

MOT

SIGAL CHATTAH, ESQ.
Nevada State Bar No.: 8264
CHATTAH LAW GROUP
5875 S. Rainbow Blvd. #203
Las Vegas, Nevada 89118
Tel: (702) 360-6200
Fax: (702) 643-6292
Chattahlaw@gmail.com
Attorneys for Defendants
Emil Interactive Games, LLC Et Al

MARK M. NOLAN, ESQ. #79418
RANDY V. THOMPSON, ESQ. #122506
NOLAN, THOMPSON & LEIGHTON, PLC
5001 American Blvd. West, Suite 595
Bloomington, MN 55437
Tel: (952) 405-7171
Fax: (952) 224-0647
Email: mnolan@nmtlaw.com
rthompson@nmtlaw.com

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

| | | |
|-----------------------------------|---|--------------------------------|
| MINNESTOTA WILD HOCKEY CLUB, LP |) | |
| |) | |
| Plaintiff, |) | CASE NO: 0:16-cv-01545- |
| vs. |) | WMW-TNL |
| |) | |
| EMIL INTERACTIVE GAMES, LLC, FULL |) | MEMORANDUM IN SUPPORT |
| BOAT LLC, and RONALD M. DOUMANI |) | OF MOTION TO DISMISS |
| |) | UNDER FRCP 12(B)(6) |
| Defendants. |) | |
| |) | |
| |) | |

**DEFENDANTS EMIL INTERACTIVE GAMES, LLC ET AL'S MEMORANDUM
IN SUPPORT OF MOTION TO DISMISS UNDER FRCP 12(B)(6)**

1 **DEFENDANTS EMIL INTERACTIVE GAMES, LLC ET AL'S**
2 **MEMORANDUM IN SUPPORT OF MOTION TO DISMISS UNDER FRCP**
3 **12(B)(6)**

4 COME NOW, Defendants EMIL INTERACTIVE GAMES, LLC, FULL BOAT
5 LLC and RONALD M. DOUMANI by and through the undersigned attorneys of record,
6 SIGAL CHATTAH, ESQ., of CHATTAH LAW GROUP, and MARK M. NOLAN,
7 ESQ. of NOLAN, THOMPSON & LEIGHTON, PLC who hereby submit the following
8 SUPPORTING MEMORANDUM TO MOTION TO DISMISS under Fed. R. Civ. P.
9 12(B)(6).

10
11 This Motion is made and based upon the following Memorandum of Points and
12 Authorities, the Exhibits hereto, and all further pleadings, filings and oral arguments as
13 may be submitted at the time of hearing.

14 DATED this 1st day of June, 2016.

15 **CHATTAH LAW GROUP**

16
17 /s/ S. CHATTAH
18 SIGAL CHATTAH, ESQ.
19 Nevada Bar No.: 8264
20 CHATTAH LAW GROUP
21 5875 S. Rainbow Blvd. #203
22 Las Vegas, Nevada 89118
23 Tel: (702) 360-6200
24 Fax: (702) 643-6292
25 Chattahlaw@gmail.com
Attorney for Defendants
Emil Interactive Games, LLC Et Al

I.

INTRODUCTION

This action involves the Parties herein entering into a Sponsorship Agreement¹ dated September 4, 2015 by and between Emil Interactive Games, LLC (*as sponsor*) (hereinafter “Emil Interactive”), the Minnesota Wild Hockey Club (hereinafter “the Team”), and the Xcel Energy Center in which the Team plays its home games. The underlying purpose of the Agreement was Plaintiffs’ sponsorship by Draft Ops, an online Daily Fantasy Sports (DFS *inter alia*) subsidiary business of Emil Interactive.

The subject Agreement provides for the combination of sponsorship and payment of monies to Plaintiffs by Emil Interactive, *i.e.*, Draft Ops, the Company’s DFS online interactive game. Moreover, as corporate sponsor of the Team, Draft Ops was to be the official and exclusive online DFS sponsor of the Team. The Agreement therein has a specific clause for termination of the Agreement and provides as follows:

Sponsor shall have the right to terminate this Agreement upon written notice in the event either the NHL and/or State of Minnesota rule that Sponsor’s primary business activities are illegal or prevented by Rule or Law.
See Agreement pg. 3; 9 Termination and Survivability (d).

As a result of Minnesota’s failure to legalize online DFS as described in detail *infra*, the subject Sponsorship Agreement is rendered void and unenforceable. Consequently, compelling the Parties to enforce the terms of the Agreement, would be a potential violation of the Unlawful Internet Gambling Enforcement Act, (*UIGEA*), and

¹ See Agreement submitted herewith as *Exhibit “1”*

1 the Illegal Gambling Business Act of 1970 (*IGBA*), also detailed *infra* subjecting all
2 parties herein to criminal liability both on Federal and State levels.

3 **UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT (UIGEA)**

4 The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA) is a United
5 States legislation promulgated to regulate online gambling. It was added as Title VIII to
6 the SAFE Port Act (found at 31 U.S.C. §§ 5361–5367) which otherwise regulated port
7 security. The UIGEA "prohibits gambling businesses from knowingly accepting
8 payments in connection with the participation of another person in a bet or wager that
9 involves the use of the Internet and that is unlawful under any federal or state law." The
10 act specifically excludes fantasy sports that meet certain requirements, skill-games and
11 legal intrastate and intertribal gaming and regulation of same has been left up to the
12 individual States to legislate thereon. *See 31 U.S.C. §§ 5361–5367, U.S. Treasury*
13 *Department.*

14 In showing Congress' legislative intent with the UIGEA, *31 U.S.C. §§ 5361*
15 Congress specifically provided the following:

- 16 (1) Internet gambling is primarily funded through personal use of payment system
17 instruments, credit cards, and wire transfers.
18 (2) The National Gambling Impact Study Commission in 1999 recommended the
19 passage of legislation to prohibit wire transfers to Internet gambling sites or the
20 banks which represent such sites.
21 (3) Internet gambling is a growing cause of debt collection problems for insured
22 depository institutions and the consumer credit industry.
23 (4) New mechanisms for enforcing gambling laws on the Internet are necessary
24 because traditional law enforcement mechanisms are often inadequate for
25 enforcing gambling prohibitions or regulations on the Internet, especially where
Id.

