

**MARK E. FERRARIO** (1625)  
**GREENBERG TRAURIG, LLP**  
3773 Howard Hughes Parkway  
Suite 400 North  
Las Vegas, Nevada 89136  
Tel: (702) 792-3773  
Fax: (702) 792-9002  
Email: [FerrarioM@gtlaw.com](mailto:FerrarioM@gtlaw.com)  
*Counsel for Appellant SHAC, LLC*

Electronically Filed  
Oct 27 2016 04:42 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**WILLIAM H. BROWN** (7623)  
**LAMBROSE | BROWN PLLC**  
300 S. Fourth St., Ste. 700  
Las Vegas, Nevada 89101  
Tel: (702) 816-2200  
Fax: (702) 816-2300  
Email: [WBrown@LambroseBrown.com](mailto:WBrown@LambroseBrown.com)  
*Counsel for all Petitioners  
except SHAC, LLC*

**SUPREME COURT  
OF THE STATE OF NEVADA**

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

Appellants,

vs.

**NEVADA DEPARTMENT OF  
TAXATION**, et al.,

Respondents.

Supreme Court Docket: 69886

District Court Case: A-11-648894-J  
Consolidated with A-14-697515-J

**Appellants' Appendix**

**APPELLANTS' APPENDIX**  
**VOLUME 17, PAGES 3513 – 3757**

## **INDEX TO APPELLANTS' APPENDIX**

Filing Date	Description	Vol.	Page																
06/24/2016	Amended Notice of Appeal	19	4036-4038																
06/23/2016	Amended Order Denying Judicial Review of Administrative Decision	19	4021-4026																
09/28/2011	Application for Leave to Present Additional Evidence to the Nevada Tax Commission  Exhibit 13 (ONLY) – Department Letter of November 17, 20013 Re: Southern California Edison  (This exhibit was erroneously omitted in the Supplement to the Record Filed on January 26, 2015)	1	13-15																
01/26/2015	Entire Record of Administrative Proceedings Filed with District Court via Compact Disc (District Court Case No. A-11-648894-J): <table border="1"><tr><td>Application for Leave to Present Additional Evidence to the Nevada Tax Commission, dated 09/28/11</td><td>1-30</td></tr><tr><td>Ex. 1 – Charts by the Department showing LET Collections by Taxpayer Group.</td><td>31-34</td></tr><tr><td>Ex. 2 – March 14, 2005, Department memo discussing the specific inclusion of gentlemen’s clubs in the proposed amended version of Chapter 368A.</td><td>35-37</td></tr><tr><td>Ex. 3 – October 9, 2003, email to former Department Director Dino</td><td>38-43</td></tr></table>	Application for Leave to Present Additional Evidence to the Nevada Tax Commission, dated 09/28/11	1-30	Ex. 1 – Charts by the Department showing LET Collections by Taxpayer Group.	31-34	Ex. 2 – March 14, 2005, Department memo discussing the specific inclusion of gentlemen’s clubs in the proposed amended version of Chapter 368A.	35-37	Ex. 3 – October 9, 2003, email to former Department Director Dino	38-43	<table><tr><td>1</td><td>140-169</td></tr><tr><td>1</td><td>170-173</td></tr><tr><td>1</td><td>174-176</td></tr><tr><td>1</td><td>177-182</td></tr></table>	1	140-169	1	170-173	1	174-176	1	177-182	
Application for Leave to Present Additional Evidence to the Nevada Tax Commission, dated 09/28/11	1-30																		
Ex. 1 – Charts by the Department showing LET Collections by Taxpayer Group.	31-34																		
Ex. 2 – March 14, 2005, Department memo discussing the specific inclusion of gentlemen’s clubs in the proposed amended version of Chapter 368A.	35-37																		
Ex. 3 – October 9, 2003, email to former Department Director Dino	38-43																		
1	140-169																		
1	170-173																		
1	174-176																		
1	177-182																		

