

IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, CHANCERY DIVISION

EMPRESS CASINO JOLIET CORP., DES )  
PLAINES DEVELOPMENT LIMITED )  
PARTNERSHIP (d/b/a Harrah's Casino Cruises )  
Joliet), HOLLYWOOD CASINO-AURORA, )  
INC., AND ELGIN RIVERBOAT RESORT- )  
RIVERBOAT CASINO (d/b/a Grand Victoria )  
Casino), )

Plaintiffs,

v.

ALEXI GIANNOULIAS, solely in his official )  
capacity as TREASURER OF THE STATE OF )  
ILLINOIS )

Defendant. )

Case No.:

**FILED**

JUN 25 2009

**DEBORAH BROWN**  
CLERK OF CIRCUIT COURT

**D9CH20751**

**VERIFIED COMPLAINT FOR DECLARATORY  
JUDGMENT, INJUNCTIVE AND OTHER RELIEF**

Plaintiffs Empress Casino Joliet Corp. ("Empress Casino"); Des Plaines Development Limited Partnership, d/b/a Harrah's Casino Cruises Joliet ("Harrah's Casino-Joliet"); Hollywood Casino-Aurora, Inc. ("Hollywood Casino-Aurora"); and Elgin Riverboat Resort-Riverboat Casino (d/b/a Grand Victoria Casino) ("Grand Victoria Casino") (collectively, "Plaintiffs"), by and through their attorneys, hereby complain against Defendant Alexi Giannoulis, solely in his official capacity as Treasurer of the State of Illinois and not in his individual capacity (the "Illinois Treasurer") as follows:

**I. NATURE OF ACTION**

1. In this action, Plaintiffs seek to preserve assets that are the subject of a \$267 million lawsuit filed by Plaintiffs in the United States District Court for the Northern District of Illinois against various Illinois horse racing tracks (the "Horse Tracks"), as well as former

Governor Rod Blagojevich and the Friends of Blagojevich campaign fund. Currently, the Illinois Treasurer is holding approximately \$89.2 million that is the subject of that lawsuit. The Illinois Treasurer is doing so as a custodian and not because these monies are intended for, or claimed by, the State of Illinois. Specifically, Plaintiffs paid these funds into so-called "Protest Funds" over which the Illinois Treasurer is the custodian. Had Plaintiffs not protested the disposition of this money, it would be paid over to the Horse Tracks for use to defray their operating expenses and otherwise increase their profitability for the benefit of their owners and operators. Once paid to, and used by, the Horse Tracks, this money will be gone forever, as there is no reason to believe that the Horse Tracks would ever be positioned to repay such a large amount.

2. The facts underlying Plaintiffs' federal court lawsuit over the disposition of the so-called Protest Funds are, in part, the subject of the criminal RICO indictment against Blagojevich and others in the Northern District of Illinois. The indicting Grand Jury found probable cause that Blagojevich sought the agreement of John Johnston, a horse track owner, that Blagojevich would secure enactment of a statute that would require Plaintiffs to pay their profits to the benefit of the Horse Tracks in exchange for Johnston paying Blagojevich or Friends of Blagojevich \$100,000. Plaintiffs' federal lawsuit includes civil RICO claims on the same theory and also alleges that Blagojevich and Johnston reached a similar agreement when the earlier version of the statute was passed in 2006. Plaintiffs seek to impose a constructive trust over the monies now held by the Illinois Treasurer and to which the Horse Tracks have claims. This is necessary to avoid the Horse Tracks' unjust enrichment at the expense of the Plaintiffs, which would only effectuate the scheme underlying both the criminal and civil RICO cases.

3. Plaintiffs do not seek here to resolve the underlying dispute over the subject assets. Rather, Plaintiffs filed this action to secure those assets whose disposition is subject to dispute. Plaintiffs seek (1) a declaratory judgment that these monies should be preserved by the Illinois Treasurer until the underlying dispute is resolved, and (2) injunctive relief, consistent with the Illinois Protest Fund Act, 30 ILCS 230/2a *et seq.*, requiring the Illinois Treasurer to maintain the already established "Protest Funds" in which this money is currently maintained.

## II. VENUE

4. Because the underlying dispute over the disposition of the 2006 and 2008 Protest Funds (as defined below) is pending in the Northern District of Illinois, within Cook County, and because the transaction or some parts of the transactions which are the basis of that dispute occurred within Cook County, venue is proper.

## III. PARTIES

5. Empress Casino is an Illinois corporation with its principal place of business in Joliet, Illinois. It is the owner-licensee of a riverboat gambling casino known as the Empress Casino.