1 In contemplating the realm of the UIGEA the United States Court of Appeals for
2 the Fifth Circuit ruled in November 2002 that the Federal Wire Act prohibits electronic
3 transmission of information for sports betting across telecommunications lines but
4 affirmed a lower court ruling that the Wire Act "in plain language does not prohibit
5 Internet gambling on a game of chance. *See In re MasterCard Intl., Inc., 2000 U.S. Dist.*
6 *LEXIS 2276 (Mar. 1, 2000).*

7
8 While, UIGEA contains language dictating that fantasy sports are not considered
9 an unlawful wager under the Act; the Act only prohibits the electronic transfer of funds
10 from unlawful gambling as defined under state laws, (*i.e.*, prohibited in
11 Minnesota). Further, while allowing the States to legislate on DFS, UIGEA specifically
12 provides that DFS is legal and further allows:

13
14 (ix) participation in any fantasy or simulation sports game or educational game or
15 contest in which (if the game or contest involves a team or teams) no fantasy or
16 simulation sports team is based on the current membership of an actual team that is a
17 member of an amateur or professional sports organization (as those terms are defined in
18 section 3701 of title 28) and that meets the following conditions:

19 (I) All prizes and awards offered to winning participants are established and made
20 known to the participants in advance of the game or contest and their value is not
21 determined by the number of participants or the amount of any fees paid by those
22 participants.

23 (II) All winning outcomes reflect the relative knowledge and skill of the
24 participants and are determined predominantly by accumulated statistical results of the
25 performance of individuals (athletes in the case of sports events) in multiple real-world
sporting or other events.

(III) No winning outcome is based—

(aa) on the score, point-spread, or any performance or performances of any
single real-world team or any combination of such teams; or

(bb) solely on any single performance of an individual athlete in any single real-
world sporting or other event.

*See 31 U.S. Code § 5362(1)(E)(ix). See also UIGEA Examination Handbook
Section 770. U.S. Treasury Department.*

1 Despite said Congressional intent, individual states have chosen to either legalize
2 online daily fantasy sports or prohibit same. Some States' Attorney Generals have been
3 subjected to lawsuits by the two largest online DFS companies, namely Draftkings and
4 Fanduel. Examples of same are provided herein:

- 5 • On November 10, 2015, Attorney General of New York State Eric
6 Schneiderman issued a cease-and-desist order to DraftKings and FanDuel,
7 arguing that DFS was illegal under New York law (which specifies that games
8 where players "risk something of value" and do not have "control or influence"
9 over the outcome, are gambling), and ordered the two services to cease serving
10 residents of New York. Schneiderman stated that DFS "wagers" represented "a
11 wager on a 'contest of chance' where winning or losing depends on numerous
12 elements of chance to a 'material degree'", further characterizing the DFS
13 industry as being a "massive, multi-billion-dollar scheme intended to evade the
14 law and fleece sports fans across the country", causing the "same public health
15 and economic problems associated with gambling, particularly for populations
16 prone to gambling addiction and individuals who are unprepared to sustain
17 losses, lured by the promise of easy money."²
18
- 19 • Louisiana failed to pass a law that would exempt fantasy sports from its anti-
20 online gambling laws, contributed largely to lobbying by both the Louisiana
21
22
23

24
25 ² "N.Y. AG declares DFS, Fan Duel illegal gambling sites, not fantasy games". *ESPN.com*.
November 10, 2015. Following the cease in desist Order in NY, it is significant to note that Draft
Ops voluntarily withdrew any operations in the State of New York.

1 Family Forum (which showed concerns that players could develop
2 an addiction to daily fantasy games), and the Louisiana Video Gaming
3 Association (which felt that DFS would cannibalize the legal video
4 poker industry, and needed to be highly regulated).³

- 5 • On October 15, 2015, the Nevada Gaming Control Board published a
6 memorandum ruling that daily fantasy sports games were a form of sports
7 wagering, and that DFS services must cease serving customers in the state of
8 Nevada until they obtain a sports pool license. The Board felt that DFS fell
9 under the state's definitions of a "gambling game" and a "sports pool", as they
10 "[accept] wagers on sporting events or other events by any system or method
11 of wagering", including wagers on events occurring during a sporting event
12 (props), combinations of multiple events occurring within an event (parlays),
13 and against the performance of other players, with "rake-offs" taken by the
14 operator on each wager (defined as a "percentage game" under Nevada law).⁴
- 17 • On December 23, 2015, Illinois' Attorney General Lisa Madigan ruled that
18 daily fantasy sports were a form of unlawful gambling under state law.
19 Madigan determined that in DFS, the players are not the "actual contestants" in
20 a contest of skill, but the athletes themselves, meaning that "persons whose
21 wagers depend upon how particular, selected athletes perform in actual
22 sporting events stand in no different stead than persons who wager on the
23
24

25 ³ The reality of fantasy sports? It's illegal in Louisiana when stakes are involved". *NOLA.com*

⁴ <http://gaming.nv.gov/modules/showdocument.aspx?documentid=10487>

1 outcome of any sporting event in which they are not participants.⁵ Following
2 this decision, DraftKings and FanDuel filed lawsuits against the Attorney
3 General the following day, seeking a court opinion on the matter.⁶

- 4 • On January 17, 2016, Attorney General of Texas Ken Paxton issued an
5 opinion, stating that "it is prohibited gambling in Texas if you bet on the
6 performance of a participant in a sporting event and the house takes a cut."
7 FanDuel ceased serving residents of Texas, but DraftKings filed a request for
8 declaratory judgment on March 4, 2016, seeking clarification on the matter.⁷
- 9 • On January 27, 2016, at the request of Senator Rosalyn Baker, Attorney
10 General of Hawaii Doug Chin issued an opinion that DFS could be illegal
11 under Hawaii law, as it involves a wager on an event outside of the player's
12 control. He explained that "the technology may have changed, but the vice has
13 not."⁸
- 14 • On April 5, 2016, Attorney General of Alabama Luther Strange ruled that DFS
15 was illegal under state law, and sent cease and desist notices to DraftKings and
16 FanDuel ordering them to stop serving residents of Alabama by May 1, 2016.
17 He argued that while picking players for a fantasy team is an activity of skill,
18
19
20
21
22

23 ⁵ <http://www.illinoisattorneygeneral.gov/opinions/2015/15-006.pdf>

24 ⁶ *See* *Fanduel, Inc., and Head2head Sports LLC, v Madigan*, In the Circuit Court for the
Seventh Judicial District Circuit, Sangamon County, Illinois; Case No: 2015-MR-1136

25 ⁷ *Draftkings, Inc., v. Ken Paxton, Attorney General of the § State of Texas, 68th Judicial District,*
District Court, Dallas County, Texas Case No DC-16-0259.

⁸ *"A Blow to Daily Fantasy Sports in Hawaii". The Atlantic. January 28, 2016.*

1 player performance can vary, and Alabama law dictates that it is illegal to risk
 2 something of value on any game with an element of chance.⁹

3 As the individual States prohibit engaging in online DFS for each of their
 4 respective jurisdictions, it is clear that engaging in same subjects DFS Companies to
 5 criminal liability, rendering void collateral agreements which violate public policy, such
 6 as the Sponsorship Agreement, that is the subject of this litigation.
 7

8 **THE ILLEGAL GAMBLING BUSINESS ACT OF 1970**

9 The Illegal Gambling Business Act of 1970, codified in 18 U.S.C. §1955 provides:

10 a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of
 11 an illegal gambling business shall be fined under this title or imprisoned not more
 12 than five years, or both.