Filing Date	Description	Vol.	Page
	DiCianno from an attorney on behalf of the Bellagio hotel and casino discussion the constitutionality of the proposed amendments.		
	Ex. 4 – October 21, 2003, email to DiCianno with a transcript of the Nevada Gaming Commission discussing the importance of subjecting the gentlemen’s clubs to the LET.	44-67	1 183-206
	Ex. 5 – First Reprint of Senate Bill 247 which contains a counsel digest specifically referencing adult entertainment and what would happen if that proposed portion of the Bill were held unconstitutional.	68-92	1 207-231
	Ex. 6 – Minutes of the May 16, 2005, meeting of the Assembly Committee on Commerce and Labor which discusses what happens if the proposed live adult entertainment provisions are held unconstitutional.	93-110	1 232-249
	Ex. 7 – Minutes of the May 26, 2005, meeting of the Assembly Committee on Ways and Means, which specifically references the Department’s position on there being two distinct categories: live entertainment and live adult entertainment. Exhibit E to the minutes is an email from DiCianno setting forth this distinction.	111-118	2 250-257

Filing Date	Description	Vol.	Page
	Ex. 8 – Untitled Revenue Analysis.	119-121	258-260
	Ex. 9 – November 9, 2004, Memo to Chinnock, Executive Director of Department.	122	261
	Ex. 10 – April 24, 2004, DiCianno Email.	123	262
	Ex. 11 – November 18, 2003, Barbara Smith Campbell Email.	124-125	263-264
	Ex. 12 – Minutes of June 5, 2005, Meeting of Senate Committee on Taxation.	126-137	265-276
	Ex. 14 – <b><u>Deja Vu Showgirls of Las Vegas, L.L.C., v. Nevada Dept. of Taxation</u></b> , 2006 WL 2161980 (D. Nev. July 28, 2006) – dismissal of lawsuit.	138-141	277-280
	Ex. 15 – Motion to Dismiss Amended Complaint, Document 12, U.S.D.C. Nevada, Case No. 2:06-cv-00480, filed May 10, 2006.	142-153	281-292
	Ex. 16 – Reply to Motion to Dismiss Complaint, Document 17, U.S.D.C. Nevada, Case No. 2:06-cv-00480, filed June 14, 2006.	154-165	293-304
	8 <sup>th</sup> Judicial District Court Administrative Record, filed 10/21/11		
	(Index of Documents)	166-170	306-309

Filing Date	Description			Vol.	Page
	Petitioner's Claims for Refund of Tax on Live Entertainment, February 27, 2007 (Tax Period: January 2004)	1-41	171-211	2	310-350
	Petitioners' Claim for Refund of Tax on Live Entertainment, March 28, 2007 (Tax Period: February 2004)	42-84	212-254	2	351-393
	Respondent's Response to Refund Requests, April 3, 2007	85-96	255-266	2	394-405
	Petitioners' Claims for Refund of Tax on Live Entertainment, April 26, 2007 (Tax Period: March 2004)	97-139	267-309	2	406-448
	Respondent's Response to Refund Requests, April 30, 2007	140-145	310-315	2	449-454
	Petitioners' Claims for Refund of Tax on Live Entertainment, May 30, 2007 (Tax Period: April 2004)	146-188	316-358	2	455-497
	Respondent's Response to Refund Requests, June 4, 2007	189-194	359-364	3	498-503
	Petitioners' Formal Notice of Appeal, May 1, 2007 (The following pages in this section were intentionally left blank)	195-273	365-443	3	504-582
	Petitioners' Correspondence Regarding Amended Notice of Hearing, June 19, 2007	274-276	444-446	3	583-585

Filing Date	Description			Vol.	Page
	Respondents' Amended Notice of Hearing, June 8, 2007	277-280	447-450	3	586-589
	Respondents' Notice of Hearing, June 7, 2007	281-284	451-454	3	590-593
	Bradley J. Shafer Formal Notice of Appearance, June 8, 2007	285-286	455-456	3	594-595
	Petitioners' Correspondence Regarding Notice of Appeal of Denial of Claim for Refund, June 21, 2007	287-333	457-503	3	596-642
	Department's Brief and Exhibits in Support of the Department's Denial of Appellant's Refund Requests, June 15, 2007	334-351	504-521	3	643-660
	Appellants' Reply Brief and Exhibits in Opposition to the Nevada Department of Taxation's Denial of Appellant's Refund Requests	352-387	522-557	3	661-696
	Department's Supplemental Brief in Support of the Department's Denial of Appellant's Refund Requests	388-392	558-562	3	697-701
	Department's Power Point Presentation	393-415	563-585	3	702-724
	Department's Appendix of Cases, Statutes and Other Authorities				
	(Index of Appendix)	416-418	586-588	3	725-727

