

## DISPOSITION AGREEMENT

This Disposition Agreement (“Agreement”) is entered into on January 17, 2017 by and between the Office of Campaign and Political Finance (“OCPF”) and the Respondents, the Horse Racing Jobs and Education Committee (“the Committee”), Capital Productions, LLC (“Capital Productions”), and Miami Development Concepts, LLC (“Miami Development”) in which the parties mutually agree, for the purposes of this Agreement only, as follows:

### I. INTRODUCTION

1. The Horse Racing Jobs and Education Committee is a ballot question committee registered with OCPF and is subject to the provisions of M.G.L. c. 55, the Massachusetts campaign finance law. The Committee’s stated purpose was to support a ballot question that would expand the number of gaming licenses in Massachusetts (Question 1 on the November 2016 state election ballot). At all times relevant to this Agreement, Eugene McCain (“McCain”) served as the duly-appointed Chairman and Treasurer of the Committee.

2. Capital Productions is a limited liability company registered in Delaware, incorporated on September 28, 2015.

3. Miami Development is a limited liability company registered in Florida, incorporated on March 9, 2016.

4. OCPF has the authority to review and investigate the legality, validity, completeness, and accuracy of all reports required to be filed and all actions required to be taken by political committees, candidates, campaign treasurers, and any other person pursuant to M.G.L. c. 55 or any other laws of the Commonwealth relative to campaign contributions and expenditures.

5. The political contributions, expenditures, and other activities noted in this Agreement are subject to the provisions of M.G.L. c. 55 and the regulations issued by this office in accordance with M.G. L. c. 55.

### II. FACTS

1. The Committee raised funds and received contributions to influence the anticipated ballot question prior to filing a Statement of Organization or initial report. According to campaign finance reports eventually filed by the Committee, the first contribution was received on September 15, 2015.

2. OCPF's standard practice is to contact individuals who are listed as sponsors of initiative petitions. The petitions are filed with the Attorney General's office. Since McCain sponsored the petition that led to Question 1, OCPF contacted McCain on August 14, 2015 and on several occasions thereafter to advise him of the requirement to file a Statement of Organization and initial campaign finance report before raising funds to support the ballot question.

3. The Committee did not file a Statement of Organization, however, until February 18, 2016, and the Committee's initial report was not filed until April 21, 2016 (more than seven months after its initial activity). The initial report reflected substantial activity.

4. Because all of the contributions to the Committee, except for several small contributions from McCain, were disclosed as being made by Capital Productions, a new entity with no known activity other than contributing to the Committee, OCPF became concerned and initiated an investigation. The investigation was intended to determine if the reports disclosed the true source of contributions.

5. OCPF learned, during the course of its investigation, that Capital Productions was created solely for the purpose of raising money to support Question 1. In contrast, Miami Development was a preexisting entity created for multiple business purposes.

6. The Committee's reports disclosed total monetary and in-kind contributions in the amount of \$1,646,859.93 between September 15, 2015 and October 15, 2016. Based on the reports as originally filed, all but \$2,322.00 of this amount was received from Capital Productions. In addition, Alliance Capital, MA made an in-kind contribution of \$1,872.00, and Eugene McCain contributed \$450.00.

7. The Committee, after it was contacted by OCPF, promptly amended its reports to disclose the true source of \$1,644,537.93 in contributions received between September 15, 2015 and October 15, 2016. The originally filed reports disclosed Capital Productions to be the sole contributor of the \$1,644,537.93. All of the contributions that had originally been reported as from Capital Productions during this period, however, were actually from four investors:

- (a) Regent Able Associate Co. contributed \$854,537.93 ("thru Miami Development")
- (b) Bridge Capital, LLC contributed \$390,000.00
- (c) Sok Chenda contributed \$200,000.00
- (d) Toko Kobayashi contributed \$200,000.00

8. The Committee, upon being notified by OCPF of the need to amend reports to accurately reflect the true source of contributions received from Regent Able (thru Miami

Development), Bridge Capital, Sok Chenda, and Toko Kobayashi, amended the reports as requested. The amendments were filed on November 2, 2016. *See* Exhibit 1.

