

STATE OF NEW JERSEY
Office of the Attorney General
Department of Law and Public Safety
Division of Gaming Enforcement

Petition of Betfair Interactive US LLC)
to Intervene and Participate in All Proceedings)
Relating to Cessation of Gaming Operations)
at Trump Plaza that Affect Internet Gaming)
_____)

ORDER
PRN 2381401

It is ordered that the attached letter dated September 3, 2014, by Deputy Attorney General Sara Ben-David regarding the request to intervene and participate, for the reasons expressed therein, is hereby adopted.

Dated: September 4, 2014



DAVID REBUCK
DIRECTOR



State of New Jersey

Office of the Attorney General
Department of Law and Public Safety
Division of Gaming Enforcement
P.O. Box 047
Trenton, NJ 08625-0047

Chris Christie
Governor

Kim Guadagno
Lt. Governor

John J. Hoffman
Acting Attorney General

David Rebuck
Director

September 3, 2014

Via e-mail and regular mail

David L. Rebuck, Director
State of New Jersey
Department of Law & Public Safety
Division of Gaming Enforcement
1300 Atlantic Avenue
Intake Unit, 2nd Floor
Atlantic City, New Jersey 08401

RE: Petition of Betfair Interactive US LLC to Intervene and Participate in All Proceedings Relating to Cessation of Gaming Operations at Trump Plaza that Affect Internet Gaming (PRN 2381401)

Dear Director Rebuck:

Petitioner, Betfair Interactive US LLC (Betfair), has filed the above-referenced petition and moves for a ruling from the Division of Gaming Enforcement (Division) permitting it to intervene, or alternatively participate, in all proceedings relating to cessation of gaming operations at Trump Plaza that affect Internet gaming. Petitioner specifically seeks to intervene in all proceedings for: (1) declaratory rulings relating to the cessation of gaming operations; (2) approval of a closure petition and/or shutdown plan; (3) amendment and/or surrender of Trump Plaza's Casino License or Certificate of Operation; (4) amendment and/or surrender of Trump Plaza's Internet Gaming Permit; (5) authorization to discontinue Internet-based gaming operations; and, (5) any relief or approval that may disrupt online gaming operations, or which may otherwise negatively impact or delay Betfair's casino service industry enterprise license application. For the reasons which follow, the Division would oppose the request for intervention but would not oppose Petitioner being granted permission to participate only in the form of written submissions.



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N.J.A.C. 13:69-3.7 governs intervention in a declaratory ruling. That regulation provides that the Division may allow certain persons to intervene if they are "interested in or affected by the subject of a declaratory ruling." *N.J.A.C.* 13:69-3.7(d). The Division may allow such interested parties the opportunity "to intervene as parties or to otherwise present their views in an appropriate manner which is consistent with the rights of the parties." *Ibid.*

The New Jersey Administrative Code expands upon the standard for intervention. *N.J.A.C.* 1:16-1 *et seq.* Persons may intervene if they have either a statutory right to do so or they have an interest which is "substantially, specifically and directly affected by the outcome of a contested case." *N.J.A.C.* 1:16.1(a). When addressing intervention, the judge or adjudicator must consider: "the nature and extent of the movant's interest in the case, whether or not the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters." *N.J.A.C.* 1:1-16.3(a).

A motion to intervene must be treated, in the alternative, as a motion for permission to participate. *N.J.A.C.* 1:1-16.5. When addressing participation, the movant must show a "significant interest in the outcome of a case." *N.J.A.C.* 1:1-16.6(a). The judge or adjudicator should consider in this regard "whether the participant's interest is likely to add constructively to the case without causing undue delay or confusion." *N.J.A.C.* 1:1-16.3(b).

