

SUBPOENA DUCES TECUM (CIVIL) –
ATTORNEY ISSUED VA. CODE §§ 8.01-413, 16.1-89, 16.1-265;
Commonwealth of Virginia Supreme Court Rules 1:4, 4:9

Case No.: CL21-207
May 18, 2022 @ 10:00 a.m.
HEARING DATE AND TIME

County of Greensville Circuit Court
337 South Main Street, Emporia, VA 23847
COURT ADDRESS

Sadler Brothers Oil Company, et al. **v./In re:** The Governor of Virginia Ralph Northam, et al.

TO THE PERSON AUTHORIZED BY LAW TO SERVE THIS PROCESS:

You are commanded to summon

Virginia Lottery
NAME
900 East Main Street
STREET ADDRESS
Richmond VA 23219
CITY STATE ZIP

TO the person summoned: You are commanded to make available the documents and tangible things designated and described below:
Please see attached

at 13508 Booker T. Washington Highway, Moneta, VA 24121 at March 7, 2022 @ 10:00 a.m.
LOCATION DATE AND TIME

to permit such party or someone acting in his or her behalf to inspect and copy, test or sample such tangible things in your possession, custody or control.

This Subpoena Duces Tecum is issued by the attorney for and on behalf of

Sadler Brothers Oil Company, et al.
PARTY NAME

William M. Stanley, Esq. 37209
NAME OF ATTORNEY VIRGINIA STATE BAR NUMBER

The Stanley Law Group, PLLC 540-721-6028
OFFICE ADDRESS TELEPHONE NUMBER OF ATTORNEY

13508 Booker T. Washington Highway 540-721-6405
OFFICE ADDRESS FACSIMILE NUMBER OF ATTORNEY

February 14, 2022 [Signature]
DATE ISSUED SIGNATURE OF ATTORNEY

Notice to Recipient: See page two for further information.

RETURN OF SERVICE (see page two of this form)

TO the person summoned:

If you are served with this subpoena less than 14 days prior to the date that compliance with this subpoena is required, you may object by notifying the party who issued the subpoena of your objection in writing and describing the basis of your objection in that writing.

This SUBPOENA DUCES TECUM is being served by a private process server who must provide proof of service in accordance with Va. Code § 8.01-325.

TO the person authorized to serve this process: Upon execution, the return of this process shall be made to the clerk of court.

NAME:	
ADDRESS:	
.....	
<input type="checkbox"/> PERSONAL SERVICE	Tel. No.
Being unable to make personal service, a copy was delivered in the following manner:	
<input type="checkbox"/> Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above:	
.....	
<input type="checkbox"/> Posted on front door or such other door as appear to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)	
<input type="checkbox"/> NOT FOUND, Sheriff
.....	by Deputy Sheriff
DATE	

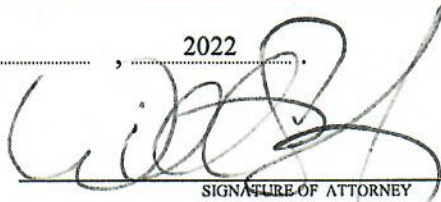
CERTIFICATE OF COUNSEL

I, William M. Stanley, counsel for Plaintiff, hereby certify

that a copy of the foregoing subpoena duces tecum was forwarded via facsimile
DELIVERY METHOD

to Erin R. McNeill, Esq and Calvin C. Brown, E, counsel of record for Defendants, Ralph Northam, et al.

on the 14 day of February, 2022


SIGNATURE OF ATTORNEY

NOTICE: Upon receipt of the subpoenaed documents, the requesting party must, if requested, provide true and full copies of those documents to any other party or to the attorney for any other party, provided the other party or attorney for the other party pays the reasonable cost of copying or reproducing those documents. This does not apply when the subpoenaed documents are returnable to and maintained by the clerk of the court in which the action is pending. Va. Code § 8.01-417

