IN THE SUPREME COURT FOR STATE OF NEVADA

DEJA VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Deja Vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*, SHAC, L.L.C. d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Appellants,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her Official Capacity Only,

Respondents.

Supreme Court Case No. 59752

District Court Case No. A554970

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Tracie K. Lindeman
Clerk of Supreme Court

APPELLANTS' APPENDIX
VOLUME 1, PAGES 1-191

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[1] Because the case below (A554970) and "Case 1" (A533273) were coordinated (Order of August, 4, 2010, App.Apx. 1699-1702) and later consolidated (Order of April 6, 2011, App.Apx. 2638-2640) the relevant documents for both actions are included in an abundance of caution.

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ORIGINAL

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DOMINIC P. GENTILE, Bar No. 1923
3960 Howard Hughes Parkway, Suite 850
Eighth Floor
Las Vegas, Nevada 89169
(702) 386-0066 - telephone
dpgesntile@worldnet.att.net - email

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

FILED
DEC 19 12 34 PM '06
[signature]
CLERK

DISTRICT COURT, CLARK COUNTY, NEVADA

DEJA VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Deja Vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*, SHAC, L.L.C. d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores*,

Plaintiffs,

v.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

CASE NO.: A533273
DEPT. NO.: IX
DOCKET NO.: ____

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEY FEES AND COSTS

RECEIVED
DEC 16 2006
COUNTY CLERK

NOW COMES Plaintiffs, Deja Vu Showgirls of Las Vegas, L.L.C., d/b/a *Deja Vu Showgirls*, Little Darlings of Las Vegas, L.L.C., d/b/a *Little Darlings*, K-Kel, Inc., d/b/a *Spearmint Rhino Gentlemen's Club*, Olympus Garden, Inc., d/b/a *Olympic Garden*, SHAC, L.L.C., d/b/a *Sapphire*, The Power Company, Inc., d/b/a *Crazy Horse Too Gentlemen's Club*, D. Westwood, Inc., d/b/a *Treasures*, and D.I. Food & Beverage of Las Vegas, LLC, d/b/a *Scores* (collectively referred to herein as the "Plaintiffs"), by and through their attorneys, and state for their complaint against Defendants Nevada Department of Taxation, Nevada Tax Commission, Nevada State Board of Examiners, and Michelle Jacobs in her official capacity only (collectively referred to herein as the "Defendants"), as follows:

INTRODUCTION

1. This is a civil action wherein Plaintiffs pray for a declaratory judgment, damages, attorney fees and costs, as well as both a preliminary and permanent injunction to restrain and enjoin the Defendants, as well as their agents, employees and representatives, from acting under color of state law to deprive the Plaintiffs of their rights, privileges and immunities secured to them by the Constitution of the State of Nevada and the Constitution of the United States. Specifically, Plaintiffs seek to have this Court declare as unconstitutional on its face, and to enjoin, all aspects of the Nevada Tax on Live Entertainment (referred to herein as the "Live Entertainment Tax," or simply the "Tax") as established by Title 32, Chapter 368A, of the Nevada Revised Statutes ("Chapter 368A"), as being an impermissible tax on constitutionally protected expression. A copy of that statute is attached hereto as Ex. "A," and is incorporated herein by reference.

JURISDICTION AND VENUE

2. This Court has jurisdiction and power to grant the injunctive relief requested pursuant to Rule 65 of the Nevada Rules of Civil Procedure and N.R.S. § 33.010, and jurisdiction and authority to grant the declaratory judgment prayed for here pursuant to Rule 57 of the Nevada Rules of Civil Procedure and N.R.S. 33.040.

3. The federal statutory law which further authorizes the institution of this suit is 42 U.S.C.

§ 1983, which provides, in part:

> "Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . ."

4. Authorization for the request of attorney's fees and costs is conferred by 42 U.S.C. § 1988.

5. This suit is authorized by law to redress deprivations under color of state law of rights, privileges, and immunities secured by Article I, §§ 9 and 10, of the Nevada Constitution, as well as the First and Fourteenth Amendments to the United States Constitution, and for declaratory and injunctive relief.

6. Venue resides in this Court and is proper and appropriate as the various acts complained of occurred, and the Defendants are located, within Clark County in the State of Nevada.

PARTIES

7. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

8. Plaintiff, Deja Vu Showgirls of Las Vegas, L.L.C., d/b/a *Deja Vu Showgirls* ("*Deja Vu*"), is a Limited Liability Company duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

9. Plaintiff, Little Darlings of Las Vegas, L.L.C., d/b/a *Little Darlings* ("*Little Darlings*"), is a Limited Liability Company duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

10. Plaintiff, K-Kel, Inc., d/b/a *Spearmint Rhino Gentlemen's Club* ("*Spearmint Rhino*") is a Corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

11. Plaintiff, Olympus Garden, Inc., d/b/a *Olympic Garden* ("*Olympic*")is a Corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

12. Plaintiff, SHAC, L.L.C., d/b/a *Sapphire* ("*Sapphire*") is a Limited Liability Company duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

13. Plaintiff, The Power Company, Inc., d/b/a *Crazy Horse Too Gentlemen's Club* ("*Crazy Horse*") is a Corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

14. Plaintiff, D. Westwood, Inc., d/b/a *Treasures* ("*Treasures*") is a Corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

15. Plaintiff, D.I. Food & Beverage of Las Vegas, LLC, d/b/a *Scores* ("*Scores*") is a Corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

16. None of the Plaintiffs operate their facilities as licensed gaming establishments under the laws of the State of Nevada.

17. Defendant, Nevada Department of Taxation (hereinafter sometimes referred to simply as the "Department") is a governmental entity created under the laws of the State of Nevada, which administers and enforces the statutory provisions challenged herein, and collects the Live Entertainment Tax, for all non-gaming licensed taxpayers.

18. Defendant, Nevada Tax Commission (hereinafter sometimes referred to simply as the "Commission") is a governmental entity created under the laws of the State of Nevada, which administers and enforces some of the statutory provisions challenged herein, and is authorized to consider and rule upon, among other things, appeals of claims under Chapter 368A.

19. Defendant, Nevada State Board of Examiners (hereinafter sometimes referred to simply as the "Board of Examiners") is a governmental entity created under the laws of the State of Nevada, and consists of the governor, the secretary of state, and the attorney general. Pursuant to N.R.S. § 368A.250, the Board of Examiners is authorized to approve, among

other things, refunds with regard to any erroneously or illegally collected or computed tax under Chapter 368A.

20. Defendant, Michelle Jacobs, who is named in this lawsuit in her official capacity only, is an employee of the Nevada Department of Taxation, and is responsible for the administration of Chapter 368A.

STATEMENT OF FACTS

21. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

22. On or about July 22, 2003, the State of Nevada enacted, pursuant to the adoption of Chapter 368A, a Tax on Live Entertainment, which imposes, subject to numerous exceptions, an excise tax on admission to any facility within the State of Nevada that provides defined "live entertainment."

23. Pursuant to N.R.S. § 368A.140, the Defendant Nevada Department of Taxation is obligated to collect the tax imposed by Chapter 367A from taxpayers who/which are not licensed gaming establishments, and is also obligated to adopt such regulations as are necessary to carry out those functions.

24. Upon information and belief, one of the primary purposes for the enactment of Chapter 368A was to impose an excise tax upon those establishments in the State of Nevada that provide live so-called "adult" entertainment in the form of exotic dancing, "topless" dancing, and fully nude performance dance entertainment.

25. As originally enacted, the tax imposed by Chapter 368A was not applicable, under the terms of N.R.S. § 368A.200(5)(d), to live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided had a maximum occupancy of less than 300 persons.

26. On June 17, 2005, Chapter 368A was amended by Assembly Bill No. 554, which - - among other things - - reduced the scope of the exception as contained in N.R.S. § 368A.200(5)(d) from a maximum seating capacity limitation of 300 to 200. Upon information and belief, the

purpose of the July 17, 2005, amendments to Chapter 368A, and in particular those to N.R.S. § 368A.200(5)(d), was to specifically extend the tax obligation as contained in Chapter 368A to "adult" entertainment establishments which were not then subject to the Live Entertainment Tax, including a number of the Plaintiffs in this action.

27. *Deja Vu* operates a commercial establishment at 3247 Industrial Road, Las Vegas, Nevada, 89109, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Deja Vu* is subject to Chapter 368A, as amended, and have required *Deja Vu* to pay the Live Entertainment Tax as mandated therein.

28. *Little Darlings* operates a commercial establishment at 1514 Western Avenue, Las Vegas, Nevada, 89102, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Little Darlings* is subject to Chapter 368A, as amended, and have required *Little Darlings* to pay the Live Entertainment Tax as mandated therein.

29. *Spearmint Rhino* operates a commercial establishment at 3344 S. Highland Avenue, Las Vegas, Nevada, 89109, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Spearmint Rhino* is subject to Chapter 368A, as amended, and have required *Spearmint Rhino* to pay the Live Entertainment Tax as mandated therein.

30. *Olympic Garden* operates a commercial establishment at 1531 S. Las Vegas Boulevard, Las Vegas, Nevada, 89104, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Olympic Garden* is subject to Chapter 368A, as amended, and have required *Olympic Garden* to pay the Live Entertainment Tax as mandated therein.

31. *Sapphire* operates a commercial establishment at 3025 Industrial Road, Las Vegas, Nevada, 89109, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Sapphire* is subject to Chapter 368A, as amended, and have required *Sapphire* to pay the Live Entertainment Tax as mandated

therein.

32. *Crazy Horse* operates a commercial establishment at 2476 Industrial Road, Las Vegas, Nevada, 89102, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Crazy Horse* is subject to Chapter 368A, as amended, and have required *Crazy Horse* to pay the Live Entertainment Tax as mandated therein.

33. *Treasures* operates a commercial establishment at 2801 Westwood, Las Vegas, Nevada, 89109, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Treasures* is subject to Chapter 368A, as amended, and have required *Treasures* to pay the Live Entertainment Tax as mandated therein.

34. *Scores* operates a commercial establishment at 3355 South Procyon Avenue, Las Vegas, Nevada, 89102, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Scores* is subject to Chapter 368A, as amended, and have required *Scores* to pay the Live Entertainment Tax as mandated therein.

35. All of the facilities operated by the Plaintiffs have maximum occupancies of less than 7,500 persons.

36. The Plaintiffs all present upon their business premises some form of live "exotic" performance dance entertainment. Some of the Plaintiffs present live clothed and "topless" female performance dance entertainment, and others of the Plaintiffs present live clothed, "topless" and fully nude female performance dance entertainment; all of which is non-obscene. The non-obscene performance dance entertainment presented on the establishments operated by the Plaintiffs constitutes speech and expression, as well as a form of assembly, protected by not only Article I, §§ 9 and 10, of the Nevada Constitution, but the First and Fourteenth Amendments to the United States Constitution, as well.

37. The Defendants take the position that pursuant to the definitions set forth in Chapter 368A,

Plaintiffs are obligated to pay the Live Entertainment Tax since their establishments fall within the definition of "live entertainment" found in N.R.S. § 368A.090, and since they are not otherwise exempted from having to pay that tax.

38. Plaintiffs contend that the Live Entertainment Tax as mandated by Chapter 368A is both illegal and unconstitutional, and for those reasons they do not desire to pay those taxes. Nevertheless, under threat of criminal prosecution and/or the imposition of fines and other penalties against them, Plaintiffs have all, beginning at various times, paid the Live Entertainment Tax mandated by Chapter 368A.

39. Plaintiffs have filed this action in order to protect their fundamental constitutional rights from infringement by the enforcement of Chapter 368A, which they contend is unconstitutional on its face as it imposes a tax directly on "live entertainment;" an activity which is protected by Article I, §§ 9 and 10 of the Nevada Constitution as well as the First and Fourteenth to the United States Constitution. Chapter 368A is therefore a direct tax on "First Amendment" freedoms, and in particular on live exotic performance dance entertainment.

40. Plaintiffs have suffered, and will continue to suffer, irreparable harm due to the enforcement of Chapter 368A in that their constitutional rights have been infringed upon, as well as their ability to provide constitutionally protected entertainment.

EXCERPTS OF THE TAX ON LIVE ENTERTAINMENT STATUTE

41. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

42. Chapter 368A states, at N.R.S. § 368A.200(1), that "[e]xcept as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided." If the live entertainment is provided at a facility with a maximum occupancy of less than 7,500, the rate of tax is 10% of the admission charge to the facility plus 10% of any amounts paid for food, refreshments and merchandise purchased at the facility. If the live entertainment is provided at a facility with a maximum occupancy of

at least 7,500, the rate of the tax is 5% of the admission charged to the facility.

43. Chapter 368A defines an "[a]dmission charge" in N.R.S. § 368A.020 as:

> [T]he total amount, expressed in terms of money, of consideration paid for the right or privilege to have access to a facility where live entertainment is provided. The term includes, without limitation, an entertainment fee, a cover charge, a table reservation fee, or a required minimum purchase of food, refreshments or merchandise.

44. Chapter 368A defines a "facility" in N.R.S. § 368A.060 as:

> "(a) Any area or premises where live entertainment is provided and for which consideration is collected for the right or privilege of entering that area or those premises if the live entertainment is provided at:
>
>> (1) An establishment that is not a licensed gaming establishment; or
>> (2) A licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits.
>
> (b) Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment."

45. "[L]ive entertainment" is defined in § 368A.090 as:

> "[A]ny activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar pupose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present."

This definition includes, among other activities, "[d]ancing performed by one or more professional or amateur dancers."

46. Chapter 368A states, at N.R.S. § 368A.142(2), that the Department shall collect the Live Entertainment Tax from non-gaming licensed taxpayers, such as is the case of the Plaintiffs here, and is empowered to "adopt such regulations are necessary to carry out" that collection.

47. Pursuant to N.R.S. § 368A.200(5), the tax imposed by Chapter 368 is not applicable to a variety of circumstances. Some of the exemptions include live entertainment that the State is prohibited from taxing under the Constitution, laws or treaties of the United States or Nevada Constitution; live entertainment that is not provided at a licensed gaming establishment if the facility has a maximum seating capacity of less than 200; live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games

within those limits, if the facility has a maximum seating capacity of less than 200; merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment; and music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

48. Overpayments and refunds of the Live Entertainment Tax are addressed in N.R.S. § 368A.250, which provides that if the Department determines that any tax has been "erroneously or illegally collected or computed," the Department must record the fact and certify the amount owed and from whom it was collected to Defendant Board of Examiners. If the amount is approved by the Board of Examiners, it is then credited on any amount that is due from that person under Chapter 368A, with the balance refunded to that person.

49. Chapter 368A provides, at N.R.S. § 368A.280(1), that "[n]o injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this state or against any officer of the State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected." Accordingly, Plaintiffs have no ability to seek injunctive relief in state court against collection of the Live Entertainment Tax.

50. Chapter 368A provides, at N.R.S. § 368A.290(1), that the Nevada Tax Commission is authorized to render a final decision upon claims for refunds under that chapter. Further, at N.R.S. § 368A.300(2), Chapter 368A provides that a claim thereunder that is disallowed by the Department may be appealed to the Nevada Tax Commission.

COUNT I - DECLARATORY RELIEF

51. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

52. Chapter 368A is unconstitutional on its face under Article I, §§ 9 and 10 of the Nevada Constitution as well as the First and Fourteenth Amendments to the United States Constitution, for numerous and various reasons, including, but not limited to, the fact that:

a. It effectuates an impermissible prior restraint on speech and expression;

b. It fails to further any important, substantial or compelling governmental interest;

c. It permits restrictions on speech and expression that are greater than are essential to further any asserted governmental interests;

d. It permits restrictions on speech and expression that are not the least restrictive means available;

e. It contains criteria that are both arbitrary and capricious and which are not supported by any legislative record;

f. It contains numerous and various terms and phrases which are impermissibly vague, and ambiguous, and the applicable definitions as contained therein are impermissibly and substantially overbroad judged in relation to their plainly legitimate sweep;

g. It imbues the Defendants with unbridled discretion;

h. It impermissibly singles out constitutionally protected businesses for certain regulations;

i. It violates the substantive due process rights of the Plaintiffs and others;

j. It violates Plaintiffs' equal protection rights in that it unconstitutionally discriminates against expressive businesses based upon the content of speech, and it further creates and permits uneven treatment in the exercise of constitutionally protected rights in the State of Nevada, and therefore permits differing treatment amongst individuals who desire to engage in constitutionally protected speech;

k. It is an impermissible direct tax on constitutionally protected freedoms;

l. It impermissibly requires a person or business to pay for the right to exercise a right guaranteed by the Nevada and United States Constitutions;

m. It was enacted upon an insufficient record and is not justified on any factual or legal ground; and

n. It violates the separation of powers doctrine.

53. Because the Live Entertainment Tax is an impermissible and/or unconstitutional direct tax upon expression protected by Article I, §§ 9 and 10 of the Nevada Constitution as well as the First Amendment to the United States Constitution, Plaintiffs are not subject to payment of the Live Entertainment Tax pursuant to the provisions of N.R.S. § 368A.200(5)(a).