Filing Date	Description			Vol.	Page
	Appendix 1 – Sheriff v. Burdg	419-426	589-596	3	728-735
	Appendix 2 – Cashman Photo Concessions and Labs v. Nevada Gaming Commission	427-432	597-602	3	736-741
	Appendix 3 – List v. Whisler	433-441	603-611	4	742-750
	Appendix 4 – Whitehead v. Comm’n on Judicial Discipline	442-482	612-652	4	751-791
	Appendix 5 – Murdock v. Commonwealth of Pennsylvania	483-493	653-663	4	792-802
	Appendix 6 – Jimmy Swaggart Ministries v. Board of Equalization	494-509	664-679	4	803-818
	Appendix 7 – Minneapolis Star v. Minnesota Comm’r of Revenue	510-530	680-700	4	819-839
	Appendix 8 – Adams Outdoor Advertising v. Borough of Stroudsburg	531-546	701-716	4	840-855
	Appendix 9 – Ward v. Rock Against Racism	547-568	717-738	4	856-877
	Appendix 10 – Leathers v. Medlock	569-586	739-756	4	878-895



Filing Date	Description			Vol.	Page
	Appendix 11 – Madden v. Kentucky	587-596	757-766	4	896-905
	Appendix 12 – Forbes v. City of Seattle	597-612	767-782	4	906-921
	Appendix 13 – Simon & Schuster, Inc. v. Members of New York State Crime Victims Board	613-630	783-800	4	922-939
	Appendix 14 – City of Las Angeles v. Alameda Books, Inc.	631-651	801-821	4	940-960
	Appendix 15 – California Highway Patrol v. Superior Court	652-668	822-838	4	961-977
	Appendix 16 – Vermont Society of Assoc. Executives v. Milne	669-680	839-850	4	978-989
	Appendix 17 – Comptroller of the Treasury v. Clyde’s of Chevy Chase, Inc.	681-704	851-874	5	990-1013
	Appendix 18 – Chapter 368A	705-720	875-890	5	1014-1029
	Appendix 19 – IRC §§ 4231 through 4234	721-727	891-897	5	1030-1036
	Appendix 20 – Nevada State Attorney General Opinion No. 85-17	728-733	898-903	5	1037-1042

Filing Date	Description			Vol.	Page
	Appendix 21 – Committee Notes regarding S.B. 497, June 6, 1995	734-746	904-916	5	1043-1055
	Petitioners’ Correspondence Regarding Supplemental Material Submitted for Appeal	747-749	917-919	5	1056-1058
	Petitioners’ Power Point Presentation	750-787	920-957	5	1059-1096
	Supplemental Submission on Behalf of Taxpayers/Appellants				
	Index	788-792	958-962	5	1097-1101
	1. Arkansas Writers Project, Inc. v. Charles D. Ragland	793-803	963-973	5	1102-1112
	2. Grosjean v. American Press Co.	804-812	974-982	5	1113-1121
	3. Jimmy Swaggard Ministries v. Board of Equalization of California	813-826	983-996	5	1122-1135
	4. Leathers v. Medlock	827-843	997-1013	5	1136-1152
	5. Minneapolis Star and Tribune Company v. Minnesota Commissioners of Revenue	844-863	1014-1033	5	1153-1172
	6. Murdock v. Commonwealth of Pennsylvania	864-872	1034-1042	5	1173-1181