Virginia Lottery

900 East Main Street
Richmond, VA 23219

You are hereby commanded to bring with you and/or turn over the following documents in electronic/digital format (or if unavailable electronically then in paper format) to William M. Stanley, Esquire, and The Stanley Law Group attorneys for the Plaintiffs (at the address provided) in the matter of *SADLER BROTHERS OIL COMPANY, d/b/a SADLER TRAVEL PLAZA, SLIP-IN FOOD MARTS, and, CHN, LLC, vs. THE COMMONWEALTH OF VIRGINIA; RALPH NORTHAM; in his official capacity as Governor of the Commonwealth of Virginia; Mark Herring, in his official capacity as Attorney General for the Commonwealth of Virginia; and THE VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY:*

1. Any and all agreements, contractual terms, modifications, extensions, or communications regarding such matters, with Eckert Seamans Cherin & Mellott, LLC, or any agent, attorney, employee, component thereof, from within the period of January 1, 2020 to present;
2. Any and all records defining or discussing the scope, or parameters, or terms of the work performed by, or to be performed by, Eckert Seamans Cherin & Mellott, LLC, or any agent, attorney, employee, or component thereof, for the Virginia Lottery, from within the period of January 1, 2020 through the present;
3. Any and all records or evidence of communications or actions by the Virginia Lottery, or Kevin Hall, or Gina Smith, or any director, executive, officer, agent or employee thereof, in opposition to, or critical of, the rights of individual Virginia citizens and/or businesses (including but not limited to Hermie Sadler, Sadler Oil Brothers Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC) to own or operate skill games in the Commonwealth of Virginia;
4. Any and all records regarding the expenditure of any funds by the Virginia Lottery spent for consultants, attorneys or other services that involved, directly or indirectly, the issue of skill games in the Commonwealth of Virginia;
5. Any and all records or evidence of contact or communication between Mark Stewart and the Virginia Lottery, or Kevin Hall, or Gina Smith, or any director, executive, officer, agent or employee thereof, from within the period of January 1, 2020 to present, regarding or affecting skill games, Hermie Sadler, Sadler Oil Brothers Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC and/or Pace-O-Matic (individually, or collectively in any combination thereof), including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, documents, or anything that provides evidence of the existence, during the defined period, of such information;
6. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding skill games, Hermie Sadler, Sadler Brothers Oil Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC, or Pace-O-Matic (individually, or collectively in any combination thereof), including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present;

7. Any and all records or evidence of contact or communication between Michael Martz and the Virginia Lottery, or Kevin Hall, or Gina Smith, or any director, executive, officer, agent or employee thereof, from within the period of January 1, 2020 to present, regarding or affecting skill games, Hermie Sadler, Sadler Brothers Oil Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC, Pace-O-Matic, or Eckert Seamans Cherin & Mellott, LLC, (individually, or collectively in any combination thereof) including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, documents, or anything that provides evidence of the existence, during the defined period, of such information;
8. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding Eckert Seamans Cherin & Mellott, LLC, or any agent, attorney, employee, or component thereof, and their representation of Pace-O-Matic, and/or Parx Casino, including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present;
9. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding Eckert Seamans Cherin & Mellott, LLC's, or any agent(s)', attorney(s)', employee(s)', or component(s) thereof, conflicts of interest (actual and/or potential), ethical violation(s), potential ethical violation(s), or issues under any applicable ethical codes for its representation of Parx Casino, Pace-O-Matic and the Virginia Lottery while it served as the paid legal consultant to the Virginia Lottery, including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present, regarding the matters ;
10. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding *Pace-O-Matic, Inc. v. Eckert Seamans Cherin & Mellott, LLC*, including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present;
11. Any and all records or evidence of any writings, contacts or communications to or from the email address kevindalehall@gmail.com, regarding skill games, Hermie Sadler, Sadler Brothers Oil Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC, Pace-O-Matic, and/or Eckert Seamans Cherin & Mellott, LLC, – from within the period of January 1, 2020 to present;
12. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding skill games, Hermie Sadler, Sadler Brothers Oil Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC, and/or Pace-O-Matic (individually, or collectively in any combination thereof), with Parx Casino, or Greenwood Racing, or Mohegan Gaming and Entertainment, or Mohegan Sun, including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present;

13. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding skill games, Hermie Sadler, Sadler Brothers Oil Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC, and/or Pace-O-Matic (individually, or collectively in any combination thereof), with consultants, attorneys or lobbyists working for, or in coordination with, Eckert including but not limited to: Ballard Spahr, Adrian King, Richard Gmerek, Peter Shelly, Shelly Lyons, Malady & Wooten, Joseph Uliana, Anthony Crisci, Sean Schafer – from within the period of January 1, 2020 to present;
14. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding skill games, Hermie Sadler, Sadler Brothers Oil Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC, and/or Pace-O-Matic (individually, or collectively in any combination thereof), with the lotteries of any other state or commonwealth, including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present;
15. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding *SADLER BROTHERS OIL COMPANY, d/b/a SADLER TRAVEL PLAZA, SLIP-IN FOOD MARTS, and, CHN, LLC, vs. THE COMMONWEALTH OF VIRGINIA; RALPH NORTHAM; in his official capacity as Governor of the Commonwealth of Virginia; Mark Herring, in his official capacity as Attorney General for the Commonwealth of Virginia; and THE VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY*, including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present;
16. Any and all records or evidence of any writings, contacts or communications by the Virginia Lottery, or any director, executive, officer, agent or employee thereof, regarding skill games, Hermie Sadler, Sadler Brothers Oil Company, Sadler Travel Plaza, Slip-In Food Mart, Inc. and/or CHN, LLC, and/or Pace-O-Matic (individually, or collectively in any combination thereof), with any individual, entity, or government employee or official not otherwise specified in this subpoena, including but not limited to: phone calls, emails, text messages, notes, audio recordings, letters, or documents – from within the period of January 1, 2020 to present;

For the purposes of this subpoena, the listed terms are defined as follows:


“Pace-O-Matic” means the business entity Pace-O-Matic, Inc., or any agent, employee, or component thereof;

“Eckert Seamans Cherin & Mellott, LLC” means the law firm of Eckert Seamans Cherin & Mellott, LLC, or any agent, attorney, employee, or component thereof.

If any of the aforementioned information is stored in electronic format, production must include Meta data associated with each item. For all the items described in this subpoena, provide a full and complete written provenance/chain of custody for each item including but not limited to where the

item is located, who located the item, and whether any alterations were made to any of the items in any way before it is delivered to the Plaintiff. If any item requested in this attachment does not exist or cannot be located, provide a full and complete explanation for the missing item or items, including efforts made to find or obtain such item or items.

In lieu of court appearance you can provide records to William Stanley, Esquire, The Stanley Law Group, 13508 Booker T. Washington Highway, Moneta, VA 24121, within twenty-one (21) days of service of process upon you of this Subpoena Duces Tecum.



William Stanley, Esq.