13 (b) As used in this section—

14 (1) “illegal gambling business” means a gambling business which—

- 15 (i) is a ***violation of the law of a State or political subdivision*** in which it is
 16 conducted;
- 17 (ii) involves five or more persons who conduct, finance, manage, supervise,
 18 direct, or own all or part of such business; and
- 19 (iii) has been or remains in substantially continuous operation for a period
 20 in excess of thirty days or has a gross revenue of \$2,000 in any single day.

21 *Id.*

22 In *United States v. Cross*, 113 F. Supp. 2d 1253 (2000) the Court noted that the
 23 offense of operating an illegal gambling business in violation of Section 1955 is a general
 24 intent crime. *See, e.g., United States v. Ables*, 167 F.3d 1021, 1031 (6th Cir.) (holding
 25 government not required to prove defendant knowingly violated state law in order to
 prove defendant conducted illegal gambling business in violation of § 1955), *cert.*

⁹ See <http://www.ago.state.al.us/News-810>

1 *denied*, 527 U.S. 1027, 144 L. Ed. 2d 781, 119 S. Ct. 2378 (1999); *United States v.*
2 *O'Brien*, 131 F.3d 1428, 1429-30 (10th Cir. 1997) (stating § 1955 "requires only a
3 general criminal intent").

4 In , *United States v. Cyprian*, 23 F.3d 1189 (7th Cir. 1994); the Seventh Circuit
5 held that the defendant's state of mind was not an essential element of the offense
6 under Section 1955. *Id. at 1199*. The court explained, "because guilt under § 1955 is
7 premised upon 'conduct,' [the defendant] did not need to know that his actions were
8 illegal; he only needed to know that he performed the acts which turned out to be
9 illegal." *Id.* Thus, the government need not prove that a defendant knowingly violated a
10 state law in order to prove the operation of an illegal gambling business in violation of 18
11 U.S.C. § 1955. *See Ables*, 167 F.3d at 1031; *O'Brien*, 131 F.3d at 1430 (holding
12 defendant need not know that gambling business violated state law); *United States v.*
13 *Hawes*, 529 F.2d 472, 481 (5th Cir. 1976) (holding intent to violate state law is not a
14 necessary element of a § 1955 crime); *United States v. Conley*, 859 F. Supp. 909, 930
15 (*W.D. Pa.* 1994) ("under Section 1955, a defendant need not be shown to have acted
16 willfully in the sense of intentionally violating a known state legal duty").
17
18

19 **DAILY FANTASY SPORTS HAS NOT BEEN LEGALIZED IN MINNESOTA**
20

21 On March 8, 2015, Minnesota State Rep. Joe Atkins announced plans for a DFS
22 bill that would lightly regulate the activity of online fantasy sports.¹⁰ In January, 2016 in
23

24 _____
25 ¹⁰ On October 1, 2015, the Federal Bureau of Investigation commenced an investigation against
the two largest DFS sites in the United States, Draft Kings and FanDuel for fraud. On October 4
2015, the largest DFS Company in the United States, DraftKings faced accusations of using

1 the 89th Legislative Session. *Bill No. 5939*¹¹, Atkins introduced H. F. No. 2426, a bill for
2 an act relating to consumer protection; regulation of fantasy sports; amending Minnesota
3 Statutes 2014, sections 297E.03, by adding a subdivision; 541.20; 541.21; 609.761, by
4 adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 325O.
5 The bill was read for the first time and referred to the Committee on Commerce and
6 Regulatory Reform. Thereafter, the bill never passed the Minnesota Legislature,
7 rendering DFS illegal in the State, and subject to the federal mandates of the UIGEA and
8 IGBA.
9

10 Prior to Atkins' introduction of the subject Legislation, the National Hockey
11 League (NHL) issued a DFS Mandate on October 12, 2015. Said mandate provides as
12 follows, "As of October 12, 2015, the NHL has updated its League mandates for all
13 Clubs with respect to their advertising and sponsorship relationships with daily fantasy
14 game operators. Under these new League mandates, Clubs may only contract with
15 Operators in compliance with ...requirements." *See Exhibit "2"*. Following said
16 Mandate, Emil Interactive, *i.e.*, Draft Ops began receiving a series of letters from other
17 hockey league teams claiming that the existing sponsorship programs are precluded by
18
19
20
21
22

23 inside information to benefit winnings on other DFS sites. The DraftKings' debacle launched a
24 nationwide scandal and lead to an investigation of whether DFS falls under the auspices of the
25 UIGEA. As a result of same the National Hockey League issued new terms on October 12, 2015.
See NHL DFS Mandate submitted herewith as Exhibit "2".

¹¹ *See Journal of the House – 89th Legislative Session, 66th Day - Tuesday, March 8, 2016 - Top of Page 5939.*

1 the NHL Mandate rendering the Sponsorship Agreements void.¹² Significantly, the
 2 mandate proclaims that Clubs may only contract with Operators in compliance with the
 3 following requirements:

- 4 • Operator must comply at all times with League rules as well as all applicable
- 5 federal, state/provincial and local laws and regulations (“Relevant Law”).
- 6 • Prior to execution of an agreement, Operator must provide Club with an
- 7 acceptable written legal opinion from its outside counsel (“Opinion”)
- 8 establishing, at minimum, that the Operator’s website platforms, fantasy
- 9 games...comply with Relevant Law, including Operator’s **general ability to**
- 10 **operate in the Club’s territory** ...
- 11 *See NHL DFS Mandate attached herein as Exhibit “2”.*

12 In light of the NHL Mandate, Plaintiffs are precluded from entering into and
 13 maintaining **ANY** advertising and sponsorship agreements with Emil Games as DFS is
 14 prohibited in Minnesota. It is significant to note, that since Minnesota did not have
 15 specific legislation ***authorizing*** online DFS, Draft Ops blocked residents of the State
 16 from accessing the Draft Ops site. Therefore, engaging in online DFS in the State of
 17 Minnesota is a crime, rendering any contracts for the promotion thereof void.

18 **1. Minnesota Criminal Code Prohibits Gambling Making it Punishable**
by both Misdemeanor and up to a Felony Sentence Depending on the
Gravity of Same.

19 Under 2015 Minnesota Statute 609.75 entitled *Gambling; definitions.*; Subd. 2,
 20 entitled *Bet* provides:

21 A bet is a bargain whereby the parties mutually agree to a gain or loss by one to
 22 the other of specified money, property or benefit dependent upon chance although
 23 the chance is accompanied by some element of skill.

