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6 Attorneys for Plaintiffs
VIDEO GAMING TECHNOLOGIES, INC.,
7 UNITED CEREBRAL PALSY OF GREATER
SACRAMENTO, WIND YOUTH SERVICES,
8 ROBERT FOSS, and JOAN SEBASTIANI

9 ADDITIONAL COUNSEL LISTED ON
10 FOLLOWING PAGE

11 UNITED STATES DISTRICT COURT

12 EASTERN DISTRICT OF CALIFORNIA

13 VIDEO GAMING TECHNOLOGIES,
INC., dba VGT, Inc., a Tennessee
14 Corporation; UNITED CEREBRAL
PALSY OF GREATER
15 SACRAMENTO, a California Non-
Profit Corporation; WIND Youth
16 Services, a California Non-Profit
Corporation; ROBERT FOSS, an
17 individual; and JOAN SEBASTIANI, an
individual,

18 Plaintiffs,

19 v.

20 BUREAU OF GAMBLING
21 CONTROL, a law enforcement division
of the California Department of Justice;
22 MATHEW J. CAMPOY, in his official
capacity as the Acting Chief of the
23 Bureau of Gambling Control; and JOHN
MCGINNESS, in his official capacity as
24 the Sacramento County Sheriff,

25 Defendants,

26 AND RELATED INTERVENORS.
27

CASE NO. 2:08-cv-01241-JAM-EFB

VIDEO GAMING TECHNOLOGIES, INC.'S
NOTICE OF MOTION AND MOTION TO
DISMISS ITS CLAIMS WITH PREJUDICE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF

Judge: Hon. John A. Mendez

Date: January 14, 2008

Time: 9:00 a.m.

Dept.: 6

Judge: Hon. John Mendez

[Hearing reserved]

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ADDITIONAL COUNSEL

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on January 14, 2009, at 9:00 a.m., or as soon thereafter as the matter may be heard, in Department 6 of the above-entitled Court, located at 501 I Street, Fourth Floor, Sacramento, California, plaintiff Video Gaming Technologies (“VGT”) will and hereby does move this Court for an order dismissing VGT’s claims with prejudice.

VGT no longer wishes to continue prosecuting this action and seeks to withdraw as a plaintiff as soon as possible. This motion is made pursuant to Federal Rule of Civil Procedure 41(a)(2). VGT’s motion does not affect the claims of the other plaintiffs, which plaintiffs may continue prosecuting this action.

This motion is based on this Notice and Motion, the accompanying memorandum of points and authorities and the authorities cited therein, the accompanying Declaration of Todd McTavish, all pleadings and papers on file in this action, and any such other matters as this Court deems appropriate at or before the hearing on this motion.

Dated: December 4, 2008

STEVENS & O’CONNELL LLP

By /s/ Matthew G. Jacobs

MATTHEW G. JACOBS
ALEXANDER M. MEDINA
Attorney for Plaintiffs
VIDEO GAMING TECHNOLOGIES, INC.,
UNITED CEREBRAL PALSY OF GREATER
SACRAMENTO, WIND YOUTH SERVICES,
ROBERT FOSS, and JOAN SEBASTIANI

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MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff Video Gaming Technologies, Inc. (“VGT”) no longer wishes to prosecute this action and seeks to withdraw as a plaintiff as soon as possible. (Declaration of Todd McTavish (“McTavish Decl.”), ¶ 2.) Federal Rule of Civil Procedure 41(a)(2) permits a court to dismiss a plaintiff’s action upon that plaintiff’s request. The remaining plaintiffs do not wish to dismiss their claims.¹ Accordingly, VGT respectfully requests that the Court enter an order dismissing VGT’s claims with prejudice.

Dated: December 4, 2008

STEVENS & O’CONNELL LLP

By /s/ Matthew G. Jacobs
MATTHEW G. JACOBS
ALEXANDER M. MEDINA
Attorney for Plaintiffs
VIDEO GAMING TECHNOLOGIES, INC.,
UNITED CEREBRAL PALSY OF GREATER
SACRAMENTO, WIND YOUTH SERVICES,
ROBERT FOSS, and JOAN SEBASTIANI

¹ VGT has informed the other plaintiffs that it wishes to withdraw from this case, and VGT is in the process of attempting to obtain the consent of all parties to file a stipulation for the dismissal of VGT’s claims with prejudice. (McTavish Decl., ¶ 3.) If VGT is able to obtain that consent, it will file that stipulation and withdraw this motion. (*Id.*)

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MCGINNESS, in his official capacity as
24 the Sacramento County Sheriff,

25 Defendants,

26 AND RELATED INTERVENORS.
27

CASE NO. 2:08-cv-01241-JAM-EFB

DECLARATION OF TODD MCTAVISH IN
SUPPORT OF VIDEO GAMING
TECHNOLOGIES, INC.'S MOTION TO
DISMISS ITS CLAIMS WITH PREJUDICE

Judge: Hon. John A. Mendez

Date: January 14, 2008

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1 I, TODD MCTAVISH, declare as follows:

2 1. I am the chief legal officer of Video Gaming Technologies, Inc. ("VGT"), a
3 plaintiff in the above-captioned action. I have personal knowledge of the facts stated herein
4 and would be able to testify competently to these facts if called as a witness.

5 2. For confidential business reasons, VGT no longer wishes to prosecute this
6 action and seeks to withdraw as a plaintiff as soon as possible. I have thus authorized
7 VGT's outside legal counsel to seek an order dismissing VGT's claims with prejudice.

8 3. VGT has informed the other plaintiffs in this action that it wishes to withdraw
9 from this case, and VGT is in the process of attempting to obtain the consent of all parties to
10 file a stipulation for the dismissal of VGT's claims with prejudice. If VGT is able to obtain
11 that consent, it will file that stipulation and withdraw VGT's Motion to Dismiss Its Claims
12 With Prejudice.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct and that this declaration was executed on December 4, 2008 at
15 Brentwood, Tennessee.

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17 /s/ Todd McTavish
18 TODD MCTAVISH

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