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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
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17 WILLIAM JAMES MITCHELL,
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19 Plaintiff,
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21 v.
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23 TWIN GALAXIES, LLC,
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25 Defendants.
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Case No. 19STCV12592
[The Hon. GREGORY W. ALARCON-
DEPT. 36]

**DECLARATION OF WILLIAM
MITCHELL IV IN SUPPORT OF
OPPOSITION TO DEFENDANT'S
MOTION FOR UNDERTAKING**

DATE: October 15, 2020
TIME: 8:30 a.m.
DEPT: 36

Action Filed: 4/11/2019

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
ATTORNEYS AT LAW

DECLARATION

I, William Mitchell IV, declare as follows:

1. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein. I make this declaration in Opposition to Defendant Twin Galaxies' Motion for Undertaking.

2. My name is William James Mitchell, IV. I am the son of the plaintiff, Billy Mitchell. Because we share the same name, I will refer to myself as "William" in this declaration in order to avoid confusion. I submit this declaration to debunk the misrepresentations and falsities portrayed by David W. Race in his declaration.

Falsified Testimony of David Race

3. Firstly, in summary, Mr. Race declares that he conducted a personal "investigation" into the veracity of Twin Galaxies' defamatory statements, where the results of his work brought him to the opinion that, "Accordingly, it is my opinion that the videotape recordings of the Disputed Score Performances cannot have come from an original unmodified Donkey Kong PCB." (Race Decl. ¶¶ 19-21).

4. This is demonstrably a lie. Following Race's personal "investigation" in 2018, he did NOT conclude that the "Disputed Score Performances" did not originate from original unmodified hardware. To the contrary, as shown herein at multiple points, he merely deemed his work "inconclusive," and he repeatedly reiterated this fact publicly. Race only now attempts to rewrite his conclusions and "opinion," because he holds personal desires to impose damage upon Billy Mitchell at any cost. This is very evident as shown through the facts herein.

5. On September 10, 2019, about one-year after Race concluded his personal "investigation," Jason Hall posted private messages from David Race to the Twin Galaxies website, where Race stated that, "Nothing I have tested conclusively proves whether [original unmodified] arcade [hardware] was used or not."

See: <https://www.twingalaxies.com/showthread.php/176004-Dispute-Jeremy-Young-Arcade-Donkey-Kong-Points-Hammer-Allowed-Player-Billy-L-Mitchell-Score-1-062-800/page327>

1 6. Similarly, on October 5, 2019, roughly 13 months after his personal “investigation,” Race
2 issued a public Facebook post reiterating his “inconclusive” position. He further claimed that
3 in his opinion, nobody adequately researched the technical allegations against Mitchell to
4 make a conclusive determination neither for nor against Mitchell, saying that,

5 “To the best of my knowledge, neither side has yet performed the necessary
6 testing on Donkey Kong arcade CPU and Video boards to provide anything
7 conclusive as to whether arcade can produce the disputed screen transitions under
8 various conditions.”

9 7. In the same post, Race further asserted that he believed that if a court of law investigated
10 the allegations in place of Twin Galaxies, that he believed it would find in favor of Mitchell,
11 saying,

12 “I am more than a little disappointed over this whole affair. I have continually
13 given Billy the benefit of the doubt, which is a hallmark of our fairness and our
14 legal system. A judge or jury would operate on the presumption of innocence until
15 guilt can be proven in accordance with certain standards of evidence. Based on
16 everything that has been presented, if such a dispute would have been considered
17 in a court of law, I believe it would have been thrown out or would have ended
18 with the prosecution not being able to meet the burden of proof.”

19 Preemptively, Twin Galaxies may attempt a reversal of the positions in this paragraph to argue
20 that Race referred to Mitchell as the prosecution. However, this is obviously not true. Race
21 wrote it in the past tense, referring to Twin Galaxies as the prosecution getting their case
22 thrown out, hence his verbiage that it “would have been” thrown out. I attached a true &
23 correct copy of this Facebook post from David Race referenced in paragraphs six and seven
24 hereto as Exhibit 1.

25 8. Again, on July 22, 2019, David Race emailed me the transcript of an interview he
26 conducted with Electronic Gaming Monthly – a videogame media outlet. In the interview,
27 Race stated that,

28

1 “In the end, despite further questions raised by the testing, the results were
2 inconclusive. I could not say the games were not played on arcade [hardware].”

3 I attached a true and correct copy of the transcript provided by Race to me in the July 22,
4 2019, email herein as Exhibit 2.

5 9. Secondly, by his own admission, David Race is also not an “expert” as Twin Galaxies
6 advertised in its Motion for Undertaking. In the same interview, Race tells the journalist from
7 Electronic Gaming Monthly that, “I am not an arcade tech [technician]” (See Exhibit 2). Also,
8 as I will show later, Race told me personally that he was not an expert on the matter. In fact, he
9 called himself a mere “layman.”

10 10. Thirdly, David Race portrays that I simply emailed him a pre-written declaration under
11 penalty of perjury, asking him to sign it. This is absolutely false. To the contrary, I directly
12 spoke with Race over the phone about it, and he explicitly told me to write an initial draft for
13 him, where he would then make corrections to it for clarity. I will outline these facts here. I
14 attached the referenced messages with Race herein as Exhibit 3.

15 11. On July 20, 2019, at 8:27 p.m. I texted Race to ask him for time for a phone call. We
16 agreed to speak at roughly 9 p.m. that night (See Exhibit 3). On the phone call, I asked Race if
17 he would be willing to provide a sworn declaration that outlined his conclusion that he reached
18 in his work – that there was no conclusive evidence to say that Billy Mitchell did not play on
19 original unmodified arcade hardware. He agreed to it, and we further agreed that I would write
20 an initial draft for him to edit for correction. I warned Race that I lacked knowledge about the
21 technical aspects of the dispute, but he stated that he would correct any errors.

22 12. After the phone call, I initiated the drafting process. On July 21, 2019, I messaged Race
23 again, saying, “I’m going to have the statement to you by the end of the day, can you send me
24 your email?” Race replied with his email address, fastestpacman@gmail.com. Later that same
25 day, I reminded him that, “...you’re free to make changes obviously.” (See Exhibit 3)

26 13. When I emailed Race the statement, I expressly stated again to “let me know if any
27 changes are necessary. If you’d like, you can make them yourself.” (See Exhibit 3) Following
28 his reception of the statement on July 21, 2019, Race replied to me via email on July 22, 2019,

1 at 7:42 p.m. In the reply, Race reversed his decision to provide a sworn declaration. Instead,
2 Race asked to work through an interview format, wherein I asked him questions for his replies.
3 I made absolutely no objections, adjusting to any format he saw fit. I wanted no part of an
4 incorrect declaration. I only sought truth and facts.