24 ¹² On October 15, 2015, Draft Ops received a letter from the San Jose Sharks. Subsequently,
 25 Nevada law precludes Draft Ops from operating DFS sites in Nevada forcing Draft Ops to
 incorporate in and under the State of Delaware.

1 *See* 2015 Minn. Statute 609.75

2 Consequently, under the 2015 Minnesota Statutes, DFS is considered gambling
3 and under 2015 Minnesota Statute 609.76, the sentencing for same ranges from a gross
4 misdemeanor to a felony, depending on the gravity of engagement therein.
5

6 Therefore, enforcement of this Sponsorship Agreement would be a direct
7 ratification of criminal activity prohibited by the Minnesota Statutes and federally by
8 UIGEA, RICO and IGBA. It is imperative that this action be dismissed as it fails *ab initio*
9 against all Defendants herein.

10 **II.**

11 **LEGAL AUTHORITY**

12
13 **A. PLAINTIFFS’ COMPLAINT SHOULD BE DISMISSED AS THE**
14 **SPONSORSHIP AGREEMENT IS RENDERED VOID BASED ON THE**
PROHIBITION OF DFS IN MINNESOTA.

15 In analyzing the adequacy of a complaint under Rule 12(b)(6), the Court must
16 construe the complaint liberally and afford the plaintiff all reasonable inferences to be
17 drawn from those facts. *See Turner v. Holbrook, 278 F.3d 754, 757 (8th Cir. 2002)*. For
18 the purpose of a motion to dismiss, facts in the complaint are assumed to be true. *In re*
19 *Navarre Corp. Sec. Litig., 299 F.3d 735, 738 (8th Cir. 2002)*; *see also In re Operation of*
20 *Mo. River Sys. Litig., 418 F.3d 915, 917 (8th Cir. 2005) (citations omitted); see*
21 *also Hamm v. Goose, 15 F.3d 110, 112 (8th Cir. 1994)*. Nevertheless, dismissal
22 under Rule 12(b)(6) serves to eliminate actions that are fatally flawed in their legal
23 premises and designed to fail, thereby sparing litigants the burden of unnecessary pretrial
24
25

1 and trial activity. *See Neitzke v. Williams*, 490 U.S. 319, 326-27, 109 S. Ct. 1827, 104 L.
2 *Ed. 2d 338 (1989)*.

3 When evaluating a motion to dismiss, the Court assumes the facts in the
4 Complaint to be true and construes all reasonable inferences from those facts in the light
5 most favorable to Plaintiff. *Morton v. Becker*, 793 F.2d 185, 187 (8th Cir. 1986).
6 However, the Court need not accept as true wholly conclusory allegations, *Hanten v.*
7 *School District of Riverview Gardens*, 183 F.3d 799, 805 (8th Cir.1999), or legal
8 conclusions Plaintiff draws from the facts pled, *Westcott v. City of Omaha*, 901 F.2d
9 1486, 1488 (8th Cir. 1990). In addition, the Court ordinarily does not consider matters
10 outside the pleadings on a motion to dismiss. *See Fed. R. Civ. P. 12(d)*. The Court may,
11 however, consider exhibits attached to the complaint and documents that are necessarily
12 embraced by the pleadings, *Mattes v. ABC Plastics, Inc.*, 323 F.3d 695, 697 n.4 (8th Cir.
13 2003).

14 To survive a motion to dismiss, a complaint must contain "enough facts to state a
15 claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544,
16 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007). Although a complaint need not contain
17 "detailed factual allegations," it must contain facts with enough specificity "to raise a
18 right to relief above the speculative level." *Id. at 555*. "Threadbare recitals of the
19 elements of a cause of action, supported by mere conclusory statements," will not pass
20 muster. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868
21 (2009) (citing *Twombly*, 550 U.S. at 555). In sum, this standard "calls for enough fact[s]
22 to raise a reasonable expectation that discovery will reveal evidence of [the
23
24
25

1 claim]." *Twombly*, 550 U.S. at 556. However, at the pleading stage, the plausibility
2 requirements of *Iqbal* and *Twombly* do not require "some general and formal level of
3 evidentiary proof." *Whitney v. Guys, Inc.*, 700 F.3d 1118, 1128 (8th Cir. 2012).

4 Asking for plausible grounds . . . does not impose a probability requirement at the
5 pleading stage; it simply calls for enough facts to raise a reasonable expectation that
6 discovery will reveal evidence of" the claimed violations. *Twombly*, 550 U.S. at 556.
7 "There is no requirement for direct evidence; the factual allegations may be
8 circumstantial and 'need only be enough to nudge the claim 'across the line from
9 conceivable to plausible.'" *McDonough*, 799 F3d at 945 (quoting *Cardigan Mountain*
10 *Sch. v. New Hampshire Ins. Co.*, 787 F.3d 82, 88 (1st Cir. 2015) (quoting *Twombly*, 550
11 U.S. at 556)).
12

13 Plaintiffs' Complaint provides for three claims for relief:

14 Count I: Breach of Contract

15 Count II: Accounts Stated

16 Count III: Unjust Enrichment

17 Plaintiffs are requesting this Court enforce a contract which the terms thereof
18 would solicit criminal behavior in violation of the 2015 Minnesota Statutes making it a
19 crime in the State of Minnesota to engage in sportsbook betting, punishable as at a
20 minimum a gross misdemeanor and a maximum sentence of a felony. Notwithstanding
21 same, Plaintiffs are precluded from entering and maintaining the current Sponsorship
22 Agreement as stated in the NHL October 12, 2015 Mandate.
23
24
25

1 Plaintiffs fail to understand this jurisdictional hurdle as their Complaint
2 demonstrates, regardless of whether the facts as alleged are true and therefore their
3 Complaint must be dismissed in its entirety as detailed *infra*.

4 **B. THE SPONSORSHIP AGREEMENT HAS BEEN RENDERED INVALID**
5 **PRECLUDING ANY BREACH OF CONTRACT OF SAME BY**
6 **DEFENDANTS**

7 Under Minnesota law, courts have applied the defense of *in pari delicto* in three
8 circumstances:

9 (1) preventing enforcement of a contract the performance *of which is illegal*;
10 (2) preventing enforcement of an equitable remedy when the parties have been
11 involved in *mutually unlawful activity*; or

12 (3) use as a defense in a tort claim of one party against another.

13 [*Emphasis added*]

14 *Brubaker v. Hi-Banks Resort Corp.*, 415 N.W.2d 680, 684 (Minn. Ct. App. 1987).