Filing Date	Description			Vol.	Page
	7. Regan v. Taxation with Representation of Washington and Taxation with Representation of Washington v. Donald T. Regan	873-884	1043-1054	5	1182-1193
	8. City of Las Angeles v. Alameda Books, Inc.	885-907	1055-1077	5	1194-1216
	9. TK's Video, Inc. v. Denton County, Texas	908-935	1078-1105	6	1217-1244
	Theresa Enterprises, Inc. v. United State of America	936-949	1106-1119	6	1245-1258
	10. Festival Enterprises, Inc. v. City of Pleasant Hill	950-954	1120-1124	6	1259-1263
	11. United Artists Communications, Inc. v. City of Montclair	955-960	1125-1130	6	1264-1269
	12. Vermont Society of Association Executives v. James Milne	961-982	1131-1152	6	1270-1291
	13. Church of the Lukumi Babalu Ave, Inc. v. City of Hialeah	983-1017	1153-1187	6	1292-1326
	14. City of LaDue v. Margaret Gilleo	1018-1029	1188-1199	6	1327-1338
	15. United States v. Eichman	1030-1039	1200-1209	6	1339-1348

Filing Date	Description			Vol.	Page
	16. Adams Outdoor Advertising v. Borough or Stroudsburg	1040-1052	1210-1222	6	1349-1361
	17. Forbes v. City of Seattle	1053-1066	1223-1236	6	1362-1375
	18. NRS 360.291	1067-1070	1237-1240	6	1376-1379
	19. NRS Chapter 368 A	1071-1086	1241-1256	6	1380-1395
	20. Excerpts of Minutes of Senate Committee on Taxation – May 26, 2003	1087-1090	1257-1260	6	1396-1399
	21. Excerpts of Senate Bill No. 8 – 2003 Nevada Laws 20 <sup>th</sup> Sp. Sess. Ch. 5 (S.B. 8)	1091-1109	1261-1279	6	1400-1418
	22. Adopted Regulation of the Nevada tax Commission – R212-03	1110-1122	1280-1292	6	1419-1431
	23. Excerpts of the Legislative History of A.B. 554-2005	1123-1146	1293-1316	6	1432-1455
	24. Excerpts of Minutes of the Assembly Committee on Commerce and Labor Meeting – May 16, 2005	1147-1162	1317-1332	7	1456-1471
	25. Senate Bill No. 3 – 2005 Nevada Laws 22 <sup>nd</sup> Sp. Sess. Ch. 9 (S.B. 3)	1163-1171	1333-1341	7	1472-1480

Filing Date	Description			Vol.	Page
	26. Assembly Bill No. 554 – 2005 Nevada Laws Ch. 484 (A.B. 554)	1172- 1179	1342- 1349	7	1481-1488
	27. Assembly Bill No. 487 – 2007 Nevada Laws Ch. 547 (A.B. 487)	1180- 1182	1350- 1352	7	1489-1491
	28. Nevada Department of Taxation Annual Report for Fiscal Years 2004- 2005 and 2005-2006	1183- 1187	1353- 1357	7	1492-1496
	29. Initial Request for Refund Letter (specimen copy)	1188- 1194	1358- 1364		1497-1503
	30. Nevada Tax Department’s Denials of Request for Refunds	1195- 1218	1365- 1388	7	1504-1527
	Transcript of the State of Nevada Tax Commission Teleconferenced Open Meeting, Monday, July 9, 2007	1219- 1237	1389- 1407	7	1528-1546
	Transcript of the State of Nevada Tax Commission Teleconferenced Open Meeting, Monday, August 6, 2007	1238- 1332	1408- 1502	7	1547-1641
	Commission’s Findings of Facts and Conclusions of Law and Decision, October 12, 2007	1333- 1334	1503- 1504	7	1642-1643
	Petitioners’ Request for a Copy of the Nevada Tax Commission’s Formal	1335	1505	7	1644

Filing Date	Description	Vol.	Page
	Written Ruling, August 22, 2007		
	These Bates Numbered Pages Were Left Blank Intentionally: 202; 210; 218; 226; 234; 242; 250; 258; 266; 294; 309; 317; 318; and 326		
	Opposition to Petitioner's Application for Leave to Present Additional Evidence to the Nevada Tax Commission, filed 10/21/11	1506-1555	7
	Reply in Support of Application for Leave to Present Additional Evidence to the Nevada Tax Commission, filed 11/07/11	1556-1642	8
	Transcript of Hearing, dated 12/09/11	1643-1656	8
	Notice of Entry of Order Granting Petitioner's Application for Leave to Present Additional Evidence to the Nevada Tax Commission, filed 02/02/12	1657-1662	8
	Document submitted by Taxpayer on Remand		
	A – Memorandum - Analysis of Revenue Impact	1663-1665	8
	B – Live Entertainment Tax by number of seats (2004)	1666-1668	8
	C – Department of Taxation Update Request	1669-1672	8
	D – Live Entertainment Tax information and press releases	1673-1681	8
			1645-1694
			1695-1781
			1782-1795
			1796-1801
			1802-1804
			1805-1807
			1808-1811
			1812-1820