5 14. Moreover, in the email, Race provided several corrections to what I thought were correct
6 facts from our conversation. Namely, he opened his email by explaining that he is not an
7 expert, calling himself a mere “layman,” saying, “The first is that I am not a technician, but
8 simply a layman who has sought greater understanding with respect to this issue.” I attached a
9 true and correct copy of Race’s July 22, 2019 email hereto as Exhibit 4.

10 15. For the September 14, 2019 statement, I sent Race the statement following conversation
11 about the contents in it over the phone and through the interview he asked for in July. In this
12 case, he never told me to write an initial draft, but I heavily emphasized to him to, “Please feel
13 free to make any edits to make sure everything accurately represents everything.” I attached
14 the email from September 14, 2019, hereto as Exhibit 5. Similar to the July 2019 statement, I
15 wanted no part of an incorrect declaration.

16 16. Prior to September 2019, David Race acted very cordially toward myself and Billy
17 Mitchell. However, following Mitchell’s initiation of litigation with Twin Galaxies in
18 September 2019, Race grew increasingly angry toward Mitchell. Between late 2019 and the
19 present day, he evolved from being barely against Mitchell to now downright lying about the
20 conclusions of his personal “investigation” to the court. Today, not a single day passes that he
21 does not take a public forum to attack Mitchell with name-calling and false allegations, such as
22 calling Mitchell a “gaslighting” and “manipulating” person who uses his friend’s children as
23 leverage against them. He has also extended the attacks toward me at different times. I
24 attached an example of Race’s hate-fueled attacks on Mitchell hereto as Exhibit 6. There is no
25 doubt that Race solely provided his fraudulent declaration to Twin Galaxies in an effort to “get
26 even” with Mitchell and impose pain upon him.

27 17. Lastly, Twin Galaxies says that Mitchell called Race an “expert” in a document from
28 September 2019, known as the “Evidence Package.” I was the person who mistakenly

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misunderstood the concept of a technical expert in this case. I was new to the case and lacked understanding around it. Nevertheless, Race’s personal admission that he is not an expert undoubtedly moots either sides current or previous argument that he was an expert. That is, nobody can claim he is an expert while he personally admits that he is in fact not an expert.

I declare, under penalty of perjury of the laws of the State of California, that the foregoing is true and correct. Executed this 30th day of September, 2020, in West Point, New York

William Mitchell
William Mitchell

EXHIBIT 1



15

**David Race**

October 5, 2019 ·

The following is from the "Billy Mitchell Evidence Package":

"14. In September, I flew to Tokyo, and in offices of NAMCO, I met their marketing team, and had a prearranged scheduled showing at the Pac-man arcade in Tokyo. At that arcade, on about September 15th, in front of a Japanese crowd and media, I once again completed a perfect score of Pac-man."(p.74)

I had never heard of this before the "Evidence Package" was made public in the first half of September 2019. I have communicated with Rick Fothergill and he stated he also had never heard of this so-called "perfect score" in Japan. Billy told Rick before that he was unable to connect the original Pac-Man PCB, which he brought with him, to the machine he was presented with in Japan. He also told Rick the Japanese machine didn't have a split screen.

There is no evidence for the above claim, as far as I have been able to discover. The fact Billy says he did something in front of a crowd and media doesn't automatically make it true. There needs to be CONTEMPORARY documentation of some sort, perhaps a write up from a reputable media source, or some pictures of the split screen and final score or video clips of the accomplishment.

Sorry, reality isn't created where the past adjusts and falls in lock step with whatever Billy Mitchell is NOW claiming.

I am more than a little disappointed over this whole affair. I have continually given Billy the benefit of a doubt, which is a hallmark of fairness and our legal system. A judge and jury would operate on the presumption of innocence until guilt can be proven in accordance with certain standards of evidence. Based on everything that has been presented, if such a dispute would have been considered in a court of law, I believe it would have been thrown out or would have ended with the prosecution not being able to meet the burden of proof. It wouldn't really have a bearing on whether Billy cheated or not. He may have. It has more to do with whether it was proven in accordance with the applicable standards set forth.

Given the recent "witness" statements, which contain provably false-claims, this may point to collusion and witness manipulation/tampering. This could potentially result in serious charges being brought against those who knowingly signed these statements. I honestly don't think this will make it to court, but if it does I believe all of this could be used to call into question the credibility of Billy Mitchell and the reliability of witnesses who may be called. Please remember that in a court of law, witnesses aren't excused from testifying or being cross examined simply because they signed a statement or were given promises or assurances from someone, namely Billy, his son, or anyone else who had a hand in this production.

To the best of my knowledge, neither side has yet performed the necessary testing on DK arcade CPU and Video boards to provide anything conclusive as to whether arcade can produce the disputed screen transitions under various conditions. People have wrongly assumed that something which causes a change in the interrupt, frequency, buffer or Video/signal output, must have been the result of somebody purposefully or knowingly modifying something. This does not follow.





party who said he might be able to do some of the tests in connection with how the screen is drawn for both the Pac-Man split screen and the barrel board on Donkey Kong. He stated that such is possible but it would probably involve quite a lot of work. I haven't heard from him in a while. I did inform him that some of the testing may have some bearing on the dispute surrounding Billy Mitchell. Perhaps he decided this would take too much time out of his busy schedule or that he didn't want to be associated with this whole mess. Honestly, I wouldn't blame him if he did.

Given what I have been told and what I have been able to find online, might I suggest starting by hooking up a JTAG harness in tandem with the Z-80 in order to generate wait states on each instruction cycle. I have been informed that malfunctions may occur if the cycles fall below a certain speed, so an alternative would be to use an in-circuit emulator(ICE), which would replace the Z-80, where the execution of the code can be slowed down or single stepped while the screen is being drawn. There is far more that can be looked at. Results of over or under-clocking the CPU should also be considered. After all, that is what others did with MAME in order to produce different screen results. Gameplay didn't seem to be affected, remember?