The shutdown of a casino impacts numerous persons, such as the patrons, suppliers and vendors, taxpayers in general, and the recipients of public services funded by casino operations. However, not all interested persons require the panoply of rights that intervention affords. See *Motion of UNITE HERE Local 54 Regarding the Petition of Adamar of New Jersey, Inc. For Renewal of a Casino License, CCC 07-11-15-01* (Nov. 15, 2007). An economic interest in the outcome of a proceeding is generally insufficient by itself to warrant participation. See *Motion of Creditors Committee For Leave to Participate in Petition for Trump Plaza Associates, Trump's Castle Associates, Trump Taj Mahal Associates and Trump Hotel Management Corporation for Approval of a Transfer to Banking Institutions in the Ordinary Course of their Business of Security Interests in the Equity Ownership of Certain Casino Related Entities and for Certain Other Relief, CCC 90-08-16-01* (Aug. 16, 1990). Motions to intervene or participate should be denied where the claims that movants seek to assert would be best addressed in another forum. See *Motion of a Group of 27 Long Service Employees for Leave to Intervene or Participate in Future Proceedings Pertaining to the Sale or Disposition of Property Relating to the Former Casino Licensee, Adamar of New Jersey, Inc., CCC 09-01-21-17(a)* (Jan. 21, 2009). Intervention or participation should be similarly avoided where movants are clearly seeking "to gain leverage on a particular issue, whether it be with regard to negotiations or some other position that they have." See *Motion of First Fidelity Bank for Leave to Intervene or*

Participate in Re-Opened Casino License Hearing of Trump Taj Mahal Associates; Trump Plaza Associates; and Trump Castle Associates, CCC 90-12-14-3 (Dec. 14, 1990).

The Division does not challenge that Petitioner has an interest in that portion of Trump Plaza's petition, filed August 25, 2014, relating to the alteration of its Operation Certificate and the surrender of its Casino License. As reflected in your order, dated August 29, 2014, Petitioner may continue Internet gaming operations until the Division directs the surrender of Trump Plaza's Internet Gaming Permit and Operation Certificate. See *N.J.A.C. 5:12-95.21*. However, there is nothing unique or special about Petitioner's interest which would elevate it above many other businesses affected by the shutdown. Furthermore, Petitioner's intervention would not aid "measurably or constructively" in this matter where the chief issue is whether Trump Plaza's proposed plans provide for an orderly shutdown and comply with all relevant regulations governing casino operations. Petitioner has notified the Division that it has demanded from Trump Plaza the release of certain funds which are allegedly due to Petitioner. However, the Division is not the proper forum to consider such contract disputes, which are within the purview of the court system, and Petitioner should not be permitted to intervene to gain leverage on this issue. At best, Petitioner's interest is economic and thus insufficient to merit intervention.

Nevertheless, the Division submits that Petitioner's interest is sufficient to merit participation. Insofar as Trump Plaza is seeking to alter its Operation Certificate and surrender its Casino License without the need for hearings or other proceedings, it is the Division's view that Petitioner's participation should be appropriately limited to the submission of a brief or other written filing. A written submission also would minimize confusion of the issues and prevent undue delay.

In conclusion, the Division submits that permitting Petitioner to intervene would not add measurably and constructively to this matter. However, the Division would not oppose granting Petitioner's request to participate provided such participation is limited to the submission of a brief or other written filing.

Thank you for your consideration of this matter. Please note that this writing is not effective without an accompanying Order signed by the Director.

Respectfully submitted,

Sara Ben-David

Sara Ben-David
Deputy Attorney General

SBD

c: via e-mail and regular mail:

Stephen D. Schrier, Esq.

John M. Donnelly, Esq.

John R. Hindman, S.V.P., G.C., Betfair Interactive US LLC

PRN 2381401

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GAMING ENFORCEMENT

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August 25, 2014

VIA FEDERAL EXPRESS

State of New Jersey
Department of Law & Public Safety
DIVISION OF GAMING ENFORCEMENT
1300 Atlantic Avenue
Intake Unit, 2nd Floor
Atlantic City, New Jersey 08401

Re: Betfair Interactive US LLC (VID# 86464, Log# 368-50); Trump Plaza Associates, LLC Petition for Closure. PRN (TBD)

Letter Petition to Intervene and Participate in All Proceedings Relating to Cessation of Gaming Operations at Trump Plaza that affect Internet Gaming

Dear Director Rebeck:

We represent Betfair Interactive US LLC ("Betfair Interactive"), an applicant for a Casino Service Industry Enterprise ("CSIE") License. As you are aware, Betfair Interactive provides Trump Plaza Associates, LLC's ("Trump Plaza") internet-based gambling operation.

