

# GOLDBERG KOHN LTD.

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For Settlement Purposes Only – Fed. R. Evid. 408

December 12 , 2019

via email and United States mail to [JEG@manningllp.com](mailto:JEG@manningllp.com)

James E. Gibbons  
Manning & Kass  
Ellrod, Ramirez, Tester LLP  
801 Figueroa Street  
15th Floor  
Los Angeles, CA 90017

Re: Billy Mitchell

Dear Mr. Gibbons:

We have shared the contents and enclosures of your November 9, 2019 letter with our client. After careful consideration, we remain entirely unconvinced that your client would be able to establish that GWR's statements regarding Mr. Mitchell are actionable. With respect to the issue of malice, for example, we note that it appears to be undisputed that GWR relied upon Twin Galaxies in making the allegedly defamatory statements it made about Mr. Mitchell's records, and yet you point to the same source to prove the validity of the scores in GWR's 1984 publication. It is difficult to understand how the recent reliance on the same authority could be deemed reckless.

Although we continue to believe that Mr. Mitchell would be unable to demonstrate that GWR has defamed him for a number of reasons, our client proposes settling this matter on the following basis: GWR offers to reinstate the following records and announce the reinstatement in wording of its own choosing on its website at [www.guinnessworldrecords.com](http://www.guinnessworldrecords.com):

- *Highest score on Donkey Kong (four occurrences: 7 November 1982, 4 June 2005, 16 July 2007, 1 August 2010)*
- *First perfect score on PAC-Man*
- *Highest score on PAC-Man*

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Reinstatement of the above records is on the strict condition that the existence and terms of this proposal remain confidential until such time as GWR issues the announcement about the restoration of the records. In other words, neither your client nor anyone acting on his behalf may release any statement in any medium in advance of GWR's announcement. Our client's intention would be to make the announcement within an agreed period of time following the execution of a final settlement agreement with your client.

Your demand that the wording of our client's statement about the records must be negotiated with Mr. Mitchell while he reserves the right to say whatever he wants about the issue is rejected, as is your claim for monetary damages.

Upon your client's acceptance of the above proposal, we will prepare a written agreement formalizing these terms and confirming that your client releases GWR from any and all claims he purports to have against it. Meanwhile, our client expressly reserves all of its legal and equitable defenses and remedies in connection with your client's claims and actions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marsha K. Hoover".

Marsha K. Hoover

copy via email: Raymond Marshall