54. This Court has the authority to declare the rights and other relations of the Plaintiffs and of the Defendants, and should do so here.

55. Because of the questioned constitutionality of the Live Entertainment Tax as required by

Chapter 368A, and because of the potential application of the exemption as contained in N.R.S. § 368A.200(5)(a) in regard to the Live Entertainment Tax being applied to these Plaintiffs, Plaintiffs are entitled to a declaration by this Court in regard to the constitutionality of Chapter 368A as well as the applicability of the exemption as contained in N.R.S. § 368A.200(5)(a).

56. For the reasons as set forth above, this Court should declare that the Live Entertainment Tax as mandated by Chapter 368A is unconstitutional on its face. Also for the reasons as set forth above, this Court should declare that Plaintiffs need not pay the Live Entertainment Tax as required by Chapter 368A both as a result of the constitutional violations as enumerated above as well as the specific exemption as set forth in N.R.S. § 368A.200(5)(a). In addition, this Court should declare that the Defendants have violated the constitutional rights of the Plaintiffs by requiring them to have paid the Live Entertainment Tax in the past.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court declare the Live Entertainment Tax under Chapter 368A unconstitutional on its face; that Plaintiffs need not pay the Live Entertainment Tax as mandated by Chapter 368A both because it violates Article I, §§ 9 and 10 of the Nevada Constitution as well as the First Amendment to the United States Constitution, and because Plaintiffs are exempt from paying the Live Entertainment Tax pursuant to the provisions of N.R.S. § 368A.200(5)(a); and that the Defendants have violated the Plaintiffs' constitutional rights by having required them to have paid the Live Entertainment Tax in the past.

COUNT II - INJUNCTIVE RELIEF

57. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

58. Any action taken or to be taken by the Defendants to enforce any portion of Chapter 368A against Plaintiffs has been taken and will be taken under color of law, and has deprived and will deprive Plaintiffs of their constitutional rights as set forth herein, and will cause them irreparable harm for which compensatory damages are an inadequate remedy as a matter of law.

59. The threat of enforcement of Chapter 368A is both great and immediate. In addition, Chapter 368A is both flagrantly and patently violative of Plaintiffs' constitutional rights. There is no other remedy at law which would suffice to protect Plaintiffs' interests for the reasons above numerated.

60. The public interest weighs in favor of preventing deprivation of constitutional rights, and is always served by enjoining an unconstitutional law.

61. Plaintiffs have a substantial likelihood of success of prevailing on their constitutional claims against Chapter 368A, in that it is blatantly and patently unconstitutional. The Defendants will suffer no harm by the entry of such an injunction, as there can be no legitimate governmental interest in enforcing an unconstitutional law. In addition, the "balancing" of the equities tips in favor of the Plaintiffs and in the entry of a preliminary injunction, due to the paramount position of rights afforded under the First Amendment in comparison to the lack of harm occasioned to the Defendants if such an injunction is granted.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter both a preliminary and permanent enjoining the Defendants, as well as their officers, agents, employees and representatives, from enforcing Chapter 368A against the Plaintiffs and/or from collecting the Live Entertainment Tax against the Plaintiffs. Further, Plaintiffs respectfully request that this Honorable Court enter a permanent injunction ordering Defendant Nevada Tax Commission to record the payments of the Live Entertainment Tax made by the Plaintiffs and to certify those amounts to the Defendant State Board of Examiners, and further ordering the Defendant State Board of Examiners to approve and authorize the refund from the State Treasury of all such Live Entertainment Tax payments that have been involuntarily made by the Plaintiffs under Chapter 368A, together with interest as required by N.R.S. § 368A.310.

COUNT III - DAMAGES AGAINST DEFENDANTS

62. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

63. All of the actions of Defendants, by and through their agents, employees and representatives,

have been undertaken, and will be undertaken, in the course and scope of official duties and under the color of state law.

64. As a direct and proximate cause of the application and/or enforcement of Chapter 368A by Defendants against the Plaintiffs, the Plaintiffs have incurred and suffered significant and substantial damages, and will in the future suffer significant and substantial damages, including, but not limited to having to pay an illegal and/or unconstitutional tax; loss of constitutional rights; lost business profits; and having to incur costs and attorney fees in seeking protection of their constitutional rights asserted herein.

65. Any actions by Defendants to enforce and/or apply Chapter 368A against the Plaintiffs have been and will be made under color of state law, and will unquestionably result in the deprivation of Plaintiffs' constitutional and civil rights as set forth above so as to render Defendants liable for these losses pursuant to 42 U.S.C. §1983.

66. Pursuant to 42 U.S.C. §1983 and common law, Plaintiffs are entitled to an award of damages for the injuries set forth above.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter an award of damages against Defendants and in favor of the Plaintiffs in amounts to which the Plaintiffs are found to be entitled.

COUNT IV - ATTORNEY FEES AND COSTS

67. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

68. Because Chapter 368A is violative of the Nevada Constitution and the United States Constitution on its face, and because its application and/or enforcement has and will deprive the Plaintiffs of their fundamental state and federal constitutional rights, Plaintiffs are entitled, as prevailing parties, to an award of costs and attorney fees incurred herein pursuant to 42 U.S.C. § 1988.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to award costs and attorney fees incurred herein pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Honorable Court enter judgment against Defendants, which would include:

A. A declaration that the Live Entertainment Tax under Chapter 368A is unconstitutional on its face; that Plaintiffs need not pay the Live Entertainment Tax as mandated by Chapter 368A both because it violates Article I, §§ 9 and 10 of the Nevada Constitution as well as the First Amendment to the United States Constitution, and because Plaintiffs are exempt from paying the Live Entertainment Tax pursuant to the provisions of N.R.S. § 368A.200(5)(a); and that the Defendants have violated the Plaintiffs' constitutional rights by having required them to have paid the Live Entertainment Tax in the past;

B. A preliminary and permanent injunction restraining the Defendants, as well as their officers, agents, employees and representatives, from enforcing Chapter 368A against the Plaintiffs and/or from collecting the Live Entertainment Tax against the Plaintiffs;

C. A permanent injunction ordering Defendant Nevada Tax Commission to record the payments of the Live Entertainment Tax made by the Plaintiffs and to certify those amounts to the Defendant State Board of Examiners, and further ordering the Defendant State Board of Examiners to approve and authorize the refund from the State Treasury of all such Live Entertainment Tax payments that have been involuntarily made by the Plaintiffs under Chapter 368A, together with interest as required by N.R.S. § 368A.310;

D. Entry of an award of damages against Defendants and in favor of the Plaintiffs in amounts to which the Plaintiffs are found to be entitled;

E. Entry of an award of costs and attorney fees incurred herein pursuant to 42 U.S.C. § 1988; and,

F. Entry of such other and further relief as the Court deems just and proper.

Dated: December 19, 2006

Respectfully Submitted:

DOMINIC P. GENTILE, Bar No. 1923
3960 Howard Hughes Parkway, Suite 850
Eighth Floor
Las Vegas, Nevada 89169
(702) 386-0066 - telephone
dpgesntile@worldnet.att.net - email

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

Exhibit A

West's Nevada Revised Statutes Annotated Currentness
Title 32. Revenue and Taxation
→ Chapter 368A. Tax on Live Entertainment
General Provisions

368A.010. Definitions

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 368A.020 to 368A.115, inclusive, have the meanings ascribed to them in those sections.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.020. "Admission charge" defined

"Admission charge" means the total amount, expressed in terms of money, of consideration paid for the right or privilege to have access to a facility where live entertainment is provided. The term includes, without limitation, an entertainment fee, a cover charge, a table reservation fee, or a required minimum purchase of food, refreshments or merchandise.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.030. "Board" defined

"Board" means the State Gaming Control Board.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.040. "Business" defined

"Business" means any activity engaged in or caused to be engaged in by a business entity with the object of gain, benefit or advantage, either direct or indirect, to any person or governmental entity.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.050. "Business entity" defined

1. "Business entity" includes:

(a) A corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other type of entity that engages in business.

(b) A natural person engaging in a business if he is deemed to be a business entity pursuant to NRS 368A.120.

2. The term does not include a governmental entity.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.053. "Casual assemblage" defined

"Casual assemblage" includes, without limitation:

1. Participants in conventions, business meetings or tournaments governed by chapter 463 of NRS, and their guests; or

2. Persons celebrating a friend's or family member's wedding, birthday, anniversary, graduation, religious ceremony or similar occasion that is generally recognized as customary for celebration.

368A.055. "Commission" defined

"Commission" means the Nevada Gaming Commission.

368A.060. "Facility" defined

1. "Facility" means:

(a) Any area or premises where live entertainment is provided and for which consideration is collected for the right or privilege of entering that area or those premises if the live entertainment is provided at:

(1) An establishment that is not a licensed gaming establishment; or

(2) A licensed gaming establishment that is licensed for less than 51 slot machines, less than [six] 6 games, or any combination of slot machines and games within those respective limits.

(b) Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment.

2. "Facility" encompasses, if live entertainment is provided at a licensed gaming establishment that is licensed for:

(a) Less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, any area or premises where the live entertainment is provided and for which consideration is collected, from one or more patrons, for the right or privilege of entering that area or those premises, even if additional consideration is collected for the right or privilege of entering a smaller venue within that area or those premises; or

(b) At least 51 slot machines or at least 6 games, any designated area on the premises of the licensed gaming establishment within which the live entertainment is provided.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.070. "Game" defined

"Game" has the meaning ascribed to it in NRS 463.0152.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.080. "Licensed gaming establishment" defined

"Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.090. "Live entertainment" defined

1. "Live entertainment" means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present.

2. The term:

(a) Includes, without limitation, any one or more of the following activities:

(1) Music or vocals provided by one or more professional or amateur musicians or vocalists;

(2) Dancing performed by one or more professional or amateur dancers or performers;

(3) Acting or drama provided by one or more professional or amateur actors or players;

(4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;

(5) Animal stunts or performances induced by one or more animal handlers or trainers, except as otherwise provided in subparagraph (7) of paragraph (b);

(6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes or sportsmen;

(7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;

(8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; and

(9) A performance involving one or more of the activities described in this paragraph by a disc jockey who presents recorded music. For the purposes of this subsection, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.

(b) Excludes, without limitation, any one or more of the following activities:

(1) Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;

(2) Occasional performances by employees whose primary job function is that of preparing, selling or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;

(3) Performances by performers of any type if the performance occurs in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, as long as the performers stroll continuously throughout the facility;

(4) Performances in areas other than in nightclubs, lounges, restaurants or showrooms, if the performances occur in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, which enhance the theme of the establishment or attract patrons to the areas of the performances, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables;

(5) Television, radio, closed circuit or Internet broadcasts of live entertainment;

(6) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons;

(7) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research; and

(8) An occasional activity, including, without limitation, dancing, that:

(I) Does not constitute a performance;

(II) Is not advertised as entertainment to the public;

(III) Primarily serves to provide ambience to the facility; and

(IV) Is conducted by an employee whose primary job function is not that of an entertainer.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.097. "Shopping mall" defined

"Shopping mall" includes any area or premises where multiple vendors assemble for the primary purpose of selling goods or services, regardless of whether consideration is collected for the right or privilege of entering that area or those premises.

368A.100. "Slot machine" defined

"Slot machine" has the meaning ascribed to it in NRS 463.0191.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.110. "Taxpayer" defined

"Taxpayer" means:

1. If live entertainment that is taxable under this chapter is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment.

2. Except as otherwise provided in subsection 3, if live entertainment that is taxable under this chapter is not provided at a licensed gaming establishment, the owner or operator of the facility where the live entertainment is provided.

3. If live entertainment that is taxable under this chapter is provided at a publicly owned facility or on public land, the person

who collects the taxable receipts.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.115. "Trade show" defined

"Trade show" means an event of limited duration primarily attended by members of a particular trade or industry for the purpose of exhibiting their merchandise or services or discussing matters of interest to members of that trade or industry.

368A.120. Natural persons who are deemed to be business entities

A natural person engaging in a business shall be deemed to be a business entity that is subject to the provisions of this chapter if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, or a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, for the business.

[FN1] See Historical and Statutory Notes below for effective date information.

Administration

368A.130. Repealed

368A.140. Duties of Board, Commission and Department; applicability of chapters 360 and 463 of NRS

1. The Board shall collect the tax imposed by this chapter from taxpayers who are licensed gaming establishments. The Commission shall adopt such regulations as are necessary to carry out the provisions of this subsection. The regulations must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.

2. The Department shall:

(a) Collect the tax imposed by this chapter from all other taxpayers; and

(b) Adopt such regulations as are necessary to carry out the provisions of paragraph (a).

3. For the purposes of:

(a) Subsection 1, the provisions of chapter 463 of NRS relating to the payment, collection, administration and enforcement of gaming license fees and taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the taxes imposed by this chapter to the extent that those provisions do not conflict with the provisions of this chapter.

(b) Subsection 2, the provisions of chapter 360 of NRS relating to the payment, collection, administration and enforcement of taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the taxes imposed by this chapter to the extent that those provisions do not conflict with the provisions of this chapter.

4. To ensure that the tax imposed by NRS 368A.200 is collected fairly and equitably, the Commission, the Board and the Department shall:

(a) Jointly, coordinate the administration and collection of that tax and the regulation of taxpayers who are liable for the payment of the tax.

(b) Upon request, assist the other agencies in the collection of that tax.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.150. Establishment of amount of tax liability when Board or Department determines that taxpayer is acting with intent to defraud State or to evade payment of tax

1. If:

(a) The Board determines that a taxpayer who is a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Board shall establish an amount upon which the tax imposed by this chapter must be based.

(b) The Department determines that a taxpayer who is not a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Department shall establish an amount upon which the tax imposed by this chapter must be based.

2. The amount established by the Board or the Department pursuant to subsection 1 must be based upon the tax liability of business entities that are deemed comparable by the Board or the Department to that of the taxpayer.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.160. Maintenance and availability of records for determining liability of taxpayer; liability to taxpayer of lessee, assignee or transferee of certain premises; penalty

1. Each person responsible for maintaining the records of a taxpayer shall:

(a) Keep such records as may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter;

(b) Preserve those records for:

(1) At least 5 years if the taxpayer is a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; or

(2) At least 4 years if the taxpayer is not a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Board or the Department upon demand at reasonable times during regular business hours.

2. The Commission and the Department may adopt regulations pursuant to NRS 368A.140 specifying the types of records

which must be kept to determine the amount of the liability of a taxpayer for the tax imposed by this chapter.

3. Any agreement that is entered into, modified or extended after January 1, 2004, for the lease, assignment or transfer of any premises upon which any activity subject to the tax imposed by this chapter is, or thereafter may be, conducted shall be deemed to include a provision that the taxpayer required to pay the tax must be allowed access to, upon demand, all books, records and financial papers held by the lessee, assignee or transferee which must be kept pursuant to this section. Any person conducting activities subject to the tax imposed by NRS 368A.200 who fails to maintain or disclose his records pursuant to this subsection is liable to the taxpayer for any penalty paid by the taxpayer for the late payment or nonpayment of the tax caused by the failure to maintain or disclose records.

4. A person who violates any provision of this section is guilty of a misdemeanor.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.170. Examination of records by Board or Department; payment of expenses of Board or Department for examination of records outside State

1. To verify the accuracy of any report filed or, if no report is filed by a taxpayer, to determine the amount of tax required to be paid:

(a) The Board, or any person authorized in writing by the Board, may examine the books, papers and records of any licensed gaming establishment that may be liable for the tax imposed by this chapter.

(b) The Department, or any person authorized in writing by the Department, may examine the books, papers and records of any other person who may be liable for the tax imposed by this chapter.

2. Any person who may be liable for the tax imposed by this chapter and who keeps outside of this state any books, papers and records relating thereto shall pay to the Board or the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Board or the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he is absent from his regular place of employment to examine those documents.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.180. Confidentiality of records and files of Board and Department

1. Except as otherwise provided in this section and NRS 360.250, the records and files of the Board and the Department concerning the administration of this chapter are confidential and privileged. The Board, the Department and any employee of the Board or the Department engaged in the administration of this chapter or charged with the custody of any such records or files shall not disclose any information obtained from the records or files of the Board or the Department or from any examination, investigation or hearing authorized by the provisions of this chapter. The Board, the Department and any employee of the Board or the Department may not be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Board and the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Board or the Department and production of records, files and information on behalf of the Board or the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter, if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his authorized representative of a copy of any report or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Board or the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

[FN1] See Historical and Statutory Notes below for effective date information.

Imposition and Collection

368A.200. Imposition and amount of tax; liability and reimbursement for payment; ticket for live entertainment must indicate whether tax is included in price of ticket; exemptions from tax

1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:

(a) Less than 7,500, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer are not taxable pursuant to this section.

3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If

the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.

5. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS.

(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than [six] 6 games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

(f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

(g) Live entertainment that is provided at a trade show.

(h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

(k) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

(l) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

(m) Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.

(n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.