All I have heard throughout this dispute, from both sides, is that we don't need to do that. It's too much "unnecessary" work. Well, maybe a tech should finally step up and do all the required testing, so ALL of us can be done.

I am so tired, and so is Lori. She is not happy over recent developments and neither am I.

I pray for a true reconciliatory end for all parties.

Take care and God bless,

David Race



1 Comment

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Comment

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Russell J. Morris
Well said

Like · Reply · 51w



Write a comment...



EXHIBIT 2

Here are my responses to your questions.

JH: When did you first meet Billy Mitchell? What was your impression of him at the time, both as a game player and more generally as a person?

DR: I first met Billy Mitchell in Ottumwa, Iowa during the Big Bang in 2010.

My impression was that he was one of the top classic arcade game players, noting his past accomplishments and his current scores that were being presented for titles like Donkey Kong and Donkey Kong Jr. I found him to be friendly, accommodating and charitable.

JH: When did you first become aware that Billy's scores were under any kind of suspicion? Would this predate the official dispute thread on Twin Galaxies?

DR: I believe I first heard about the "dispute" on or around February 3, 2018. I believe the official Dispute on the TG forums was posted in September 2017, so no, this would not predate that thread.

JH: When and under what circumstances did you become involved into the efforts to investigate Billy's scores?

DR: I became involved in my own right because what I was seeing and the claims being made seemed to be only that –claims. I believed and still do, that there has to be far greater evidence to support the assertions that Billy Mitchell cheated, used MAME, or relied upon save-states in order to splice footage to produce a high score. None of these have been shown to have occurred.

JH: What particular expertise or background did you feel would make you an asset to the investigation?

DR: I am not an arcade tech. I have continued to learn as this whole affair has progressed, from just over two months since I first heard of it (Feb 3) to a binding decision to remove Billy Mitchell and all of his scores on April 12 in what I feel was far from impartial and in less than an adequate manner. Since that time I have attempted to understand more and seek to do some testing of my own. As I pointed out before TG made its decision, "Perhaps you have heard the saying, 'Correlation does not imply

causation'. It seems most people are ignorant of or don't really care about what this means. If they perceive two things as being correlated in some way they will often assume one must have caused the other. This, however, is fallacious. The cause could be something common to one or both, or be completely independent." I am someone concerned with truth and despite how some have presented this whole affair; I do not believe the burden of proof has been met with respect to the various assertions leveled against Billy Mitchell.

JH: Could you describe in general terms the nature of your assistance in the investigation: what tests you ran, the scope of your analysis in terms of hours of gameplay analyzed, who you collaborated with, etc.?

DR: I have tested two 2-bit converters and also used two separate DK boardsets and was able to produce stable color analog and digital recordings. I have also recorded footage using a different type of converter. The scope of my testing wasn't so much to prove that certain screen elements which have been claimed to be a part of Billy Mitchell's original tapes (i.e. girder fingers and distinctive transitions) could be replicated with arcade hardware. I felt that would only be fruitful if it could be shown that all the digital footage presented, including the uploaded footage from Dwayne Richard, was, in fact, reproduced from a verifiable original. Despite what has been claimed, no one has presented any original VHS recordings of either the 1,047,200 or 1,050,200 games. I have requested to review the tapes that TG and Dwayne Richard may have in their possession and have either been rebuffed or ignored. One DK boardset was tested with the standard orientation and the other with the orientation flipped. The gameplay was unaffected. I did notice that some things would appear slightly different depending on which orientation was used. In the end, despite further questions raised by the testing, the results were inconclusive. I could not say the games were not played on arcade.

JH: Why did you choose not to provide your findings to Twin Galaxies, if that was indeed a decision made by you? Why did you instead decide to provide these findings to the IVGHOF?

DR: I decided the "Dispute Thread" was anything from impartial and it was one long exercise in poisoning the well in order to come to only one conclusion. I posted a few things, but that was usually by request of close friends. I felt no need to participate in such a sham, and make no mistake, that is exactly what it was. It would be like a Christian who was asked to present his case in an atheist forum and then was endlessly lambasted and attacked because he wouldn't spend endless hours responding to the myriad criticisms and responses to his initial post. There is nothing fair and balanced about it.

JH: What are the most salient conclusions of your investigation into Billy's tapes and the non-arcade transition rendering patterns (three girder vs. five girder, girder finger, screen rotation) that are held up as evidence of MAME play? Were you able to replicate any of these non-arcade patterns off an arcade PCB? Are you familiar with anyone who was able to do so?

DR: The whole transition and girder issue is assumed to be what is found on the original tapes. That has yet to be demonstrated. Until one can present video footage from the Fun Spot unveiling or during the private cabin screening, this will remain an open question. Make no mistake, there are no transitions shown during the main body of the "King of Kong" film and I could only find one in the extras, and that was at the beginning of the elevator board comparison. As I said above, I do not think this approach (trying to replicate something which has not been shown to exist on the original tapes) is fruitful. It involves basing an entire case on an, as of yet, unproven assumption.

JH: What is your current best guess as to why the direct feed footage of Billy's gameplay displays non-arcade transition rendering patterns? Does it seem more likely to you that there would be a technical explanation yet to be discovered or that the tapes themselves are forgeries of some kind from a malicious third party? Why?

DR: The question assumes that the original footage, which no one seems to possess, does not display arcade transitions. This dogmatic assertion comes from assuming that the uploaded youtube videos from Dwayne Richard are the original tapes. It should be kept in mind that Richard had previously sought help from at least two individuals in order to fake a Donkey Kong score to submit to TG. This is a serious problem that many dismiss or discount, but Richard has been shown to be an untrustworthy source in the past and that, coupled with his utter disdain for Billy Mitchell, should warrant far greater scrutiny and skepticism with regards to any claims he has made with respect to his videos. There are more problems and differences with these recordings in comparison to the VHS playback conducted by Jace Hall, as well as the two digital copies which were uploaded to the dispute thread. All materials, including physical copies of the tapes in possession of TG and Dwayne, need to be surrendered so an independent and thorough examination can be made. As of this moment, this has not been done. There may be technical explanations or further testing which may eliminate or establish a particular theory as true, but as of right now it is up in the air.

Please also keep in mind that if someone was going to alter or manipulate a recording, the gameplay is not in view here. Some have made the ridiculous claim that a forger would have to reproduce the game in its entirety. This does not logically follow. There are only a few frames between each board that would potentially have to be altered. Let's be generous and say that 5 frames would need correction per transition with the maximum number of transitions for the 1,047,200 game at 122. That's 610 frames which would account for less than 21 seconds of a 2.5-hour game, .2% of the entire recording.

