

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

No. 216 MM 2017

SANDS BETHWORKS GAMING, LLC,

Petitioner

v.

**PENNSYLVANIA DEPARTMENT OF REVENUE; C. DANIEL HASSELL
IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE
PENNSYLVANIA DEPARTMENT OF REVENUE; and THE
PENNSYLVANIA GAMING CONTROL BOARD,**

Respondents

**RESPONDENTS' ANSWER TO THE APPLICATION FOR LEAVE TO
INTERVENE FILED BY GREENWOOD GAMING AND
ENTERTAINMENT, INC., D/B/A PARX CASINO**

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ENTERTAINMENT, INC., D/B/A PARX CASINO**

The Respondents, the Pennsylvania Department of Revenue, C. Daniel Hassell in his official capacity as the Secretary of the Pennsylvania Department of Revenue, and the Pennsylvania Gaming Control Board, through their undersigned counsel, respond to the Application to Intervene filed by Greenwood Gaming and Entertainment, Inc., d/b/a Parx Casino (“GGE”), as follows:

1. The averments contained in this numbered paragraph are admitted.
2. The averments contained in this numbered paragraph are admitted.
3. The averments contained in this numbered paragraph are denied. The “new tax provisions” are not “designed to benefit lower-revenue casinos to the detriment of higher-revenue casinos, such as GGE.” The newly-enacted distribution formula is designed to ensure that the benefits of legalized gaming are shared among all communities hosting Category 1, Category 2 and Category 3 casinos. All casinos falling within those categories, including Petitioner Sands Bethworks Gaming, LLC, and Proposed Intervenor GGE, benefit from the safety net that the new distribution scheme provides.
4. The averments contained in this numbered paragraph are admitted.

5. The averments contained in this numbered paragraph constitute conclusions of law to which no response is required. The cited statutory provision contains language that speaks for itself.

6. The averments contained in this numbered paragraph are denied. The challenged statutory scheme does not classify slot machine licensees on the basis of their gross terminal revenue “for tax purposes.” The statutory classification relates only to post-collection distributions required by law, which are made after the relevant slot machine taxes have already been collected. The distribution scheme is not “designed to take money from better performing casinos, like GGE, and give that money to lesser performing casinos.” Instead, it is designed to ensure that the benefits of legalized gaming are shared among all communities hosting Category 1, Category 2 and Category 3 casinos. All casinos falling within those categories, including Petitioner Sands Bethworks Gaming, LLC, and Proposed Intervenor GGE, benefit from the safety net that the new distribution scheme provides.

7. The averments contained in this numbered paragraph are admitted.

8. The averments contained in this numbered paragraph are admitted in part and denied in part. The joint stipulation proposed by the Petitioner and the Respondents did not imply that other similarly situated casinos would not receive a refund in the event that the statutory scheme was invalidated. That issue was

simply not addressed in the proposed stipulation. The averments contained in this numbered paragraph are otherwise admitted.

9. The averments contained in this numbered paragraph are admitted.

10. The averments contained in this numbered paragraph are admitted.

11. The averments contained in this numbered paragraph are admitted.

12. The averments contained in this numbered paragraph constitute conclusions of law to which no response is required.

13. The averments contained in this numbered paragraph are admitted in part and denied in part. It is denied that the challenged statutory scheme “burden[s] GGE with a new tax [while] providing GGE with no benefit.” The newly-enacted distribution formula is designed to ensure that the benefits of legalized gaming are shared among all communities hosting Category 1, Category 2 and Category 3 casinos. All casinos falling within those categories, including Petitioner Sands Bethworks Gaming, LLC, and Proposed Intervenor GGE, benefit from the safety net that the new distribution scheme provides. The averments contained in this numbered paragraph are otherwise admitted.

14. The averments contained in this numbered paragraph are denied. The Court’s decision concerning the constitutionality of the challenged statutory scheme will apply with equal force to all similarly situated slot machine licensees.

15. The Respondents are without knowledge or information sufficient to form a belief as to whether GGE's future gross terminal revenue levels will continue to exceed those of its competitors. Therefore, the averments contained in this numbered paragraph are denied.

16. The Respondents are without knowledge or information sufficient to form a belief as to whether the Petitioner is concerned with securing refunds for other similarly situated slot machine licensees. Therefore, the averments contained in this numbered paragraph are denied.

17. The Respondents are without knowledge or information sufficient to form a belief as to whether the Petitioner will sell its licensed casino to another entity, or as to whether any prospective licensee will choose to abandon this action. Therefore, the averments contained in this numbered paragraph are denied.

18. The averments contained in this numbered paragraph are admitted.

19. The averments contained in this numbered paragraph are admitted.

By way of further response, the brief to be filed by the Respondents in response to the Petition for Review will adequately address the issues raised in GGE's proposed brief, since "GGE is willing to accept the pleadings as they stand" at the present time.

20. The averments contained in this numbered paragraph constitute conclusions of law to which no response is required.

21. The averments contained in this numbered paragraph are denied. It is specifically denied that GGE has been burdened by the challenged statutory scheme “without any benefit whatsoever.” The newly-enacted distribution formula is designed to ensure that the benefits of legalized gaming are shared among all communities hosting Category 1, Category 2 and Category 3 casinos. All casinos falling within those categories, including Petitioner Sands Bethworks Gaming, LLC, and Proposed Intervenor GGE, benefit from the safety net that the new distribution scheme provides.

WHEREFORE, for the foregoing reasons, the Respondents take no position as to whether intervention should be permitted under these circumstances.

Respectfully submitted,

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Date: March 23, 2018

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CERTIFICATION

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Anthony Thomas Kovalchick
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CERTIFICATE OF SERVICE

I hereby certify that, on March 23, 2018, I caused a true and correct copy of the foregoing Respondents' Answer to the Application for Leave to Intervene Filed by Greenwood Gaming and Entertainment, Inc., d/b/a Parx Casino to be sent to the following:

VIA ELECTRONIC FILING

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