

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

INTERACTIVE MEDIA  
ENTERTAINMENT & GAMING  
ASSOCIATION, INC.,

**Civil No. 0:09-cv-01065-JNE-JJG**

Plaintiff,

**NOTICE OF DISMISSAL WITHOUT  
PREJUDICE**

vs.

JOHN WILLEMS, in his official capacity  
as Director of the Alcohol and Gambling  
Enforcement Division of the Minnesota  
Department of Public Safety,

Defendant.

**Background**

1. Defendant John Willems is the director of the Alcohol and Gambling Enforcement Division (“AGED”) of the Minnesota Department of Public Safety (“DPS”), sued in his official capacity.
2. On or about April 24, 2009, Mr. Willems, acting in his capacity as director of AGED, sent notices to eleven national and regional companies with a list of nearly 200 “online gambling sites” and instructed the companies “to block access to these sites by customers located within Minnesota.”
3. Plaintiff, Interactive Media Entertainment and Gaming Association, Inc. (“iMEGA”), challenged those notices by filing this action on May 6, 2009, seeking

declaratory and injunctive relief. Plaintiff asserted claims under the First and Fourteenth Amendments to the U.S. Constitution and under federal statutory law, specifically 18 U.S.C. § 1084 and 42 U.S.C. § 1983.

4. At Defendant's request, the parties stipulated to an extension of time until June 9, 2009, for Defendant to respond to the complaint. The Court granted that extension on May 26, 2009.

5. Since early May, attorneys for Plaintiff and Defendant have been discussing an amicable resolution of this litigation. As a result of those discussions, the parties are taking the following steps to resolve the current dispute.

6. Defendant has agreed to withdraw the notices he sent on April 24, 2009. Defendant is sending withdrawal letters to all recipients of the April 24 notices. An exemplar of the withdrawal letters is attached hereto as Exhibit A.

7. In the withdrawal letters, Defendant states that he does not anticipate sending similar notice letters in the future.

8. Plaintiff accordingly has concluded that Defendant has addressed the immediate threats of harm to iMEGA's interests that led Plaintiff to commence this action and Plaintiff further has concluded that it is not necessary to continue to pursue this litigation at this time.

#### **Notice of Dismissal**

As a result of the foregoing developments, iMEGA hereby voluntarily dismisses its action pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. This dismissal is without prejudice. Plaintiff expressly reserves its right to seek declaratory

and injunctive relief if Defendant (or someone else at AGED or DPS) in the future sends similar letters to Internet Service Providers or repeats his challenged actions in any other fashion.

Dated: June 8, 2009

/s/ John P. Borger

John P. Borger (Bar No. 9878)

E-mail: jborger@faegre.com

Leita Walker (Bar No. 387095)

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Faegre & Benson LLP

2200 Wells Fargo Center

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fb.us.4067874.03

# MINNESOTA DEPARTMENT OF PUBLIC SAFETY



## Alcohol and Gambling Enforcement

444 Cedar Street • Suite 133 • Saint Paul, Minnesota 55101-5133  
Phone: 651.201.7500 • Fax: 651.297.5259 • TTY: 651.282.6555  
www.dps.state.mn.us

June 5, 2009

Comcast Cable Communications

650 Centerton Road

Moorestown, NJ 08057

Re: Notice - Prohibiting Access to Gambling Information - 18 USC 1084(d)

Dear Sir/Madam:

On April 24, 2009, the Alcohol and Gambling Enforcement Division of the Minnesota Department of Public Safety ("AGED") sent you a written notice, with a list of online gambling websites and telephone numbers, requesting that you prohibit the transmission of gambling information between these websites and your Minnesota-based subscribers. Please accept this letter as the AGED's withdrawal of that notice.

On May 6, 2009, Interactive Media Entertainment and Gaming Association ("iMEGA") filed a complaint in the United States District Court for the District of Minnesota. That lawsuit requested: (1) a declaration that the notice sent to you and other Internet Service Providers ("ISPs") was not legally valid, and (2) an injunction to prevent the AGED from issuing such notices. iMEGA alleged that the notice was not authorized under 18 U.S.C. § 1084 and violated the First Amendment and the Commerce Clause. Whether or not iMEGA ultimately would have prevailed in court is unknown. Notwithstanding, the AGED has agreed to withdraw the notice. As a result, iMEGA has agreed to dismiss its court action without prejudice.

