

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

**PLAINTIFF’S SUPPLEMENTAL MOTION TO COMPEL
DISCOVERY RESPONSES**

Plaintiff Deliverance Poker, LLC (“Deliverance Poker”) files this supplement to its previously filed motion to compel discovery responses and memorandum in support.

1. On January 25, 2011, Plaintiff a motion to compel discovery responses, requesting the Court to order (a) Defendant Tiltware, LLC (“Tiltware”) to provide initial disclosures under Federal Rule of Civil Procedure 26(a)(1)(A); (b) Defendant Michael Mizrachi (“Mizrachi”) to supplement his initial disclosures; (c) Mizrachi to produce the documents responsive to Plaintiff’s Request for Production; and (d) Mizrachi to provide complete answers to Plaintiff’s First Set of Interrogatories.

2. Defendants have not filed a response to this motion to compel and it remains pending.

3. On January 27, 2011, Mizrachi supplemented his disclosure responses to identify four additional witnesses, three of whom had previously been designated by Deliverance Poker. Mizrachi also amended his interrogatory responses to make clear the problem previously identified, namely, that Mizrachi now claims that he does not know the proper entity for Full Tilt

Poker or the entity with which he contracted. Mizrachi did not supplement his interrogatory answers to fully answer Interrogatory No. 3.

4. On February 6, 2011, Mizrachi produced 21 pages of documents and noted that he was waiting on documents from his agent, Christopher Torina, and AT&T. No additional documents have been produced.

5. Tiltware has still not provided any disclosures or any information whatsoever.

6. Counsel for Deliverance Poker has attempted to confer with opposing regarding the outstanding discovery on the following dates: (a) January 27, 2011; (b) February 1, 2011; (c) February 4, 2011; (d) February 10, 2011; (e) February 11, 2011; and (f) February 15, 2011.

7. At the request of counsel for Defendants, the parties have agreed to travel to Las Vegas, Nevada, to take the deposition of Maurice Mills¹ on February 17, 2011. The parties also intend to depose Luchiano Pellegrino² in Las Vegas, Nevada, on February 17, 2011. Due to the time constraints of the Court's scheduling order,³ Deliverance Poker has reluctantly agreed to go forward with these depositions despite not being provided with outstanding discovery. A number of depositions of the parties and witnesses are anticipated in the next couple of weeks, and Deliverance Poker is being severely prejudiced due to the refusal of Defendants to cooperate in the discovery process.

For the foregoing reasons, Plaintiff Deliverance Poker requests the Court to enter an order compelling Defendants to properly disclose information required under Rule 26(a), provide complete responses to Plaintiff's First Set of Interrogatories, and permit inspection and copying

¹ Maurice Mills is the representative of the software developer for Deliverance Poker and a significant investor in Deliverance Poker.

² Luchiano Pellegrino witnessed the contract between Deliverance Poker and Michael Mizrachi and introduced Maurice Mills to the representative for Deliverance Poker.

³ The discovery period closes on March 25, 2011, and trial is set for April 25, 2011. Deliverance Poker must designate its experts no later than March 1, 2011.

of all documents responsive to Plaintiff's First Request for Production. Plaintiff further requests the Court to award sanctions in the form of attorney's fees as previously requested.

Respectfully submitted,

By: /s/ Douglas M. Becker
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COUNSEL FOR PLAINTIFF
DELIVERANCE POKER, LLC

CERTIFICATE OF CONFERENCE

I certify that I attempted to confer with Defendants' counsel on the responses to the discovery issues raised in the foregoing Motion to Compel on the following dates: (a) January 27, 2011, (b) February 1, 2011, (c) February 4, 2011, February 10, 2011, February 11, 2011, and February 15, 2011. Defendants have not denied that I am entitled to the discovery or provided any reason for not providing the discovery requested. I will assume Defendants are opposed to this motion.

/s/ John D. Jacks

CERTIFICATE OF SERVICE

I certify that on 2/17/2011, I caused Plaintiff's Motion to Compel Discovery Responses 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/ Douglas M. Becker