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August 13, 2004

Via Fax For Distribution to the Tribunal

Mr. Gonzalo Flores

International Centre for the Settlement of Investment Disputes

818 H Street, N.W.

Washington, D.C. 20433

Re: Thunderbird v. Mexico.

Dear Mr. Flores:

On August 3, 2004, Claimant International Thunderbird Gaming Corporation requested that the Tribunal admit and consider new evidence which came to Claimant's attention on Friday, July 30, 2004. The evidence related to an ongoing investigation by the Office of Internal Control of the Secretary of State of Mexico pertaining to the actions of Humberto Aguilar Coronado, General Director of Government of the Secretary of State and Guadalupe Vargas Barrera, Director of Gaming and Sweepstakes, among others, in relation to the closing of the EDM facilities.

On November 30, 2001, Attorney Luis Ruiz de Velasco of Baker & McKenzie filed a complaint with the Office of Internal Control pertaining to the actions of Aguilar Coronado and Guadalupe Vargas Barrera, in relation to the closing of the EDM facilities. On Friday, July 30, Mr. de Velasco informed Thunderbird informed Claimant that he had received correspondence dated July 20, 2004 from Mr. Maclovio Murillo Chavez, Head of the Area of Complaints of the Office of Internal Control of the Secretary of State of Mexico responding to his complaint of November 30, 2001. In his correspondence, Mr. Murillo Chavez advised Mr. de Velasco that the November 30, 2001 complaint against Aguilar Coronado and Vargas Barrera, among others, had been assigned to the Internal Control Office under DE-0012/2004 for inquiry and investigation. Copies of Mr. de Velasco's November 30, 2001 complaint and Mr. Maclovio Murillo Chavez' July 20, 2004 response advising of the investigation, along with translations, were offered to the Tribunal for admission into evidence and consideration by the Tribunal in its deliberations.

Since Claimant's August 3 letter, Claimant has secured what it understands to be a complete copy of the Office of Internal Control file pertaining to the ongoing investigation. The copy of the file was provided to Attorney de Velasco by the Department of Internal Control upon his request. The file was secured by de Velasco on Thursday, August 13 and provided to the undersigned counsel this morning.

All documents included in that file are hereby offered for admission into evidence and consideration by the Tribunal in its deliberations. Those documents are as follows:

- Exhibit C104 Copy of Attorney de Velasco's original November 30, 2001 complaint with attachments and bearing his signature. That complaint is identified as Public Document No.
- Exhibit C105 Official document 05/DR01/2001/2001 - December 4, 2001 letter from Gutierrez Villarreal of Office of Internal Control to de Velasco acknowledging complaint.
- Exhibit C106 Official document 05/DR01/2199/2001 - December 10, 2001 correspondence from Gutierrez Villarreal of Office of Internal Control to Aguilar Coronado referencing the October 10, 2001 administrative findings and order.
- Exhibit C107 Official Document No 05/C.I./0113/02 - Correspondence from Chavez Chavez to Gutierrez Villarreal
- Exhibit C108 Official Document No 05/C.I./0117/02 - Correspondence from Chavez Chavez to de Velasco
- Exhibit C109 Acuerdo
- Exhibit C110 Acuerdo
- Exhibit C111 Acuerdo
- Exhibit C112 New investigation - July, 2004
- Exhibit C113 July 20, 2004 letter to de Velasco re new investigation.
- Exhibit C114 Letter re new investigation
- Exhibit C115 Letter re new investigation
- Exhibit C116 Official Document 05/DR01/826/2004
- Exhibit C117 Velasco request for file documents.
- Exhibit C118 Investigation file document

Exhibit C119

Investigation file document

It must first be pointed out that the year 2001 documents (Exhs. C104 - C111) should have been produced last year by Mexico in response to the "First Request for Production for Documents of Claimant International Thunderbird Gaming Corporation." Mexico initially objected to that request. The Tribunal considered those objections and issued Procedural Order No.2. That order required Mexico to produce documents in response to, among others, the following document request categories:

19. All documents relating to the "administrative hearing" held before Jose Guadalupe Vargas Barrera in July, 2001 concerning the use and operation of "skill machines" by Claimant in Mexico, including any documents prepared for and presented at that hearing and all documents prepared as a result of the hearing.
27. All documents relating to the administrative findings and order presented on October 11, 2001 concerning the use and operation of "skill machines" by Claimant in Mexico and/or claimant's operations in Matamoros, Nuevo Laredo and/or Reynosa.
28. All documents relating to the closure of Claimant's operations in Nuevo Laredo and Matamoros on or about October 11, 2001.

