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January 17, 2011

Via Fax to (512) 428-6418

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

Re: Civil Action No. 10-CV-664-JRN; *DELIVERANCE POKER, LLC v. MICHAEL MIZRACHI*; In the United States District Court for the Western District of Texas, Austin Division

Dear Mr. Henry:

I write to confer with you regarding whether Defendants oppose Plaintiff's motion for leave to amend Plaintiff's Second Amended Complaint and to inquire as to several of the discovery responses. (I would prefer to confer with you concerning these matters by phone, but I am having difficulty reaching you.) Please let me know at your earliest convenience whether Defendants oppose Plaintiff's motion for leave to file an amended complaint. I plan to add some factual allegations in order to address the somewhat cryptic defense raised in Tiltware's answer that Plaintiff "fails to state any claim upon which relief can be granted" and to request exemplary damages against Tiltware.

I am puzzled by some of the responses to Plaintiff's written discovery requests. In Michael Mizrachi's Original Answer, he admits that he "entered into a contract with Tiltware." *See* Answer par. 9. However, in response to requests for information concerning that contract, Mizrachi denies he has a contract with Tiltware. *See* Responses to First Set of Interrogatories Nos. 4 and 6. I don't know if Mizrachi is claiming in his responses that (1) he doesn't have a contract to wear *Tiltware's* logos, claiming the Full Tilt Poker logos he wore are not "Tiltware logos" or (2) he wasn't paid for *wearing logos*, but instead paid for promoting Full Tilt Poker or some other such service or (3) he didn't contract with Tiltware, but some other entity. If the responses are meant to imply one of the first two possibilities, I don't think those answers are proper and I respectfully request that you amend the responses to provide the requested information. If, on the other hand, Mizrachi now claims that he contracted with some entity other than Tiltware, then his Original Answer needs to be amended and the response to Interrogatory No. 2 inquiring about other persons or entities that are liable is improper and the entities with whom he claims he contracted need to be identified.



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I note also that Mizrachi has not provided the identities of any of the individuals with whom he discussed or negotiated to wear the Full Tilt Poker logos, which is clearly at the heart of this suit. Each of those individuals is a person with knowledge of relevant facts that are required to be disclosed in Mizrachi's initial disclosures. I request that you provide the identity of those individuals and the information required to be provided as to each one as soon as possible. As you know, we have very little time to conduct needed discovery for this case and the absence of this information is hampering our ability to prepare this case for trial.

The response to Interrogatory No. 3 is incomplete. The interrogatory, in parts (b) and (c), requests information as to what logos wear worn during each such event and no information is provided on that. Please provide this information.

Mizrachi identifies a number of documents available for inspection and copying at your office. I would like to send a copy service to pick up and copy those documents as soon as possible. Please let me know the earliest that I can send a copy service, or, if you prefer some other method of providing access, please let me know what that is.

Thank you for your attention to these matters.

Sincerely,

GRAY & BECKER, P.C.

John D. Jacks

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