15 Notably, the Court in *Brubaker* stated, "We find no cases where the doctrine was
16 used to defeat the performance of a contract which was in itself not illegal." *See*
17 *also Katun Corp. v. Clarke*, 484 F.3d 972, 978 (8th Cir. 2007) (noting that "Minnesota
18 courts will not apply the doctrine 'to defeat the performance of a contract which was in
19 itself not illegal' either on its face or in its enforcement.") *See also, Eisenrich v.*
20 *Minneapolis Retail Meat Cutters and Food Handlers Pension Plan, 42 Employee Benefits*
21 *Cas. (BNA) 1157* "[n]o court will lend its assistance in any way towards carrying out the
22 terms of an illegal contract." *Civ. No. 07-1845 (RHK/JSM), UNITED STATES DISTRICT*
23 *COURT FOR THE DISTRICT OF MINNESOTA, 2007 U.S. Dist. LEXIS 79616.*
24
25

1 If the contract is illegal, affirmative relief against it will not be granted, at law or
2 in equity, unless the contract remains executory, or unless the parties are considered not
3 in equal fault, as where the law violated is intended for the coercion of the one party, and
4 the protection of the other, or where there has been fraud or oppression on the part of the
5 defendant. *Marshall v. Lovell*, 11 F.2d 632;637 (1926) citing to *Thomas v. Richmond*, 12
6 *Wall*. 349, 355 [20 L. Ed. 453]; *Spring Co. v. Knowlton*, 103 U.S. 49 [26 L. Ed. 347];
7 *Story Eq. Jur.* § 298. When the parties are in *pari delicto*, and the contract has been fully
8 executed on the part of the plaintiff, by the conveyance of property, or by the payment of
9 money, and has not been repudiated by the defendant, it is now equally well settled that
10 neither a court of law nor a court of equity will assist the plaintiff to recover back the
11 property conveyed or money paid under the contract. *Thomas v. Richmond, supra; Ayerst*
12 *v. Jenkins*, L.R. 16 Eq. 275, 284."

15 A void contract is a contract [that] is null from the beginning if it seriously offends
16 law or public policy in contrast to a contract which is merely voidable at the election of
17 one of the parties to the contract. *Black's Law Dictionary 1574 (6th ed. 1990)*. A contract,
18 void because contrary to public policy, cannot be thus validated. Neither party is
19 estopped from questioning it because the other has parted with property or rendered
20 services in reliance upon it. *Seitz v. Michel*, 148 Minn. 80, 86, 181 N.W. 102, **; (1921)

22 A court will not directly enforce a contract or recognize it by awarding damages
23 for its breach if it is contrary to public policy, but will leave the parties where it finds
24
25

1 them, not out of consideration for the rights of either, but because the contract is injurious
2 to or contravenes some interest of society or of the state. *Id. at 87.*

3 Since it is clear from the legislative intent of the Minnesota Legislatures' January,
4 2016, legislative session that Minnesota treats DFS as a crime and so prohibits it, the
5 enforcement of the Sponsorship Agreement would be tantamount to enforcement of an
6 Agreement that engages in criminal solicitation.¹³

8 Where, after a contract is made, a party's performance is made impracticable
9 without his fault by the occurrence of an event the non-occurrence of which was a basic
10 assumption on which the contract was made, his duty to render that performance is
11 discharged, unless the language or the circumstances indicate the contrary." *United*
12 *States v. Winstar Corp.*, 518 U.S. 839, 905, 116 S. Ct. 2432 citing to *Restatement*
13 *(Second) of Contracts § 261. (1996).*

16 Therefore, it is clear that any obligations by Emil Interactive under the terms of
17 the Sponsorship Agreement are completely discharged both by virtue of the Legislative
18 Intent of the Minnesota Legislature, and the October 12, 2015 NHL Mandate precluding
19 the engagement of sponsorship of teams in DFS in states prohibiting same.
20 Notwithstanding same, enforcement of said Agreement may subject all parties to federal
21 criminal liability under the UIGEA and IGBA.
22

23
24
25 ¹³ Minn. Statute §609.352 (c) "solicit" means commanding, entreating, or attempting to persuade
a specific person in person, by telephone, by letter, or by computerized or other electronic
means.

1 **1. Enforcement of the Sponsorship Agreement May Subject Parties**
2 **Thereto To Indictment Under the Racketeering Influenced Corrupt**
3 **Organizations Act 18 U.S.C. § 1961 *Et seq.***

4 The Minnesota Legislature has specifically and deliberately prohibited DFS from
5 being legalized in the State of Minnesota through its legislature. DFS is therefore, as
6 stated *supra*, a crime punishable as a felony and therefore, subject to federal prosecution
7 under 18 U.S.C. § 1961 *Et seq.*

8 Under 18 USC § 1961 the meaning of Racketeering Activity is set out in § (1)
9 “racketeering activity” (A) any act or threat involving... gambling, which is chargeable
10 under State law and punishable by imprisonment for more than one year. Accordingly
11 Section 1084 (relating to the transmission of gambling information), and Section 1343
12 (relating to wire fraud), both involve predicate acts under RICO that can subject Emil
13 Interactive and its Operators to indictment for same.
14

15 A predicate racketeering activity involving gambling could arise as either
16 violations of Minnesota statute or as one of the enumerated provisions in Title 18, such as
17 the Wire Act, the Travel Act, the Interstate Transportation of Wagering Paraphernalia Act
18 or the IGBA. *See 18 U.S.C. § 1961(1)(A)(B)*. If internet gambling is illegal under
19 Minnesota law and/or one of the enumerated provisions of Title 18 of the United States
20 Code, then **both Emil Interactive and its Operators** could face civil action or criminal
21 prosecution under RICO.
22

23
24 ///
25

1 **(a) This Court Should Glean From The Errors of The Online Poker**
2 **Industry In Contemplation of Enforcement of this Sponsorship**
3 **Agreement.**

4 This Court should use an abundance of caution in enforcement of the foregoing
5 Sponsorship Agreement, since the activities that are the subject of this Agreement *may*
6 fall under the auspices of RICO, the UIGEA and IGBA. Despite the fact that the UIGEA
7 has left DFS regulation to the individual States; the results of enforcing a Sponsorship
8 Agreement can segue to the same results seen in the online poker industry and the fallout
9 from *Black Friday*.¹⁴

10 In the series of events, known in the poker world as *Black Friday*, federal law did
11 not provide any guidance about online poker, or any gambling other than sports betting.
12 However the Department of Justice based their indictments thereon on a New York law
13 that made it a Class A misdemeanor, punishable by up to a year in prison, to run a game
14 of chance where bets are placed within the state. Although none of the poker sites
15 were actually run out of New York¹⁵, the DOJ was able to obtain a felony indictment for
16 UIGEA violations. In addition to the 2006 UIGEA, the defendants in *Black Friday* were
17 charged with violating the Illegal Gambling Business Act of 1970 (IGBA).
18
19
20
21
22

23 ¹⁴ On Friday, April 15, 2011, the Department of Justice seized the .com internet addresses of the
24 three online gambling sites, a total of five URLs: Pokerstars.com, Fulltiltpoker.com,
25 Absolutepoker.com, Ultimatebet.com and UB.com. The DOJ seizures, along with the subsequent
indictments and convictions was known in the poker world as *Black Friday*.