(o) Beginning July 1, 2007, race events scheduled at a race track in this State as a part of the National Association for Stock Car Auto Racing Nextel Cup Series, or its successor racing series, and all races associated therewith.

(p) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.

6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (p) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chairman of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.

7. As used in this section, "maximum occupancy" means, in the following order of priority:

(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.210. Repealed

368A.220. Filing of reports and payment of tax; deposit of amounts received in State General Fund

1. Except as otherwise provided in this section:

(a) Each taxpayer who is a licensed gaming establishment shall file with the Board, on or before the 24th day of each month, a report showing the amount of all taxable receipts for the preceding month or the month in which the taxable events occurred. The report must be in a form prescribed by the Board.

(b) All other taxpayers shall file with the Department, on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by NRS 368A.200, may require reports to be filed not later than 10 days after the end of each calendar quarter.

3. Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.

4. The Board and the Department shall deposit all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.230. Extension of time for payment; payment of interest during period of extension

Upon written application made before the date on which payment must be made, the Board or the Department may, for good cause, extend by 30 days the time within which a taxpayer is required to pay the tax imposed by this chapter. If the tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the taxpayer shall pay interest at the rate of 1 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.240. Credit for amount of tax paid on account of certain charges taxpayer is unable to collect; violations

1. If a taxpayer:

(a) Is unable to collect all or part of an admission charge or charges for food, refreshments and merchandise which were included in the taxable receipts reported for a previous reporting period; and

(b) Has taken a deduction on his federal income tax return pursuant to 26 U.S.C. § 166(a) for the amount which he is unable to collect,

he is entitled to receive a credit for the amount of tax paid on account of that uncollected amount. The credit may be used against the amount of tax that the taxpayer is subsequently required to pay pursuant to this chapter.

2. If the Internal Revenue Service disallows a deduction described in paragraph (b) of subsection 1 and the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 1, the taxpayer shall include the amount of that credit in the amount of taxes reported pursuant to this chapter in the first return filed with the Board or the Department after the deduction is disallowed.

3. If a taxpayer collects all or part of an admission charge or charges for food, refreshments and merchandise for which he claimed a credit on a return for a previous reporting period pursuant to subsection 2, he shall include:

(a) The amount collected in the charges reported pursuant to paragraph (a) of subsection 1; and

(b) The tax payable on the amount collected in the amount of taxes reported,

in the first return filed with the Board or the Department after that collection.

4. Except as otherwise provided in subsection 5, upon determining that a taxpayer has filed a return which contains one or more violations of the provisions of this section, the Board or the Department shall:

(a) For the first return of any taxpayer that contains one or more violations, issue a letter of warning to the taxpayer which provides an explanation of the violation or violations contained in the return.Green numbers along left margin indicate location on the printed bill (e.g., 5-15 indicates page 5, line 15).

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported.

5. For the purposes of subsection 4, if the first violation of this section by any taxpayer was determined by the Board or the Department through an audit which covered more than one return of the taxpayer, the Board or the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

[FN1] See Historical and Statutory Notes below for effective date information.

Overpayments and Refunds

368A.250. Certification of excess amount collected; credit and refund

If the Department determines that any tax, penalty or interest it is required to collect has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in its records and shall certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must be credited on any amounts then due from the person under this chapter, and the balance refunded to the person or his successors in interest.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.260. Limitations on claims for refund or credit; form and contents of claim; failure to file claim constitutes waiver; service of notice of rejection of claim

1. Except as otherwise provided in NRS 360.235 and 360.395:

(a) No refund may be allowed unless a claim for it is filed with:

(1) The Board, if the taxpayer is a licensed gaming establishment; or

(2) The Department, if the taxpayer is not a licensed gaming establishment.

A claim must be filed within 3 years after the last day of the month following the reporting period for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Board or the Department within that period.

2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.

4. Within 30 days after rejecting any claim in whole or in part, the Board or the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.270. Interest on overpayments; disallowance of interest

1. Except as otherwise provided in this section and NRS 360.320, interest must be paid upon any overpayment of any amount of the tax imposed by this chapter in accordance with the provisions of NRS 368A.140.

2. If the overpayment is paid to the Department, the interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

3. If the Board or the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Board or the Department shall not allow any interest on the overpayment.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.280. Injunction or other process to prevent collection of tax prohibited; filing of claim is condition precedent to maintaining action for refund

1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this state or against any officer of the State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected.

2. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.290. Action for refund: Period for commencement; venue; waiver

1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by:

(a) The Commission, the claimant may bring an action against the Board on the grounds set forth in the claim.

(b) The Nevada Tax Commission, the claimant may bring an action against the Department on the grounds set forth in the claim.

2. An action brought pursuant to subsection 1 must be brought in a court of competent jurisdiction in Carson City, the county of this State where the claimant resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Board or the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

3. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of

alleged overpayments.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.300. Rights of claimant upon failure of Board or Department to mail notice of action on claim; allocation of judgment for claimant

1. If the Board fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Commission within 30 days after the last day of the 6-month period.

2. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Nevada Tax Commission within 30 days after the last day of the 6-month period.

3. If the claimant is aggrieved by the decision of:

(a) The Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

(b) The Nevada Tax Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

4. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited towards any tax due from the plaintiff.

5. The balance of the judgment must be refunded to the plaintiff.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.310. Allowance of interest in judgment for amount illegally collected

In any judgment, interest must be allowed at the rate of 6 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Board or the Department.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.320. Standing to recover

A judgment may not be rendered in favor of the plaintiff in any action brought against the Board or the Department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.330. Action for recovery of erroneous refund: Jurisdiction; venue; prosecution

1. The Board or the Department may recover a refund or any part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.

2. The action must be tried in Carson City or Clark County unless the court, with the consent of the Attorney General, orders a change of place of trial.

3. The Attorney General shall prosecute the action, and the provisions of NRS, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.340. Cancellation of illegal determination

1. If any amount in excess of $25 has been illegally determined, either by the person filing the return or by the Board or the Department, the Board or the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Board or the Department.

2. If an amount not exceeding $25 has been illegally determined, either by the person filing a return or by the Board or the Department, the Board or the Department, without certifying this fact to the State Board of Examiners, shall authorize the cancellation of the amount upon the records of the Board or the Department.

[FN1] See Historical and Statutory Notes below for effective date information.

Miscellaneous Provisions

368A.350. Prohibited acts; penalty

1. A person shall not:

(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any report or declaration, with intent to defraud the State or to evade payment of the tax or any part of the tax imposed by this chapter.

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.

(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.

2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.360. Revocation of gaming license for failure to report, pay or truthfully account for tax

Any licensed gaming establishment liable for the payment of the tax imposed by NRS 368A.200 who willfully fails to report, pay or truthfully account for the tax is subject to the revocation of his gaming license by the Commission.

[FN1] See Historical and Statutory Notes below for effective date information.

368A.370. Remedies of State are cumulative

The remedies of the State provided for in this chapter are cumulative, and no action taken by the Commission, the Board, the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.

[FN1] See Historical and Statutory Notes below for effective date information.

Current through the 2005 73rd Regular Session and the 22nd Special Session of the Nevada Legislature
END OF DOCUMENT

ORIGINAL

SUMM

DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169
(702) 386-0066

BRADLEY J. SHAFER, ESQ.*
Michigan State Bar No. P36604
SHAFER & ASSOCIATES, P.C.
3800 Capital City Boulevard, Suite 2
Lansing, MI 48906-2110
(517) 886-6560
*Pending Admission *Pro Hac Vice*

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DISTRICT COURT
CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C. d/b/a *Déjà Vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C. d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OPYMPUS GARDEN, INC, d/b/a *Olympic Garden,* SHAC, L.L.C, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores,* Plaintiffs, vs. NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only, Defendants.	**CASE NO.** A533273 **DEPARTMENT NO:** IX **SUMMONS IN A CIVIL CASE**

RECEIVED
JAN 09 2007
COUNTY CLERK

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPONSE WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: MICHAELLE JACOBS, in her official capacity only

A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, with 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:
   (a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
   (b) Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the Plaintiff and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

SHIRLEY B. PARRAGUIRRE
By: LAURA REVELES
Deputy Clerk
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155
Date DEC 19 2006

DISTRICT COURT SEAL

Submitted by:

DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169

AFFIDAVIT

State of Nevada)
ss.
County of Washoe)

JOHN LEE, being first duly sworn deposes and says:

That affiant is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #322, and not a party to, nor interested in the within action affiant received the documents on **Dec 29 2006 12:12PM** and on **Jan 2 2007 10:00AM**

affiant personally served a copy of the
SUMMONS IN A CIVIL CASE; VERIFIED COMPLAINT FOR DECLARATION AND INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEY FEES AND COSTS

on **KELLY PAWLEY AUTHORIZED TO ACCEPT ACCEPTED ON BEHALF OF MICHELLE JACOBS, IN HER OFFICIAL CAPACITY ONLY**

1550 COLLEGE PKWY STE 100
CARSON CITY, NV 89706

Affiant does hereby affirm under penalty of perjury that the assertions of this affidavit are true.

John Lee
JOHN LEE

Signed and sworn to before me on **Jan 3 2007**

by **JOHN LEE**

Notary Public

JOHNNO LAZETICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 04-89542-2 - Expires January 28, 2008

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ORIGINAL

SUMM
DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169
(702) 386-0066

BRADLEY J. SHAFER, ESQ.*
Michigan State Bar No. P36604
SHAFER & ASSOCIATES, P.C.
3800 Capital City Boulevard, Suite 2
Lansing, MI 48906-2110
(517) 886-6560
*Pending Admission *Pro Hac Vice*

FILED
JAN 9 2 42 PM '07
Shirley B. Parraguirre
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C. d/b/a *Déjà Vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C. d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OPYMPUS GARDEN, INC, d/b/a *Olympic Garden*, SHAC, L.L.C, d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*,

Plaintiffs,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

CASE NO. A533273

DEPARTMENT NO: IX

SUMMONS IN A CIVIL CASE

RECEIVED
JAN 09 2007
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NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPONSE WITHIN 20 DAYS.
READ THE INFORMATION BELOW.

TO THE DEFENDANT: NEVADA DEPARTMENT OF TAXATION

A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, with 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:
   (a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
   (b) Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the Plaintiff and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

SHIRLEY B. PARRAGUIRRE

By: LAURA REVELES
Deputy Clerk Date
Regional Justice Center DEC 19 2006
200 Lewis Avenue
Las Vegas, NV 89155

Submitted by:

DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169

AFFIDAVIT

State of Nevada)
ss.
County of Washoe)

JOHN LEE, being first duly sworn deposes and says:

That affiant is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #322, and not a party to, nor interested in the within action affiant received the documents on **Dec 29 2006 11:49AM** and on **Jan 2 2007 10:00AM** affiant personally served a copy of the

SUMMONS IN A CIVIL CASE; VERIFIED COMPLAINT FOR DECLARATION AND INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEY FEES AND COSTS

on **KELLY PAWLEY OF THE OFFICE OF DINO DICIANNO, EXECUTIVE DIRECTOR OF THE NEVADA DEPARTMENT OF TAXATION, AUTHORIZED TO ACCEPT ACCEPTED ON HIS BEHALF**

1550 COLLEGE PKWY STE 100
CARSON CITY, NV 89706

Affiant does hereby affirm under penalty of perjury that the assertions of this affidavit are true.

John Lee

JOHN LEE

Signed and sworn to before me on **Jan 3 2007**

by **JOHN LEE**

Notary Public

JOHNNO LAZETICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 04-89542-2 - Expires January 28, 2008

Reno/Carson Messenger Service, Inc. License #322

185 Martin St
Reno, NV 89509
775-322-2424

ORIGINAL

SUMM
DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169
(702) 386-0066

BRADLEY J. SHAFER, ESQ.*
Michigan State Bar No. P36604
SHAFER & ASSOCIATES, P.C.
3800 Capital City Boulevard, Suite 2
Lansing, MI 48906-2110
(517) 886-6560
*Pending Admission *Pro Hac Vice*

FILED
JAN 9 2 42 PM '07
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C. d/b/a *Déjà Vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C. d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OPYMPUS GARDEN, INC, d/b/a *Olympic Garden*, SHAC, L.L.C, d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*, Plaintiffs, vs. NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only, Defendants.	**CASE NO.** A533273 **DEPARTMENT NO:** IX **SUMMONS IN A CIVIL CASE**

RECEIVED
JAN 09 2007
COUNTY CLERK

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPONSE WITHIN 20 DAYS.
READ THE INFORMATION BELOW.

TO THE DEFENDANT: NEVADA TAX COMMISSION

A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, with 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:
   (a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
   (b) Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the Plaintiff and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

SHIRLEY B. PARRAGUIRRE
LAURA REVELES
By:____________________
Deputy Clerk Date
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155
DEC 19 2006

Submitted by:

____
DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169

AFFIDAVIT

State of Nevada)
ss.
County of Washoe)

JOHN LEE, being first duly sworn deposes and says:

That affiant is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #322, and not a party to, nor interested in the within action affiant received the documents on **Dec 29 2006 12:09PM** and on **Jan 2 2007 10:00AM** affiant personally served a copy of the

SUMMONS IN A CIVIL CASE; VERIFIED COMPLAINT FOR DECLARATION AND INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEY FEES AND COSTS

on **KELLY PAWLEY MANAGING AGENT FOR NEVADA TAX COMMISSION**

1550 COLLEGE PKWY STE 100
CARSON CITY, NV 89706

Affiant does hereby affirm under penalty of perjury that the assertions of this affidavit are true.

John Lee

JOHN LEE

Signed and sworn to before me on **Jan 3 2007**

by **JOHN LEE**

Notary Public

JOHNNO LAZETICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 04-89542-2 - Expires January 28, 2008

Reno/Carson Messenger Service, Inc.
License #322

185 Martin St
Reno, NV 89509
775-322-2424

RNPERSI 02/07/00

0223852 - GENT

ORIGINAL

FILED
JAN 9 2 42 PM '07
[signature]
CLERK

SUMM

DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169
(702) 386-0066

BRADLEY J. SHAFER, ESQ.*
Michigan State Bar No. P36604
SHAFER & ASSOCIATES, P.C.
3800 Capital City Boulevard, Suite 2
Lansing, MI 48906-2110
(517) 886-6560
*Pending Admission *Pro Hac Vice*

DISTRICT COURT
CLARK COUNTY, NEVADA

A533273

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C. d/b/a *Déjà Vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C. d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OPYMPUS GARDEN, INC, d/b/a *Olympic Garden,* SHAC, L.L.C, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores,* Plaintiffs, vs. NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only, Defendants.	**CASE NO.** IX **DEPARTMENT NO:** **SUMMONS IN A CIVIL CASE**

RECEIVED
JAN 09 2007
COUNTY CLERK

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPONSE WITHIN 20 DAYS.
READ THE INFORMATION BELOW.

TO THE DEFENDANT: NEVADA STATE BOARD OF EXAMINERS

A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, with 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:
   (a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
   (b) Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the Plaintiff and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

SHIRLEY B. PARRAGUIRRE

By: LAURA REVELES
Deputy Clerk Date DEC 19 2006
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

Submitted by:

DOMINIC P. GENTILE, ESQ.
Nevada State Bar No. 1923
GENTILE DEPALMA, LTD.
3960 Howard Hughes Parkway, Suite 850
Las Vegas, NV 89169

AFFIDAVIT

State of Nevada)
ss.
County of Washoe)

JOHN LEE, being first duly sworn deposes and says:

That affiant is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #322, and not a party to, nor interested in the within action affiant received the documents on **Dec 29 2006 12:10PM** and on **Jan 2 2007 10:00AM** affiant personally served a copy of the

SUMMONS IN A CIVIL CASE; VERIFIED COMPLAINT FOR DECLARATION AND INJUNCTIVE RELIEF, DAMAGES, AND ATTORNEY FEES AND COSTS

on **KELLY PAWLEY MANAGING AGENT FOR THE NEVADA STATE BOARD OF EXAMINERS**

1550 COLLEGE PKWY STE 100
CARSON CITY, NV 89706

Affiant does hereby affirm under penalty of perjury that the assertions of this affidavit are true.

JOHN LEE

Signed and sworn to before me on **Jan 3 2007**

by **JOHN LEE**

Notary Public

JOHNNO LAZETICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 04-89542-2 - Expires January 28, 2008

Reno/Carson Messenger Service, Inc. License #322

185 Martin St
Reno, NV 89509
775-322-2424

ORIGINAL

ORDR

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

FILED
APR 3 10 04 AM '07
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,* Plaintiff, vs. NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only, Defendants.	Case No.: A533273 Dept. No.: IX **<u>ORDER ADMITTING TO PRACTICE</u>**

RECEIVED
APR 3 2007
CLERK OF THE COURT

BRADLEY J. SHAFER, ESQ. having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the states of Michigan and Arizona, and the State Bar of Nevada Statement; said application having been noticed, no objections having being made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and Bradley J. Shafer, Esq. is hereby admitted to practice in the above-entitled Court for the purposes of the above entitled matter only.

DATED this 30th day of March, 2007.