Someone who suggests this is an insurmountable feat would be greatly mistaken. Perhaps a forensic expert should be hired to conduct a digital frame analysis.

Consider these altered frames from one of my recordings:

JH: Is there any other relevant information not covered by the above questions that you feel is vital to my understanding of the situation? Is there anyone you feel it is important I speak with to better understand?

DR: There is much more to this. I assure you that others, more knowledgeable than myself on the aspects of DK gameplay and what would have been possible for Billy Mitchell to accomplish, have been analyzing and testing the assertions made by the opposition. I would suggest speaking with Billy directly.

The following were some of my thoughts I posted prior to TG's decision of April 12, 2018:

"The games which Billy played were done in public and this fact is attested by witnesses and the organizers of the events at which he played. The historical record cannot be so easily dismissed or erased. The fact someone tries to impugn another's character in order to justify rejection of historical testimony is contemptible. History isn't only relevant and appropriate to consider when it involves events and people you deem worthy of assent.

This brings me to the conclusion of the matter. What is this dispute really about? I thought it was supposed to be about the 1,062,800 Donkey Kong score of Billy Mitchell, however, it has turned out to be a vehicle by which to accuse and vilify him and those who believe the evidence for rejecting this score is seriously wanting. All of the things discussed prior to this really have little to no bearing on the actual claim. There is no tape of the 1,062,800 point game even though witnesses have stated that Twin Galaxies was the last to have possession of it. Some footage was captured by myself and others at the Big Bang in 2010, but it appears most of this dispute's focus was centered on the two earlier scores in an attempt to paint Billy as a cheater. I honestly think this whole thing is a ruse in order to get all of Billy's scores removed from the scoreboard, which would include his perfect Pac-Man. This suggestion and

possible implementation has been floating around for some time, so don't try to tell me that it's all in my head.

The continuous claims being made and accusations against Billy are without merit. There is no substance to them. The claim that Billy used MAME has not been proven. The claim that Billy used MAME and deceptively enabled cheats in order to match the arcade has not been proven. The claim that Billy spliced together his game from MAME save states has not been proven. Simply making a claim or comparison isn't the same as proof. Showing that frames resemble MAME in certain respects doesn't prove that MAME was used. Those who believe Billy cheated will look at the evidence and conclude that he cheated. Not because he was shown to have cheated, but because that is how they wish to interpret the evidence. The burden of proof rests on the ones making the claims and accusations against Billy. I don't think that burden has been met. At best, the results would be inconclusive. Given this, if a decision is to be made, it should be to retain the score which TG had already validated based on the historical record from 2010."

Thank you

EXHIBIT 3

David Race

7/20/19, 8:27 PM

Hey David, do you have time for a short phone conversation? You can reach me at [REDACTED]

Anytime until about 11, I'm available

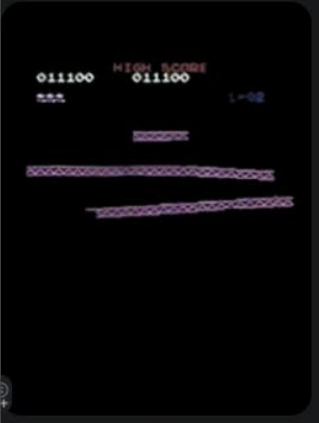
Sounds good, thank you Sir

Thank you, David.

What time is best to call?

I can call around 9pm if that's ok?

DK timelneartf



7/21/19, 1:09 AM

This person isn't available right now.



David Race

MORE ACTIONS

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SHARED FILES

DK-holes in T&S dispute findings.rtf

DK timelneartf

DK-Josh Harmon_1.rtf

SHARED PHOTOS

Shared Photos section containing several thumbnails of documents and spreadsheets.

- Thumbnail 1: Document titled "DK-holes in T&S dispute findings.rtf" with a blue header.
- Thumbnail 2: Document titled "DK timelneartf" with a blue header.
- Thumbnail 3: Document titled "DK-Josh Harmon_1.rtf" with a blue header.
- Thumbnail 4: Spreadsheet with columns and rows of data.

David Race

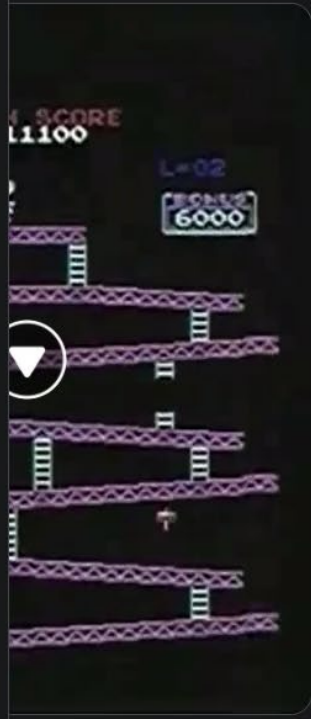
Thank you, David.

7/21/19, 1:09 AM



DK-holes in Tgs dispute findings .rtf

7/21/19, 1:34 PM



This person isn't available right now.



David Race

MORE ACTIONS

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SHARED FILES

DK-holes in Tgs dispute findings .rtf

DK timelinet.rtf

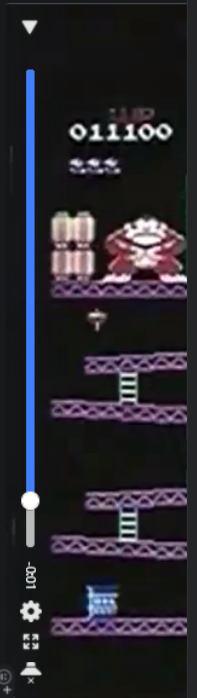
DK-Josh Harmon_1.rtf

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- Thumbnail 5: Document titled "DK-holes in Tgs dispute findings .rtf" with a blue header.
- Thumbnail 6: Document titled "DK timelinet.rtf" with a blue header.
- Thumbnail 7: Document titled "DK-Josh Harmon_1.rtf" with a blue header.

David Race



This was a clip from a direct feed recording using a different direct converter. I ran this through a Showbiz editor and inserted a transition frame.

I'm going to have the statement to you by the end of the day, can you send me your email?