Betfair Interactive respectfully submits this letter in lieu of a more formal Petition to the Division of Gaming Enforcement ("Division") seeking to intervene in all proceedings relating to the cessation of gaming operations at Trump Plaza. Good cause exists to grant Betfair Interactive's Petition, because the cessation of gaming operations at Trump Plaza, or more specifically, the surrender of Trump Plaza's casino license and Internet Gaming Permit (Permit # NJIGP 13-003), directly impacts Betfair Interactive's ability to provide internet gaming services in New Jersey.

Betfair Interactive entered into an agreement to provide online gaming services for Trump Plaza. A copy of Betfair's Online Gaming Operations Agreement with Trump Plaza has been filed confidentially with the Division. On November 8, 2013, the Division issued a transactional waiver authorizing Trump Plaza and Betfair Interactive to conduct internet gaming

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related business transactions for a period of six months. The Division issued a subsequent Order extending Betfair Interactive's transactional waiver for an additional six month period on May 7, 2014.

Betfair Interactive has filed a completed CSIE license application, and has worked diligently with the Division to ensure that its online gaming operations are carried out in compliance with all regulatory obligations. Betfair Interactive has also invested substantial resources in New Jersey in furtherance of its partnership with Trump Plaza. As a consequence of that investment and effort, the Betfair Interactive/Trump Plaza internet gaming operation has been in operation continuously since the commencement of live, 24-hour online gaming on November 26, 2013. Betfair Interactive's product offerings are consistent with the high standards established in the Casino Control Act, and serve the public interest by, "creating and maintaining a robust casino gaming industry, that is capable of competing regionally, nationally and internationally at the highest levels of quality while, at the same time, fully retaining strict State regulatory oversight to ensure the integrity of all casino gaming operations conducted in this State[.]" N.J.S.A. 5:12-95.17(1)(e).

Betfair Interactive has made repeated written requests for information from Trump Plaza's senior management on Trump Plaza's plans for the casino, including once the closure was formally announced requesting in writing a face-to-face meeting with senior management in order to discuss the implications of the impending closure of the Trump Plaza on the internet gaming operation. To date, Trump Plaza has failed to even respond to Betfair Interactive's requests.

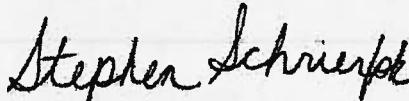
Betfair Interactive's ability to engage in online gaming activities is directly impacted by Trump Plaza's decision to cease gaming operations. Accordingly, Betfair Interactive seeks to intervene in all proceedings relating to cessation of gaming operations by Trump Plaza, including, but not limited to all application(s), petition(s) or motion(s) for: (1) declaratory rulings relating to the cessation of gaming operations; (2) approval of a closure petition and/or shutdown plan; (3) amendment and/or surrender of Trump Plaza's casino license or Certificate of Operation; (4) amendment and/or surrender of Trump Plaza's Internet Gaming Permit; (4) authorization to discontinue internet-based gaming operations; and, (5) any relief or approval that may disrupt online gaming operations, or which may otherwise negatively impact or delay Betfair Interactive's CSIE license application.

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The relief requested by Betfair Interactive is expressly permitted in the Division's regulations. N.J.A.C. 13:69-3.7(d) provides, in relevant part: "In appropriate cases, the Division may notify persons who may be interested in or affected by the subject of the declaratory ruling. In such cases, the Division may afford these persons an opportunity to intervene as parties or to otherwise present their views in an appropriate manner which is consistent with the rights of the parties." See also, N.J.A.C. § 1:1-16.3(a) ("In ruling upon a motion to intervene, the judge shall take into consideration the nature and extent of the movant's interest in the outcome of the case, whether or not the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters.")

For the reasons set forth herein, Betfair Interactive submits that good cause exists for the Division to grant its Petition to Intervene.

Respectfully submitted,



Stephen D. Schrier

cc: George Rover,
Deputy Director, DGE
R. Lane Stebbins, DGE
John M. Donnelly, Esq.

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