I believe it may be more appropriate to resolve this problem by working to create clear and effective governmental policies concerning regulation of gambling. Although I do not anticipate sending similar notice letters in the future, I do remain committed to resolving the problem of online gambling.

I hope that going forward we will be able to find common ground in working to improve public safety. If you have questions, or would like to meet, please feel free to contact me.

Alcohol  
and Gambling  
Enforcement

ARMER/911  
Program

Bureau of  
Criminal  
Apprehension

Driver  
and Vehicle  
Services

Homeland  
Security and  
Emergency  
Management

Minnesota  
State Patrol

Office of  
Communications

Office of  
Justice Programs

Office of  
Traffic Safety

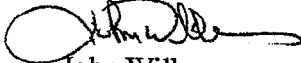
State Fire  
Marshal and  
Pipeline Safety



EQUAL OPPORTUNITY EMPLOYER

**EXHIBIT A**

Sincerely,

A handwritten signature in black ink, appearing to read "John Willems", with a large, stylized initial "J" and a long horizontal flourish extending to the right.

John Willems  
Director

cc: Federal Communications Commission

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

INTERACTIVE MEDIA  
ENTERTAINMENT & GAMING  
ASSOCIATION, INC.,

**Civil No. 0:09-cv-01065-JNE-JJG**

Plaintiff,

**CERTIFICATE OF SERVICE**

vs.

JOHN WILLEMS, in his official capacity  
as Director of the Alcohol and Gambling  
Enforcement Division of the Minnesota  
Department of Public Safety,

Defendant.

I hereby certify that on June 8, 2009 I caused the following document:

**NOTICE OF DISMISSAL WITHOUT PREJUDICE**

to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of electronic filing to the following:

- **John P Borger**  
jborger@faegre.com, bzabawa@faegre.com, sbeety@faegre.com
- **David J Koob**  
david.koob@state.mn.us, lynne.zimmerman@state.mn.us
- **Mary Andreleita Walker**  
lwalker@faegre.com, mdilorenzo@faegre.com

Dated: June 8, 2009

/s/ John P. Borger

John P. Borger (Bar No. 9878)  
E-mail: jborger@faegre.com  
Leita Walker (Bar No. 387095)  
E-mail: lwalker@faegre.com  
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Minneapolis, MN 55402-3901  
Telephone: (612) 766-7000  
Facsimile: (612) 766-1600

## Notices

0:09-cv-01065-JNE-JJG Interactive Media Entertainment & Gaming Association, Inc. v. Willems  
ATYADM, CV

**U.S. District Court**

**District of Minnesota**

### Notice of Electronic Filing

The following transaction was entered by Borger, John on 6/8/2009 at 12:16 PM CDT and filed on 6/8/2009

**Case Name:** Interactive Media Entertainment & Gaming Association, Inc. v. Willems

**Case Number:** 0:09-cv-1065

**Filer:** Interactive Media Entertainment & Gaming Association, Inc.

**Document Number:** 8

#### Docket Text:

**NOTICE by Interactive Media Entertainment & Gaming Association, Inc. of Dismissal Without Prejudice (Attachments: # (1) Exhibit(s) A, # (2) Certificate of Service)(Borger, John)**

#### 0:09-cv-1065 Notice has been electronically mailed to:

David J Koob david.koob@state.mn.us, lynne.zimmerman@state.mn.us

John P Borger jborger@faegre.com, bzabawa@faegre.com, sbeety@faegre.com

Mary Andreleita Walker lwalker@faegre.com, mdilorenzo@faegre.com

#### 0:09-cv-1065 Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1051215216 [Date=6/8/2009] [FileNumber=2361585-0]  
[2b4511d10c54e218f8cde94f4c42550cdcc9657297384cf9e4e94c4d6ee829524a7a  
445121f2caf82af54f88a54e9054bcf1f2465f229fb4da67224c9e0ea05c]]

**Document description:**Exhibit(s) A

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1051215216 [Date=6/8/2009] [FileNumber=2361585-1]  
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488958589b57839cbb0197ce5754f59f4f2779424446991fd6c4e2977fcc]]

**Document description:**Certificate of Service

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1051215216 [Date=6/8/2009] [FileNumber=2361585-2]  
[a112775a4cb557782626c6af824efdd97b5d001bf9842040f111a26dbd38fb208d2e

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