9. While OCPF was conducting its investigation into the accuracy of the Committee's reports, OCPF also became aware that the Committee was broadcasting television advertisements supporting Question 1 which did not contain any information identifying the top contributors to the Committee. The advertisements contained a disclaimer indicating only that the advertisements were "paid for by the Horse Racing Jobs & Education Committee" notwithstanding the requirement, in Section 18G of the campaign finance law, for a disclaimer identifying the "top contributors" to the Committee.

10. The Committee has acknowledged that during the period October 18, 2016 through October 30, 2016, it broadcast over 400 television ads. None of the ads disclosed top contributor information that was required by Section 18G. After the Committee was advised by OCPF of the requirement, however, the Committee immediately arranged, on October 31, to stop the advertisements until the required disclaimer could be added.

11. Question 1 was rejected by the voters in the November 8, 2016 election.

### **III. OCPF CONCLUSIONS**

1. CONTRIBUTIONS MADE IN A MANNER INTENDED TO DISGUISE THE TRUE SOURCE OF THE CONTRIBUTIONS (THE COMMITTEE, CAPITAL PRODUCTIONS AND MIAMI DEVELOPMENT) – M.G.L. c. 55, § 10

Section 10 of the campaign finance law states that contributions may not be made in a manner that disguises the true source of the contribution, nor shall any political committee knowingly accept contributions whose true source has been disguised. The Committee violated M.G.L. c. 55, § 10 by accepting and reporting contributions from Capital Productions and Miami Development when the Committee knew that the contributions originated with funds from entities and individuals that channeled their contributions through Miami Development and Capital Productions. Capital Productions and Miami Development also violated Section 10 by making contributions to the Committee in a manner intended to disguise the true source of the funds used to make the contributions.

2. TELEVISION ADVERTISEMENTS NOT CONTAINING REQUIRED DISCLAIMERS (THE COMMITTEE) – M.G.L. c. 55, § 18G

Section 18G of the campaign finance law states, in relevant part, that advertisements purchased to influence or affect the vote on a question submitted to the voters, which is transmitted through paid television advertising “shall include a written statement at the bottom of the advertisement that contains the words “Top Contributors” and a written statement that lists the 5 persons or entities or, if fewer than 5 persons or entities, all such persons or entities, that made the largest contributions to that entity regardless of the purpose for which the funds were given; provided, however, that only contributions in excess of \$5,000 reportable under this chapter during the 12-month period before the date of the advertisement or communication shall be listed...”. The Committee failed to comply with this requirement from October 18 through October 30, 2016, because television advertisements during that period did not contain a required “top contributor” disclaimer. The top contributor information was required because four individuals or entities each contributed more than \$5,000 during the twelve-month period prior to the date of the ads.

3. FAILURE TO ORGANIZE AS A POLITICAL COMMITTEE (CAPITAL PRODUCTIONS) AND FAILURE TO ORGANIZE IN A TIMELY MANNER (THE COMMITTEE) -- M.G.L. c. 55, §§ 1 AND 5

Section 1 of the campaign finance law defines a political committee as “any committee, association, organization, or other group of persons...which receives contributions or makes expenditures for the purpose of ... opposing or promoting a ... question submitted to the voters.” Section 5 requires that “each political committee shall organize by filing with the director...a statement of organization.” Capital Productions, by soliciting and receiving funds from Bridge Capital, Regent Able, and Alliance Capital, for the purpose of making expenditures (in the form of contributions to the Horse Racing Jobs and Education Committee) to influence a Massachusetts election, was itself a political committee within the meaning of the Massachusetts campaign finance law. Capital Productions was therefore required to register with OCPF prior to soliciting and receiving funds for a political purpose; by failing to do so, Capital Productions violated M.G.L. c. 55, §§ 1 and 5. In addition, because the Horse Racing Jobs and Education Committee received its first contribution on September 15, 2015, but did not file a Statement of Organization until February 18, 2016, the Committee did not organize in a timely manner.

