi and Tiltware, LLC.

a. Notice to Defendant, Michael Mizrachi

1. On October 13, 2010, Plaintiff provided Defendant Mizrachi, through his counsel of record, the following documents:

- Copy of Plaintiff’s Original Complaint (Clerk’s Dkt. #1);
- Motion for Injunctive Relief (Clerk’s Dkt. #2);
- Amended Memorandum in Support of Motion for Injunctive Relief (Clerk’s Dkt. #8); and
- Copy of the Court’s Order filed on October 12, 2010 (Clerk’s Dkt. #17).

These documents were provided to Defendant Mizrachi’s counsel of record via email and United States first class mail, certified, return receipt requested. Attached as Exhibit A are copies of the transmittal letter and email provided to Defendant Mizrachi along with the referenced documents.

b. Notice to Tiltware, LLC

1. On October 14, 2010, Plaintiff provided to Tiltware, through its registered agent, Raymond Bitar, the following documents:

- Copy of Plaintiff's Original Complaint (Clerk's Dkt. #1);
- Motion for Injunctive Relief (Clerk's Dkt. #2);
- Amended Memorandum in Support of Motion for Injunctive Relief (Clerk's Dkt. #8); and
- Copy of the Court's Order filed on October 12, 2010 (Clerk's Dkt. #17).

These documents were delivered to the address for Tiltware's registered agent for service of process as stated on the California Secretary of State's website¹ as of October 8, 2010. *See* Page from California Secretary of State website for Tiltware, attached as Exhibit B. These documents were delivered to the address provided by Tiltware for Mr. Bitar on Thursday, October 14, 2010, at 7:51 a.m., PST. Attached as Exhibit C is a copy of the transmittal letter provided to the registered agent for Tiltware along with the referenced documents.

2. On October 15, 2010, in an effort to ensure that Tiltware has notice of the new date for hearing Plaintiff's request for a preliminary injunction and comply with the Court's Order of October 12, 2010, Plaintiff also provided to Ian J. Imrich, who holds himself out as the attorney for Tiltware, the following documents:

- Copy of Plaintiff's Original Complaint (Clerk's Dkt. #1);
- Motion for Injunctive Relief (Clerk's Dkt. #2);
- Amended Memorandum in Support of Motion for Injunctive Relief (Clerk's Dkt. #8); and

¹ Tiltware is a California limited liability company.

- Copy of the Court's Order filed on October 12, 2010 (Clerk's Dkt. #17).

The undersigned was previously contacted by Mr. Imrich on September 14, 2010, who informed the undersigned that he was the attorney for Tiltware and claimed that Tiltware had not been properly served with process. *See* Email from I. Imrich to W. Demond, dated September 15, 2010, attached as Exhibit D. Mr. Imrich stated he would discuss with his client, Tiltware, whether it would accept service of process and would inform the undersigned by the end of that week. *See id.* Mr. Imrich has sent subsequent emails claiming that Tiltware had not been properly served with process, but he never accepted service on behalf of Tiltware.² The referenced documents were delivered to Mr. Imrich's office, via Federal Express, on October 15, 2010, at 10:02 a.m. PST. *See* Delivery Receipt from Federal Express, attached as Exhibit F. Attached as Exhibit G is a copy of the transmittal letter provided to Mr. Imrich along with the referenced documents.³

² On October 8, 2010, Mr. Imrich sent to the undersigned an email referencing the Plaintiff's Voluntary Dismissal of Tiltware as a Defendant. *See* Email from I. Imrich to W. Demond, dated October 8, 2010, attached as Exhibit E.

³ Additionally, in a telephone conversation on October 8th, 2010, Mr. Henry (counsel for Defendant Mizrachi) told the undersigned (counsel for Plaintiff) that he promised Mr. Imrich (Tiltware's counsel) that he would not agree to anything without first speaking to Mr. Imrich about it. This conversation led Plaintiff to believe that a) Mr. Imrich is an authorized representative for Tiltware, and b) that Mr. Henry is able to contact Mr. Imrich as needed.

Respectfully submitted,

By: /s/ William Pieratt Demond

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of October 2010, I electronically filed the above and foregoing *Advisory to the Court* with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following counsel for Defendant:

John P. Henry
The Law Offices of John Henry, P.C.
P.O. Box 1838
Round Rock, Texas 78680

 /s/ William Pieratt Demond
William Pieratt Demond