DISTRICT JUDGE

Submitted By:

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117

ORIGINAL

SUMM

District Court

CLARK COUNTY, NEVADA

CLERK OF THE COURT

APR 9 4 23 PM '07

FILED

9

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*, SHAC, LLC, d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores*,

Plaintiffs,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No. A533273
Dept. No. IX

SUMMONS

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you for the relief set forth in the Complaint.

STATE OF NEVADA ATTORNEY GENERAL-CATHERINE CORTEZ MASTO

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:
   a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court.
   b. Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

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RECEIVED
APR - 9 2007
CLERK OF THE COURT

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at the direction of:

Diana L. Sullivan

Diana L. Sullivan, Esq.
GHANEM & SULLIVAN, LLP
8861 West Sahara Ave., Suite 120
Las Vegas, Nevada 89117
Attorney for Plaintiffs

~~SHIRLEY B.~~ PARRAGUIRRE, CLERK OF THE COURT

By: ______________________________

DEPUTY CLERK Date
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

CHRISTINA GREENE

MAR 2 3 2007

NOTE: When service is by publication, add a brief statement of the object of the action.
See Rules of Civil Procedure, Rule 4(b).

STATE OF ____________________

COUNTY OF __________________

AFFIDAVIT OF SERVICE

________________________________, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received the ________copy(ies) of the Summons and Complaint,

____

____

____ on the ________ day of ________________, 20_____, and served the same on the ________ day of ____________________, 20_____, by:

(affiant must complete the appropriate paragraph)

1. delivering and leaving a copy with the defendant ______________________________________at (state address)______________________________________.

2. serving the defendant ______________________________________ by personally delivering and leaving a copy with ______________________________________, a person of suitable age and discretion residing at the defendant's usual place of abode located at: (state address) ______________________________.

(Use paragraph 3 for service upon agent, completing A or B)

3. serving the defendant ______________________________________, by personally delivering and leaving a copy at (state address)______________________________-

   a. with ______________________________ as ______________________, an agent lawfully designated by statute to accept service of process;

   b. with ______________________________, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.

4. personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method):

   ______ ordinary mail
   ______ certified mail, return receipt requested
   ______ registered mail, return receipt requested

   addressed to the defendant ______________________________ at the defendant's last known address which is (state address)______________________________________.

____
Signature of person making service

SUBSCRIBED AND SWORN to before me this
________ day of ________________, 20_____.

____
NOTARY PUBLIC in and for said County and State

My Commission
expires:______________________
(SEAL)

AFFIDAVIT OF SERVICE

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC d/b/a, Déjà vu Showgirls, et al, Plaintiffs,	CASE NO. A533273
vs	DEPT. NO. IX
NEVADA DEPARTMENT OF TAXATION, et al, Defendants	Service Affidavit re: Amended Summons & Complaint for Nevada Attorney General

STATE OF NEVADA)
) Ss:
COUNTY OF WASHOE)

PATRICK J. PEREGRIN, hereby states that affiant is over 18 years of age, licensed to serve civil process in the State of Nevada, and not a party to, nor interested in, the above-captioned action.

April 2, 2007, affiant received the Amended Summons & Complaint for service upon Nevada Attorney General.

April 2, 2007 at 1:22 p.m., Affiant personally served a true and correct copy of the same upon Nevada Attorney General accepted by Deputy Attorney General, Janet Traut of the Office of the State of Nevada, Attorney General at 100 North Carson Street, in the City of Carson, State of Nevada.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

FURTHER YOUR AFFIANT SAYETH NAUGHT

EXECUTED 04 April 2007 by Patrick J. Peregrin

SUBSCRIBED and **SWORN** to before 04 April 2007 by Patrick J. Peregrin.

NOTARY PUBLIC

Patrick J. Peregrin

MARCY ANNE RICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 03-82830-2 - Expires July 8, 2008

ORIGINAL

SUMM

District Court

CLARK COUNTY, NEVADA

CLERK OF THE COURT

APR 9 4 23 PM '07

FILED

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiffs,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No. A533273
Dept. No. IX

AMENDED SUMMONS

SUMMONS

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you for the relief set forth in the Complaint.

NEVADA STATE BOARD OF EXAMINERS-ANDREW CLINGER, DIRECTOR

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:
   a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court.
   b. Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

....

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....

....

RECEIVED
APR - 9 2007
CLERK OF THE COURT

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at the direction of:

Diana L. Sullivan

Diana L. Sullivan, Esq.
GHANEM & SULLIVAN, LLP
8861 West Sahara Ave., Suite 120
Las Vegas, Nevada 89117
Attorney for Plaintiffs

~~SHIRLEY~~ B. PARRAGUIRRE, CLERK OF THE COURT

By: ______________________________

DEPUTY CLERK Date
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

MAR 2 3 2007

CHRISTINA GREENE

NOTE: When service is by publication, add a brief statement of the object of the action. See Rules of Civil Procedure, Rule 4(b).

STATE OF ____________________

COUNTY OF __________________

AFFIDAVIT OF SERVICE

________________________________, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received the ________copy(ies) of the Summons and Complaint,

____

____

____ ____________ on the ________ day of __________________, 20_____, and served the same on the ________ day of __________________, 20_____, by:

(affiant must complete the appropriate paragraph)

1. delivering and leaving a copy with the defendant ____at (state address) ____.

2. serving the defendant ____ by personally delivering and leaving a copy with ____, a person of suitable age and discretion residing at the defendant's usual place of abode located at: (state address) ______________________________________.

(Use paragraph 3 for service upon agent, completing A or B)

3. serving the defendant ____, by personally delivering and leaving a copy at (state address) ______________________________

   a. with ____ as ____________________________, an agent lawfully designated by statute to accept service of process;

   b. with ____, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.

4. personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method):

   ______ ordinary mail
   ______ certified mail, return receipt requested
   ______ registered mail, return receipt requested

   addressed to the defendant ______________________________________ at the defendant's last known address which is (state address) ____.

____

Signature of person making service

SUBSCRIBED AND SWORN to before me this
________ day of __________________, 20_____.

____

NOTARY PUBLIC in and for said County and State

My Commission expires:______________________________
(SEAL)

AFFIDAVIT OF SERVICE

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC d/b/a, Déjà vu Showgirls, et al, Plaintiffs, vs NEVADA DEPARTMENT OF TAXATION, et al, Defendants	CASE NO. A533273 DEPT. NO. IX Service Affidavit re: Amended Summons & Complaint for Nevada Board of Examiners

STATE OF NEVADA)
) Ss:
COUNTY OF WASHOE)

PATRICK J. PEREGRIN, hereby states that affiant is over 18 years of age, licensed to serve civil process in the State of Nevada, and not a party to, nor interested in, the above-captioned action.

April 2, 2007, affiant received the Amended Summons & Complaint for service upon Nevada Board of Examiners.

April 2, 2007 at 1:00 p.m., Affiant personally served a true and correct copy of the same upon State of Nevada Board of Examiners accepted by Jennifer Burry of the Office of the State of Nevada, Board of Examiners at 209 E. Musser St., Suite 200, in the City of Carson, State of Nevada.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

FURTHER YOUR AFFIANT SAYETH NAUGHT

EXECUTED 04 April 2007 by Patrick J. Peregrin

SUBSCRIBED and **SWORN** to before 04 April 2007 by Patrick J. Peregrin.

NOTARY PUBLIC

Patrick J. Peregrin

MARCY ANNE RICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 03-82830-2 - Expires July 8, 2008

ORIGINAL

SUMM

District Court

CLARK COUNTY, NEVADA

CLERK OF THE COURT
APR 9 4 24 PM '07
FILED

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiffs,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No. A533273
Dept. No. IX

AMENDED SUMMONS

SUMMONS

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you for the relief set forth in the Complaint.

NEVADA TAX COMMISSION-THOMAS R. SHEETS, CHAIR

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:
   a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court.
   b. Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

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CLERK OF THE COURT

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at the direction of:

Diana L. Sullivan, Esq.
GHANEM & SULLIVAN, LLP
8861 West Sahara Ave., Suite 120
Las Vegas, Nevada 89117
Attorney for Plaintiffs

SHIRLEY B. PARRAGUIRRE, CLERK OF THE COURT

By: ______________________________

DEPUTY CLERK Date
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

NOTE: When service is by publication, add a brief statement of the object of the action. See Rules of Civil Procedure, Rule 4(b).

CHRISTINA GREENE

MAR 2 3 2007

STATE OF ____________________

COUNTY OF ____________________

AFFIDAVIT OF SERVICE

________________________________, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received the ________copy(ies) of the Summons and Complaint,

____

____

____ on the ________ day of ____________________, 20_____, and served the same on the ________ day of ____________________, 20_____, by:

(affiant must complete the appropriate paragraph)

1. delivering and leaving a copy with the defendant ______________________________________ at (state address) ______________________________________.

2. serving the defendant ______________________________________ by personally delivering and leaving a copy with ______________________________________, a person of suitable age and discretion residing at the defendant's usual place of abode located at: (state address) ______________________________.

(Use paragraph 3 for service upon agent, completing A or B)

3. serving the defendant ______________________________________, by personally delivering and leaving a copy at (state address) ______________________________________

   a. with ______________________________ as ______________________________, an agent lawfully designated by statute to accept service of process;

   b. with ______________________________, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.

4. personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method):

   ______ ordinary mail
   ______ certified mail, return receipt requested
   ______ registered mail, return receipt requested

   addressed to the defendant ______________________________ at the defendant's last known address which is (state address) ______________________________________.

____
Signature of person making service

SUBSCRIBED AND SWORN to before me this
________ day of ________________, 20_____.

____
NOTARY PUBLIC in and for said County and State

My Commission expires:______________________________
(SEAL)

AFFIDAVIT OF SERVICE

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC d/b/a, Déjà vu Showgirls, et al, Plaintiffs,	CASE NO. A533273
vs	DEPT. NO. IX
NEVADA DEPARTMENT OF TAXATION, et al, Defendants	Service Affidavit re: Amended Summons & Complaint for Nevada Tax Commission

STATE OF NEVADA)
) Ss:
COUNTY OF WASHOE)

PATRICK J. PEREGRIN, hereby states that affiant is over 18 years of age, licensed to serve civil process in the State of Nevada, and not a party to, nor interested in, the above-captioned action.

April 2, 2007, affiant received the Amended Summons & Complaint for service upon Nevada Tax Commission.

April 2, 2007 at 1:35 p.m., Affiant personally served a true and correct copy of the same upon Nevada Tax Commission accepted by Tom Summers of the Office of the State of Nevada Tax Commission at 1550 College Parkway, in the City of Carson, State of Nevada.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

FURTHER YOUR AFFIANT SAYETH NAUGHT

EXECUTED 04 April 2007 by Patrick J. Peregrin

SUBSCRIBED and **SWORN** to before 04 April 2007 by Patrick J. Peregrin.

NOTARY PUBLIC

Patrick J. Peregrin

MARCY ANNE RICH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 03-82830-2 - Expires July 8, 2008

ORIGINAL

NOEO
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net – email
Attorneys for Plaintiffs
Admitted Pro Hac

FILED
APR 10 11 47 AM '07
CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

NOTICE OF ENTRY OF ORDER

RECEIVED
APR 1 0 2007
CLERK OF THE COURT

PLEASE TAKE NOTICE that an Order was entered in the above-entitled action on the 3rd day of April, 2007 a copy of which is attached.

DATED this 9th day of April, 2007.

GHANEM & SULLIVAN, LLP

By Diana L. Sullivan
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

BRADLEY J. SHAFER,ESQ.
MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 10th day of April, 2007, the foregoing **NOTICE OF ENTRY OF ORDER** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Mary Jorgensen
STATE BAR OF NEVADA
600 East Charleston Blvd.
Las Vegas, Nevada 89104-1563
Fax: (702) 385-2878

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORDR
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

FILED
APR 3 10 04 AM '07
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,* Plaintiff, vs. NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only, Defendants.	Case No.: A533273 Dept. No.: IX **ORDER ADMITTING TO PRACTICE**

BRADLEY J. SHAFER, ESQ. having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the states of Michigan and Arizona, and the State Bar of Nevada Statement; said application having been noticed, no objections having being made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and Bradley J. Shafer, Esq. is hereby admitted to practice in the above-entitled Court for the purposes of the above entitled matter only.

DATED this 30 day of March, 2007.

JENNIFER P. TOG[illegible]

DISTRICT JUDGE

Submitted By:

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117

GHANEM (G&S) SULLIVAN

Attorneys At Law

8861 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 862-4450
Reply fax to: (702) 862-4422

DATE: April 10, 2007

TO:	FAX #:
Catherine Cortez Masto	(775) 684-1108
Dino Diciano	(775) 684-2020
Andrew Clinger	(775) 684-0260
Mary Jorgensen	(702) 385-2878
FROM:	**DIRECT PHONE:**
Diana Sullivan	(702) 862-4450
Pages (including this one):	**Client/Matter:**
6	Déjà Vu Showgirls/Nevada Dept of Taxation, Nevada Tax Commission, Nevada State Board of Examiners, Michelle Jacobs

Message:

Attached please find NOTICE OF ENTRY OF ORDER for the above-referenced matter.

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                    ***   MULTI TX/RX REPORT   ***
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TX/RX NO                2643
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                        (2)   17756842020
                        (3)   17756840260
                        (4)   3852878
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GHANEM (G&S) SULLIVAN
Attorneys At Law

8861 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 862-4450
Reply fax to: (702) 862-4422

DATE: April 10, 2007

TO: Michelle Jacobs	**FAX #:** (775) 684-2020
FROM: Diana Sullivan	**DIRECT PHONE:** (702) 862-4450
Pages (including this one): 6	**Client/Matter:** Déjà Vu Showgirls/Nevada Dept of Taxation, Nevada Tax Commission, Nevada State Board of Examiners, Michelle Jacobs

Message:

Attached please find NOTICE OF ENTRY OF ORDER for the above-referenced matter.

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*** TX REPORT ***
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TRANSMISSION OK

TX/RX NO	2644
DESTINATION TEL #	17756842020
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ST. TIME	04/10 08:58
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PAGES SENT	6
RESULT	OK

GHANEM (G&S) SULLIVAN
Attorneys At Law

8861 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 862-4450
Reply fax to: (702) 862-4422

DATE: April 10, 2007

TO:	**FAX #:**
Thomas R. Sheets	(775) 684-2020
FROM:	**DIRECT PHONE:**
Diana Sullivan	(702) 862-4450
Pages (including this one):	**Client/Matter:**
6	Déjà Vu Showgirls/Nevada Dept of Taxation, Nevada Tax Commission, Nevada State Board of Examiners, Michelle Jacobs

Message:

Attached please find NOTICE OF ENTRY OF ORDER for the above-referenced matter.

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*** TX REPORT ***
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TRANSMISSION OK

TX/RX NO	2645
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DESTINATION ID	
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PAGES SENT	6
RESULT	OK

ORIGINAL

CERT
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

FILED
APR 24 12 01 PM '07
CLERK OF THE COURT

4

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

CERTIFICATE OF SERVICE

RECEIVED
APR 24 2007
CLERK OF THE COURT

I hereby certify that on the 23rd day of April, 2007, the foregoing **SUBSTITUTION OF ATTORNEY** and **VERIFICATION** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer M. Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

Bradley J. Shafer*, MI Bar # P36604
SHAFER & ASSOCIATES, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
Telephone: (517) 886-6560
Facsimile: (517) 886-6565
* Pending Admission *Pro Hac Vice*

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02/26/2007 11:38:23 AM

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Déjà vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*, SHAC, L.L.C., d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*, Plaintiffs, vs. NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only, Defendants.	Case No.: A533273 Dept. No.: IX **SUBSTITUTION OF ATTORNEY**

Plaintiffs hereby substitute the law firm of GHANEM & SULLIVAN, LLP in the above-entitled action in the place and stead of Dominic P. Gentile, Esq.

