

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

DELIVERANCE POKER, LLC,
Plaintiff,

v.

MICHAEL MIZRACHI and
TILTWARE, LLC,
Defendant

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CIVIL ACTION NO. 1:10-CV-00664-JRN

ADVISORY TO THE COURT

Counsel for Plaintiff Deliverance Poker, LLC has been unable to determine whether Defendants Michael Mizrachi and Tiltware, LLC oppose Plaintiff’s Motion for Entry of a Protective Order, which was filed on December 21, 2010. Counsel for Deliverance Poker attempted to confer with counsel for Defendant Michael Mizrachi and received an email response that was ambiguous, stating he would not be opposed “assuming [the protective order] was not unduly restrictive.” Counsel for Deliverance Poker attempted to clarify Defendant Michael Mizrachi’s position, but did not receive any response. *See* Attached email string between J. Jacks and J. Henry, dated December 21, 2010.

Defendant Tiltware, LLC filed an answer to the lawsuit on January 10, 2011, but has not taken a position with regard to Plaintiff’s Motion for Entry of Protective Order. On January 21, 2011, counsel for Defendant attempted to contact counsel for Defendants Michael Mizrachi and Tiltware, LLC in order to clarify their position with regard to Plaintiff’s Motion for Entry of Protective Order. Again, counsel for Defendants has failed to respond to these inquiries.¹ *See* Email from J. Jacks to J. Henry, dated January 21, 2011.

¹ Counsel for Plaintiff Deliverance Poker, LLC attempted to contact counsel for Defendants on January 24, 2011, and January 25, 2011, regarding this issue and discovery issues, but has not received a return phone call or response.

Respectfully submitted,

By: /s/ Douglas M. Becker

Douglas M. Becker

Texas State Bar No. 02012900

John D. Jacks

Texas State Bar No. 00785986

GRAY & BECKER, P.C.

900 West Avenue

Austin, Texas 78701

Telephone: (512) 482-0061

Facsimile: (512) 482-0924

COUNSEL FOR PLAINTIFF

DELIVERANCE POKER, LLC

CERTIFICATE OF SERVICE

I certify that on 1/25/2011, I caused Plaintiff's Advisory to the Court to be electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following counsel for Defendants Michael Mizrachi and Tiltware, LLC:

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

/s/ John D. Jacks

John D. Jacks

John Jacks

From: John Jacks
Sent: Tuesday, December 21, 2010 1:26 PM
To: 'John Henry'
Subject: RE: Protective Order

John,

There is a standard protective the Western District Courts use—it's in Appendix H to the Local Rules. Should I put you down for "unopposed"? Thanks.


John

John Jacks

GRAY & BECKER, P.C.
ATTORNEYS AT LAW

900 West Ave
Austin, TX 78701
P 512.482.0061
F 512.482.0924
john.jacks@graybecker.com
www.graybecker.com

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From: John Henry [<mailto:jhenry@jhenrylaw.com>]
Sent: Tuesday, December 21, 2010 12:28 PM
To: John Jacks
Subject: RE: Protective Order

John,

I suspect that Tiltware and Deliverance are the parties that have material most likely to be deemed confidential and/or trade secrets. We are not opposed to the entry of a protective order, assuming it is not unduly restrictive.

John

The Law Offices of John Henry, P.C.
407 West Liberty Street
Round Rock, Texas 78664

(512) 428-5448
(512) 428-6418 Facsimile
jhenry@jhenrylaw.com

From: John Jacks [<mailto:John.Jacks@graybecker.com>]
Sent: Tuesday, December 21, 2010 11:23 AM
To: John Henry
Subject: Protective Order

John,

We need to confer on the filing of a motion for entry of a protective order in accordance with Local Rule 26(c) and Appendix H. Please let me know if you agree to the entry of the order, want to join in filing the motion, opposed, or unopposed. Thanks.


John

John Jacks

GRAY & BECKER, P.C.
ATTORNEYS AT LAW

900 West Ave
Austin, TX 78701
P 512.482.0061
F 512.482.0924
john.jacks@graybecker.com
www.graybecker.com

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John Jacks

From: John Jacks
Sent: Friday, January 21, 2011 3:28 PM
To: 'John Henry'
Cc: Doug Becker
Subject: Call from the Court's Clerk

John,

We received a call from Judge Austin's law clerk, Mark Tindle, to ask what Defendants' position is with regard to Plaintiff's Motion for Protective. I spoke to Mr. Tindle this afternoon and reported what you had written in response to my inquiry at the time of filing the motion. He asked that I contact you again to find out whether either of your clients oppose the motion. Please let me know, so I can report back to Mr. Tindle. We also need to discuss discovery issues. Please give me a call.

Sincerely,

John

John Jacks

GRAY & BECKER, P.C.
ATTORNEYS AT LAW

900 West Ave
Austin, TX 78701
P 512.482.0061
F 512.482.0924
john.jacks@graybecker.com
www.graybecker.com

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