6. Harrah's Casino-Joliet is an Illinois limited partnership doing business as Harrah's Casino Cruises Joliet. Its principal place of business is in Joliet, Illinois. It is the owner-licensee of a riverboat gambling casino known as Harrah's Casino-Joliet.

7. Hollywood Casino-Aurora is an Illinois corporation with its principal place of business in Aurora, Illinois. It is the owner-licensee of a riverboat gambling casino known as the Hollywood Casino Aurora.

8. Grand Victoria Casino is an Illinois general partnership doing business as the Grand Victoria Casino. Its principal place of business is in Elgin, Illinois. It is the owner-licensee of a riverboat gambling casino known as the Grand Victoria.

9. Alexi Giannoulis is the Treasurer of the State of Illinois. The Illinois Treasurer's principal office is located in Springfield, Illinois. The Illinois Treasurer is charged by Article V, Section 18 of the Illinois Constitution of 1970 with the custody, administration and disposition of funds paid into the treasury of the State of Illinois. The Illinois Treasurer is sued herein solely in his official capacity.

#### IV. BACKGROUND

##### A. The Protest Funds

10. On May 26, 2006, Blagojevich signed a statute that required Plaintiffs to pay 3% of their adjusted gross receipts for two years into a fund that was then to be paid over to the Horse Tracks (the "2006 Racing Act"). The Horse Tracks could use the collected casino revenues to fund horse racing purses or otherwise to offset operating expenses, with the effect of increasing the profitability of the Horse Tracks for their owners and operators.

11. As permitted by Illinois statute, 30 ILCS 230/2a *et seq.* (the "Protest Monies Act"), each of the Plaintiffs paid the funds called for in the 2006 Racing Act to the Illinois Treasurer under protest while they mounted a facial challenge to the statute. Pursuant to an injunction agreed to by the Illinois Treasurer, the Illinois Treasurer accepted possession of such funds as custodian, holding them in a protest fund (the "2006 Protest Fund") pending adjudication of the Plaintiffs' and the Horse Tracks' dispute over the monies.

12. The Illinois Treasurer does not hold the monies in the 2006 Protest Fund as owner of such funds.

13. Although the 2006 Racing Act was set to expire after two years, on December 16, 2008, Blagojevich signed a statute (the "2008 Racing Act") that effectively extended the 2006 Racing Act. Under the 2008 Racing Act, Plaintiffs were to continue to pay 3% of their adjusted gross receipts for an additional three years into a fund that, as before, was to be paid to the Horse Tracks.

14. As before, Plaintiffs made payments pursuant to the 2008 Racing Act under protest while litigation is pending challenging the disposition of those funds.

15. As with the 2006 Protest Fund, the Illinois Treasurer accepted possession of the money paid by Plaintiffs based on the 2008 Racing Act as a custodian and continues to hold such monies in a protest fund (the "2008 Protest Fund") pending adjudication of the Plaintiffs' and the Horse Tracks' dispute over the monies.

16. The Illinois Treasurer does not hold the monies in the 2008 Protest Fund as owner of such funds.

17. Plaintiffs have paid a total of approximately \$89.2 million to the Illinois Treasurer to hold in the 2006 and 2008 Protest Funds. That amount increases daily.

**B. The Plaintiffs Dispute Disposition of the 2006 and 2008 Protest Funds.**

18. On June 12, 2009, Plaintiffs sued Blagojevich, the Friends of Blagojevich campaign fund, John Johnston who is the owner of two of the Horse Tracks, and Johnston's two tracks. Plaintiffs allege a RICO conspiracy whose purpose and effect was the enactment of the 2006 and 2008 Racing Acts as a quid pro quo for payments by Johnston to Blagojevich or Friends of Blagojevich. These allegations track those in the criminal indictment of Blagojevich, which in turn is based in part on now-public wiretap recordings in which Blagojevich discusses an agreement with Johnston to secure enactment of the 2008 Racing Act in exchange for a

payment of \$100,000. Plaintiffs further base their civil RICO claim on evidence that, through a web of related entities, Johnston paid Blagojevich \$125,000 within a month of the 2006 Racing Act. There are other, suspicious circumstances that indicate that Blagojevich and Johnston conspired to enact the 2006 Racing Act just as they conspired in 2008. In addition to their civil RICO claim, Plaintiffs also seek imposition of a constructive trust over the funds in the Protest Funds, or claims to those funds, which are the proceeds of fraudulent and unlawful conduct. A true and correct copy of Plaintiffs' federal lawsuit, as filed on June 12, 2009, is attached to this Complaint as Exhibit A and is hereinafter referred to as the "RICO/Constructive Trust Litigation."