PLAINTIFF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Déjà Vu Showgirls*

By: Donald Krontz DATED this 16 day of March, 2007
Its: Manager

PLAINTIFF LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*

By: Donald Krontz DATED this 16 day of March, 2007
Its: Manager

PLAINTIFF K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*

By: ____________ DATED this ____ day of ______, 2007
Its: ____________

PLAINTIFF OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*

By: ____________ DATED this ____ day of ______, 2007
Its: ____________

PLAINTIFF SHAC, L.L.C., d/b/a *Sapphire*

By: ____________ DATED this ____ day of ______, 2007
Its: ____________

PLAINTIFF THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*

By: ____________ DATED this ____ day of ______, 2007
Its: ____________

PLAINTIFF D. WESTWOOD, INC., d/b/a *Treasures*

By: ____________ DATED this ____ day of ______, 2007
Its: ____________

PLAINTIFF D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*

By: ____________ DATED this ____ day of ______, 2007
Its: ____________

PLAINTIFF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Déjà Vu Showgirls*

By: ____________________ DATED this ____ day of _______, 2007
Its: ____________________

PLAINTIFF LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*

By: ____________________ DATED this ____ day of _______, 2007
Its: ____________________

PLAINTIFF K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*

By: Ken M Kelly DATED this 7 day of Feb, 2007
Its: President

PLAINTIFF OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*

By: ____________________ DATED this ____ day of _______, 2007
Its: ____________________

PLAINTIFF SHAC, L.L.C., d/b/a *Sapphire*

By: ____________________ DATED this ____ day of _______, 2007
Its: ____________________

PLAINTIFF THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*

By: ____________________ DATED this ____ day of _______, 2007
Its: ____________________

PLAINTIFF D. WESTWOOD, INC., d/b/a *Treasures*

By: ____________________ DATED this ____ day of _______, 2007
Its: ____________________

PLAINTIFF D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*

By: ____________________ DATED this ____ day of _______, 2007
Its: ____________________

PLAINTIFF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Déjà Vu Showgirls*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*

By: ______________________ DATED this 5 day of MARCH, 2007
Its: GM

ORIGINAL

PLAINTIFF SHAC, L.L.C., d/b/a *Sapphire*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF D. WESTWOOD, INC., d/b/a *Treasures*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Déjà Vu Showgirls*

By: ______________________________ DATED this ____ day of _______, 2007
Its: ______________________________

PLAINTIFF LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*

By: ______________________________ DATED this ____ day of _______, 2007
Its: ______________________________

PLAINTIFF K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*

By: ______________________________ DATED this ____ day of _______, 2007
Its: ______________________________

PLAINTIFF OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*

By: ______________________________ DATED this ____ day of _______, 2007
Its: ______________________________

PLAINTIFF SHAC, L.L.C., d/b/a *Sapphire*
SHAC MT LLC.

By: Peter F[illegible] DATED this 8 day of FEB, 2007
Its: MANAGING MEMBER

PLAINTIFF THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*

By: ______________________________ DATED this ____ day of _______, 2007
Its: ______________________________

PLAINTIFF D. WESTWOOD, INC., d/b/a *Treasures*

By: ______________________________ DATED this ____ day of _______, 2007
Its: ______________________________

PLAINTIFF D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*

By: ______________________________ DATED this ____ day of _______, 2007
Its: ______________________________

PLAINTIFF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, ~~L.L.C.~~, d/b/a *Déjà Vu Showgirls*

By: ______________________ DATED this ____ day of ______, 2007
Its: ______________________

PLAINTIFF LITTLE DARLINGS OF LAS VEGAS, L.L.C., ~~d/b/a~~ *Little Darlings*

By: ______________________ DATED this ____ day of ______, 2007
Its: ______________________

PLAINTIFF K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*

By: ______________________ DATED this ____ day of ______, 2007
Its: ______________________

PLAINTIFF OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*

By: ______________________ DATED this ____ day of ______, 2007
Its: ______________________

PLAINTIFF SHAC, L.L.C., d/b/a *Sapphire*

By: ______________________ DATED this ____ day of ______, 2007
Its: ______________________

PLAINTIFF THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*

By: [signature] DATED this 22 day of FEB., 2007
Its: PRESIDENT

PLAINTIFF D. WESTWOOD, INC., d/b/a *Treasures*

By: ______________________ DATED this ____ day of ______, 2007
Its: ______________________

PLAINTIFF D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*

By: ______________________ DATED this ____ day of ______, 2007
Its: ______________________

PLAINTIFF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Déjà Vu Showgirls*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF SHAC, L.L.C., d/b/a *Sapphire*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF D. WESTWOOD, INC., d/b/a *Treasures*

By: ______________________ DATED this 12TH day of FEB, 2007
Its: Authorized Signer

PLAINTIFF D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Déjà Vu Showgirls*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF SHAC, L.L.C., d/b/a *Sapphire*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF D. WESTWOOD, INC., d/b/a *Treasures*

By: ______________________ DATED this ____ day of _______, 2007
Its: ______________________

PLAINTIFF D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*

By: [signature] DATED this 15 day of Feb, 2007
Its: Managing Member

The undersigned attorney hereby consents to the above-entitled substitution of GHANEM & SULLIVAN, LLP in the above-entitled action.

DATED this 2 day of Feb, 2007.

GENTILE DEPALMA, LTD.

By: ______________________

DOMINIC P. GENTILE, ESQ.
Nevada Bar No. 1923
3960 Howard Hughes Pkwy., Ste 850
Eighth Floor
Las Vegas, Nevada 89169
Telephone: (702) 386-0066
Facsimile: (702) 382-9309

The law firm of GHANEM & SULLIVAN, LLP hereby agrees to its substitution as attorneys of record for Plaintiffs, in the place and stead of Dominic P. Gentile, Esq.

DATED this 31st day of January, 2007.

GHANEM & SULLIVAN, LLP

By: Diana L. Sullivan

DIANA L. SULLIVAN, ESQ.
Nevada Bar # 4701
8861 Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

VERF

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF K-KEL, INC. d/b/a SPEARMING RHINO GENTLEMEN'S CLUB

I, Kevin M Kelly, being a corporate representative of K-Kel, Inc., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to K-Kel, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

K-KEL, INC. d/b/a SPEARMINT RHINO GENTLEMEN'S CLUB

By: Kevin M Kelly

Its: President

Submitted By:

GHANEM & SULLIVAN, LLP

By______________________
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

\ ;RF

DıANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a DEJA VU SHOWGIRLS

I, Donald Krontz, being a corporate representative of Deja Vu Showgirls of Las Vegas, L.L.C., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to Deja Vu Showgirls of Las Vegas, L.L.C., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC. d/b/a DÉJÀ VU SHOWGIRLS

By: Donald Krontz

Its: Manager

Submitted By:

GHANEM & SULLIVAN, LLP

By____________________
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF D. WESTWOOD, INC., d/b/a TREASURES

I, Alison Y Lee, being a corporate representative of D. Westwood, Inc., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to D. Westwood, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

D. WESTWOOD, INC., d/b/a TREASURES

By: ______________________

Its: Authorized Signer

Submitted By:

GHANEM & SULLIVAN, LLP

By______________________
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

3/12

VERF

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a SCORES

I, Dennis R. DeGori, being a corporate representative of D.I. Food and Beverage of Las Vegas, LLC, do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to D.I. Food and Beverage of Las Vegas, LLC are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a SCORES

By: ______________________

Its: Managing Member

Submitted By:

GHANEM & SULLIVAN, LLP

By______________________
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

VERF

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club.* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF OLYMPUS GARDEN, INC., d/b/a OLYMPIC GARDEN

I, Dolores Eliades, being a corporate representative of Olympus Garden, Inc. do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to Olympus Garden, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted ~~upon~~ information and belief.

OLYMPUS GARDEN, INC., d/b/a OLYMPIC GARDEN

By: ______________________

Its: GM.

ORIGINAL

Submitted By:

GHANEM & SULLIVAN, LLP

By ______________________
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF THE POWER COMPANY, d/b/a CRAZY HORSE TOO GENTLEMEN'S CLUB

I, Rick Rizzolo, being a corporate representative of The Power Company, Inc., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to The Power Company, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

THE POWER COMPANY, INC., d/b/a/ CRAZY HORSE TOO GENTLEMEN'S CLUB

By: [signature]

Its: PRESIDENT

Submitted By:

GHANEM & SULLIVAN, LLP

By____________________
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF SHAC, LLC, d/b/a SAPPHIRE

I, PETER FEINSTEIN, being a corporate representative of Shac, LLC, do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to Shac, LLC, are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

SHAC, LLC, d/b/a SAPPHIRE
SHAC MT, LLC.
By: [signature]

Its: MANAGING MEMBER

Submitted By:

GHANEM & SULLIVAN, LLP

By______________________
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

GHANEM G&S SULLIVAN
Attorneys At Law

8861 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 862-4450
Reply fax to: (702) 862-4422

DATE: April 23, 2007

TO:	**FAX #:**
Catherin Cortez Masto	(775) 684-1108
Thomas R. Sheets	(775) 684-2020
Andrew Clinger	(775) 684-0260
FROM:	**DIRECT PHONE:**
Diana Sullivan	(702) 862-4450
Pages (including this one):	**Client/Matter:**
26	Déjà vu Showgirls, Little Darlings, K-Kel, Inc., Olympus Garden, Inc., SHAC, LLC, The Power Company, Inc., D. Westwood, Inc., D.I. Food & Beverage of Las Vegas vs. Nevada Dept of Taxation, Nevada Tax Commission, Nevada State Board of Examiners and Michelle Jacobs

Message:

Attached please find CERTIFICATE OF SERVICE for SUBSTITUTION OF ATTORNEY and VERIFICATION.

****
*** MULTI TX/RX REPORT ***
****

TX/RX NO	2699	
PGS.	26	
TX/RX INCOMPLETE		

TRANSACTION OK		
	(1)	17756841108
	(2)	17756842020
	(3)	17756840260
ERROR INFORMATION		

GHANEM (G&S) SULLIVAN

Attorneys At Law

8861 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 862-4450
Reply fax to: (702) 862-4422

DATE: April 23, 2007

TO: Dino Diciano	**FAX #:** (775) 684-2020
FROM: Diana Sullivan	**DIRECT PHONE:** (702) 862-4450
Pages (including this one): 26	**Client/Matter:** Déjà vu Showgirls, Little Darlings, K-Kel, Inc., Olympus Garden, Inc., SHAC, LLC, The Power Company, Inc., D. Westwood, Inc., D.I. Food & Beverage of Las Vegas vs. Nevada Dept of Taxation, Nevada Tax Commission, Nevada State Board of Examiners and Michelle Jacobs

Message:

Attached please find CERTIFICATE OF SERVICE for SUBSTITUTION OF ATTORNEY and VERIFICATION.

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	2700
DESTINATION TEL #	17756842020
DESTINATION ID	
ST. TIME	04/23 15:12
TIME USE	03'30
PAGES SENT	26
RESULT	OK

GHANEM G&S SULLIVAN

Attorneys At Law

8861 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 862-4450
Reply fax to: (702) 862-4422

DATE: April 23, 2007

TO: Michelle Jacobs	**FAX #:** (775) 684-2020
FROM: Diana Sullivan	**DIRECT PHONE:** (702) 862-4450
Pages (including this one): 26	**Client/Matter:** Déjà vu Showgirls, Little Darlings, K-Kel, Inc., Olympus Garden, Inc., SHAC, LLC, The Power Company, Inc., D. Westwood, Inc., D.I. Food & Beverage of Las Vegas vs. Nevada Dept of Taxation, Nevada Tax Commission, Nevada State Board of Examiners and Michelle Jacobs

Message:

Attached please find CERTIFICATE OF SERVICE for SUBSTITUTION OF ATTORNEY and VERIFICATION.

****
*** ERROR TX REPORT ***
****

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	2701
DESTINATION TEL #	17756842020
DESTINATION ID	
ST. TIME	04/23 15:18
TIME USE	00'41
PAGES SENT	1
RESULT	NG

CIVIL COURT MINUTES

06-A-533273-C Deja Vu Showgirls Of Las Vegas vs Nevada Dept Of Taxation

05/03/07 ??:?? ?M 00 PLTF'S MTN TO ASSOCIATE COUNSEL/1

HEARD BY: Jennifer Togliatti, Judge; Dept. 9

OFFICERS: Carole D'Aloia, Relief Clerk

PARTIES: NO PARTIES PRESENT

Court noted no opposition received and, based upon review, ORDERED, motion GRANTED, Ms. Sullivan to prepare and submit appropriate order and notify all parties.

CLERK'S NOTE: A COPY OF THIS MINUTE ORDER WAS PLACED IN THE ATTORNEY FILE OF DIANA L. SULLIVAN, ESQ. (GHANEM & SULLIVAN, LLP) ON 5/18/07. cd

ORIGINAL

14

FILED

MAY 15 4 31 PM '07

CLERK OF THE COURT

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF THE POWER COMPANY, d/b/a CRAZY HORSE TOO GENTLEMEN'S CLUB

RECEIVED

MAY 1 5 2007

CLERK OF THE COURT

I, Rick Bizzolo, being a corporate representative of The Power Company, Inc., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to The Power Company, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

THE POWER COMPANY, INC., d/b/a/ CRAZY HORSE TOO GENTLEMEN'S CLUB

By: ______________________

Its: PRESIDENT

Submitted By:

GHANEM & SULLIVAN, LLP

By Diana L. Sullivan
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERIFICATION OF THE POWER COMPANY, d/b/a CRAZY HOURSE TOO GENTLEMEN'S CLUB** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

14

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

FILED
MAY 15 4 29 PM '07
CLERK OF THE COURT

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a DÉJÀ VU SHOWGIRLS

RECEIVED
MAY 15 2007
CLERK OF THE COURT

I, Donald Krontz, being a corporate representative of Deja Vu Showgirls of Las Vegas, L.L.C., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to Deja Vu Showgirls of Las Vegas, L.L.C., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC. d/b/a DÉJÀ VU SHOWGIRLS

By: Donald Krontz

Its: Manager

Submitted By:

GHANEM & SULLIVAN, LLP

By Diana L. Sullivan

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERICATION OF DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a DÉJÀ VU SHOWGIRLS** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

FILED

MAY 15 4 30 PM '07

CLERK OF THE COURT

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF D. WESTWOOD, INC., d/b/a TREASURES

RECEIVED
MAY 1 5 2007
CLERK OF THE COURT

I, Alson Y Lee, being a corporate representative of D. Westwood, Inc., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to D. Westwood, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

D. WESTWOOD, INC., d/b/a TREASURES

By: [signature]

Its: Authorized Signer

Submitted By:

GHANEM & SULLIVAN, LLP

By Diana L. Sullivan
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERIFICATION OF D. WESTWOOD, INC., d/b/a TREASURES** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

14

FILED

MAY 15 4 30 PM '07

CLERK OF THE COURT

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*, SHAC, LLC, d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores*,

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF OLYMPUS GARDEN, INC., d/b/a OLYMPIC GARDEN

RECEIVED
MAY 15 2007

I, Dolores Eliades, being a corporate representative of Olympus Garden, Inc. do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to Olympus Garden, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

OLYMPUS GARDEN, INC., d/b/a OLYMPIC GARDEN

By:

Its: GM.

ORIGINAL

Submitted By:

GHANEM & SULLIVAN, LLP

By Diana L. Sullivan

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERIFICATION OF OLYMPUS GARDEN, INC., d/b/a OLYMPIC GARDEN** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clarke
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

17

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

FILED
May 15 4 29 PM '07
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF SHAC, LLC, d/b/a SAPPHIRE

RECEIVED
MAY 15 2007
CLERK OF THE COURT

I, PETER FEINSTEIN, being a corporate representative of Shac, LLC, do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to Shac, LLC, are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

SHAC, LLC, d/b/a SAPPHIRE
SHAC MT, LLC.
By: [signature]
Its: MANAGING MEMBER

Submitted By:

GHANEM & SULLIVAN, LLP

By [signature]
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERIFICATION OF SHAC, LLC, d/b/a SAPPHIRE** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

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FILED

MAY 15 4 30 PM '07

CLERK OF THE COURT

VERF
DIANA L. SULLIVAN, Bar No. 4701
Ghanem & Sullivan, LLP
8861 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 862-4450 - telephone
(702) 862-4422 - facsimile
dsullivan@gs-lawyers.com - email

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT
CLARK COUNTY, NEVADA

DEJA VU SHOWGIRLS OF LAS VEGAS, L.L.C., d/b/a *Deja Vu Showgirls*, LITTLE DARLINGS OF LAS VEGAS, L.L.C., d/b/a *Little Darlings*, K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club*, OLYMPUS GARDEN, INC., d/b/a *Olympic Garden*, SHAC, L.L.C. d/b/a *Sapphire*, THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club*, D. WESTWOOD, INC., d/b/a *Treasures*, and D.I. FOOD & BEVERAGE OF LAS VEGAS, L.L.C., d/b/a *Scores*,

Plaintiffs,

v.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

CASE NO.: A533273
DEPT. NO.: IX

VERIFICATION OF DON KRONTZ

RECEIVED
MAY 15 2007
CLERK OF THE COURT

I, Don Krontz, being a corporate representative of Little Darlings of Las Vegas, L.L.C., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for

Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to Little Darlings of Las Vegas, L.L.C., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

By: Donald Krontz
Don Krontz
Little Darlings of Las Vegas, L.L.C.

STATE OF CALIFORNIA)
)§§
COUNTY OF San Bernardino

Subscribed, sworn to and acknowledged before me by Don Krontz this 7 day of May, 2007, to be his free act and deed.

SUZANNE MARIE KRONTZ
Commission # 1566421
Notary Public - California
San Bernardino County
My Comm. Expires Feb 27, 2009

Suzanne Marie Krontz, Notary Public
San Bernardino County, California
My Commission Expires: 2-27-09

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERIFICATION OF LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a LITTLE DARLINGS** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

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17

FILED

MAY 15 4 31 PM '07

CLERK OF THE COURT

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VÈGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,*

Plaintiff,

vs.

NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only,

Defendants.