4. FAILURE TO DISCLOSE CAMPAIGN FINANCE ACTIVITY IN A TIMELY OR ACCURATE MANNER (THE COMMITTEE AND CAPITAL PRODUCTIONS) – M.G.L. c. 55, § 18

Section 18 of the campaign finance law requires that political committees file accurate reports of contributions and expenditures with OCPF. The Committee and Capital Productions violated M.G.L. c. 55, § 18 when they failed to file timely or accurate campaign finance reports disclosing the true contributors.

**IV. HORSE RACING JOBS AND EDUCATION COMMITTEE'S,  
CAPITAL PRODUCTIONS, LLC'S, AND MIAMI DEVELOPMENT CONCEPTS, LLC'S RESPONSE**

Having read the OCPF report, the Chairman, the Committee accepts that it accurately reflects the circumstances and accepts the Penalties. The Committee would like to add that it was always their intention to comply with Massachusetts Campaign Finance and Disclosure laws and that the recent changes in the Massachusetts disclosure laws led to the misunderstandings.

**V. RESOLUTION**

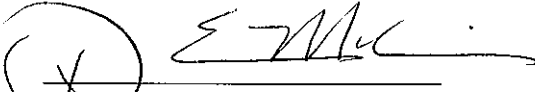
In order to resolve the matters now before OCPF the parties agree, pursuant to 970 CMR 3.07(1) and M.G.L. c. 55, § 3, for the purposes of this Agreement only, as follows:

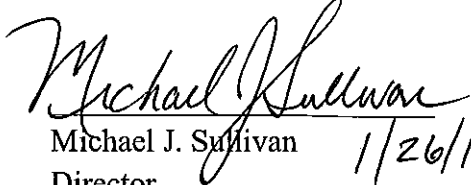
1. The Committee will make a payment to the Commonwealth of Massachusetts in the amount of \$125,000, in the nature of a civil forfeiture, pursuant to the following schedule: \$50,000 on the date of execution of this Agreement, \$25,000 no later than February 28, 2017; \$25,000 no later than March 31, 2017, and \$25,000 no later than April 30, 2017.
2. The Committee will file a dissolution report and dissolve after paying the full \$125,000 civil forfeiture.
3. OCPF agrees not to refer any of the respondents or any person associated with any of the respondents, including but not limited to its owners and officers, to any other governmental agency, including without limitation, the Office of the Attorney General, for any failure to comply with the provisions of M.G.L. c. 55 during 2015 and 2016.
4. OCPF may, at any time, review compliance with this Agreement. If it believes that the Agreement has been violated, after notice to the respondents through the persons signing the Agreement, OCPF may, notwithstanding the provisions of the foregoing paragraph, proceed with any action consistent with M.G.L. c. 55 or otherwise authorized by law.

5. This Agreement shall be binding upon OCPF, the Respondents, and their successors.
6. This Agreement constitutes a complete disposition of all matters referenced in this Agreement.
7. The parties have entered into this Agreement, knowingly and voluntarily, in an effort to resolve all matters set forth in the Agreement. It is an agreement, each party preserving their respective positions, and not a final adjudication of the merits of those positions.
8. This Agreement is a public record under Section 7 of M.G.L. c. 4 and shall be subject to public inspection as required by Section 10 of M.G.L. c. 66.

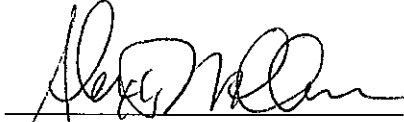
HORSE RACING JOBS  
AND EDUCATION COMMITTEE

OFFICE OF CAMPAIGN  
AND POLITICAL  
FINANCE

By:   
Eugene McCain  
Chairman and Treasurer

By:   
Michael J. Sullivan  
Director 1/26/17

CAPITAL PRODUCTIONS, LLC  
and MIAMI DEVELOPMENT CONCEPTS, LLC

By:   
Their attorney,  
Alexis Fallon, Esq.