19. The RICO/Constructive Trust Litigation constitutes a dispute over the disposition of the 2006 and 2008 Protest Fund monies. As required by the Protest Monies Act, 30 ILCS 230/2a.1, each of the Plaintiffs have notified the Illinois Treasurer of this dispute.

20. Specifically, by letter dated June 24, 2009 (the "Empress 2009 Protest Notice"), Empress Casino notified the Illinois Treasurer that it was paying the amounts called for under the 2006 and 2008 Racing Acts to the Illinois Treasurer under protest for the additional reasons set forth in the RICO/Constructive Trust Litigation. By that time, Empress Casino had already paid in excess of \$15.4 million into the 2006 and 2008 Protest Funds. A true and correct copy of the Empress 2009 Protest Notice is attached to this Complaint as Exhibit B.

21. By letter dated June 16, 2009 (the "Harrah's 2009 Protest Notice"), Harrah's Casino-Joliet notified the Illinois Treasurer that it was paying the amounts called for under the 2006 and 2008 Racing Acts to the Illinois Treasurer under protest for the additional reasons set forth in the RICO/Constructive Trust Litigation. By that time, Harrah's Casino-Joliet had

already paid in excess of \$26 million into the 2006 and 2008 Protest Funds. A true and correct copy of the Harrah's 2009 Protest Notice is attached to this Complaint as Exhibit C.

22. By letter dated June 16, 2009 (the "Hollywood 2009 Protest Notice"), Hollywood Casino-Aurora notified the Illinois Treasurer that it was paying the amounts called for under the 2006 and 2008 Racing Acts to the Illinois Treasurer under protest for the additional reasons set forth in the RICO/Constructive Trust Litigation. By that time, Hollywood Casino-Aurora had already paid in excess of \$19 million into the 2006 and 2008 Protest Funds. A true and correct copy of the Hollywood 2009 Protest Notice is attached to this Complaint as Exhibit D.

23. By letter dated June 16, 2009 (the "Grand Victoria 2009 Protest Notice"), Grand Victoria Casino notified the Illinois Treasurer that it was paying the amounts called for under the 2006 and 2008 Racing Acts to the Illinois Treasurer under protest for the additional reasons set forth in the RICO/Constructive Trust Litigation. By that time, Grand Victoria Casino had already paid in excess of \$29.7 million into the 2006 and 2008 Protest Funds. A true and correct copy of the Grand Victoria 2009 Protest Notice is attached to the Complaint as Exhibit E.

24. Having accepted possession of the funds paid by Plaintiffs under protest pending adjudication of the dispute between Plaintiffs and the Horse Tracks over disposition of those monies, and not itself having a claim to ownership of these funds, the Illinois Treasurer owes a duty to take care of, keep, and preserve these monies until final adjudication of the RICO/Constructive Trust Litigation and until the rights of the Plaintiffs and the Horse Tracks in the disputed funds are finally determined.

25. Moreover, the Protest Monies Act provides for maintenance of a Protest Fund by temporary restraining order and/or preliminary injunction until disputes over disposition of those monies are resolved.

26. Such a temporary restraining order and injunction is necessary in this case to preserve the corpus of the 2006 and 2008 Protest Funds and to maintain the current status quo, by which these protest funds are maintained.

**WHEREFORE**, Plaintiffs respectfully pray that the Court enter in favor of the Plaintiffs and against the Illinois Treasurer:

A. A declaration that the Illinois Treasurer shall hold and preserve the monies in the 2006 and 2008 Protest Funds, as well as any additional monies paid by Plaintiffs into the 2008 Protest Fund, until such time as the RICO/Constructive Trust Litigation is resolved;

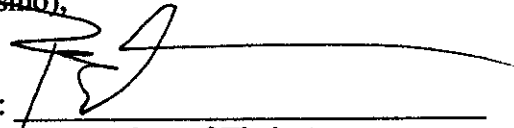
B. An injunction enjoining the Illinois Treasurer from transferring or otherwise disposing of any of the monies that the Plaintiffs have paid or will pay to the Illinois Treasurer to hold in the 2006 and 2008 Protest Funds, pending final judicial resolution of the RICO/Constructive Trust litigation; and

C. That the Court grant Plaintiffs such further relief as the Court deems just and proper.

Dated: June 26, 2009

Respectfully submitted,

EMPRESS CASINO JOLIET CORP., DES  
PLAINES DEVELOPMENT LIMITED  
PARTNERSHIP (d/b/a Harrah's Casino Cruises  
Joliet), HOLLYWOOD CASINO-AURORA,  
INC., AND ELGIN RIVERBOAT RESORT-  
RIVERBOAT CASINO (d/b/a Grand Victoria  
Casino).

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