Case No.: A533273
Dept. No.: IX

VERIFICATION OF D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a SCORES

RECEIVED

MAY 1 5 2007

CLERK OF THE COURT

I, Dennis R. DeGori, being a corporate representative of D.I. Food and Beverage of Las Vegas, LLC, do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to D.I. Food and Beverage of Las Vegas, LLC are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a SCORES

By: ______________________

Its: Managing Member

Submitted By:

GHANEM & SULLIVAN, LLP

By ______________________

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERIFICATION OF D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a SCORES** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

17

VERF
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
Attorneys for Plaintiffs

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

FILED
MAY 15 4 30 PM '07
CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

DÉJÀ VU SHOWGIRLS OF LAS VEGAS, LLC, d/b/a *Déjà vu Showgirls,* LITTLE DARLINGS OF LAS VEGAS, LLC, d/b/a *Little Darlings,* K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club,* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden,* SHAC, LLC, d/b/a *Sapphire,* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club,* D. WESTWOOD, INC., d/b/a *Treasures,* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores,* Plaintiff, vs. NEVADA DEPARTMENT OF TAXATION, NEVADA TAX COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her official capacity only, Defendants.	Case No.: A533273 Dept. No.: IX **VERIFICATION OF K-KEL, INC. d/b/a SPEARMINT RHINO GENTLEMEN'S CLUB**

RECEIVED
MAY 1 5 2007
CLERK OF THE COURT

I, Kevin M Kelly, being a corporate representative of K-Kel, Inc., do hereby certify under penalty of perjury that the facts as set forth in the Plaintiffs' Complaint for Declaratory and Injunctive Relief, Damages, and Attorney Fees and Costs, as they relate to K-Kel, Inc., are true and correct to the best of my knowledge, except in regard to matters asserted upon information and belief.

K-KEL, INC. d/b/a SPEARMINT RHINO GENTLEMEN'S CLUB

By: Kevin M Kelly

Its: President

Submitted By:

GHANEM & SULLIVAN, LLP

By Diana L Sullivan
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY FACSIMILE AND REGULAR MAIL

I hereby certify that on the 15th day of May, 2007, the foregoing **VERIFICATION OF K-KEL, INC. d/b/a SPEARMINT RHINO GENTLEMEN'S CLUB** was served on the party(ies) by faxing a copy and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

Catherine Cortez Masto, Attorney General
STATE OF NEVADA ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701
Fax: (775) 684-1108

Dino Diciano, Executive Director
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Thomas R. Sheets, Chair
NEVADA TAX COMMISSION
1550 College Parkway, Suite 115
Carson City, Nevada 89706
Fax: (775) 684-2020

Andrew Clinger, Director
NEVADA STATE BOARD OF EXAMINERS
Department of Administration
Budget & Planning
Blasdel Building, Room 200
209 E. Musser Street
Carson City, Nevada 89701
Fax: (775) 684-0260

Michelle Jacobs
NEVADA DEPARTMENT OF TAXATION
1550 College Parkway, Suite 100
Carson City, Nevada 89706
Fax: (775) 684-2020

Jennifer Clark
an employee of GHANEM & SULLIVAN, LLP

ORIGINAL

16

DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
GHANEM & SULLIVAN, LLP
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Telephone: (702) 862-4450
Facsimile: (702) 862-4422
dsullivan@gs-lawyers.com
Attorneys for Plaintiffs

FILED

JAN 9 12 39 PM '08

CLERK OF THE COURT

BRADLEY J. SHAFER*, MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
Email: shaferassociates@acd.net
* *Pending Admission Pro Hac Vice*

DISTRICT COURT

CLARK COUNTY, NEVADA

K-KEL, INC., d/b/a *Spearmint Rhino Gentlemen's Club;* OLYMPUS GARDEN, INC., d/b/a *Olympic Garden;* SHAC, LLC, d/b/a *Sapphire;* THE POWER COMPANY, INC., d/b/a *Crazy Horse Too Gentlemen's Club;* D. WESTWOOD, INC., d/b/a *Treasures;* and D.I. FOOD & BEVERAGE OF LAS VEGAS, LLC, d/b/a *Scores;*

Plaintiffs,

vs.

NEVADA DEPARTMENT OF TAXATION; NEVADA TAX COMMISSION; and NEVADA STATE BOARD OF EXAMINERS,

Defendants.

Case No.: A554970
Dept. No.: 14

COMPLAINT FOR REFUND, PURSUANT TO N.R.S. 368A.290(1)(b) AND N.R.S. 368A.300(3)(b), DECLARATORY RELIEF, INJUNCTIVE RELIEF AND DAMAGES

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CLERK OF THE COURT

NOW COME Plaintiffs K-Kel, Inc., d/b/a *Spearmint Rhino Gentlemen's Club*, Olympus Garden, Inc., d/b/a *Olympic Garden*, SHAC, L.L.C., d/b/a *Sapphire*, The Power Company, Inc., d/b/a *Crazy Horse Too Gentlemen's Club*, D. Westwood, Inc., d/b/a

Treasures, and D.I. Food & Beverage of Las Vegas, LLC, d/b/a *Scores* (collectively referred to herein as the "Plaintiffs"), by and through their attorneys, and state for their complaint pursuant to N.R.S. 368A.290(1)(b) and N.R.S. 368A.300(3)(b) against Defendant Nevada Department of Taxation, Defendant Nevada Tax Commission, and Defendant Nevada State Board of Examiners (collectively referred to herein as the "Defendants"), as follows:

INTRODUCTION

1. This is a civil action brought pursuant to N.R.S. 368A.290(1)(b) and N.R.S. 368A.300(3)(b), wherein Plaintiffs pray for a refund of the Live Entertainment Tax paid for the tax periods of January, February, March, and April, 2004, as well as for declaratory judgment, injunctive relief, and damages. Specifically, Plaintiffs seek to have this Court declare as unconstitutional on its face, and enjoin, the Nevada Tax on Live Entertainment (referred to herein as the "Live Entertainment Tax," or simply the "Tax") as established by Title 32, Chapter 368A, of the Nevada Revised Statutes ("Chapter 368A"), and the regulations promulgated in furtherance thereof, as being an impermissible tax on constitutionally protected expression. A copy of the statute as originally enacted is attached hereto as Exhibit 1, and a copy of the current codified version of Chapter 368A is attached hereto as Exhibit 2, and both are incorporated herein by reference. A copy of the administrative regulations promulgated in furtherance of Chapter 368A is attached hereto as Exhibit 3, and is incorporated herein by reference.

JURISDICTION AND VENUE

2. This Court has jurisdiction and power to grant the refund requested pursuant to N.R.S. 368A.290, as well as jurisdiction and authority to grant the declaratory judgment

prayed for here pursuant to Rule 57 of the Nevada Rules of Civil Procedure and N.R.S. 33.040. Additionally, this Court has jurisdiction and power to grant the injunctive relief requested pursuant to Rule 65 of the Nevada Rules of Civil Procedure and N.R.S. § 33.010.

3. This suit is authorized by law to redress deprivations under color of state law of the rights, privileges, and immunities secured by Article I, §§ 9 and 10, and Article 10, §1, of the Nevada Constitution, as well as the First and Fourteenth Amendments to the United States Constitution, and for declaratory and injunctive relief.

4. Venue resides in this Court and is proper and appropriate as relevant proceeds were conducted, and the Plaintiffs maintain their principal place of business, within Clark County in the State of Nevada, pursuant to N.R.S. 368A.290(2).

PARTIES

5. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

6. Plaintiff, K-Kel, Inc., d/b/a *Spearmint Rhino Gentlemen's Club* ("*Spearmint Rhino*") is a corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

7. Plaintiff, Olympus Garden, Inc., d/b/a *Olympic Garden* ("*Olympic*") is a corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

8. Plaintiff, SHAC, L.L.C., d/b/a *Sapphire* ("*Sapphire*") is a limited liability company duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

9. Plaintiff, The Power Company, Inc., d/b/a *Crazy Horse Too Gentlemen's Club* ("*Crazy Horse*") is a corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

10. Plaintiff, D. Westwood, Inc., d/b/a *Treasures* ("*Treasures*") is a corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

11. Plaintiff, D.I. Food & Beverage of Las Vegas, LLC, d/b/a *Scores* ("*Scores*") is a corporation duly organized under the laws of the State of Nevada, and is authorized and qualified to do business in the State of Nevada.

12. None of the Plaintiffs operate their facilities as licensed gaming establishments under the laws of the State of Nevada.

13. Defendant Nevada Department of Taxation (hereinafter sometimes referred to simply as the "Department") is a governmental entity created under the laws of the State of Nevada, which administers and enforces the statutory provisions challenged herein, and collects the Live Entertainment Tax, for all non-gaming licensed taxpayers. It is a required Defendant in this action pursuant to N.R.S. 368A.290(1)(b) and N.R.S. 368A.300(3)(b).

14. Defendant Nevada Tax Commission (hereinafter sometimes referred to simply as the "Commission") is a governmental entity created under the laws of the State of Nevada, which administers and enforces some of the statutory provisions challenged herein, and is authorized to consider and rule upon, among other things, appeals of claims under Chapter 368A. It is named as a Defendant herein as it rendered the decision which the Plaintiffs challenge by way of this action.

15. Defendant, Nevada State Board of Examiners (hereinafter sometimes referred to simply as the "Board of Examiners") is a governmental entity created under the laws of the State of Nevada, and consists of the governor, the secretary of state, and the attorney general. Pursuant to N.R.S. § 368A.250, the Board of Examiners is authorized to approve, among other things, refunds with regard to any erroneously or illegally collected or computed tax under Chapter 368A, which the Plaintiffs seek here.

STATEMENT OF FACTS

16. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

17. On or about July 22, 2003, the State of Nevada enacted, pursuant to the adoption of Chapter 368A, a Tax on Live Entertainment, which imposes, subject to numerous exceptions, an excise tax on admission to any facility within the State of Nevada that provides defined "live entertainment."

18. Shortly after the enactment of Chapter 368A, numerous and various administrative regulations were promulgated regarding the administration and enforcement of Chapter 368A. These regulations, which set forth definitions, applicability and methods of calculating the Live Entertainment Tax, and procedures, can be found at NAC 368A.010 through NAC 368.540, and are attached hereto as Exhibit 3. As utilized herein, the phrase "Chapter 368A" encompasses both the statute and these regulations promulgated in furtherance thereof attached as Exhibit 3.

19. Pursuant to N.R.S. § 368A.140, the Defendant Nevada Department of Taxation is obligated to collect the tax imposed by Chapter 368A from taxpayers who/which are not licensed gaming establishments, and is also obligated to adopt such regulations as

are necessary to carry out those functions.

20. Upon information and belief, one of the primary purposes for the enactment of Chapter 368A was to impose an excise tax upon those establishments in the State of Nevada that provide live so-called "adult" entertainment in the form of exotic dancing, "topless" dancing, and fully nude performance dance entertainment.

21. As originally enacted, the tax imposed by Chapter 368A was not applicable, under the terms of N.R.S. § 368A.200(5)(d), to live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided had a maximum occupancy of less than 300 persons.

22. On June 17, 2005, Chapter 368A was amended by Assembly Bill No. 554, which -- among other things -- reduced the scope of the exception as contained in N.R.S. § 368A.200(5)(d) from a maximum seating capacity limitation of 300 to 200. Upon information and belief, the purpose of the July 17, 2005, amendments to Chapter 368A, and in particular those to N.R.S. § 368A.200(5)(d), was to specifically extend the tax obligation as contained in Chapter 368A to "adult" entertainment establishments which were not then subject to the Live Entertainment Tax, including a number of the Plaintiffs in this action. The same amendments changed the language of some provisions of Chapter 368A. Unless stated otherwise, all references herein to the statutory provisions of Chapter 368A are to the current codified version attached hereto as Exhibit 2.

23. *Spearmint Rhino* operates a commercial establishment at 3344 S. Highland Avenue, Las Vegas, Nevada, 89109, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that

Spearmint Rhino is subject to Chapter 368A, as amended, and have required *Spearmint Rhino* to pay the Live Entertainment Tax as mandated therein.

24. *Olympic Garden* operates a commercial establishment at 1531 S. Las Vegas Boulevard, Las Vegas, Nevada, 89104, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Olympic Garden* is subject to Chapter 368A, as amended, and have required *Olympic Garden* to pay the Live Entertainment Tax as mandated therein.

25. *Sapphire* operates a commercial establishment at 3025 Industrial Road, Las Vegas, Nevada, 89109, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Sapphire* is subject to Chapter 368A, as amended, and have required *Sapphire* to pay the Live Entertainment Tax as mandated therein.

26. *Crazy Horse* operates a commercial establishment at 2476 Industrial Road, Las Vegas, Nevada, 89102, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Crazy Horse* is subject to Chapter 368A, as amended, and have required *Crazy Horse* to pay the Live Entertainment Tax as mandated therein.

27. *Treasures* operates a commercial establishment at 2801 Westwood, Las Vegas, Nevada, 89109, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Treasures* is subject to Chapter 368A, as amended, and have required *Treasures* to pay the Live Entertainment Tax as mandated therein.

28. *Scores* operates a commercial establishment at 3355 South Procyon Avenue, Las

Vegas, Nevada, 89102, whereupon live performance dance entertainment is presented to the consenting adult public. The Defendants have taken the position that *Scores* is subject to Chapter 368A, as amended, and have required *Scores* to pay the Live Entertainment Tax as mandated therein.

29. All of the facilities operated by the Plaintiffs have maximum occupancies of less than 7,500 persons.

30. The Plaintiffs all present upon their business premises some form of live "exotic" performance dance entertainment. Some of the Plaintiffs present live clothed and "topless" female performance dance entertainment, and others of the Plaintiffs present live clothed, "topless" and fully nude female performance dance entertainment; all of which is non-obscene. The non-obscene performance dance entertainment presented on the establishments operated by the Plaintiffs constitutes speech and expression, as well as a form of assembly, protected by not only Article I, §§ 9 and 10, of the Nevada Constitution, but by the First and Fourteenth Amendments to the United States Constitution as well.

31. Chapter 368A is a lengthy and complex statute containing numerous and various provisions affecting the constitutionally protected conduct of the Plaintiffs, their agents, representatives, entertainers and employees, as well as those individuals from the consenting adult audience who would seek to view the entertainment provided by the Plaintiffs. Plaintiffs assert the constitutional rights of their patrons as well in this action.

32. The Defendants take the position that pursuant to the definitions set forth in Chapter 368A, Plaintiffs are obligated to pay the Live Entertainment Tax since their

establishments fall within the definition of "live entertainment" found in N.R.S. 368A.090, and since they are not otherwise exempted from having to pay that tax.

33. Plaintiffs contend that the Live Entertainment Tax as mandated by Chapter 368A is both illegal and unconstitutional, and for those reasons they do not desire to pay those taxes. Nevertheless, under threat of criminal prosecution and/or the imposition of fines and other penalties against them, Plaintiffs have, beginning at various times, paid the Live Entertainment Tax mandated by Chapter 368A.

34. Pursuant to N.R.S. § 368A.260, Plaintiffs each filed timely requests for refunds of the Live Entertainment Tax they had paid, together with claims for the statutory interest provided for by N.R.S. § 368A.270 and § 368A.310.

35. To date, each request for refund has been denied by the Defendant Nevada Department of Taxation, pursuant to a one page letter. Each letter informed the Plaintiffs that the denial may be appealed to Defendant Nevada Tax Commission pursuant to N.R.S. § 360.245 by filing a written notice of appeal with the Defendant Department within thirty days of the service of the denial letter.

36. Each Plaintiff has filed a timely written notice of appeal with the Defendant Department of Taxation. After the Plaintiffs and the Defendant Department had an opportunity to submit briefing to the Defendant Nevada Tax Commission, a hearing was scheduled on July 9, 2007, before the Defendant Commission to hear the appeal of the denials of the requests for refunds of the Live Entertainment Tax paid by the Plaintiffs for the tax periods of January, February, March, and April, 2004.

37. After the hearing commenced on July 9, 2007, the Defendant Commission voted to continue the hearing until August 6, 2007, in order to give the parties an opportunity to

submit supplemental materials and information.

38. The Defendant Commission, after considering the testimony, argument, and materials submitted on July 9, 2007, and on August 6, 2007, issued a written decision denying Plaintiffs' appeals on October 12, 2007. That ruling is attached hereto as Exhibit 4.

39. Pursuant to N.R.S. § 368A.290, "[w]ithin 90 days after a final decision upon a claim filed pursuant to this chapter is rendered" by the Commission, "the claimant may bring an action against the Department on the grounds set forth in the claim." It is pursuant to this provision that Plaintiffs have filed this action.

40. Pursuant to N.R.S. 368A.300(3)(b), if the claimant is aggrieved by the decision of the "Nevada Tax Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment."