I will also provide the specific screenshots of the Facebook interactions I cite.

e-mail: fastestpacman@gmail.com

Thank You Sir

David, do arcade board have CPUs? Or is that exclusive to computer emulators such as MAME?

I believe the term for arcade machines is Z80, but I believe those are two different things right?

My understanding is that there is only one CPU(Z80), the same type used in Pac-Man. There are various locations on the circuit board which handle the instructions and code from the CPU. There are a series of chips which deal with CPU Code and others with CPU RAM. I will send a screen shot to show you what I mean. (<http://brasington.org/arcade/tech/dk/>).

Brnze Technologies - Donkey Kong Junior Technical Information



Note: these pages are not as up to date as I would like them to be. There is much more technical information on my Donkey Kong Junior Tech Page. muc...brasington.org

This person isn't available right now.



David Race

MORE ACTIONS

PRIVACY & SUPPORT

SHARED FILES

- DK-holes in TOS dispute findings .rtf
- DK Emulneer.rtf
- DK Josh Harmon_1.rtf

SHARED PHOTOS

Grid of shared photos showing technical diagrams and text related to arcade hardware.



David Race

7/21/19, 8:05 PM

David, I emailed you the statement, as well as screenshots of the specific Facebook interactions I quote. If you'd like the affidavits, then let me know, I'll provide them.

Something I write about is the Facebook post that Jace Hall mocks you finding compelling information, but that he won't consider it on Facebook. If you know of any other events like that please let me know. That stuff is VERY valuable.

7/22/19, 7:12 PM

7/22/19, 9:22 PM

https://docs.google.com/document/d/1lnkeBq2nlqnr6_GlUeBix_ousWWhp-6X-f2Umm9PPMo/edit?usp=sharing

David, please review this document prior to answering the questions, which I will send tomorrow. Every section has a summary (except the barrel analysis). Reading the summaries, and the expert analysis by Robbie Lakeman (section 6) will give you all the information.

7/23/19, 7:13 PM

David I emailed you some questions. The moss documents answered a lot for me. I may send some more questions at a future time

7/30/19, 4:13 PM

I was looking at Dwayne's documentary from 2012, "The King of Can". There a couple spots where a barrel board is being played (presumably on MAME), but all the regular barrels have been edited to show Walker Day's face, and the blue barrels edited to show your dad's face. There are as many as 5 moving objects on the screen at the same time. The total time is about 22 seconds. The credits of the film list someone by the name of Hew Dyer as being responsible for "Animations".

I have been trying to contact him, but the e-mail shown in the credits doesn't appear to be active any longer. I have tried to connect on linkedin and facebook, but haven't heard anything yet. I believe this gentleman lives in the same town as Dwayne. This would be someone to interview.

This person isn't available right now.



David Race

MORE ACTIONS

PRIVACY & SUPPORT

SHARED FILES

- DK-holes in Tgs dispute findings .rtf
- DK timeline.rtf
- DK-Josh Harmon_1.rtf

SHARED PHOTOS

The shared photos section displays a grid of document thumbnails. These include text files with various headers and content, some appearing to be legal or investigative documents. The thumbnails are arranged in a grid format, showing the first few lines of text for each document.



David Race



9/14/19, 8:56 AM

David, I emailed you a statement that I'd appreciate if you reviewed and considered. I based it on the conversation with Jace you sent me... There's is one part where I attempt to read between the messages to convey your perspective. I cite this in the email. Besides that, everything else is summarizing the conversation. I'm not sure yet, but this may help us a lot, please let me know how you feel.

If possible, I'd also like to write a statement that summarizes your IGHOF report and other question stuff. They're trying to twist that nature of the conclusions.

Statement would t be necessary for this second one'd just some type of comment on it. I can explain if you'd like.

9/14/19, 2:07 PM

They can try to twist anything they want. I don't feel the need to clarify anything to accommodate the misperceptions of others. I stand by what I have written based on the info I had at the time. I have since discovered new info, which I asked you about yesterday (Robert Wluczek's interviews). This info has caused me to adjust my assessment. The idea of digital manipulation would be off the table if the tape that was sent to Robert prior to the MTV interview in 2006, came from your dad. This still doesn't mean that arcade wasn't used, but it would potentially exonerate Dwayne and others who subsequently gained access to copies of the game.

If I were to sign a statement, it would have to be something I composed, and it would include the addendum about the tape which appeared in the MTV segment in early 2006.

9/14/19, 3:44 PM

Ok. No problem, I was looking for the part that the conclusion is that your findings don't point to use the license of Arcade or not. The other stuff is more nebulous. This person isn't available right now.



David Race

MORE ACTIONS

PRIVACY & SUPPORT

SHARED FILES

DK-holes in TGS dispute findings.rtf

DK timeline.rtf

DK-Josh Harmon_1.rtf

SHARED PHOTOS

<p>DK-holes in TGS dispute findings.rtf</p> <p>DK timeline.rtf</p> <p>DK-Josh Harmon_1.rtf</p>	<p>DK-holes in TGS dispute findings.rtf</p> <p>DK timeline.rtf</p> <p>DK-Josh Harmon_1.rtf</p>	<p>DK-holes in TGS dispute findings.rtf</p> <p>DK timeline.rtf</p> <p>DK-Josh Harmon_1.rtf</p>
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EXHIBIT 4

David Race Statement

2 messages

Billy Mitchell <billy.pacman.player@gmail.com>
To: fastestpacman@gmail.com

Sun, Jul 21, 2019 at 8:04 PM

Hello David,

Here's the statement. Please read it over before signing, let me know if any changes are necessary. If you'd like, you can make them yourself.

Never Surrender,
Billy Jr.

5 attachments



Burnmarks on Digital.PNG
441K



Burnmarks Youtube #2.PNG
211K



Jace Must be in DT #1.PNG
700K

Jace Must be in DT #2.PNG
127K



 **David Race Witness Statement.docx**
17K

David Race <fastestpacman@gmail.com>
To: Billy Mitchell <billy.pacman.player@gmail.com>

Mon, Jul 22, 2019 at 7:41 PM

Billy,

I would be more comfortable if you wanted to present a statement of your own in which you quote what I have said, or send me a list of questions, interview style, that you would like me to answer.

