

IN THE SUPREME COURT OF PENNSYLVANIA

SANDS BETHWORKS GAMING, LLC	:	
	:	
<i>Petitioner,</i>	:	
	:	
v.	:	No. 216 MM 2017
	:	
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	:	
	:	
<i>Respondents.</i>	:	

PETITIONER’S APPLICATION FOR LEAVE TO FILE THIS POST-SUBMISSION COMMUNICATION

Pursuant to Pa.R.A.P. 2501(a), Petitioner Sands Bethworks Gaming, LLC (“Sands” or the “Petitioner”), by counsel, hereby moves for leave to file this post-submission communication.

1. On December 28, 2017, Sands filed a Petition for Review challenging the constitutionality of the newly imposed tax on casinos called the “Supplemental Daily Assessment” (“Supplemental Assessment”) under the Pennsylvania Race Horse Development and Gaming Act, 4 Pa. C.S. § 1101 *et seq.*, *as amended* (2017) (the “Amended Act”).

2. The Amended Act requires that the Supplemental Assessment be paid into a new, restricted fund called the “Casino Marketing and Capital Development

Account” (“CMCD Account”) and further requires the Pennsylvania Gaming Control Board (“Gaming Board”) to redistribute the Supplemental Assessment receipts from the CMCD Account to a subset of the same casinos paying the tax.

3. One of the central issues in this case is whether, or under what circumstances, the Gaming Board can lawfully make payments out of the CMCD Account. *See generally* Pennsylvania Race Horse Development and Gaming Act, 4 Pa. C.S. §§ 1407(C.1), 1407.1, 1408(C.1) (2017).

4. The Gaming Board has made express commitments (described in the briefing and at oral argument) to the effect that it would take all necessary steps to return the Supplemental Assessment should the Court rule in Sands’ favor on the merits.

5. On July 20, 2018, however, Sands received a letter from the Pennsylvania Office of the Attorney General stating that the Gaming Board intends to make distributions from the CMCD Account beginning in September 2018 (no sooner than 45 days from the date of the letter). A copy of the letter is attached as Exhibit A to this request.

6. The relief sought by this case would be materially impacted if the Board were now to carry through with the statements in the July 20 letter and make payments out of the CMCD Account before the Court issues its decision.

7. Therefore, Sands respectfully requests that it be permitted to make this post-submission communication to alert the Court to this development.

WHEREFORE, Petitioner respectfully requests that this Court grant the relief requested herein.

Respectfully submitted,

Dated: August 2, 2018

By: /s/ Adam A. DeSipio
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EXHIBIT A



COMMONWEALTH OF PENNSYLVANIA
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July 20, 2018

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Re: Sands Bethworks Gaming, LLC v. Pennsylvania Dept. of Revenue, et al.
Commonwealth Court No. 216 MM 2017

Dear Counsel:

I am providing this notice in accordance with the Joint Stipulation filed in this matter on February 28, 2018. Please be advised that the Pennsylvania Gaming Control Board intends to begin making distributions from the Casino Marketing and Capital Development Account in accordance with the provisions of 4 Pa. C.S. § 1407.1. The Board anticipates that it will begin making distributions in September 2018, but not sooner than 45-days from the date of this correspondence. Should you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen M. Romano".

KAREN M. ROMANO
Senior Deputy Attorney General

cc: Mark S. Stewart, Esquire
Kevin M. Skjoldal, Esquire
Kristine E. Marsilio, Esquire