¹⁵ PokerStars was based on the Isle of Man, Full Tilt Poker was in Ireland and Absolute Poker
was from Costa Rica.

1 In *United States v. Scheinberg, 10 Cr. 336 (2011)*, citing to the UIGEA, the United
2 States Department of Justice issued indictments against the founders of the three
3 largest online poker companies, PokerStars, Full Tilt Poker and Cereus (Absolute
4 Poker/Ultimatebet), and a handful of their associates (all third parties), which alleged that
5 the defendants in violation of the UIGEA and IGBA engaged in bank fraud and money
6 laundering to process transfers to and from their customers. A companion civil
7 case, *United States v. PokerStars, et al.*, 11 Civ. 2564 (2011) was filed thereon.
8

9 Following the passage of the UIGEA in 2006, the leading internet gambling
10 businesses – including the leading internet Poker Companies doing business in the United
11 States at that time – terminated their United States operations. On various dates in
12 October 2006, notwithstanding the passage of the UIGEA, the Poker Companies issued
13 public statements indicating that they intended to continue offering gambling on internet
14 poker in the United States with offshore banks not controlled by the United States
15 Congress.
16

17
18 In said Indictment, the Department of Justice, asserted actions for forfeiture under
19 Title 18 U.S.C. § 981(a)(1)(C) citing to 18 USC § 1956(c)(7) defining the term “specified
20 unlawful activity” to mean, in relevant part, “any act or activity constituting an offense
21 listed in section 1961(1) of this [*sic*] title. . . .” Among the specified unlawful activity set
22 forth in 18 U.S.C. § 1961(1) is 18 U.S.C. § 1955 which provides, “[A]ny property,
23 including money, used in [*an illegal gambling business*] may be seized and forfeited to
24 the United States.” Additionally, Title 18, USC, § 981(a)(1)(C) subjects to forfeiture:
25

1 Any property, real or personal, which constitutes or is derived from proceeds traceable to
2 a violation of section . . . 1344 of this title or any offense constituting ‘specified unlawful
3 activity’ (as defined in section 1956(c)(7) of this title), **or a conspiracy to commit such**
4 **offense.** [*Emphasis added*].

5
6 Furthermore, Count II of the Information also for Forfeiture under 18 U.S.C. §
7 981(a)(1)(C) in accordance with the Bank and Wire Fraud statutes, namely Title 18,
8 USC § 1343¹⁶, *cites to* 18 USC § 1349, provides that “[A]ny person who attempts **or**
9 **conspires to commit** any offense under this chapter, including Sections 1343 and 1344¹⁷
10 shall be subject to the same penalties as those prescribed for the offense, the commission
11 of **which was the object of the attempt or conspiracy.** [*Emphasis added*].
12

13 As a result of the indictments in *United States v Scheinberg*, eight individuals were
14 convicted of felonies associated therewith. Additionally, a settlement was reached
15 between the Department of Justice and PokerStars, wherein Pokerstars agreed to pay
16 \$731 million to settle the U.S. government’s civil charges that the company used
17
18

19 ¹⁶ 18 USC § 1343, provides that “[W]hoever, having devised or intending to devise any scheme
20 or artifice to defraud, or for obtaining money or property by means of false or fraudulent
21 pretenses, representations, or promises, transmits or causes to be transmitted by means of wire . . .
22 . in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the
23 purpose of executing such scheme or artifice shall be guilty of a crime.

24 ¹⁷ 18 USC §1344 provides in relevant part that: Whoever knowingly executes, or attempts to
25 execute, a scheme or artifice– (1) to defraud a financial institution; or (2) to obtain any of the
moneys, funds, credits, assets, securities, or other property owned by, or under the custody or
control of, a financial institution, by means of false or fraudulent pretenses, representations, or
promises; shall be guilty of a crime.

1 fraudulent methods to process payments and evade U.S. restrictions on Internet gambling.
2 The settlement also called for PokerStars to forfeit \$547 million to the U.S. government
3 and make \$184 million available to reimburse non-U.S. customers of Full Tilt within 90
4 days who had money on deposit at the company.

5
6 It is therefore exceedingly important that this Court use both an abundance of
7 caution and great deliberation when contemplating the enforcement of this Sponsorship
8 Agreement as this Court cannot insure *with any degree of certainty* that the subject
9 Sponsorship Agreements will not be subject to and/or contemplated as prohibited
10 criminal activities under RICO, the UIGEA and the IGBA.

11
12 **C. PLAINTIFFS ARE PRECLUDED FROM ASSERTING A PERSONAL**
13 **ACTION AGAINST DEFENDANTS RONALD M. DOUMANI AND FULL**
14 **BOAT LLC**

15 Even *assuming arguendo*, that this Court seeks to enforce the Sponsorship
16 Agreement despite the criminal prohibitions and ramifications thereof, Plaintiffs are
17 precluded from piercing the corporate veil as stated herein. Plaintiffs seek to pierce the
18 corporate veil to reach members of Emil Interactive Games, LLC, namely Full Boat, LLC
19 and Ronald M. Doumani, individually. Plaintiffs are precluded from doing so as stated in
20 detail *infra*.

21 Plaintiffs' Complaint asserts that Emil Interactive entered into an Agreement by
22 and through Manager Defendant Full Boat, LLC. *See Complaint* ¶ 5. Defendant Doumani
23 signed the Agreement on behalf of Defendant Interactive Games. *Id. at* ¶9. Plaintiffs'
24 Complaint further alleges that Defendant Interactive Games, was dissolved with the
25

1 Secretary of State on October 16, 2015. *Id. at* ¶10. Further alleging that as Defendant
2 Interactive Games, not being in good standing, the Agreement therefore, would be
3 enforceable against its Managers Full Boat, LLC and President and signatory of the
4 Agreement Ronald Doumani. *Id. at* ¶11-12.

