

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

STATE OF OHIO, *ex rel.*
MIKE DEWINE, OHIO ATTORNEY
GENERAL
Charitable Law Section
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215

Plaintiff,

vs.

WINNER'S PALACE II
1698 South Raccoon Road
Austintown, Ohio 44515

and

GINO A. MAURIZIO
1698 South Raccoon Road
Austintown, Ohio 44515

Defendants.

CASE NO.: 13 CV 1168

JUDGE DURKIN

PRAECIPE

To the Clerk:

Pursuant to Rule 4.1 of the Ohio Rules of Civil Procedure, please prepare a summons and cause a copy of the attached Complaint to be served upon the following parties by certified mail, return receipt requested, at the following addresses:

WINNER'S PALACE II
1698 South Raccoon Road
Austintown, Ohio 44515

and

GINO A. MAURIZIO
1698 South Raccoon Road
Austintown, Ohio 44515

Once issued, please serve a copy of the certificate upon the undersigned.

Very Respectfully Submitted,

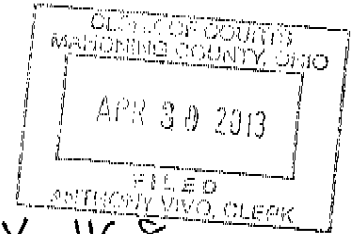
MIKE DEWINE
Ohio Attorney General



Meghan K. Fowler (0080775)
Associate Assistant Attorney General
Ohio Attorney General's Office
Charitable Law Section
150 E. Gay St., 23rd Floor
Columbus, Ohio 43215-3130
Voice: 614-466-3181
Fax: 866-461-8102
meghan.fowler@ohioattorneygeneral.gov

Attorney for Plaintiff Ohio Attorney General

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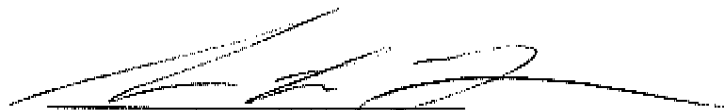
MOTION FOR PRELIMINARY INJUNCTION AND MEMORANDUM IN SUPPORT

Now comes Plaintiff, State of Ohio, on relation of its Attorney General pursuant to Civ. R. 65 and Am. Sub. H.B. 386 ("H.B. 386"), Section 12(C)(3) respectfully moves this Court for a preliminary injunction ordering and enjoining Defendants, as well as their agents, representatives, and assigns, from conducting a sweepstakes through the use of a sweepstakes terminal device at any location that was not already conducting a sweepstakes through the use of a sweepstakes terminal device as of June 11, 2012 and submitted an affidavit certifying said existence of these locations by July 11, 2012, until the moratorium enacted pursuant H.B. 386 is

lifted. The reasons and authorities are more fully set forth in the attached Memorandum in Support, which is incorporated by reference.

Very Respectfully Submitted,

MIKE DEWINE
Ohio Attorney General



Meghan K. Fowler (0080775)
Associate Assistant Attorney General
Ohio Attorney General's Office
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Columbus, Ohio 43215-3130
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Fax: 866-461-8102
meghan.fowler@ohioattorneygeneral.gov

Attorney for Plaintiff Ohio Attorney General

MEMORANDUM IN SUPPORT

I. INTRODUCTION

H.B. 386, Section 12(B) established a legislative moratorium on new sweepstakes parlors opening up after the effective date of June 11, 2012. Pursuant to this legislative moratorium, only those establishments which, as of June 11, 2012, already conducted sweepstakes through the use of a sweepstakes terminal device, were permitted to continue to conduct these types of sweepstakes. Further, any such existing establishment was required to file an affidavit, no later than July 11, 2012, with the Ohio Attorney General's Office certifying that the establishment was in existence and operating before June 11, 2012 under H.B. 386, Section 12(C). Based upon the Ohio Attorney General's review and investigation, Defendants failed to file an affidavit certifying the establishment was in existence and operating before June 11, 2012. (see affidavits of Damon Roberts, attached as Exhibits 1). As such, there exists a presumption that the locations were not in existence and operating prior to June 11, 2012. Defendants are operating in violation of, and have failed to comply with, H.B. 386 and a preliminary injunction should be issued to enforce the legislative moratorium currently in place.