Filing Date	Description	Vol.	Page
	(various dated and undated documents)		
	E – LET Updates, Southern Nevada, 7/19/04	1682-1683	8 1821-1822
	F – Live Entertainment Tax- Seating Capacity 300-7400, January-December 2004	1684-1685	8 1823-1824
	G – LET by venue (DV000028-blank page)	1686-1694	8 1825-1833
	H – LET by category and venue	1695-1699	8 1834-1838
	I – 10% LET- Gentleman's Clubs	1700-1703	8 1839-1842
	J – LET account summary	1704-1710	8 1843-1849
	K – Various Correspondence to and from taxpayers - December 10, 2003, December 12, 2003, May 17, 2005, April 2, 2007, January 3, 2008	1711-1720	8 1850-1859
	L – LET Tax received 2004- 2008	1721-1777	8 1860-1916
	M – LET Tax received fiscal year 2007	1778-1779	8 1917-1918
	N – Monthly deposit report, prepared April 17 2009	1780-1788	8 1919-1927
	O – General Fund Revenues, fiscal year 2005- 2008, forecast 2009 - 2011	1789-1790	8 1928-1929
	P – SB 247 Bill History	1791-1793	8 1930-1932

Filing Date	Description	Vol.	Page
	Q – Department of Taxation- "What You Need to Know About Nevada's Live Entertainment Tax" 10/21/03, 7/6/05 and 8/15/05 and PowerPoint presentation	1794-1855	9 1933-1994
	R – Seating capacity information by district	1856-1858	9 1995-1997
	S – LET tax information for LCB	1859-1862	9 1998-2001
	T – Memorandum regarding LET tax- 5/21/04	1863-1867	9 2002-2006
	U – LET tax seating capacity 300 - 7400, January - September 2004	1868-1869	9 2007-2008
	V – AB 281 information regarding LET	1870-1872	9 2009-2011
	W – Draft Regulations for discussions 8/25/03	1873-1881	9 2012-2020
	X – Changes effective July 2005	1882-1883	9 2021-2022
	Y – Public Notice September 5, 2003, proposed regulations	1884-1935	9 2023-2074
	Z – Memorandum and adopted regulations, December 7, 2003	1936-2007	9 2075-2146
	AA – Regulation, LCB File No. R1 05-05, February 23, 2006	2008-2055	10 2147-2194
	BB – Minutes of Senate Committee on Taxation June 5, 2005	2056-2135	10 2195-2274



Filing Date	Description	Vol.	Page
	CC – LET PowerPoint presentation	2136-2146	10 2275-2285
	DD – Public Notice September 26, 2003, proposed regulations	2147-2201	10 2286-2340
	EE – Public Notice October 23, 2003 for meeting dated October 30, 2003	2202-2290	11 2341-2429
	FF – Public Notice October 24, 2003, proposed regulations	2291-2370	11 2430-2509
	GG – Notice of Public Meeting and Transcript of Public Meeting November 25, 2003	2371-2414	11 2510-2553
	HH – Nevada Tax Commission Meeting and Proposed Regulations - Posted November 19, 2003	2415-2496	12 2554-2635
	II – LET reports	2497-2512	12 2636-2651
	JJ – LET workshop- Compact Disc	2513-2514	12 2652-2653
	KK – Legislative History	2515-2569	12 2654-2708
	KK – Legislative History (Continued)	2570-2815	13 2709-2954
	KK – Legislative History (Continued)	2816-2856	14 2955-2995
	LET Updated Requests	2857-3064	14 2996-3203
	LET Updated Requests (Continued)	3065-3156	15 3204-3295
	LET PowerPoint	3157-3168	15 3296-3307

