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**VIA ELECTRONIC MAIL ONLY**

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Re: **In re: Billy Mitchell**

Dear Ms. Hoover:

This responds to your letter of October 30, 2019. Preliminarily, Mr. Mitchell wants me to relay that he is pleased that progress is evidently being made towards resolving the dispute. Nonetheless, he has the following comments.

First, with respect to constitutional malice, Mr. Mitchell does not at this point claim that Guinness World Records actually knew that its published statements were false; rather, it is Mr. Mitchell's position that Guinness took absolutely no steps to confirm whether the statements were true or false. In other words, Mr. Mitchell's position is that Guinness acted with a textbook reckless disregard for whether the statements were true or false. Consequently, that Guinness itself may have been misled by Twin Galaxies is beside the point. Mr. Mitchell remains firmly convinced that he can prove constitutional malice.

Second, in addition to the four scores identified in your letter, there are two additional records that Guinness must reinstate. These are: Highest Score on Donkey Kong 7 November 1982 and Highest Score on Donkey Kong 4 June 2005. Guinness World Records can easily confirm these as previously-recognized scores, because they are featured in the 1984 and 2007

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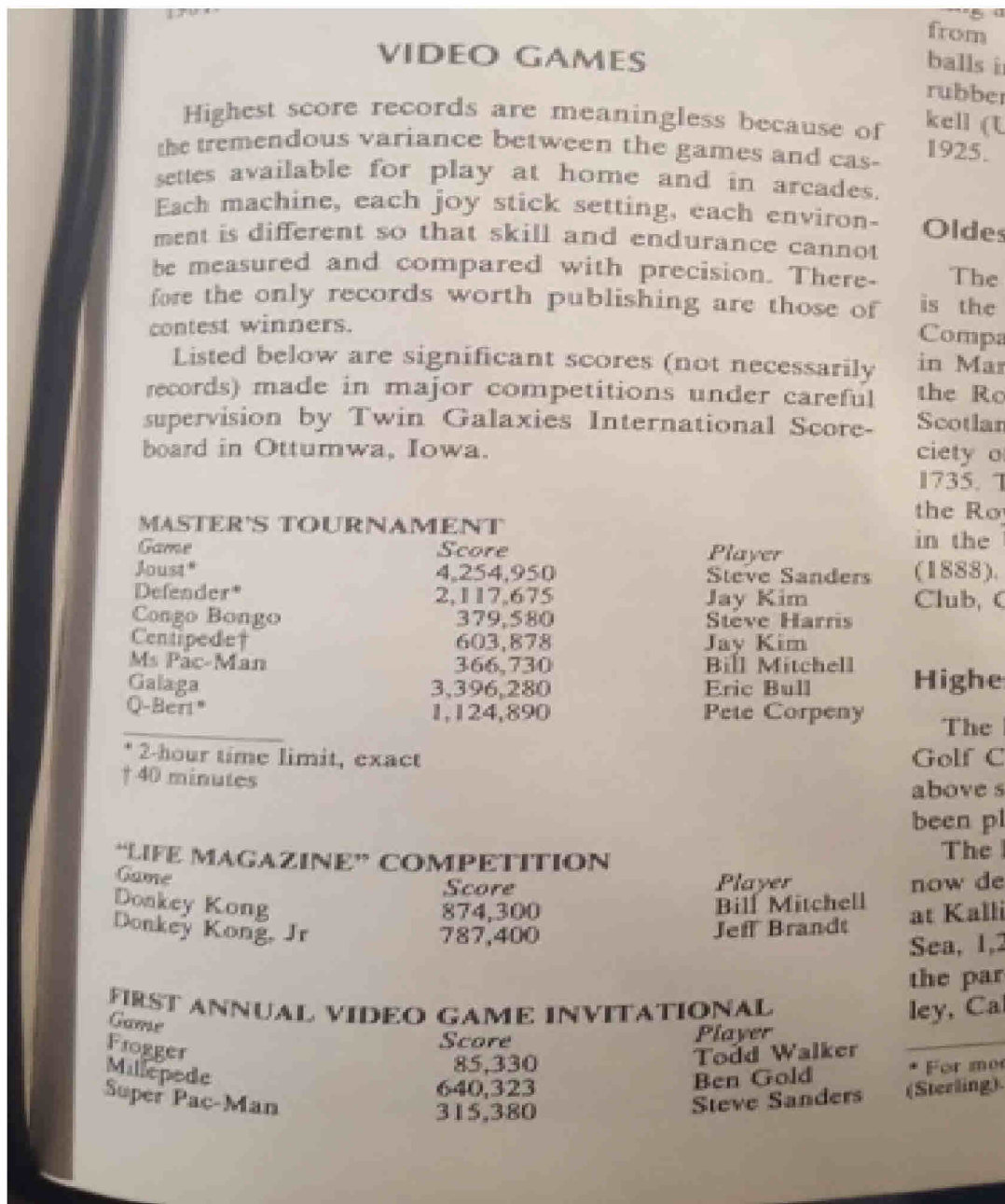
Marsha K. Hoover, Esq.