41. Plaintiffs further filed this action in order to protect their fundamental constitutional rights from infringement by the enforcement of Chapter 368A, which they contend is unconstitutional on its face as it: 1) imposes a tax directly on "live entertainment;" an activity which is protected by Article I, §§ 9 and 10 of the Nevada Constitution as well as the First and Fourteenth to the United States Constitution, therefore constituting a direct tax on "First Amendment" freedoms and in particular on live exotic performance dance entertainment; 2) applies only to a small number and category of speakers; 3) it is in violation of Article 10, §1 of the Nevada Constitution; and 4) it is an impermissible discriminatory tax which discriminates based upon the content of speech and expression. In addition, N.R.S. 368A.200(5)(a) precludes the taxation of

live entertainment that "the State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution." Because the Plaintiffs cannot be so taxed under either the United States or Nevada Constitutions, Plaintiffs are exempt from having to pay the Live Entertainment tax pursuant to this exemption. These are the grounds which Plaintiffs set forth in their requests for refunds.

EXCERPTS OF THE TAX ON LIVE ENTERTAINMENT STATUTE

42. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

43. Chapter 368A states, at N.R.S. 368A.200(1), that "[e]xcept as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided." If the live entertainment is provided at a facility with a maximum occupancy of less than 7,500, the rate of tax is 10% of the admission charge to the facility plus 10% of any amounts paid for food, refreshments and merchandise purchased at the facility. If the live entertainment is provided at a facility with a maximum occupancy of at least 7,500, the rate of the tax is 5% of the admission charged to the facility.

44. Chapter 368A defines an "[a]dmission charge" in N.R.S. 368A.020 as:

> [T]he total amount, expressed in terms of money, of consideration paid for the right or privilege to have access to a facility where live entertainment is provided. The term includes, without limitation, an entertainment fee, a cover charge, a table reservation fee, or a required minimum purchase of food, refreshments or merchandise.

45. Chapter 368A defines a "facility" in N.R.S. 368A.060 as:

> "(a) Any area or premises where live entertainment is provided and for which consideration is collected for the right or privilege of entering that area or those premises if the live entertainment is provided at:

(1) An establishment that is not a licensed gaming establishment; or
(2) A licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits.

(b) Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment."

46. "[L]ive entertainment" is defined in N.R.S. § 368A.090 as:

> "[A]ny activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present."

This definition includes, among other activities, "[d]ancing performed by one or more professional or amateur dancers."

47. Chapter 368A states, at N.R.S. § 368A.140(2), that the Defendant Department shall collect the Live Entertainment Tax from non-gaming licensed taxpayers, such as is the case of the Plaintiffs here, and is empowered to "adopt such regulations are necessary to carry out" that collection.

48. N.R.S. § 368A.090(b) specifically excludes certain types of entertainment from the definition of "live entertainment," such as: instrumental or vocal music if it "does not routinely rise to the volume that interferes with casual conversation" and would not "generally cause patrons to watch as well as listen"; occasional performances by employees who have primary job functions other than performing; performances in certain licensed gaming establishments "as long as performers stroll continuously throughout the facility" or if they "enhance the theme of the establishment or attract patrons to the areas of the performances"; entertainment that is provided by patrons; animal behaviors for the purpose of education and scientific research; and occasional dancing which, among other things, "primarily serves to provide ambience to the

facility."

49. Pursuant to N.R.S. 368A.200(5), the tax imposed by Chapter 368 is not applicable to a variety of circumstances. Some of the exemptions include live entertainment that the State is prohibited from taxing under the Constitution, laws or treaties of the United States or Nevada Constitution; live entertainment that is not provided at a licensed gaming establishment if the facility has a maximum seating capacity of less than 200; live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those limits, if the facility has a maximum seating capacity of less than 200; merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment; and music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

50. Overpayments and refunds of the Live Entertainment Tax are addressed in N.R.S. 368A.250, which provides that if the Defendant Department determines that any tax has been "erroneously or illegally collected or computed," the Defendant Department must record the fact and certify the amount owed and from whom it was collected to Defendant Board of Examiners. If the amount is approved by the Defendant Board of Examiners, it is then credited on any amount that is due from that person under Chapter 368A, with the balance refunded to that person.

51. Chapter 368A provides, at N.R.S. § 368A.290(1), that the Defendant Nevada Tax Commission is authorized to render a final decision upon claims for refunds under that chapter. Further, at N.R.S. § 368A.300(2), Chapter 368A provides that a claim there

under that is disallowed by the Defendant Department may be appealed to the Defendant Commission.

COUNT I - DECLARATORY RELIEF

52. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

53. Chapter 368A is unconstitutional on its face under Article I, §§ 9 and 10, and Article 10, §1, of the Nevada Constitution as well as the First and Fourteenth Amendments to the United States Constitution, for numerous and various reasons, including, but not limited to, the fact that:

a. It effectuates an impermissible prior restraint on speech and expression;

b. It fails to further any important, substantial or compelling governmental interest;

c. It permits restrictions on speech and expression that are greater than are essential to further any asserted governmental interests;

d. It permits restrictions on speech and expression that are not the least restrictive means available;

e. It contains criteria that are both arbitrary and capricious and which are not supported by any legislative record;

f. It contains numerous and various terms and phrases which are impermissibly vague, and ambiguous, and the applicable definitions as contained therein are impermissibly and substantially overbroad judged in relation to their plainly legitimate sweep;

g. It imbues the Defendants with unbridled discretion;

h. It impermissibly singles out constitutionally protected businesses for certain regulations;

i. It violates the procedural and substantive due process rights of the Plaintiffs and others, including but not limited to the customers and patrons who frequent Plaintiffs' establishments;

j. It violates the privacy rights of the customers and patrons who frequent

Plaintiffs' establishments;

k. It violates Plaintiffs' equal protection rights in that it unconstitutionally discriminates against expressive businesses based upon the content of speech, and it further creates and permits uneven treatment in the exercise of constitutionally protected rights in the State of Nevada, and therefore permits differing treatment amongst individuals who desire to engage in constitutionally protected speech;

l. It is an impermissible direct tax on constitutionally protected freedoms;

m. It is a discriminatory tax that only impacts upon a small number and category of speakers;

n. It is an impermissible discriminatory tax that discriminates based upon the content of speech and expression;

o. It impermissibly requires a person or business to pay for the right to exercise a right guaranteed by the Nevada and United States Constitutions;

p. It was enacted upon an insufficient record and is not justified on any factual or legal ground; and

q. It violates the separation of powers doctrine.

54. Because the Live Entertainment Tax is an impermissible and/or unconstitutional tax upon in violation of Article 1, §§ 9 and 10, and Article 10, §1, of the Nevada Constitution as well as the First and Fourteenth Amendments to the United States Constitution, Plaintiffs are not subject to payment of the Live Entertainment Tax pursuant to the provisions of N.R.S. § 368A.200(5)(a).

55. This Court has the authority to declare the rights and other relations of the Plaintiffs and of the Defendants, and should do so here.

56. Because of the questioned constitutionality of the Live Entertainment Tax as required by

Chapter 368A, and because of the potential application of the exemption as contained in N.R.S. § 368A.200(5)(a) in regard to the Live Entertainment Tax being applied to these Plaintiffs, Plaintiffs are entitled to a declaration by this Court in regard to the constitutionality of Chapter 368A as well as the applicability of the exemption as contained in N.R.S. § 368A.200(5)(a).

57. For the reasons as set forth above, this Court should declare that the Live Entertainment Tax as mandated by Chapter 368A is unconstitutional on its face. Also for the reasons as set forth above, this Court should declare that Plaintiffs need not pay the Live Entertainment Tax as required by Chapter 368A both as a result of the constitutional violations as enumerated above as well as the specific exemption as set forth in N.R.S. § 368A.200(5)(a). In addition, this Court should declare that the Defendants have violated the constitutional rights of the Plaintiffs by requiring them to have paid the Live Entertainment Tax for the tax period of January 2004 through April 2004, which are at issue in this action.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court declare the Live Entertainment Tax under Chapter 368A unconstitutional on its face; that Plaintiffs need not pay the Live Entertainment Tax as mandated by Chapter 368A both because it violates Article I, §§ 9 and 10, and Article 10, §1, of the Nevada Constitution as well as the First and Fourteenth Amendments to the United States Constitution, and because Plaintiffs are exempt from paying the Live Entertainment Tax pursuant to the provisions of N.R.S. § 368A.200(5)(a); and that the Defendants have violated the Plaintiffs' constitutional rights by having required them to have paid the Live Entertainment Tax for the tax period of January 2004 through April 2004, which are at issue in this action.

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COUNT II - REQUEST FOR REFUND

58. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

59. Plaintiffs should not have been required to pay the Live Entertainment Tax as mandated by Chapter 368A both because it violates Article I, §§ 9 and 10, and Article 10, §1, of the Nevada Constitution as well as the First and Fourteenth Amendments to the United States Constitution and because Plaintiffs are exempt from paying the Live Entertainment Tax pursuant to the provisions of N.R.S. § 368A.200(5)(a).

60. Both the Defendant Nevada Department of Taxation and the Defendant Nevada Tax Commission erred in not granting Plaintiffs' requests for refunds.

61. This Court has the power to grant Plaintiffs' requests for refunds pursuant to N.R.S. § 368A.290 and N.R.S. § 368A.300, and should do so here.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court vacate the decisions of both the Defendant Nevada Department of Taxation and the Defendant Nevada Tax Commission, and enter an order directing Defendant Nevada Department of Taxation to refund the Live Entertainment Taxes paid by the Plaintiffs for the tax periods of January, February, March and April, 2004, and to pay the statutory interest provided for by N.R.S. § 368A.270 and § 368A.310. Further, Plaintiffs respectfully request that this Honorable Court enter an order requiring Defendant Nevada Tax Commission to record the payments of the Live Entertainment Tax made by the Plaintiffs during those periods and to certify those amounts to the Defendant State Board of Examiners, and further ordering the Defendant State Board of Examiners to approve and authorize the refund from the State Treasury of all such Live Entertainment Tax payments that have been involuntarily made by the Plaintiffs during those periods under Chapter 368A, together with interest as required by N.R.S. § 368A.270 and § 368A.310.

COUNT III - INJUNCTIVE RELIEF

62. Plaintiffs incorporate herein by reference each and every paragraph above as though fully set forth herein.

63. Any action taken or to be taken by the Defendants to enforce any portion of Chapter 368A against Plaintiffs has been taken and will be taken under color of law, and has deprived and will deprive Plaintiffs of their constitutional rights as set forth herein, and will cause them irreparable harm for which compensatory damages are an inadequate remedy as a matter of law.

64. The threat of enforcement of Chapter 368A is both great and immediate. In addition, Chapter 368A is both flagrantly and patently violative of Plaintiffs' constitutional rights. There is no other remedy at law which would suffice to protect Plaintiffs' interests for the reasons above numerated.

65. The public interest weighs in favor of preventing deprivation of constitutional rights, and is always served by enjoining an unconstitutional law.

66. Plaintiffs have a substantial likelihood of success of prevailing on their constitutional claims against Chapter 368A, in that it is blatantly and patently unconstitutional. The Defendants will suffer no harm by the entry of such an injunction, as there can be no legitimate governmental interest in enforcing an unconstitutional law. In addition, the "balancing" of the equities tips in favor of the Plaintiffs and in the entry of a preliminary injunction, due to the paramount position of rights afforded under the First Amendment in comparison to the lack of harm occasioned to the Defendants if such an

injunction is granted.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter both a preliminary and permanent enjoining the Defendants, as well as their officers, agents, employees and representatives, from enforcing Chapter 368A against the Plaintiffs and/or from collecting the Live Entertainment Tax against the Plaintiffs. Further, Plaintiffs respectfully request that this Honorable Court enter a permanent injunction ordering Defendant Nevada Tax Commission to record the payments of the Live Entertainment Tax made by the Plaintiffs for the tax periods of January, February, March and April 2004, and to certify those amounts to the Defendant State Board of Examiners, and further ordering the Defendant State Board of Examiners to approve and authorize the refund from the State Treasury of all such Live Entertainment Tax payments

that have been involuntarily made by the Plaintiffs under Chapter 368A during those periods, together with interest as required by N.R.S. § 368A.270 and § 368A.310.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Honorable Court enter judgment against Defendants, which would include:

A. A declaration that the Live Entertainment Tax under Chapter 368A is unconstitutional on its face; that Plaintiffs need not pay the Live Entertainment Tax as mandated by Chapter 368A both because it violates Article I, §§ 9 and 10, and Article 10, §1, of the Nevada Constitution as well as the First and Fourteenth Amendments to the United States Constitution, and because Plaintiffs are exempt from paying the Live Entertainment Tax pursuant to the provisions of N.R.S. § 368A.200(5)(a); and that the Defendants have violated the Plaintiffs' constitutional rights by having required them to have paid the Live Entertainment Tax in the past;

B. A preliminary and permanent injunction restraining the Defendants, as well as their officers, agents, employees and representatives, from enforcing Chapter 368A against the Plaintiffs and/or from collecting the Live Entertainment Tax against the Plaintiffs;

C. Entry of an order vacating the determinations of the Nevada Department of Taxation and the Defendant Nevada Tax Commission denying Plaintiffs' requests for refunds;

D. Entry of an order directing Defendant Nevada Department of Taxation to refund the Live Entertainment Taxes paid by the Plaintiffs for the tax periods of January, February, March and April 2004, together with the statutory interest provided for by N.R.S. § 368A.270 and § 368A.310;

E. A permanent injunction requiring Defendant Nevada Tax Commission to record the payments of the Live Entertainment Tax made by the Plaintiffs during those tax periods and to certify those amounts to the Defendant State Board of Examiners, and further ordering the Defendant State Board of Examiners to approve and authorize the refund from the State Treasury of all such Live Entertainment Tax payments that have been involuntarily made by the Plaintiffs under Chapter 368A during those tax periods, together with interest as required by N.R.S. § 368A.270 and § 368A.310; and

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F. Entry of such other and further relief as the Court deems just and proper.

DATED this 9th day of January, 2008.

GHANEM & SULLIVAN, LLP

By Diana L. Sullivan
DIANA L. SULLIVAN, ESQ.
Nevada Bar #4701
8861 West Sahara, Suite 120
Las Vegas, NV 89117
Phone (702) 862-3350
Facsimile (702) 862-4422
dsullivan@gs-lawyers.com
Attorneys for Plaintiffs

BRADLEY J. SHAFER*,
MI Bar No. P36604
Shafer & Associates, P.C.
3800 Capital City Blvd., Suite 2
Lansing, Michigan 48906-2110
(517) 886-6560 - telephone
(517) 886-6565 - facsimile
shaferassociates@acd.net - email
*Pending Admission *Pro Hac Vice*

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Westlaw.

NV ST 368A.010

N.R.S. **368A.010**

WEST'S NEVADA REVISED STATUTES ANNOTATED
TITLE 32. REVENUE AND TAXATION
CHAPTER 368A. TAX ON LIVE ENTERTAINMENT
GENERAL PROVISIONS
→**368A.010.** Definitions

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 368A.020 to 368A.110, inclusive, have the meanings ascribed to them in those sections.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.020

N.R.S. **368A.020**

WEST'S NEVADA REVISED STATUTES ANNOTATED
TITLE 32. REVENUE AND TAXATION
CHAPTER 368A. TAX ON LIVE ENTERTAINMENT
GENERAL PROVISIONS

→**368A.020.** "Admission charge" defined

"Admission charge" means the total amount, expressed in terms of money, of consideration paid for the right or privilege to have access to a facility where live entertainment is provided.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.030

N.R.S. 368A.030

WEST'S NEVADA REVISED STATUTES ANNOTATED
TITLE 32. REVENUE AND TAXATION
CHAPTER 368A. TAX ON LIVE ENTERTAINMENT
GENERAL PROVISIONS

→**368A.030.** "Board" defined

"Board" means the State Gaming Control Board.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

NV ST 368A.040

N.R.S. 368A.040

WEST'S NEVADA REVISED STATUTES ANNOTATED
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→**368A.040.** "Business" defined

"Business" means any activity engaged in or caused to be engaged in by a business entity with the object of gain, benefit or advantage, either direct or indirect, to any person or governmental entity.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.050

N.R.S. 368A.050

WEST'S NEVADA REVISED STATUTES ANNOTATED
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→**368A.050.** "Business entity" defined

1. "Business entity" includes:

(a) A corporation, partnership, proprietorship, limited-liability company, business association, joint venture, limited-liability partnership, business trust and their equivalents organized under the laws of this state or another jurisdiction and any other type of entity that engages in business.

(b) A natural person engaging in a business if he is deemed to be a business entity pursuant to NRS 368A.120.

2. The term does not include a governmental entity.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.060

N.R.S. 368A.060

WEST'S NEVADA REVISED STATUTES ANNOTATED
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→**368A.060.** "Facility" defined

"Facility" means:

1. Any area or premises where live entertainment is provided and for which consideration is collected for the right or privilege of entering that area or those premises if the live entertainment is provided at:

(a) An establishment that is not a licensed gaming establishment; or

(b) A licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits.

2. Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.070

N.R.S. 368A.070

WEST'S NEVADA REVISED STATUTES ANNOTATED
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GENERAL PROVISIONS
→**368A.070.** "Game" defined

"Game" has the meaning ascribed to it in NRS 463.0152.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.080

N.R.S. 368A.080

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→**368A.080.** "Licensed gaming establishment" defined

"Licensed gaming establishment" has the meaning ascribed to it in NRS 463.0169.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.090

WEST'S NEVADA REVISED STATUTES ANNOTATED
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GENERAL PROVISIONS
→**368A.090.** "Live entertainment" defined

"Live entertainment" means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.100

N.R.S. 368A.100

WEST'S NEVADA REVISED STATUTES ANNOTATED
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GENERAL PROVISIONS
→**368A.100**. "Slot machine" defined

"Slot machine" has the meaning ascribed to it in NRS 463.0191.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.110

N.R.S. 368A.110

WEST'S NEVADA REVISED STATUTES ANNOTATED
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GENERAL PROVISIONS
→**368A.110.** "Taxpayer" defined

"Taxpayer" means:

1. If live entertainment that is taxable under this chapter is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment.

2. Except as otherwise provided in subsection 3, if live entertainment that is taxable under this chapter is not provided at a licensed gaming establishment, the owner or operator of the facility where the live entertainment is provided.

3. If live entertainment that is taxable under this chapter is provided at a publicly owned facility or on public land, the person who collects the taxable receipts.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

N.R.S. 368A.120

WEST'S NEVADA REVISED STATUTES ANNOTATED
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→**368A.120**. Natural persons who are deemed to be business entities

A natural person engaging in a business shall be deemed to be a business entity that is subject to the provisions of this chapter if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, or a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, for the business.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.130

N.R.S. 368A.130

WEST'S NEVADA REVISED STATUTES ANNOTATED
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ADMINISTRATION

→**368A.130**. Adoption by Department of regulations for determining whether activity is taxable

The Department shall provide by regulation for a more detailed definition of "live entertainment" consistent with the general definition set forth in NRS 368A.090 for use by the Board and the Department in determining whether an activity is a taxable activity under the provisions of this chapter.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.140

N.R.S. 368A.140

WEST'S NEVADA REVISED STATUTES ANNOTATED
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ADMINISTRATION

→**368A.140**. Duties of Board and Department; applicability of chapters 360 and 463 of NRS

1. The Board shall:

(a) Collect the tax imposed by this chapter from taxpayers who are licensed gaming establishments; and

(b) Adopt such regulations as are necessary to carry out the provisions of paragraph (a). The regulations must be adopted in accordance with the provisions of chapter 233B of NRS and must be codified in the Nevada Administrative Code.

2. The Department shall:

(a) Collect the tax imposed by this chapter from all other taxpayers; and

(b) Adopt such regulations as are necessary to carry out the provisions of paragraph (a).

3. For the purposes of:

(a) Subsection 1, the provisions of chapter 463 of NRS relating to the payment, collection, administration and enforcement of gaming license fees and taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the taxes imposed by this chapter to the extent that those provisions do not conflict with the provisions of this chapter.

(b) Subsection 2, the provisions of chapter 360 of NRS relating to the payment, collection, administration and enforcement of taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the taxes imposed by this chapter to the extent that those provisions do not conflict with the provisions of this chapter.

4. To ensure that the tax imposed by NRS 368A.200 is collected fairly and equitably, the Board and the Department shall:

(a) Jointly, coordinate the administration and collection of that tax and the regulation of taxpayers who are liable for the payment of the tax.

(b) Upon request, assist the other agency in the collection of that tax.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.150

WEST'S NEVADA REVISED STATUTES ANNOTATED
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ADMINISTRATION

→**368A.150**. Establishment of amount of tax liability when Board or Department determines that taxpayer is acting with intent to defraud State or to evade payment of tax

1. If:

(a) The Board determines that a taxpayer who is a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Board shall establish an amount upon which the tax imposed by this chapter must be based.

(b) The Department determines that a taxpayer who is not a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Department shall establish an amount upon which the tax imposed by this chapter must be based.

2. The amount established by the Board or the Department pursuant to subsection 1 must be based upon the tax liability of business entities that are deemed comparable by the Board or the Department to that of the taxpayer.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.160

WEST'S NEVADA REVISED STATUTES ANNOTATED
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ADMINISTRATION

→**368A.160**. Maintenance and availability of records for determining liability of taxpayer; liability to taxpayer of lessee, assignee or transferee of certain premises; penalty

1. Each person responsible for maintaining the records of a taxpayer shall:

(a) Keep such records as may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter;

(b) Preserve those records for:

(1) At least 5 years if the taxpayer is a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; or

(2) At least 4 years if the taxpayer is not a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Board or the Department upon demand at reasonable times during regular business hours.

2. The Board and the Department may by regulation specify the types of records which must be kept to determine the amount of the liability of a taxpayer from whom they are required to collect the tax imposed by this chapter.

3. Any agreement that is entered into, modified or extended after January 1, 2004, for the lease, assignment or transfer of any premises upon which any activity subject to the tax imposed by this chapter is, or thereafter may be, conducted shall be deemed to include a provision that the taxpayer required to pay the tax must be allowed access to, upon demand, all books, records and financial papers held by the lessee, assignee or transferee which must be kept pursuant to this section. Any person conducting activities subject to the tax imposed by NRS 368A.200 who fails to maintain or disclose his records pursuant to this subsection is liable to the taxpayer for any penalty paid by the taxpayer for the late payment or nonpayment of the tax caused by the failure to maintain or disclose records.

4. A person who violates any provision of this section is guilty of a misdemeanor.

[FN1] See Historical and Statutory Notes below for effective date information.

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NV ST 368A.170

N.R.S. 368A.170

WEST'S NEVADA REVISED STATUTES ANNOTATED
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ADMINISTRATION

→**368A.170.** Examination of records by Board or Department; payment of expenses of Board or Department for examination of records outside State

1. To verify the accuracy of any report filed or, if no report is filed by a taxpayer, to determine the amount of tax required to be paid:

(a) The Board, or any person authorized in writing by the Board, may examine the books, papers and records of any licensed gaming establishment that may be liable for the tax imposed by this chapter.

(b) The Department, or any person authorized in writing by the Department, may examine the books, papers and records of any other person who may be liable for the tax imposed by this chapter.

2. Any person who may be liable for the tax imposed by this chapter and who keeps outside of this state any books, papers and records relating thereto shall pay to the Board or the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Board or the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he is absent from his regular place of employment to examine those documents.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.180

N.R.S. 368A.180

WEST'S NEVADA REVISED STATUTES ANNOTATED
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ADMINISTRATION

→**368A.180**. Confidentiality of records and files of Board and Department

1. Except as otherwise provided in this section and NRS 360.250, the records and files of the Board and the Department concerning the administration of this chapter are confidential and privileged. The Board, the Department and any employee of the Board or the Department engaged in the administration of this chapter or charged with the custody of any such records or files shall not disclose any information obtained from the records or files of the Board or the Department or from any examination, investigation or hearing authorized by the provisions of this chapter. The Board, the Department and any employee of the Board or the Department may not be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Board and the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Board or the Department and production of records, files and information on behalf of the Board or the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter, if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his authorized representative of a copy of any report or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Board or the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

[FN1] See Historical and Statutory Notes below for effective date information.

The text of the Nevada Revised Statutes appearing in this database was produced from computer tapes provided by the Nevada Legislative Counsel Bureau and is

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WEST'S NEVADA REVISED STATUTES ANNOTATED
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IMPOSITION AND COLLECTION

→**368A.200**. Imposition and amount of tax; liability and reimbursement for payment; ticket for live entertainment must indicate whether tax is included in price of ticket; exemptions from tax

1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this state where live entertainment is provided. If the live entertainment is provided at a facility with a maximum seating capacity of:

(a) Less than 7,500, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer are not taxable pursuant to this section.

3. A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.

4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.

5. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this state is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

(d) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum seating capacity of less than 300.

(e) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than six games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum seating capacity of less than 300.

(f) Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

(g) Live entertainment that is provided at a trade show.

(h) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

(i) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

(j) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

6. As used in this section, "maximum seating capacity" means, in the following order of priority:

(a) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

(b) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

(c) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

N.R.S. 368A.210

WEST'S NEVADA REVISED STATUTES ANNOTATED
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CHAPTER 368A. TAX ON LIVE ENTERTAINMENT
IMPOSITION AND COLLECTION

→**368A.210**. Taxpayer to hold taxes in separate account

A taxpayer shall hold the amount of all taxes for which he is liable pursuant to this chapter in a separate account in trust for the State.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.220

WEST'S NEVADA REVISED STATUTES ANNOTATED
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IMPOSITION AND COLLECTION

→**368A.220.** Filing of reports and payment of tax; deposit of amounts received in State General Fund

1. Except as otherwise provided in this section:

(a) Each taxpayer who is a licensed gaming establishment shall file with the Board, on or before the 24th day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Board.

(b) All other taxpayers shall file with the Department, on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by NRS 368A.200, may require reports to be filed not later than 10 days after the end of each calendar quarter.

3. Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.

4. The Board and the Department shall deposit all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.230

WEST'S NEVADA REVISED STATUTES ANNOTATED
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IMPOSITION AND COLLECTION

→**368A.230**. Extension of time for payment; payment of interest during period of extension

Upon written application made before the date on which payment must be made, the Board or the Department may, for good cause, extend by 30 days the time within which a taxpayer is required to pay the tax imposed by this chapter. If the tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the taxpayer shall pay interest at the rate of 1 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.240

WEST'S NEVADA REVISED STATUTES ANNOTATED
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IMPOSITION AND COLLECTION

→**368A.240.** Credit for amount of tax paid on account of certain charges taxpayer is unable to collect; violations

1. If a taxpayer:

(a) Is unable to collect all or part of an admission charge or charges for food, refreshments and merchandise which were included in the taxable receipts reported for a previous reporting period; and

(b) Has taken a deduction on his federal income tax return pursuant to 26 U.S.C. § 166(a) for the amount which he is unable to collect,

he is entitled to receive a credit for the amount of tax paid on account of that uncollected amount. The credit may be used against the amount of tax that the taxpayer is subsequently required to pay pursuant to this chapter.

2. If the Internal Revenue Service disallows a deduction described in paragraph (b) of subsection 1 and the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 1, the taxpayer shall include the amount of that credit in the amount of taxes reported pursuant to this chapter in the first return filed with the Board or the Department after the deduction is disallowed.

3. If a taxpayer collects all or part of an admission charge or charges for food, refreshments and merchandise for which he claimed a credit on a return for a previous reporting period pursuant to subsection 2, he shall include:

(a) The amount collected in the charges reported pursuant to paragraph (a) of subsection 1; and

(b) The tax payable on the amount collected in the amount of taxes reported,

in the first return filed with the Board or the Department after that collection.

4. Except as otherwise provided in subsection 5, upon determining that a taxpayer has filed a return which contains one or more violations of the provisions of this section, the Board or the Department shall:

(a) For the first return of any taxpayer that contains one or more violations, issue a letter of warning to the taxpayer which provides an explanation of the violation or violations contained in the return.Green numbers along left margin indicate location on the printed bill (e.g., 5-15 indicates page 5, line 15).

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported.

5. For the purposes of subsection 4, if the first violation of this section by any taxpayer was determined by the

Board or the Department through an audit which covered more than one return of the taxpayer, the Board or the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.250

N.R.S. 368A.250

WEST'S NEVADA REVISED STATUTES ANNOTATED
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OVERPAYMENTS AND REFUNDS

→**368A.250.** Certification of excess amount collected; credit and refund

If the Department determines that any tax, penalty or interest it is required to collect has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in its records and shall certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must be credited on any amounts then due from the person under this chapter, and the balance refunded to the person or his successors in interest.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.260

WEST'S NEVADA REVISED STATUTES ANNOTATED
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CHAPTER 368A. TAX ON LIVE ENTERTAINMENT
OVERPAYMENTS AND REFUNDS

→**368A.260.** Limitations on claims for refund or credit; form and contents of claim; failure to file claim constitutes waiver; service of notice of rejection of claim

1. Except as otherwise provided in NRS 360.235 and 360.395:

(a) No refund may be allowed unless a claim for it is filed with:

(1) The Board, if the taxpayer is a licensed gaming establishment; or

(2) The Department, if the taxpayer is not a licensed gaming establishment.

A claim must be filed within 3 years after the last day of the month following the reporting period for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Board or the Department within that period.

2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.

4. Within 30 days after rejecting any claim in whole or in part, the Board or the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

[FN1] See Historical and Statutory Notes below for effective date information.

N.R.S. 368A.260

END OF DOCUMENT

N.R.S. 368A.270

WEST'S NEVADA REVISED STATUTES ANNOTATED
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OVERPAYMENTS AND REFUNDS

→**368A.270**. Interest on overpayments; disallowance of interest

1. Except as otherwise provided in this section and NRS 360.320, interest must be paid upon any overpayment of any amount of the tax imposed by this chapter in accordance with the provisions of NRS 368A.140.

2. If the overpayment is paid to the Department, the interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

3. If the Board or the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Board or the Department shall not allow any interest on the overpayment.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.280

WEST'S NEVADA REVISED STATUTES ANNOTATED
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OVERPAYMENTS AND REFUNDS

→**368A.280.** Injunction or other process to prevent collection of tax prohibited; filing of claim is condition precedent to maintaining action for refund

1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this state or against any officer of the State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected.

2. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.290

WEST'S NEVADA REVISED STATUTES ANNOTATED
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OVERPAYMENTS AND REFUNDS

→**368A.290**. Action for refund: Period for commencement; venue; waiver

1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by:

(a) The Nevada Gaming Commission, the claimant may bring an action against the Board on the grounds set forth in the claim.

(b) The Nevada Tax Commission, the claimant may bring an action against the Department on the grounds set forth in the claim.

2. An action brought pursuant to subsection 1 must be brought in a court of competent jurisdiction in Carson City, the county of this state where the claimant resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Board or the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

3. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.300

N.R.S. 368A.300

WEST'S NEVADA REVISED STATUTES ANNOTATED
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OVERPAYMENTS AND REFUNDS

→**368A.300.** Rights of claimant upon failure of Board or Department to mail notice of action on claim; allocation of judgment for claimant

1. If the Board fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Nevada Gaming Commission within 30 days after the last day of the 6-month period.

2. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Nevada Tax Commission within 30 days after the last day of the 6-month period.

3. If the claimant is aggrieved by the decision of:

(a) The Nevada Gaming Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

(b) The Nevada Tax Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

4. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited towards any tax due from the plaintiff.

5. The balance of the judgment must be refunded to the plaintiff.

[FN1] See Historical and Statutory Notes below for effective date information.

N.R.S. 368A.300

END OF DOCUMENT

Westlaw.

NV ST 368A.310

N.R.S. 368A.310

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OVERPAYMENTS AND REFUNDS

→**368A.310**. Allowance of interest in judgment for amount illegally collected

In any judgment, interest must be allowed at the rate of 6 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Board or the Department.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

N.R.S. 368A.320

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OVERPAYMENTS AND REFUNDS

→**368A.320**. Standing to recover

A judgment may not be rendered in favor of the plaintiff in any action brought against the Board or the Department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.330

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→**368A.330**. Action for recovery of erroneous refund: Jurisdiction; venue; prosecution

1. The Board or the Department may recover a refund or any part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.

2. The action must be tried in Carson City or Clark County unless the court, with the consent of the Attorney General, orders a change of place of trial.

3. The Attorney General shall prosecute the action, and the provisions of NRS, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.340

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→**368A.340**. Cancellation of illegal determination

1. If any amount in excess of $25 has been illegally determined, either by the person filing the return or by the Board or the Department, the Board or the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Board or the Department.

2. If an amount not exceeding $25 has been illegally determined, either by the person filing a return or by the Board or the Department, the Board or the Department, without certifying this fact to the State Board of Examiners, shall authorize the cancellation of the amount upon the records of the Board or the Department.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

N.R.S. 368A.350

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MISCELLANEOUS PROVISIONS
→**368A.350**. Prohibited acts; penalty

1. A person shall not:

(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any report or declaration, with intent to defraud the State or to evade payment of the tax or any part of the tax imposed by this chapter.

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.

(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.

2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

N.R.S. 368A.360

WEST'S NEVADA REVISED STATUTES ANNOTATED
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MISCELLANEOUS PROVISIONS

→**368A.360.** Revocation of gaming license for failure to report, pay or truthfully account for tax

Any licensed gaming establishment liable for the payment of the tax imposed by NRS 368A.200 wbo willfully fails to report, pay or truthfully account for the tax is subject to the revocation of his gaming license by the Nevada Gaming Commission.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT

Westlaw.

NV ST 368A.370

N.R.S. 368A.370

WEST'S NEVADA REVISED STATUTES ANNOTATED
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MISCELLANEOUS PROVISIONS

→**368A.370.** Remedies of State are cumulative

The remedies of the State provided for in this chapter are cumulative, and no action taken by the Board, the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.

[FN1] See Historical and Statutory Notes below for effective date information.

END OF DOCUMENT