A couple of corrections, however, are in order. The first is that I am not a technician, but simply a layman who has sought greater understanding with respect to this issue. The second is that I have never claimed the "ghost images" on the 1,050,200 recording serve as evidence for burn marks on a monitor. Such marks could never be transferred via direct feed recording. This is what I said on April 5, 2018:

"I have recently discovered there are at least three theories of why there is ghost video at the beginning of Billy's 1,050,200 tape. The first is that it was just a previous recording that bled through. The second is that it has something to do with the video sync which may occur right after an arcade boot up. The third is something called 'print through' where 'the magnetic field from each layer of tape starts to affect the next layer on the reel, so the picture and sound get faintly duplicated at a point a few inches away (one rotation of the reel) along the tape, forming a 'ghost' image.' Depending on the mode in which it was recorded, the length of time the ghost image remains visible may vary. Mind you, the ghost image is of the same recording some time before or after what is playing. I think this needs further investigation. If the third theory is true, it appears the tape from which Dwayne's copy was made was actually longer (32+sec longer) and could possibly allow us to see boot up. I have yet to see any version of MAME which emulates the arcade in this respect."

I think you should look over the "Initial Assessment" I submitted to Jerry Byrum at the beginning of September of last year. I thought I sent it to you, but after looking back I may have just sent it to your dad. I have attached it if you want to look it over. I have also included the file where I answer questions from Josh Harmon from Electronic Gaming Monthly.

Thanks,

David

2 attachments

 **Initial Assessment.rtf**
68K

 **DK Josh Harmon_1.rtf**
52K

EXHIBIT 5



King of Kong Productions <billy.pacman.player@gmail.com>

David Statement

1 message

Billy Mitchell <billy.pacman.player@gmail.com>
To: fastestpacman@gmail.com

Sat, Sep 14, 2019 at 8:53 AM

David,

Please review this statement, every assertion is written based on the Facebook messages with Jace. However, I would like that you closely evaluated number four, because I read between the messages to (hopefully) accurately understand your perspective.

Here's the part I'd like you make sure you agree with, which from the context of the conversation, it seems you did:

"This comment was especially confusing, because these tapes were allegedly Billy Mitchell's performances. Hall knew I'd supported Billy Mitchell during the dispute, and I believe he simply did not want to provide a Billy Mitchell supporter evidence to potentially debunk the claims against Billy that Hall asserted as facts."

Please feel free to make any edits to make sure everything accurately represents everything.

Never Surrender,
Billy Jr.

 **David Race Statement.docx**
16K

EXHIBIT 6

David Race · October 13 at 9:20 PM · 🌐

I am of the opinion that a person should be given the benefit of a doubt and afforded a measure of trust with respect to their personal testimony, and claims, until reasons arise that call it into question.

This is why I could not simply dismiss the testimonies of Billy Mitchell and Rob Childs, despite the many questions and doubts which arose both before and after TG made the decision to remove all of Billy's scores. I was assured that the games had ample eyewitnesses and as a student of history, such cannot be so easily dismissed. I remember hearing Billy say at the Big Bang in 2010, "There were scores of people, maybe as much as a hundred people at times behind ya. They had their cell phones and videos. So the word of it leaked out to some degree one way or another."

(<https://youtu.be/l-LRptUQwFE> 5:30-5:40)

I remember being contacted by Billy(April 19, 2018) and Rob(April 20, 2018) about an investigative reporter named Dan Sweeney who I was told they were working with. I remember being contacted by Mr. Sweeney and I spoke with him on April 23, 2018. A few days earlier(April 20, 2018) he had put out an article titled, "Video game champ Billy Mitchell fighting back after being stripped of record scores".

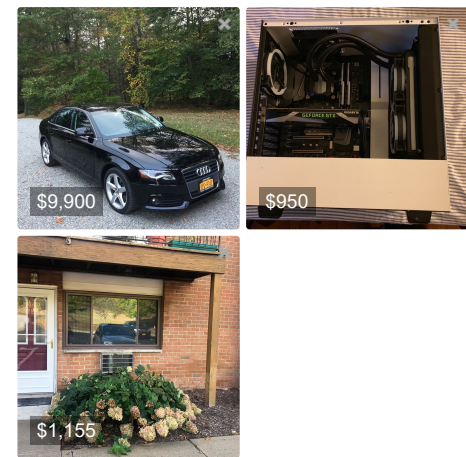
(<https://www.sun-sentinel.com/.../fl-reg-mitchell-follow-20180...>)

At the end of that piece, he wrote, "If you recall Mitchell's record-setting run in 2010 at Boomers in Dania Beach, contact dsweeney@SunSentinel.com or tweet @Daniel_Sweeney."

After the "Billy Mitchell Evidence Package" was made public I e-mailed Mr. Sweeney on September 19, 2019 and asked if anyone had come forward with recollections of Billy's game at Boomers in 2010. I was told that he spent weeks trying to confirm Billy's side of the story through independent sources, but was unable. He was also told that there was video out there but was never able to find it. He even reached out to Palace Entertainment, who owned Boomers at the time, but to no avail.



When someone says that there was up to a hundred people, some with cell phones and video, it is more than reasonable to ask for proof. Simply stating it, does not serve as proof. I have been told by Rob Childs on more than one occasion that he has tons of video and pictures of this event but that they were on one of his laptops or hard drives and doesn't have the time to find them. I informed Billy of what Rob told me and that if true he needed to light a fire under him because if there was such a plethora of video evidence that could vindicate him, there certainly is NO excuse why it hasn't surfaced. One cannot simply pass the buck and try to shift the blame or offer excuses when such evidence could be seen as vital to Billy's defense. I can only surmise

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As of right now, there is no independent evidence that Billy even played DK or DK Jr on July 31, 2010, and the fact there are staged/faked videos featuring Rob Childs and Todd Rogers doesn't help in establishing such a claim. Some of the signed statements in the evidence package have already been shown to contain false statements. Given this, the statements signed in relation to the Boomers score should also be viewed with suspicion. Please remember if this dispute makes its way to court, all those witnesses may have to testify and be cross-examined under oath.