5 Plaintiffs' allegations are completely meritless and provide this Court with no
6 evidence of same. First and foremost, by Plaintiffs' own statements conceding that at the
7 time the subject Agreement was signed, Emil Interactive Games, LLC was a Nevada
8 Limited Liability Company in good standing with the Secretary of State of Nevada.
9

10 On October 15, 2015, the Nevada Gaming Control Board issued Notice #2015-99
11 notifying the public and all licensees in the State that DFS meets the definition of
12 gambling pursuant to Chapter 463¹⁸ of the Nevada Revised Statutes. Accordingly all DFS
13 operators in the State of Nevada were ordered to cease and desist all DFS operations in
14 the State. *See* NGCB Notice # 2015-99 submitted herewith as *Exhibit "3"*.
15
16
17

18 ¹⁸ NRS 463.0153 entitled "Gaming" and "gambling" defined, provides, "Gaming" or
19 "gambling" means to deal, operate, carry on, conduct, maintain or expose for play any game as
20 defined in NRS 463.0152, or to operate an inter-casino linked system.
21 NRS 463.0152 "Game" and "gambling game" defined. "Game" or "gambling game" means
22 any game played with cards, dice, equipment or any mechanical, electromechanical or electronic
23 device or machine for money, property, checks, credit or any representative of value, including,
24 without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fan-tan,
25 twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese
chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker,
panguingui, slot machine, any banking or percentage game or any other game or device approved
by the Commission, but does not include games played with cards in private homes or residences
in which no person makes money for operating the game, except as a player, or games operated
by charitable or educational organizations which are approved by the Board pursuant to the
provisions of NRS 463.409.

1 As Operators of Emil Interactive, knew that there would be a high probability of
2 the State of Nevada's Gaming Control Board requiring licensees in the State to obtain
3 gaming licenses for operation of DFS, as a precautionary measure Emil Interactive
4 converted their Nevada Limited Liability Company to a State of Delaware Limited
5 Liability Company. *See* State of Delaware Certificate of Conversion dated September 10,
6 2015 submitted herewith as *Exhibit "4"*.

7
8 Therefore, it is clear that Emil Interactive is and at all times relevant herein, was a
9 Delaware Limited Liability Company in good standing with the State of Delaware.
10 Accordingly, Plaintiffs' arguments regarding same fail both substantively and
11 procedurally and the actions against both Ronald Doumani and Full Boat, LLC must be
12 dismissed.

13
14 The remedy of veil-piercing "is generally not available absent proof of the
15 [officer's] fraudulent or wrongful use of the corporate form." *In re Intelefilm Corp.*, 301
16 *B.R.* 327, 331 (*Bankr. D. Minn.* 2003). Generally, an officer of a corporation cannot be
17 held personally liable for the actions of the corporation. *Rockney v. Blohorn*, 877 *F.2d*
18 637, 642 (*8th Cir.* 1989) ("It is hornbook law that a corporate employee functioning
19 purely as such acts not *as* but solely *for* the corporate employer."; *see also United States*
20 *v. Martin*, 337 *F.2d* 171, 175 (*8th Cir.* 1964) "A corporation is an entity separate and
21 distinct from its stockholders and the persons controlling it.". Whether to pierce a
22 corporate veil and hold an officer personally liable is a legal determination that is
23 governed by state law. *See Minn. Power v. Armco., Inc.*, 937 *F.2d* 1363, 1367 (*8th Cir.*
24 1991).
25

1 Under Minnesota law, piercing the corporate veil requires a court to: 1) analyze
2 whether the corporation functioned as the mere instrumentality of the principals a party is
3 attempting to reach by piercing the corporate veil, and 2) determine whether injustice or
4 fundamental unfairness would occur if the corporate veil were left intact. Whereas the
5 first prong involves questions of fact, the second prong raises equitable considerations.
6 *Stoebner v. Lingenfelter*, 115 F.3d 576, 579 (8th Cir.1997); see also *Victoria Elevator*
7 *Co. v. Meriden Grain Co.*, 283 N.W.2d 509, 512 (Minn. 1979).

9 In *Victoria Elevator Co. v. Meriden Grain Co.*, 283 N.W.2d 509, the Minnesota
10 Supreme Court found that in their application of the “alter ego” or “instrumentality
11 theory”, Courts are concerned with reality and not form, with how the corporation
12 operated and the individual defendant's relationship to that operation.

14 Factors considered significant in the determination include: insufficient
15 capitalization for purposes of corporate undertaking, failure to observe corporate
16 formalities, nonpayment of dividends, insolvency of debtor corporation at time of
17 transaction in question, siphoning of funds by dominant shareholder, nonfunctioning of
18 other officers and directors, absence of corporate records, and existence of corporation as
19 merely facade for individual dealings. **Disregard of the corporate entity requires not**
20 **only that a number of these factors be present, but also that there be an element of**
21 **injustice or fundamental unfairness.** [Emphasis added] *Id.* at 512 (Minn. 1979) Citing
22 *to DeWitt Truck Brokers, Inc. v. W. Ray Flemming Fruit Co.*, 540 F.2d 681, 684, 685,
23 687 (4 Cir. 1976).
24
25

1 Accordingly, the subject Agreement itself can only be enforced against the Parties
2 who entered into same. The Sponsorship Agreement specifically provides in its preamble
3 the following:

4 This Sponsorship Agreement ...is entered into as of September 4, 2015, by and
5 between Emil Interactive Games, LLC (Sponsor) and Minnesota Wild
6 Hockey Club, LP, a Minnesota limited Liability Company (Company)
7 *See Exhibit "1"*

8 Further, Paragraph 20 of the Agreement provides that notices shall be sent to Emil
9 Interactive Games, LLC (headquartered at 3535 Executive Terminal Drive Suite 110,
10 Henderson NV 89052, Attn: Ron Doumani CEO). The contracted Parties to this
11 Agreement are Emil Interactive Games, LLC and Minnesota Wild Hockey Club, LP.

12 There is no indication that there is any personal liability or guarantee by any individuals
13 on behalf of Emil Interactive Games, LLC.

14
15 As stated *supra*, Plaintiffs' Complaint involves three claims for relief, 1) Breach of
16 Contract; 2) Unjust Enrichment; and 3) Accounts Stated. None of Plaintiffs' claims for
17 relief allege any type of fraud or deceptive actions on behalf of Emil Interactive or Mr.
18 Doumani. Further, none of the allegations in Plaintiffs' Complaint mention any element
19 of injustice or fundamental unfairness that would sway this Court to allow this matter to
20 proceed against the two Defendants whom are non-parties to this Agreement.
21

22
23 Plaintiffs' request to pierce the corporate veil rests only on their contention that
24 Emil Interactive was not a corporation in good standing and therefore, the corporate veil
25 should be pierced and members of said limited liability company should be held

1 personally under the terms of the Agreement. As demonstrated by the Certificate of
2 Conversion with the State of Delaware, Emil Interactive Games is and was, at all times
3 relevant herein, in good standing with the State of Delaware. Therefore, Plaintiffs'
4 argument to maintain this action against Full Boat, LLC and Ronald M. Doumani fails *ab*
5 *initio* and must be dismissed as against Defendant Ronald M. Doumani and Full Boat,
6 LLC.

