

1-17-11

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

DELIVERANCE POKER, LLC,

Plaintiff,

v.

MICHAEL MIZRACHI and
TILTWARE, LLC,

Defendants.

§
§
§
§
§
§
§
§
§
§

C.A. NO. 1:10-CV-00664-JRN

PLAINTIFF'S FIRST SET OF INTERROGATORIES
TO DEFENDANT TILTWARE, LLC

TO: Defendants Michael Mizrachi and Tiltware, LLC, by and through his attorney of record, John P. Henry, The Law Offices of John Henry, P.C., P.O. Box 1838, Round Rock, Texas 78680

Pursuant to the provisions of Rule 26 of the Federal Rules of Civil Procedure, Plaintiff Deliverance Poker, LLC submits its First Set of Interrogatories to Defendant Tiltware, LLC.

Respectfully submitted,

By: _____

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 1/17/2011, a true and correct copy of Plaintiff's First Set of Interrogatories to Defendant Tiltware, LLC was faxed 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
*Attorney of record for Defendants
Michael Mizrachi and Tiltware, LLC*



John D. Jacks

A. Definitions

1. *Communication.* The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
2. *Document.* The term “document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a). A draft of a non-identical copy is a separate document within the meaning of this term.
3. *Identify (With Respect to Persons).* When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
4. *Identify (With Respect to Documents).* When referring to documents, “to identify” means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).
5. *Parties.* The terms “plaintiff” and “defendant” as well as a party’s full or abbreviated name or pronoun referring to a party mean the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.
6. *Person.* The term “person” is defined as any natural person or business, legal or governmental entity or association.
7. *Concerning.* The term “concerning” means relating to, referring to, describing, evidencing or constituting.
8. “You,” “your,” or “Tiltware” means Tiltware, LLC and all of its officers, directors, employees, representatives, agents, partners, corporate parent, subsidiaries and affiliates.
9. “Mizrachi” means Defendant Michael Mizrachi and his agents, representatives, and employees.

B. Interrogatories

1. Identify all persons who you believe have knowledge of relevant facts and identify the issues upon which you believe they have knowledge.

Answer:

2. If Tiltware, LLC, is improperly identified, give its proper identification and state whether you will accept service of an amended summons and complaint reflecting the information furnished by you in answer hereto.

Answer:

3. If you contend that some other person or legal entity is, in whole or in part, liable to plaintiff in this matter, identify that person or legal entity and describe in detail the basis of said liability.

Answer:

4. Identify all individuals and or companies owning, or purporting to own, the right to do business as "Full Tilt Poker," and identify all individuals and companies that contracted with Defendant Michael Mizrachi for him to wear "Full Tilt Logos," in any form, at the 2010 World Series of Poker.

Answer:

5. Identify all persons involved in negotiating, on behalf of Tiltware, LLC, any agreement with Defendant Michael Mizrachi and describe in detail the transaction and the role each such person played in such negotiation.

Answer:

6. Do you contend that Tiltware, LLC did not enter into any contract or agreement with Defendant Michael Mizrachi? If yes, identify the person or entity you claim entered into a contract or agreement for Defendant Michael

Mizrachi to wear the logos of Full Tilt Poker during any part of the 2010 World Series of Poker.

Answer:

7. State the legal and factual bases for your contention that Plaintiff's claims "are barred by the applicable statute of limitations and/or statute of repose."

Answer:

8. State the legal and factual bases for your contention that "[e]ach and every one of Plaintiff's alleged rights, claims, and obligations which it seeks to enforce against Tiltware are, by Plaintiff's conduct, agreement, or otherwise, barred by the doctrine of estoppel."

Answer:

9. State the legal and factual bases of your claim that "[e]ach and all of Plaintiff's rights, claims, and obligations set forth in the SAC, has, or have, by conduct, agreement or otherwise been waived."

Answer:

10. State the legal and factual bases of your claim that "Plaintiff failed to take reasonable efforts to mitigate its damages, if any."

Answer:

11. State the legal and factual bases for your claim that "Plaintiff has not come before this Court with clean hands."

Answer:

12. State the legal and factual bases for your claim that “[t]he claims asserted in the SAC are barred, in whole or in part, by the doctrine of release and payment.”