II. LAW AND ARGUMENT

A. The Court Should Grant a Statutory Preliminary Injunction for Violations H.B. 386

The general rule for issuance of a preliminary injunction requires the plaintiff to establish that there will be irreparable injury if the Court does not enjoin the defendants' conduct. Civ. R. 65(A). Ohio Courts have considered four factors, as shown by clear and convincing evidence, to obtain a preliminary injunction, including (1) a substantial likelihood of success on the merits, (2) the plaintiff will suffer irreparable harm if an injunction is not issued, (3) that third-parties will not be unjustifiably harmed if an injunction is issued, and (4) that granting an injunction will

serve the public interest. *Procter & Gamble Co. v. Stoneham* (2000), 140 Ohio App.3d 260, 267-68. In the instant case, the Attorney General satisfies all four factors of this test.

I. There Exists a Substantial Likelihood that the Attorney General Will Be Successful on the Merits.

Whether or not a violation of H.B. 386, Section 12 occurred is a simple question of whether Defendants filed an affidavit certifying the establishment was in existence and operating prior to the moratorium going into effect on June 11, 2012, and that said affidavit was filed by July 11, 2012. If no such affidavit was timely filed, a violation of Am. Sub. H.B. 386, Section 12 has occurred.

Major Case Investigators for the Charitable Law Section of the Ohio Attorney General's Office, Damon Roberts and Timothy Myers, visited Winner's Palace, located at 1698 South Raccoon Road, Austintown, Ohio 44515, on April 29, 2012. While there, the investigators witnessed the operation of numerous sweepstakes terminal devices. (see Affidavit of Damon Roberts attached) As a result, the Attorney General is able to establish through clear and convincing evidence that sweepstakes terminal devices are being used to conduct sweepstakes at Winner's Palace II.

A review of the affidavits filed with the Ohio Attorney General's Office established that no affidavit has yet to be filed on behalf of Winner's Palace II. (see Affidavit of Sean Hert attached as Exhibit 2). Thus, the Attorney General will be also be able to prove, through clear and convincing evidence, that Winner's Palace II violated H.B. 386, Section 12 by failing to timely submit an affidavit of existence.

Finally, the failure to submit a timely affidavit creates a presumption that Winner's Palace II was not in existence prior to the moratorium going into effect. Thus, the Attorney General will also be able to prove, through clear and convincing evidence, that the use of sweepstakes

terminal devices to conduct sweepstakes at Winner's Palace II occurred after the June 11, 2012, effective date of the legislative moratorium and Defendants are in violation of H.B. 386, Section 12.

2. The State of Ohio Will Be Irreparably Harmed if the Injunction is Not Granted.

The State of Ohio has a vested interest in ensuring that the laws enacted by its legislature are complied with by the public. In the instant case, the General Assembly specifically tasked the Attorney General or the appropriate county prosecuting attorney with ensuring that the moratorium on new establishments conducting sweepstakes through the use of a sweepstakes terminal device is complied with by granting them the authority to seek an injunction against an individual who does not comply with the moratorium. H.B. 386, Section 12(C)(3). If the injunction is not granted, Defendants would be permitted to continue operating their sweepstakes in violation of the legislative moratorium, thereby preventing the Attorney General from fulfilling the role assigned to him by the General Assembly.

3. Third-Parties Will Not Be Irreparably Harmed if the Injunction is Granted.

An order to enjoin Defendants from conducting a sweepstakes through the use of a sweepstakes terminal device at a location where such sweepstakes were not conducted prior to the legislative moratorium which went into effect on June 11, 2012, and who failed to file a timely affidavit certifying their existence, will not cause harm to any third party. Rather, the enforcement of H.B. 386, Section 12 is necessary in order to prevent irreparable harm to third parties. The General Assembly adopted H.B. 386, Section 12 in order to halt the growth of establishments using sweepstakes terminal devices throughout the State of Ohio until such time as the legislature was able to consider how to ensure this industry is consistently and uniformly regulated. H. B. 386, Section 12(C). Maintaining the status quo by ensuring that no additional

unregulated sweepstakes establishments open in the State of Ohio would not irreparably harm any third parties. Similarly, using the affidavits to create a registry of all sweepstakes establishments in existence prior to the moratorium going into effect will not irreparably harm any third parties. In fact, the public interest will be served by the injunctive relief.

4. Granting of the Injunction Will Serve the Public Interest.

The very basis of the legislative moratorium established by H.B. 386 is to protect the public interest. The legislation itself indicates that the General Assembly recognizes that Ohio has seen an increase in establishments using sweepstakes to facilitate sales. Am. Sub. H.B. 386, Section 12(C)(1). In particular, the General Assembly noted that “these establishments utilize computer terminals or stand alone machines, which currently are not consistently and uniformly regulated statewide and have created a window of opportunity for rogue operators to open in cities across the state.” *Id.* Thus, while the General Assembly considered legislation for ensuring that these facilities are consistently and uniformly regulated, the General Assembly called for a moratorium on new retail sweepstakes establishments. H.B. 386, Section 12(C)(3).