7
8 **D. PLAINTIFFS ARE SEEKING REMEDIES AND DAMAGES FOR**
9 **ALLEGED BREACH OF THE SPONSORSHIP AGREEMENT**
10 **PRECLUDING THEM FROM RECOVERY UNDER THE THEORY OF**
11 **UNJUST ENRICHMENT**

12 The existence of an express contract precludes recovery under the theories of
13 quasi-contract, unjust enrichment, or quantum meruit." *Sterling Capital Advisors v.*
14 *Herzog*, 575 N.W.2d 121, 126 (Minn. Ct. App. 1998). A claim for unjust enrichment
15 requires that another party knowingly received something of value to which he was not
16 entitled, and that the circumstances are such that it would be unjust for that person to
17 retain the benefit." *Kaylor v. Bank of Am., N.A.*, No. 12-1586, 2012 U.S. Dist. LEXIS
18 176686, 2012 WL 6217443 (D. Minn. Dec. 13, 2012).

19
20 The elements of an unjust enrichment claim" under Minnesota law "are: (1) a
21 benefit conferred; (2) the defendant's appreciation and knowing acceptance of the benefit;
22 and (3) the defendant's acceptance and retention of the benefit under such circumstances
23 that it would be inequitable for him to retain it without paying for it." *Dahl v. R.J.*
24 *Reynolds Tobacco Co.*, 742 N.W.2d 186, 195 (Minn. Ct. App. 2007).
25

1 Since Plaintiffs are bringing this action for the enforcement of the terms of an
2 express contract, the Sponsorship Agreement, Plaintiffs are precluded from recovery
3 under their third claim for relief for Unjust Enrichment. Therefore, this Court must
4 dismiss same against all Defendants herein.

5
6 **E. THIS COURT SHOULD DISMISS PLAINTIFFS' CLAIM FOR RELIEF
FOR ACCOUNT STATED**

7 An account stated is a manifestation of assent by a debtor and creditor to a stated
8 sum as an accurate computation of an amount due the creditor. A party's retention
9 without objection for an unreasonably long time of a statement of account rendered by
10 the other party is a manifestation of assent." *Am. Druggists Ins. v. Thompson Lumber*
11 *Co.*, 349 N.W.2d 569, 573 (Minn. Ct. App. 1984).
12

13
14 Plaintiffs assert that under the terms of the Agreement, Emil Interactive was to
15 make 3 payments in the sum amount of \$1,104,636.00 pursuant to a schedule attached as
16 Exhibit "B" to Plaintiffs' Complaint. Plaintiffs assert that the total amount of the
17 Sponsorship Agreement is due despite the terms of the contract being prohibited under
18 the NHL Mandate and subject to criminal liability under the UIGEA and IGBA as stated
19 *supra*.
20

21 Plaintiffs are requesting this Court award them contractual damages in the full
22 amount due under the Sponsorship Agreement, *to wit*: \$1,104,636.00. This claim for
23 relief should be dismissed in its entirety for all the reasons stated *supra* and incorporated
24 by reference herein. Plaintiffs cannot be compensated for a Sponsorship Agreement for
25

1 conduct that is prohibited in the State of Minnesota. Such an utterly absurd idea would
2 open the door for potential indictments for all parties for criminal conspiracy, solicitation
3 and perhaps a more grave result of indictment under the, Racketeer Incorporated Corrupt
4 Organizations Act, 18 U.S.C. § 1961 et seq.; the Unlawful Internet Gambling
5 Enforcement Act of 2006 (UIGEA) 31 U.S.C. §§ 5361–5367; and the Illegal Gambling
6 Business Act of 1970, 18 U.S.C. § 1955.
7

8 The Minnesota Legislature has specifically and deliberately prohibited DFS from
9 being legalized in the State of Minnesota through its legislature. DFS is therefore, as
10 stated *supra*, a crime punishable as a felony and therefore, subject to federal prosecution
11 under 18 U.S.C. § 1961 *et. cet.*; 31 U.S.C. §§ 5361–5367; 18 U.S.C. § 1955.
12

13 Plaintiffs’ attempts to have this Court enforce the payment of fees under an
14 unlawful contract is absolutely preposterous and the furtherance of such an idea by the
15 initiation of a lawsuit against Emil Interactive *Et Al* should be sanctioned under Federal
16 Rules of Civil Procedure. Plaintiffs’ Complaint, viewed under the totality of
17 circumstances associated with the Sponsorship Agreement is a vapidly bold attempt to
18 collect payment on an illicit agreement at the expense of subjecting all Parties to criminal
19 liability thereon.
20
21

22 Accordingly, Plaintiffs’ second claim for relief for Accounts stated must be
23 dismissed in its entirety.
24

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

III.

CONCLUSION

In light of the arguments stated *supra* and the facts and circumstances preventing the enforcement of this Agreement, this action must be dismissed in its entirety against all Defendants. A failure to do so and enforcement thereof, would offend both federal law and public policy. Further the potential for federal criminal liabilities outweighs the benefits of enforcing payment and the terms of the subject Agreement. Therefore, this action should be dismissed against all Defendants herein.

Respectfully submitted this 1st day of June, 2016

CHATTAH LAW GROUP

/S/ CHATTAH

SIGAL CHATTAH, ESQ.
Nevada Bar No.: 8264
CHATTAH LAW GROUP
5875 S. Rainbow Blvd. #204
Las Vegas, Nevada 89118
Tel: (702) 360-6200
Fax: (702) 643-6292
Chattahlaw@gmail.com
Attorney for Defendants
Emil Interactive Games LLC Et Al

LR 7.1(f) & LR 72.2(d)

CERTIFICATE OF COMPLIANCE

I, SIGAL CHATTAH, ESQ. certify that the Memorandum titled
MEMORANDUM IN SUPPORT OF MOTION TO DISMISS UNDER FRCP 12(B)(6)
complies with Local Rule 7.1(f). I further certify that, in preparation of the above
document, I used Microsoft word and this word processing program has been applied
specifically to include all text, including headings, footnotes, and quotations in the
following word count. I further certify that the above document contains the following
number of words: 7,388.

Dated this 1st day of June, 2016.

CHATTAH LAW GROUP

/S/ CHATTAH
SIGAL CHATTAH, ESQ.
Nevada Bar No.: 8264
CHATTAH LAW GROUP
5875 S. Rainbow Blvd. #204
Las Vegas, Nevada 89118
Tel: (702) 360-6200
Fax: (702) 643-6292
Chattahlaw@gmail.com
Attorney for Defendants
Emil Interactive Games LLC Et Al