Answer:

13. State the legal and factual bases for your claim that “[t]he claims asserted in the SAC are barred, in whole or in part, by res judicata (claim preclusion).”

Answer:

14. State the legal and factual bases for your claim that “[t]he claims asserted in the SAC are barred, in whole or in part, by an accord and satisfaction.”

Answer:

15. State the legal and factual bases of your claim that “[a]ny damage suffered by Plaintiff was a direct and proximate result of its own misconduct and actions.”

Answer:

16. State the legal and factual bases of your claim that “Plaintiff’s breach of duty causes of action are barred by its own negligence, which negligence was greater than Tiltware’s, if any, and was a proximate cause of its injuries, if any.”

Answer:

17. State the legal and factual bases for your claim that “Plaintiff has no cause of action for breach of duty because it assumed the risk for all damages alleged.”

Answer:

18. State the legal and factual bases for your claim that "Plaintiff has not satisfied the conditions precedent to bringing its claims in this action."

Answer:

19. State the legal and factual bases for your claim that "Plaintiff breached any agreement it had with Defendant Mizrachi."

Answer:

20. Identify each person answering these interrogatories, supplying information, or assisting in any way with the preparation of the answers to these interrogatories.

Answer:

21. Identify every person who is expected to be called to testify at trial, including your experts.

Answer:

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared _____, who is personally known to me, and who, being first duly sworn, stated that, he/she is the _____ for Tiltware, LLC, that he/she is authorized to respond to the foregoing Interrogatories on behalf of Tiltware, LLC, and that, except for those answers which are based on information obtained from other persons, and except for those answers from which legal contentions are sought, each and all of the foregoing answers to interrogatories are true and correct and within his/her personal knowledge.

SWORN TO AND SUBSCRIBED BEFORE ME on this the ____ day of _____
2011.

NOTARY PUBLIC – STATE OF TEXAS

TRANSACTION REPORT

JAN/17/2011/MON 05:06 PM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	JAN/17	04:59PM	4286418	0:06:29	28	MEMORY OK	G3 4347

GRAY & BECKER, P.C.
 ATTORNEYS AT LAW
 900 WEST AVENUE
 AUSTIN, TEXAS 78701-2228
 (512) 482-0061
 TELECOPIER (512) 482-0924

TELECOPIER TRANSMITTAL COVER SHEET

January 17, 2011

CONFIDENTIALITY NOTICE

This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named below. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notice us immediately by telephone to arrange for the return of the document(s).

TO: **Via Fax to (512) 428-6418**
 John P. Henry

FROM: John D. Jacks

NUMBER OF PAGES (includes cover page) 28

CONTENTS: Plaintiff's First Set of Interrogatories and RFP's to Defendant Tiltware, LLC and Second Set of Interrogatories and RFP's to Defendant Michael Mizrachi

IF YOU FAIL TO RECEIVE ALL OF THE PAGES, OR IF EITHER MACHINE FAULTS, PLEASE CALL THE TELECOPIER OPERATOR INDICATED BELOW AS SOON AS POSSIBLE AT 512/482-0061.

GRAY & BECKER, P.C.
ATTORNEYS AT LAW
900 WEST AVENUE
AUSTIN, TEXAS 78701-2228
(512) 482-0061
TELECOPIER (512) 482-0924

TELECOPIER TRANSMITTAL COVER SHEET

January 17, 2011

CONFIDENTIALITY NOTICE

This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named below. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notice us immediately by telephone to arrange for the return of the document(s).

TO: **Via Fax to (512) 428-6418**
John P. Henry

FROM: John D. Jacks

NUMBER OF PAGES (includes cover page) 28

CONTENTS: Plaintiff's First Set of Interrogatories and RFP's to Defendant Tiltware, LLC and Second Set of Interrogatories and RFP's to Defendant Michael Mizrachi

IF YOU FAIL TO RECEIVE ALL OF THE PAGES, OR IF EITHER MACHINE FAULTS, PLEASE CALL THE TELECOPIER OPERATOR INDICATED BELOW AS SOON AS POSSIBLE AT 512/482-0061.

OPERATOR: Susan Jennings