2/14/22

Factual and Legal Basis for the Subpoena Duces Tecum to the Virginia Lottery

1. Pace-O-Matic, Inc., ("POM"), through its affiliate Queen of Virginia Skill & Entertainment, LLC, has been the largest supplier of legally compliant games of skill to small businesses in the Commonwealth of Virginia including the Plaintiff SADLER BROTHERS OIL COMPANY, d/b/a SADLER TRAVEL PLAZA, SLIP-IN FOOD MARTS, and, CHN, LLC in the instant action.
2. POM is a corporation organized and existing under the laws of the State of Wyoming with a principal place of business at 3450 Corporate Way, Duluth, Georgia. POM developed, produced and licensed legally compliant electronic games of skill which are utilized by small businesses in Virginia, Pennsylvania and elsewhere. POM retained Eckert Seamans Cherin & Mellott, LLC ("Eckert") to provide legal services for itself and its affiliates. The games of skill that POM sells in Virginia and Pennsylvania utilize identical algorithms and there is no difference in how the machines operate or function. POM's affiliate in Virginia is Queen of Virginia Skill & Entertainment, LLC.
3. Eckert is a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania with places of business in Pennsylvania and Virginia. At all relevant times, Mark Stewart was a partner at Eckert and the Chair of Eckert's "Gaming Group" practice.
4. On December 20, 2016, Eckert and POM/Queen of Virginia Skill & Entertainment, LLC, executed an engagement letter pursuant to which Eckert agreed to provide legal services to POM relating to "legal, regulatory and possible legislative matters in Virginia" concerning "sales and marketing of [POM's] electronics and software."
5. Relying on the duties of undivided loyalty and confidentiality owed to POM as a client of Eckert and in furtherance of the requested legal services, POM provided Eckert with highly sensitive, proprietary, confidential and non-public information concerning its skill games and business operations as well as confidential and privileged communications concerning the development and execution of legal strategies to preserve and defend the legality of those games.
6. Eckert's representation of POM included, but was not limited to: representing POM and its affiliates in meetings with law enforcement and government personnel; representing POM and its affiliates in litigation matters concerning the legality of POM's skill games; negotiating and drafting agreements between POM and its affiliates and third parties; and providing advice and counsel relating to legal, legislative and litigation strategies for marketing and selling POM skill games.
7. As counsel for POM and its affiliates, Eckert secured legal and governmental opinions attesting that POM's products are games of skill and not gambling devices and, citing those opinions, accurately asserted on June 28, 2019 in state court in Virginia that POM's games "are not illegal gambling" because "skill is determinative of successful play." In fact, the legal opinion that Eckert submitted to the court in Virginia relied on *In re Pace-O-Matic, Inc. Equip.*, M.D. 965-2013 (Ct. Common Pleas Beaver Cty. Dec. 23, 2014), which held that POM's skill games are legal in Pennsylvania.
8. Unbeknownst to POM, while Eckert was in possession of POM's confidential information and privileged communications, Eckert represented Parx Casino and/or its affiliates and Mohegan