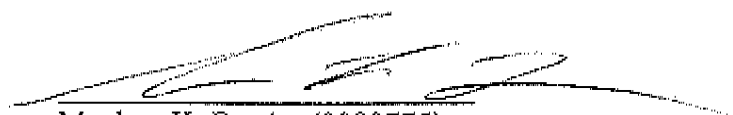
III. CONCLUSION

Since there is a substantial likelihood that the Ohio Attorney General will prevail on the merits; the State of Ohio will suffer irreparable injury if injunctive relief is not granted; no third parties would be unjustifiably harmed if injunctive relief were granted; and the public interest would be served through injunctive relief, the Ohio Attorney General respectfully requests this Honorable Court issue a Preliminary Injunction ordering and enjoining Defendants from conducting sweepstakes through the use of a sweepstakes terminal device at any location which was not already conducting such sweepstakes prior to June 11, 2012, and which failed to submit an affidavit certifying the existence of such an establishment by July 11, 2012, including, but not

limited to, the facility known as Winner's Palace located at 1698 South Raccoon Road,
Austintown, Ohio 44515, until this matter is decided on the merits.

Very Respectfully Submitted,

MIKE DEWINE
Ohio Attorney General



Meghan K. Fowler (0080775)
Associate Assistant Attorney General
Ohio Attorney General's Office
Charitable Law Section
150 E. Gay St., 23rd Floor
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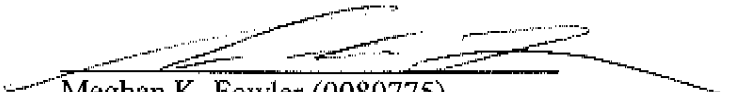
Attorney for Plaintiff Ohio Attorney General

CERTIFICATE OF SERVICE

A copy of the Motion was sent by regular U.S. mail this 30th day of April, 2013 to:

Winner's Palace II
1698 South Raccoon Road
Austintown, Ohio 44515

And
Gino A. Maurizio
1698 South Raccoon Road
Austintown, Ohio 44515



Meghan K. Fowler (0080775)
Associate Assistant Attorney General

Affidavit of Major Case Investigator Damon Roberts

State of Ohio)
) SS
County of Franklin)

NOW COMES Damon Roberts, being first duly sworn, deposes and states as follows:

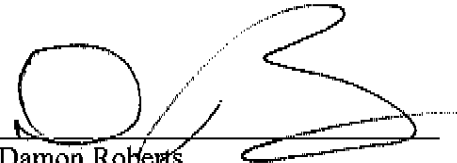
1. I am of lawful age and suffer no disability at law.
2. I make this Affidavit upon personal information, knowledge, and belief.
3. I am employed by the Office of the Attorney General of the State of Ohio, Charitable Law Section, as a Major Case Investigator, and have held this position since May 1, 2006. As a Major Case Investigator, I investigate issues concerning charitable gaming, including investigations relating to the conduct of bingo and its applicable laws pursuant to Ohio Revised Code Chapter 2915.
4. As part of an ongoing investigation of Winner's Palace II, and their use of sweepstakes terminal devices to conduct sweepstakes in Ohio, I travelled to 1698 South Raccoon Road, Austintown, Ohio 44515 on April 29, 2013 at approximately 4:15 pm with Major Case Investigator Timothy Myers.
5. As part of my job responsibilities, I have investigated internet sweepstakes establishments and have been trained to identify sweepstakes terminal devices.
6. While present at 1698 South Raccoon Road, Austintown, Ohio 44515, I witnessed a gaming room with approximately 53 sweepstakes terminal devices in operation.
7. Upon entering the premises, I gave the cashier \$20 in cash, which the cashier gave me a pin number in order to access sweepstakes points. This \$20 provided me with an equal number of "sweepstakes points" to be used on the games offered on the computer terminal.
8. I then proceeded to a computer terminal and entered my pin number to get access to the computer. I was then presented with a disclaimer of rules which reference internet sweepstakes games. All of the advertisement in the location reference internet sweepstakes games.
9. I then began to play the games offered on the touch screen terminals. These games were all games that I had previously played in investigating internet sweepstakes terminal devices. Further, the facility offered a community jackpot, which meant that all of the machines were networked together, a hallmark of internet sweepstakes games.
10. In order to play the games, I used sweepstakes points. Sweepstakes points were transferred to be win points as I was successful in the games. Once the sweepstakes points were fully used, I was able to either cash the win points out or roll them over to be additional sweepstakes points which could be used to continue playing the games. Again, this is a trait of internet sweepstakes games.