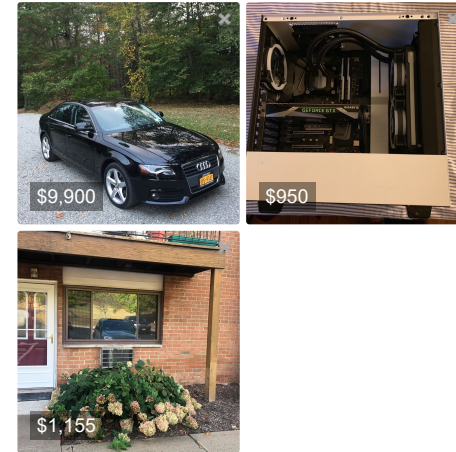
I have heard in conversations with Billy statements like, "Rob is incapable of lying" or that he doesn't know how to lie, or words to that effect. I know that ALL of us are capable of lying, so I am not impressed when I hear something like that. I have heard both Rob and Billy offer to take a lie detector test. That is the reason why in my "Initial Assessment", of September 2, 2018, I strongly suggested to Jerry Byrum, president of the IVGHOF, that "a polygraph examination be scheduled for each individual at different times and at different locations".

Recently(October 8, 2019), I sent the following to Mr. Byrum, "I was wondering if the IVGHOF had decided to set up polygraph exams for Billy Mitchell and Rob Childs? The last thing I heard from Billy is that they were still willing. I was told that they knew someone who could conduct the tests. This, however, would be unacceptable. If done, the tests would have to be conducted separately and at different times with the other one not present or in contact with the other. The examiners also would have to be chosen by an independent 3rd party. I haven't heard anything related to my assessment and recommendation coming out of the IVGHOF since I presented it to you on September 2, 2018. Has a decision been made, or will it be made soon with respect to the concerns about Billy Mitchell?"

The response I received from Jerry was that the Hall of Fame has no intention of setting up such tests for Billy of anyone else and that he has not seen anything conclusive that would prove guilt.

This was part of my response, "I didn't ask you to adjudicate gameplay or scores. I asked if a decision had been made with respect to Billy Mitchell. Forgive me Jerry, but the impression you gave me on the phone and what was posted on the IVGHOF facebook page was that an independent investigation was being pursued in order to make a decision regarding Billy and others with respect to Hall of Fame eligibility. That is certainly within the scope and power of the IVGHOF. I mentioned the polygraph tests because both Billy and Rob have stated they would be willing to take one. In my initial assessment I made a suggestion that this should be done. Even before that I messaged you about the subject along with a link to sites where exams could be scheduled. You didn't respond with any concerns about this or anything mentioned in my assessment until now. It has been over a year since you acknowledged receipt of it. The last message I got from you was from the end of November where you said you thought it was time to issue a

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











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GROUP CONVERSATIONS

and statement regarding this matter? If so, I don't remember seeing it, or being notified.

As far as polygraphs are concerned, if the IVGHOF has no interest in this, I would be willing to schedule and pay for them myself. That would mean, however, the IVGHOF would not be involved and no input from the organization would be considered. I would be the one who determines where and when each one would be conducted along with the list of questions provided to the examiner(s).

Jerry, I know the IVGHOF was under no obligation to investigate anything. I am just wondering why you took the course you did? You contacted me and then posted that you were working with an independent 3rd party. Was this all just for appearances or show? After all, none of this had to be done.

With that being said, I still want to know the truth. I don't think Billy or Rob would ever take a polygraph test, unless of course, they had a say in how it was conducted and by who. I take any statement indicating their willingness to take a lie detector test as a meaningless gesture. Essentially, I am calling their bluff. I will be making a public statement echoing these sentiments."

Yes, I am offering to pay for polygraph examinations for both Billy Mitchell and Rob Childs. If they are willing to take me up on this offer, it will be in accordance with MY terms, not their own. This means I will be the one scheduling everything, including the examiner, questions, time and place. The site of the exam(s) will be in Ohio within driving distance of where I live. A deposit from each individual would first be required to assure that they follow through and actually take the test. Only after they have completed their exams will the respective deposits be returned to them. I will be sending a text message to both parties informing them of my offer. Any telephone call from either party will be recorded. This notification will also be included in the aforementioned text message. Any call received after notification will be taken as implied consent.

In the EGM article titled "The Split-Screen Man" Josh Harmon relates his interaction with Richie Knucklez, "Despite his unwavering public support, Knucklez also told me that he hasn't always been convinced of Mitchell's innocence. Uncertainty crept in when Mitchell was unable to replicate his Boomers stunt—by matching the Donkey Kong and Donkey Kong Jr. scores in a single day—in the months following the verdict. 'Since then he's playing like crazy, and he cannot duplicate the one-day thing. He's been at my place playing and he can't do it again. So part of me kind of thinks that he cheated,' Knucklez told me.

A heart-to-heart with Mitchell tempered those doubts. 'I said, 'Even if you tell me the truth, man, I swear to God I will keep it to my grave.' He looked me in the eye and he almost got teary. He got choked up. He's like, 'Richie, you don't believe in me.' I go, 'I believe in you. Just the evidence is too strong against you. Please be honest with me.' And he looked at me and he said, 'It's the last time we're going to talk about this.' And he got choked up and

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'And that's all I had to hear, because you think about it: He's putting me out there as a shield, and if he goes down I go down, and I have a business. I make a living doing this. So he said, 'I would never do that to you because your little girl would suffer if that happened to you.'

'I thought about it. What kind of man would let me go down that hard?'

[\(https://egmnow.com/the-split-screen-man/\)](https://egmnow.com/the-split-screen-man/)

Unfortunately, it is fairly common for certain people. Playing on one's emotions and using what a person values most – a parent or child- is often employed in order to manipulate another. Think about how many times you have heard someone in real life or on TV or film swear that they were telling the truth, going even so far as to invoke the life of their mother or daughter, just to find out that they were lying the whole time. Such manipulative tactics have been referred to as "gaslighting". The term derives its name from "Gaslight" the name of a play and film adaptations in the early 20th century.

The following is from a Psychology Today article, "As in the movie, the perpetrator often acts concerned and kind to dispel suspicions. Someone capable of persistent lying and manipulation is also quite capable of being charming and seductive. Often the relationship begins that way. When the gaslighting starts, you might even feel guilty for doubting a person you've come to trust. To further play with your mind, an abuser might offer evidence to show that you're wrong or question your memory or senses. More justification and explanation, including expressions of love and flattery, are concocted to confuse you and reason away any discrepancies in the liar's story. You get temporary reassurance, but you increasingly doubt your own senses, ignore your gut, and become more confused."

[\(https://www.psychologytoday.com/.../how-know-if-youre-victim-...\)](https://www.psychologytoday.com/.../how-know-if-youre-victim-...)