- Gaming and Entertainment in matters directly adverse to POM's interests and substantially related to matters Eckert handled or was handling for POM. Nevertheless, Eckert continued to represent POM, advocate for the legality of POM's skill games and participate in confidential conferences regarding POM's legal and business strategies while secretly and simultaneously advising Parx Casino and Mohegan on matters materially adverse to the interests of POM.
9. Specifically, Eckert, undertook to legally and politically undermine the legality and efficacy of skill games for small businesses like Sadler Brothers Oil Company and Slip-In Food Mart (among other small businesses in Virginia) on behalf of Greenwood Gaming & Entertainment, Inc. d/b/a Parx Casino ("Parx Casino") and others **against** POM over the continued legality of skill games. While advocating on behalf of POM that its devices are games of skill and not illegal gambling, Eckert concurrently advocates on behalf of Parx Casino and others that the **same games** should be outlawed as illegal gambling devices.
 10. In February of 2020, POM filed for injunctive relief in the Federal District Court for the Middle District of Pennsylvania against Eckert's improper conduct. In *Pace-O-Matic, Inc. v. Eckert Seamans Cherin & Mellott*, 20-cv-0292, (MDPA) a permanent injunction against Eckert and Mark Stewart was entered on January 27, 2022 wherein they admitted to conducting adverse representation without obtaining consent from their existing client POM. The federal court, in its November 16, 2022 memorandum opinion, found that Stewart and Eckert "actively and *clandestinely* managed and participated in the representation of Parx [Casino] in the Commonwealth Court litigation against its other client POM [Pace-O-Matic]." The subsequent permanent injunction Order also states, "Eckert will not on behalf of any client advocate, directly or indirectly, in any forum, including in any legislative, lobbying, government relations and/or public relations context, against the legality of electronic games of skill manufactured or distributed by POM or any POM affiliate, including but not limited to POM of Pennsylvania, LLC and Queen of Virginia Skill & Entertainment, LLC, or advocate, directly or indirectly, that POM games are not games of skill or are not games where skill predominates over chance."
 11. In October of 2020, Eckert entered into a consulting contract with the Virginia Lottery to provide "consulting on gaming and compliance issues as requested by the Lottery."
 12. On January 27, 2022, in addition to admitting the necessity for a permanent injunction against itself, Eckert disclosed emails to POM that revealed a consistent and ongoing effort led by Eckert and the Chair of its Gaming Group – Mark Stewart – to oppose, attack and attempt to eliminate skill games (in Virginia operated by Hermie Sadler, his businesses and other small business owners throughout the Commonwealth) on behalf of certain casino interests. This effort employed a diverse and multi-state array of lobbyists, consultants and government officials. These emails constituted, per Eckert's own disclosures, a limited tranche of the documentation that exists within Eckert. These limited emails disclose that Eckert and Stewart closely monitored skill games in Virginia between 2018 and 2021 (including but not limited to Hermie Sadler's efforts to keep skill games lawful in Virginia and also his challenge of the 2021 skill games ban). Included in these documents are communications by Eckert and Stewart with the Virginia Lottery and its executives – including Kevin Hall and Gina Smith - in October of 2020 regarding skill games in Virginia. Emails also reveal that there was at least one press inquiry about the potential conflict of interest created by Eckert's contract with the Virginia Lottery and its representation of POM/Queen of Virginia Skill & Entertainment, LLC, clearly disclosing the issue to the Virginia Lottery.

13. Eckert never sought the consent of POM/Queen of Virginia Skill & Entertainment, LLC, for its representation of the Virginia Lottery nor did the Virginia Lottery contact POM/Queen of Virginia Skill & Entertainment, LLC, regarding the potential conflict.
14. The Virginia Lottery entered into a contract with a law firm (Eckert) that represented multibillion dollar casino interests who were actively – led by Eckert – making every effort to stop small businesses (including but not limited to the Sadler businesses) from operating skill games. This agreement occurred in the same period of time that Virginia officials were acting to violate the constitutional rights of Plaintiff and other similarly situated Virginia businesses.
15. The Virginia Lottery is a powerful governmental entity with extensive financial resources and influence. The Virginia Lottery actively opposed the operation of skill games in Virginia.
16. The attached discovery requests are specifically crafted to discover the extent to which the Virginia Lottery's "consulting" contract with Eckert employed Eckert's conflict of interest, confidential information and proprietary data against Plaintiff and other similarly situated Virginia Small businesses in an effort to violate Sadler's (and his small businesses') rights under the Virginia State Constitution.
17. Virginia law contemplates a permissive application of discovery rules in civil cases, allowing the discovery of any information that "is relevant to the subject matter involved in the pending action" or that is "reasonably calculated to lead to the discovery of admissible evidence." Va. Sup. Ct. R. 4:1(b)(1). In Virginia, "[a]ll relevant evidence is admissible except as otherwise" excludable under the law. Va. R. Evid. 2:402(a). It is well established in Virginia that "[e]very fact, however remote or insignificant, that tends to establish the probability or improbability of a fact in issue is relevant." *Virginia Elec. & Power Co. v. Dungee*, 258 Va. 235, 260, 520 S.E.2d 164 (1999). "Evidence is relevant if it has any logical tendency, however slight, to establish a fact at issue in the case." *Ragland v. Commonwealth*, 16 Va. App. 913, 918, 434 S.E.2d 675, 10 Va. Law Rep. 143 (1993) ; *see also* Rule 2:401 ("Relevant evidence" means evidence having any tendency to make the existence of any fact in issue more probable or less probable than it would be without the evidence.").