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27 SUPREME COURT
28 OF THE STATE OF NEVADA

29 K-KEL, INC., d/b/a Spearmint
30 Rhino Gentlemen's Club, et al.,

31 Appellants,
32 vs.

Supreme Court Docket: 69886

**Response to
Order to Show Cause**

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Apr 29 2016 01:47 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

1 NEVADA DEPARTMENT OF
2 TAXATION, et al.,

3 Respondents.

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Introduction

On March 30, 2016, this Court entered an order to show cause why this appeal should not be dismissed based on a potential jurisdictional defect. Specifically, the Court noted that in the district court several parties filed petitions for judicial review, but were neither formally dismissed, nor mentioned in the district court's order denying the petitions (the "Order"). Because these parties' claims remained seemingly outstanding, the Order did not appear to resolve all parties' claims as required to be appealable under NRS 233B.150.

The parties at issue were THE POWER COMPANY, INC., dba Crazy Horse Too Gentlemen's Club ("Crazy Horse Too"), and D.I. FOOD & BEVERAGE OF LAS VEGAS, INC., dba Scores ("Scores").

Now, appellants/petitioners respond to this Court's order to show cause.

Discussion

This appeal should not be dismissed for lack of jurisdiction because the perceived jurisdictional defect is the result of the parties' failure to formally dismiss certain parties in the district court case—not the appealed Order's failure to fully and finally resolve the remaining

1 parties' claims—and this is easily clarified via limited remand to correct
2 the district court record.

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4 Initially, eight petitioners sought judicial review in the district
5 court: K-KEL, INC., dba Spearmint Rhino Gentlemen's Club
6 ("Spearmint Rhino"); OLYMPUS GARDEN, INC., dba Olympic Garden
7 ("Olympic Garden"); SHAC, L.L.C. dba Sapphire ("Sapphire"); THE
8 POWER COMPANY, INC., dba Crazy Horse Too Gentlemen's Club
9 ("Crazy Horse Too"); D. WESTWOOD, INC., dba Treasures
10 ("Treasures"); D.I. FOOD & BEVERAGE OF LAS VEGAS, INC., dba
11 Scores ("Scores"); DEJA VU SHOWGIRLS OF LAS VEGAS, LLC, dba
12 Déjà Vu ("Deja Vu"); and LITTLE DARLINGS OF LAS VEGAS, LLC,
13 dba Little Darlings ("Little Darlings").
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19 While in the district court, the parties agreed to dismiss three
20 petitioners (Scores, Déjà Vu, and Little Darlings), thus leaving five
21 petitioners (Spearmint Rhino, Olympic Garden, Sapphire, Crazy Horse
22 Too, and Treasures). The appealed Order fully and finally resolves the
23 claims of these five parties.
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26 However, the Order erroneously includes Déjà Vu, and Little
27 Darlings, and erroneously omits Crazy Horse Too. And Scores was
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1 never formally dismissed. Thus, it appears from the Order and the
2 district court docket, albeit incorrectly, that Scores' and Crazy Horse
3 Too's claims remain outstanding when in fact Scores should have been
4 formally dismissed, and Crazy Horse Too should have been included in
5 the Order. Despite appearances, however, the Order does in fact fully
6 and finally resolve all claims in the district court proceeding and thus,
7 is final and appealable under NRS 233B.150.
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11 To correct what appears to be a jurisdictionally defective lack of
12 finality in the Order, the parties propose limited remand for the sole
13 purposes of (1) formally dismissing petitioners Déjà Vu, Little Darlings,
14 and Scores; and (2) amending the Order by removing Déjà Vu and Little
15 Darlings, and by adding Crazy Horse Too.
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18 With these clarifications, the district court record will accurately
19 reflect that Spearmint Rhino, Olympic Garden, Sapphire, Crazy Horse
20 Too, and Treasures were the only clubs petitioning for judicial review,
21 and the district court fully and finally resolved their claims. This, in
22 turn, will cure the Order's perceived lack of finality. Accordingly, the
23 parties have prepared and submitted a stipulation and proposed order
24 of limited remand.
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Conclusion

In conclusion, the Order is in fact final and appealable, and its perceived lack of finality owes merely to a district court record that is incomplete (as to formal dismissal of certain parties) and inaccurate (as to which parties should appear in the Order). Rather than dismissal, limited remand is appropriate to resolve these issues.

Dated: April 29, 2016

Respectfully submitted,

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By: /s/ William H. Brown

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[Signatures on following page.]

1 Dated: April 29, 2016

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18 *VEGAS, LLC, d/b/a Little*
19 *Darlings, and OLYMPUS*
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Dated: April 28, 2016

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Certificate of Service

I hereby certify that I am an employee of LAMBROSE | BROWN and that on this date I served the foregoing **Response to Order to Show Cause** to the parties listed below by causing a full, true, and correct copy to be e-filed and e-served via the Supreme Court of Nevada's e-filing and e-service system.

Date: April 29, 2016

By: /s/ William Brown
An employee of
LAMBROSE | BROWN