**Re: In re: Billy Mitchell**

November 6, 2019

Page 2

books respectively. We retain a copy of the 1984 book, and provide a picture showing Mr. Mitchell's record.



Marsha K. Hoover, Esq.

**Re: In re: Billy Mitchell**

November 6, 2019

Page 3

Unfortunately, Mr. Mitchell does not own a copy of the 2007 Guinness book. But there is a link to a 12 April 2009 account of the 2007 and 2008 Guinness books regarding Donkey Kong, where Mr. Day states: "So, Billy is in the **2007 Guinness World Records** book as the Donkey Kong World Champion and Steve is in the **2008 Guinness World Records** book as the Donkey Kong World Champ." See <https://www.twingalaxies.com/showthread.php/122551-Issue-16-Steve-Wiebe-Was-Not-Denied-Credit-in-Guinness>.

Regarding the 1980's scores, Guinness' claim that Mr. Mitchell is "overreaching" by demanding recognition of previously-unrecognized records is wrong. All the records mentioned in our previous correspondence are featured in Guinness' books throughout the 1980's. I am attaching photos of Guinness World Record books from 1984, 1985, and 1986, displaying Mr. Mitchell's records. These records should be expressly reinstated, because the 2019 Gamer's Edition Book asserts that Mr. Mitchell's "submitted scores" were illegitimate. Since these scores were "submitted" but are in fact legitimate, the records fall under the umbrella of the incorrect statement. But for simplicity, an announcement from Guinness World Records acknowledging the recognition of all scores from the 1980's would be sufficient, as they are numerous.

So, for clarity, the records to be recognized are:

- First Perfect Score on Pac-man
- Highest Score on Pac-man
- Highest Score on Donkey Kong 16 July 2007
- Highest Score on Donkey Kong 01 August 2010
- Highest Score on Donkey Kong 04 June 2005
- Highest Score on Donkey Kong 07 November 1982

Third, any announcement about the reinstatement of Mr. Mitchell's records cannot be unilaterally fashioned. To the contrary, any statement would have to be the product of negotiation between the parties. Nonetheless, you should be assured that Mr. Mitchell has no desire to embarrass or denigrate Guinness, and he believes that arriving at a mutually-acceptable announcement on Guinness' website should not be a sticking point. Of course, Mr. Mitchell reserves the right to make his own statements on the issue, although, again, he is willing to negotiate the scope of what he will say, since he has no desire to embarrass Guinness, and is also willing to hold off on making his own statement until Guinness makes its statement (assuming it is promptly made).

Lastly, although we believe that the parties can quickly reach an agreement as to the wording of any correction, the issue of Mr. Mitchell's damages remains. While we have no doubt



Marsha K. Hoover, Esq.

**Re: In re: Billy Mitchell**

November 6, 2019

Page 4

that your client believes it has no liability, Mr. Mitchell (as you no doubt know) has filed suit in Los Angeles County against Twin Galaxies. He is prepared to add Guinness World Records as a "Doe" defendant to that litigation and proceed against it . But rather than doing so, Mr. Mitchell would prefer to enter into a tolling agreement with your client and then explore a confidential, mediated resolution over the monetary damages.

We look forward to your response.

Very truly yours,

**MANNING & KASS  
ELLROD, RAMIREZ, TRESTER LLP**



JAMES E. GIBBONS

JEG/jeg

Encl.

cc: Billy Mitchell