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Via Email to ian@ijilaw.com

Ian J. Imrich
10866 Wilshire Blvd., Suite 1240
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Re: Civil Action No. 10-CV-664-JRN; *DELIVERANCE POKER, LLC v. MICHAEL MIZRACHI AND TILTWARE, LLC*; In the United States District Court for the Western District of Texas, Austin Division

Dear Messrs. Henry and Imrich:

I am in receipt of your responses to Plaintiff's written discovery requests in the referenced matter. I write to see if we can resolve a number of the objections asserted and obtain documents and information responsive to the requests.

As an initial matter, I understand we are to receive Tiltware's responsive documents this Friday. If I have misunderstood, please let me know. As you know, we are scheduling the depositions of Carlos Benavides and Michael Mizrachi next week, so we need to have these documents in advance of these depositions.

I will now address the objections asserted to Plaintiff's discovery requests to Tiltware.

General Objections. The blanket objections to every interrogatory and every request for production are improper and should be withdrawn. For example, Tiltware objects to the definitions. However, the definitions are taken verbatim from the Local Rules. Do you really want to take the position that all of the Court's definitions are objectionable? The real problem here is that I do not want Tiltware to be hiding behind the objections and not disclosing information to which Plaintiff is entitled. Please withdraw the general objections.

Interrogatories. The interrogatories have not been verified. Please send a verification for the interrogatories. See FRCP 33(b)(3).



Interrogatory No. 5. I understand that it's Tiltware's testimony that Chris Porter was the person that personally negotiated with Michael Mizrachi, but I find it hard to believe that Porter was the person ultimately responsible for deciding to court Mizrachi and determining how much Tiltware was willing to pay Mizrachi for him to wear the Full Tilt Poker patches. Plaintiff is entitled to know each person that had any role in the negotiation of the contract with Mizrachi. Plaintiff is also entitled to know the role played by each person in the decision to hire Mizrachi and the execution of the agreement with Mizrachi. For example, Porter's title, much less what he actually did in the transaction, is not discernible from Tiltware's answer. Further, Tiltware has failed to "describe in detail the transaction." For example, I cannot tell from the answer how much Mizrachi has been paid or if the deal with Mizrachi involved him getting other promotional deals with a company related to Tiltware. Plaintiff is entitled to this information.

Interrogatory No. 20. Tiltware lists no one but its attorneys in response to question concerning who answered, supplied information, or assisted in any way in answering the interrogatories. It seems to me that this is incomplete on its face. According to the other answers, Porter negotiated with Mizrachi, so it would appear that, at a minimum, he should be added to the list. I expect there are others.

First Request for Production.

Request No. 1. Plaintiff has alleged that Tiltware deliberately targeted Mizrachi not only because he was one of the few recognizable players toward the latter stages of the Main Event of the WSOP, but also because Tiltware sought to eliminate a potential competitor in the online gambling business. Part of the evidence of this, we believe, is the fact that it appears that Tiltware has sought to get under contract every player that has had any recognizable success, evidenced by the hundreds of players affiliated with Full Tilt Poker that it advertises on its websites. In addition, the terms of the contracts with the other players is also relevant in that, depending on what was paid, the contracts may indicate that Mizrachi was specifically targeted by Tiltware. Finally, the amount Tiltware is paying its players for advertisement has relevance to the damages in this case. These documents are relevant to this suit, and Plaintiff is entitled to their production. Please withdraw the objections and produce the requested documents.

Request No. 8. Plaintiff is entitled to see the personnel file of Porter in order to determine what his role is in Tiltware. (Note: This information was requested in Interrogatory No. 5, but was not provided.) Plaintiff is also entitled to see this information to the extent it shows the marketing efforts of Tiltware. This will be discussed further below.

Request Nos. 23, 24, and 25. Plaintiff is entitled to discover the net worth of Tiltware based on its claim for exemplary damages in this case. Net worth is a factor that the jury is entitled to consider in assessing exemplary damages and, therefore, it is relevant and discoverable in this case. We will work with you as to the form that the discovery of net worth takes, but Plaintiff is entitled to discover this information.

The amount of income derived from Tiltware's online gambling website is also discoverable because it tends to show a motive that Tiltware would have to eliminate a potential competitor from the business of online gambling.

Second Request for Production.

Request Nos. 3 through 7, and 9 through 32. Plaintiff has alleged that Tiltware deliberately interfered with the contract it had with Mizrachi in order to eliminate a potential competitor. One witness in this case has already testified that even a very small percentage of the available market share is worth tens of millions of dollars. This is certainly incentive for Tiltware to seek to eliminate a company with potential to take market share. Documents concerning Tiltware's marketing strategy, advertising budget, analysis of its website traffic, and analysis of its market share are directly relevant to these issues and are discoverable.

In addition, these documents are relevant to the damages suffered by Plaintiff. In particular, the information concerning the analysis of its website traffic is pertinent to the damages in this case. The information concerning the Tiltware's advertising budget is also relevant to Plaintiff's damages.

Request for Production No. 8. An organizational chart of Tiltware is relevant to the discovery of the people responsible for the conduct giving rise to Plaintiff's claims in this case.

Given the rather strident tone of Mr. Imrich's email yesterday, I am not optimistic that we can work out all of these disagreements. Nonetheless, to the extent possible, I would like to see if we can at least narrow the number of disagreements that we need to submit to the Court for resolution. Please give me a call or let's schedule a time to visit about these discovery issues to see if there is anything that we can resolve. Perhaps we can discuss these issues next week during the depositions of Mr. Benavides and Mr. Mizrachi? Due to the time constraints in this case, however, we need to confer fairly quickly in order to get a resolution from the Court on any issues that we cannot resolve ourselves.

On final matter: Please advise when we can expect payment of the \$1,500.00 in sanctions recently awarded by the Court.

Sincerely,

GRAY & BECKER, P.C.

John D. Jacks