11. Major Case Investigator Myers and I departed 1698 South Raccoon Road, Austintown, Ohio 44515 at approximately 4:45 pm.

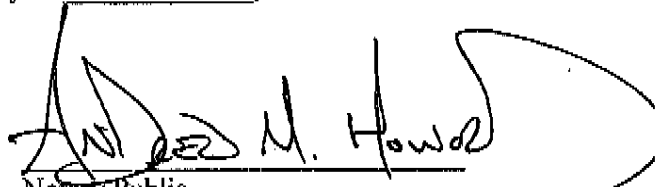
12. As an employee of the Ohio Attorney General's Office, Charitable Law Section, I consulted the records of this Office and confirmed that Winner's Palace II has not submitted an affidavit certifying that the Winner's Palace II, located at 1698 South Raccoon Road, Austintown, Ohio 44515 was in existence and operating before the effective date of the moratorium on new retail establishments conducting sweepstakes through the use of a sweepstakes terminal device.

FURTHER AFFIANT SAITH NAUGHT.



Damon Roberts

SWORN TO AND SUBSCRIBED in my presence, this 30 day of APRIL, 2013.



Andrew M. Howard
Notary Public

ANDREW M. HOWARD
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES FEB 2, 2014

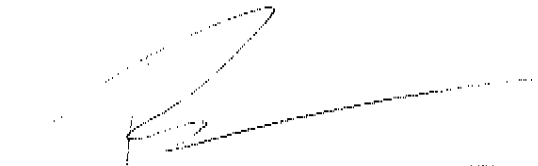
Affidavit of Account Clerk Sean Hert

State of Ohio)
) SS
County of Franklin)

NOW COMES Sean Hert, being first duly sworn, deposes and states as follows:

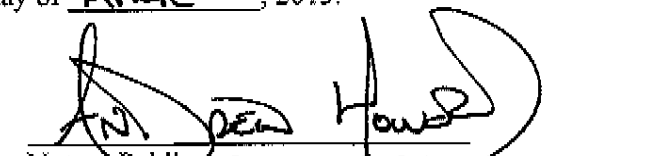
1. I am of lawful age and suffer no disability at law.
2. I make this Affidavit upon personal information, knowledge, and belief.
3. I am employed by the Office of the Attorney General of the State of Ohio, Charitable Law Section, as an Account Clerk, and have held this position since August 30, 2010. As an Account Clerk, I process registration of charitable trusts, charitable solicitations, and internet sweepstakes establishments and maintain the databases of these registrations.
4. As an employee of the Ohio Attorney General's Office, Charitable Law Section, I consulted the records of this Office and confirmed that Winner's Palace II located at 1698 South Raccoon Road, Austintown, Ohio 44515 has not submitted an affidavit certifying that the Winner's Place II was in existence and operating before the effective date of the moratorium on new retail establishments conducting sweepstakes through the use of a sweepstakes terminal device.

FURTHER AFFIANT SAITH NAUGHT.



Sean Hert

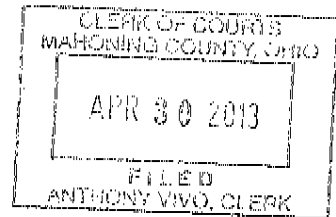
SWORN TO AND SUBSCRIBED in my presence, this 29 day of APRIL, 2013.



Notary Public STATE OF OHIO
ANDREW M. HOWARD
MY COMMISSION EXPIRES FEB 2, 2014



IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO



STATE OF OHIO, *ex rel.*
MIKE DEWINE, OHIO ATTORNEY
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150 East Gay Street, 23rd Floor
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and

GINO A. MAURIZIO
1698 South Raccoon Road
Austintown, Ohio 44515

Defendants.

CASE NO.: 13 CV 1168

JUDGE DURKIN

COMPLAINT OF STATE OF OHIO

Plaintiff, State of Ohio *ex rel.* Mike DeWine, Ohio Attorney General, hereby

alleges:

I. Jurisdiction and Venue

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Mike DeWine ("the State" or "Plaintiff State of Ohio"), having reasonable cause to believe that violations of Ohio's moratorium on retail sweepstakes establishments, brings this action in the public interest and under the authority vested in the State by Am. Sub. H.B. 386 ("H.B. 386").