The documents contained in the above-referenced investigative file clearly fall into some or all of these document requests. They pertain directly to the July, 2001 administrative hearing before Guadalupe Vargas, the administrative order signed by Aguilar Coronado, and the closures of Nuevo Laredo and Matamoros. It appears that Mexico violated Tribunal's discovery order and withheld these relevant documents.

While complete translations are still forthcoming, the documents appear to indicate that in response to de Velasco's complaint, an inquiry or investigation was initiated *in December, 2001* into the actions of Aguilar Coronado and Guadalupe Vargas Barrera in relation to the closing of the EDM facilities. In response to an inquiry, Aguilar Coronado provided a copy of the October 10, 2001 administrative findings and order and the 2001 investigation went no further. It was re-opened, or opened anew, less than a month ago for presently unknown reasons.

Thunderbird asserts these documents are relevant and should be admitted for consideration by the Tribunal. It has been conclusively established in these proceedings that Aguilar Coronado, the signatory to the October 10 administrative findings and order, was not present at the hearing giving rise to those findings and order. Mexico initially tried to argue that Aguilar Coronado was present. It then conceded that he was not actually present at, but still presided over, the hearing. Aguilar Coronado was not present to view the evidence submitted by Thunderbird nor operation of Thunderbird's demonstration machine. That evidence leads to the obvious question - how could

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Aguilar Coronado sign an order - which led to destruction of Thunderbird's valuable investment enterprises - which he could not possibly have authored? Evidence adduced at the hearing suggests that Aguilar Coronado tried to cover his tracks by signing, *after the fact*, the minutes from the hearing seeking to create a record of his "presence" at the hearing. These facts bear heavily upon the unfairness of the administrative process as addressed in part in Thunderbird's Article 1105 claims. From the new evidence, it now appears that Aguilar Coronado used the October 10 administrative findings and order, which he *signed* but could not have *authored*, to de-rail an investigation into his actions, and those of Guadalupe Vargas, initiated in December, 2001 and undisclosed until now.

Further, the re-opening of this investigation *now*, at the presumed close of these NAFTA proceedings, suggests that Mexico's assertion in these proceedings that the actions of Guadalupe Vargas and Aguilar Coronado were appropriate and proper is the subject of skepticism at the Office of Internal Control of the Secretary of State of Mexico.

These documents are newly acquired by Thunderbird. The year 2001 documents were apparently withheld from production in these proceedings last year. At the very least, Mexico did not undertake a good faith search for records in response to Thunderbird first document request. Paragraph 12.8 of Procedural Order No. 1 allows admission of evidence after the SoR and SoRej upon "exceptional circumstances". These facts meet that standard. Thunderbird respectfully requests that this new evidence pertaining to the ongoing and December 2001 investigations into the actions of Aguilar Coronado and Guadalupe Vargas Barrera in relation to the closing of the EDM facilities be admitted into evidence and considered by the Tribunal in its deliberations.

Sincerely,


James D. Crosby

cc: Hugo Perezcano Diaz (via fax)
Thunderbird (via fax)

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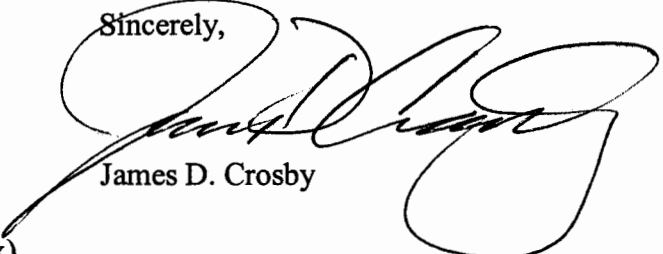
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