Wikipedia begins its definition of "Gaslighting" this way, "Gaslighting is a form of psychological manipulation in which a person seeks to sow seeds of doubt in a targeted individual or in members of a targeted group, making them question their own memory, perception, and sanity. Using persistent denial, misdirection, contradiction, and lying, gaslighting involves attempts to destabilize the victim and delegitimize the victim's belief."

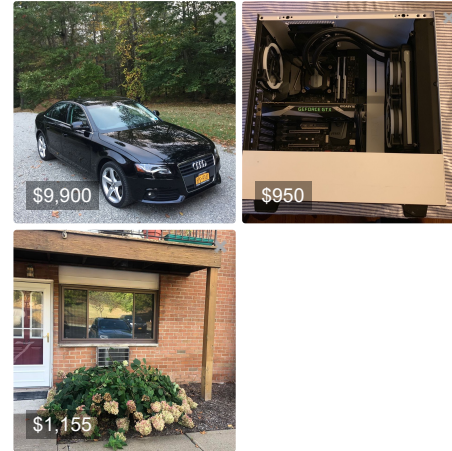
[\(https://en.m.wikipedia.org/wiki/Gaslighting\)](https://en.m.wikipedia.org/wiki/Gaslighting)

See also, "Dorpat, T. L. (1994). On the double whammy and gaslighting. *Psychoanalysis & Psychotherapy*, 11(1), 91-96.

Abstract



Uses illustrations taken from everyday life and the psychotherapy situation to describe the double whammy (DW), a type of gaslighting. In gaslighting, 1 individual by projective identification attempts to cause another individual to doubt his/her own judgments and perceptions. The basic pattern of the DW includes a verbal attack on the victim; the victim's response; and a gaslighting intervention in which the victimizer attacks the victim's judgments, perception, or reality-testing. A major and probably universal

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











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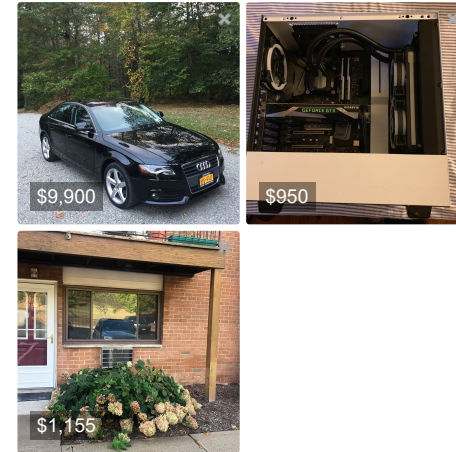
I now believe this whole drawn-out thing has been an elaborate exercise in gaslighting a certain section of the classic arcade community. I don't take kindly to being lied to. If I believe there is good evidence that someone is trying to lead me on or manipulate me in such a way, I'm not going to put up with it. Sure, we are all susceptible, but after admitting it, do you just sit quiet or do you do something? Well, this is me doing something.

The more assurances I and others were given with respect to the games and events under discussion, the more questions it raised. When someone tells you that there was a video of the board being hooked up, but can offer no actual proof, not even incidental images or videos from 3rd party eventgoers, then one cannot be blamed for doubting and questioning the reliability of such statements. Even the so-called witnesses to the games in question either can't or won't produce any pics or video they may have taken. If not cell phones, digital cameras were ubiquitous during the time spanning from 2004-2010. And to reiterate, Rob Childs has said that he has TONS of pictures and video, but hasn't been able to produce anything except the staged videos, which only served as fire for this whole controverted dispute.

I assumed that when all of the witnesses came forth, we would have pictures and videos which they would provide. Has anyone seen a single picture of the Mortgage Brokers event with Billy Mitchell playing Donkey Kong? Please, I am willing to be corrected. I want to see it. Instead, all we have are written statements, most of which appear to have been crafted for the "witnesses" to sign. On top of that, when I discovered that false statements had been inserted concerning Billy's perfect Pac-Man which certain people, including Billy himself, swore to be true, how seriously should any of this be taken, really? I believe anything forthcoming from Billy Mitchell warrants serious skepticism. I can no longer give Billy the benefit of the doubt, and he only has himself to blame for that





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Announcement


  William McEvoy and 2 others 2 Comments 1 Share

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Robert T Mruzek Place no faith in "polygraphs", David...professional liars and those that believe their own BS can fool such "tests" easily by mere virtue of the fact that they drank their own Kool-Aid.





I'm willing to bet that if you have such a test to Al Gore and a... [See More](#)

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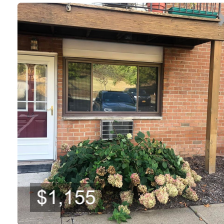

David Race I completely understand why polygraphs are not admissible in court, but thank you for your comments.

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











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INSTANT GAMES






YOUR GAMES



-  Robbie Lakeman ●
-  Josh Houslander ●
-  Casey Ross ●
-  Jon Klinkel ●
-  Neil Hernandez ●
-  Corey Sawyer ●
-  Ben Gold ●
-  Spencer Agabiti ●
-  Craig Figueroa ●
-  Alex Vasquez ●
-  Charles Houck ●
-  Jason Spindler ●
-  Andy Sturm ●
-  Brian Alford ●
-  Steve Grunberger ●
-  Tim Lindquist ●

GROUP CONVERSATIONS

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa St, 15th Floor, Los Angeles, CA 90017-3012.

On October 1, 2020, I served true copies of the following document(s) described as **DECLARATION OF WILLIAM OF MITCHELL IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR UNDERTAKING** on the interested parties in this action as follows:

David A. Tashroudian, Esq. Mona Tashroudian, Esq. TASHROUDIAN LAW GROUP, APC 5900 Canoga Ave., Suite 250 Woodland Hills, California 91367 Telephone: (818) 561-7381 Facsimile: (818) 561-7381 Email: david@tashlawgroup.com Email: mona@tashlawgroup.com	Attorney for Defendants Twin Galaxies
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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address mma@manningllp.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

ONLY BY ELECTRONIC TRANSMISSION: Only by emailing the document(s) to the persons at the e-mail address(es). This is necessitated during the declared National Emergency due to the Coronavirus (COVID-19) pandemic because this office will be working remotely, not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission. We will provide a physical copy, upon request only, when we return to the office at the conclusion of the National Emergency.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 1, 2020, at Los Angeles, California.



Martha Alfaro