2. Defendants' actions, as described herein, occurred in the State of Ohio, Mahoning County, involved residents of the State of Ohio, and constitute violations of H.B. 386, Section 12.
3. Defendant Winner's Palace II is registered as a fictitious name for Defendant Gino A. Maurizio under the laws of Ohio and its principal place of business is located at 1698 South Raccoon Road, Austintown, Ohio 44515.
4. Defendant Gino A. Maurizio's address, as listed on the filings submitted with the Ohio Secretary of State is 1698 South Raccoon Road, Youngstown, Ohio 44515.
5. All of the alleged activities in this Complaint occurred in the State of Ohio.
6. This is an action seeking injunctive relief for Defendants' violations of H.B. 386, Section 12.

III. Activities of Defendants Which Give Rise to this Complaint

7. On or about April 29, 2013, Major Case Investigators Damon Roberts and Timothy Myers of the Charitable Law Section of Ohio Attorney General Mike DeWine's Office visited Winner's Palace II at 1698 South Raccoon Road, Austintown, Ohio 44515.
8. During this visit, Major Case Investigators Roberts and Myers witnessed the use of sweepstakes terminal devices to conduct sweepstakes. Approximately fifty-three of these sweepstakes terminal devices were witnessed.
9. H.B. 386, Section 12(B) created a moratorium on the opening of new locations conducting sweepstakes through the use of a sweepstakes terminal device effective June 11, 2012. Pursuant to this moratorium, only those locations which were already in existence and operating before the June 11, 2012, were permitted to continue to operate at only their current locations. Further, all sweepstakes establishments conducting sweepstakes through the use of a sweepstakes terminal device in existence and operating prior to June 11, 2012,

were required to file an affidavit certifying their existence with the Ohio Attorney General's Office by July 11, 2012 under H.B. 386, Section 12(C).

10. Upon information and belief, Defendants did not file an affidavit with the Ohio Attorney General's Office certifying that the facility located at 1698 South Raccoon Road, Austintown, Ohio 44515 was in existence as a sweepstakes establishment conducting sweepstakes through the use of sweepstakes terminal devices prior to the moratorium going into effect.

COUNT ONE
FAILURE TO FILE AN AFFIDAVIT CERTIFYING EXISTENCE

11. H.B. 386, Section 12(C) required any sweepstakes establishment conducting a sweepstakes through the use of a sweepstakes terminal device to file, no later than July 11, 2012, an affidavit certifying the establishment was in existence and operating before June 11, 2012.
12. Defendants have violated H.B. 386, Section 12(C) by failing to file an affidavit stating Winner's Palace II, located at 1698 South Raccoon Road, Austintown, Ohio 44515 was in existence as a sweepstakes establishment conducting sweepstakes through the use of sweepstakes terminal devices prior to June 11, 2012.

COUNT TWO
OPENING A NEW SWEEPSTAKES ESTABLISHMENT IN VIOLATION OF THE MORATORIUM

13. H.B. 386, Section 12(B), established a moratorium on new establishments conducting sweepstakes through the use of sweepstakes terminal devices. This moratorium permitted establishments which conducted sweepstakes through the use of a sweepstakes terminal device prior to June 11, 2012, to continue to do so, but prohibited the creation of new sweepstakes establishments after that date while legislation is being considered.

14. Since Defendants failed to file an affidavit asserting that Winner's Palace II was in existence, operation as a sweepstakes establishment prior to the moratorium going into effect, there exists a presumption that Winner's Palace II was not open and operating as a sweepstakes establishment prior to the moratorium going into effect on June 11, 2012.
15. Defendants have violated H.B. 386, Section 12(B) by opening a new sweepstakes establishment at 1698 South Raccoon Road, Austintown, Ohio 44515 after the moratorium went into effect on June 11, 2012.

PRAYER FOR RELIEF

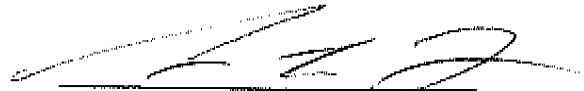
WHEREFORE, pursuant to his statutory authority to enforce the moratorium and registration requirement established by H.B. 386, Section 12, the Attorney General on behalf of Plaintiff State of Ohio respectfully requests the following judgments and relief:

- A. Permanently enjoin Defendants to comply with the moratorium established by H.B. 386, Section 12 by prohibiting the use of sweepstakes terminal devices to conduct sweepstakes at any location which was not in existence and operating as a sweepstakes retail location prior to June 11, 2012, including, but not limited to, the location at 1698 South Raccoon Road, Austintown, Ohio 44515;
- B. Grant Plaintiff State of Ohio such other relief as the Court deems proper and necessary.

Signature Follows on Next Page

Very Respectfully Submitted,

MIKE DEWINE
Ohio Attorney General



Meghan K. Fowler (0080775)
Associate Assistant Attorney General
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Attorney for Plaintiff Ohio Attorney General