Filing Date	Description	Vol.	Page
	Letter from Petitioner's counsel to the Nevada Tax Commission re: NAC 360.135 Request for Subpoenas to Dino DiCianno, Michelle Jacobs, and Tesa Wanamaker, dated 06/14/12	3169-3173	15 3308-3312
	Letter from Respondent's counsel to the Nevada Tax Commission in opposition to the request for subpoenas, dated 06/15/12	3174-3179	15 3313-3318
	Letter from Petitioner's counsel to the Nevada Tax Commission in reply to Petitioner's opposition to the request for subpoenas, plus Exhibit A-B, dated 06/19/12	3180-3190	15 3319-3329
	Nevada Department of Taxation's Brief on Remand to Consider Additional Evidence, plus Exhibits A-G, dated 06/19/12	3191-3341	16 3330-3480
	Letter from Respondent's counsel to the Nevada Tax Commission re: Sur-Reply to the request for subpoenas, dated 06/20/12	3342-3373	16 3481-3512
	Letter from Petitioner's counsel to the Nevada Tax Commission re: Supplement to Reply to the request for subpoenas, dated 06/20/12	3374-3567	17 3513-3706
	Transcript of Nevada Tax Commission, 06/25/12	3658-3604	17 3707-3743
	Nevada Tax Commission Decision Letter, dated 09/06/12	3605-3610	17 3744-3749
	Hearing Officer's Order on Remand, dated 08/27/13	3611-3618	17 3750-3757
	Stipulation for Submission on the Record, 10/24/13	3619-3634	18 3758-3773
	Nevada Tax Commission Notice of Hearing, dated 11/22/13	3635-3636	18 3774-3775

Filing Date	Description		Vol.	Page
	Waiver of Notice, dated 11/22/13	3637	18	3776
	Transcript of Nevada Tax Commission (only the portions of Nevada Tax Commission relevant to this matter), 12/09/13	3638-3642	18	3777-3781
	Nevada Tax Commission's Decision, 02/12/14	3643-3718	18	3782-3857
12/09/2011	Minutes		1	48-49
12/16/2011	Minutes		1	50-51
06/08/2012	Minutes		1	84-85
09/22/2015	Minutes		18	3867-3868
10/27/2015	Minutes		18	3877-3878
11/24/2015	Minutes		18	3907-3909
10/15/2013	Minutes – Status Check		1	95-96
02/26/2016	Notice of Appeal		18	3934-4006
06/24/2016	Notice of Entry of Amended Order Denying Judicial Review of Administrative Decision		19	4027-4035
10/26/2011	Notice of Entry of Order		1	19-23
11/21/2011	Notice of Entry of Order		1	28-33
02/02/2012	Notice of Entry of Order		1	54-59
06/22/2012	Notice of Entry of Order		1	88-93
3/28/2014	Notice of Entry of Order		1	119-126

Filing Date	Description	Vol.	Page
02/04/2016	Notice of Entry of Order Denying Judicial Review of Administrative Decision	18	3921-3933
10/13/2015	Notice of Entry of Order Granting Petitioner's Motion to File Supplemental Brief and Setting Hearing on Petition for Judicial Review	18	3872-3876
03/31/2015	Notice of Entry of Order Granting Stipulation and Order to Extend Time	18	3861-3866
03/26/2014	Notice of Entry of Stipulation and Order Consolidating Cases	1	111-118
01/22/2015	Notice of Entry of Stipulation and Order for Extension of Time	1	130-134
06/27/2016	Notice of Entry of Stipulation and Proposed Amended Order	19	4039-4055
01/15/2016	Order Denying Judicial Review of Administrative Decision	18	3911-3920
06/21/2012	Order Denying Stay	1	86-87
10/09/2015	Order Granting Petitioner's Motion to File Supplemental Brief and Setting Hearing on Petition for Judicial Review	18	3869-3871
02/01/2012	Order Granting Plaintiffs Application for Leave to Present Additional Evidence to the Nevada Tax Commission	1	52-53
09/09/2013	Order Scheduling Status Check	1	94
12/02/2015	Order to Statistically Close Case	18	3910
09/23/2011	Petition for Judicial Review	1	1-12

Filing Date	Description	Vol.	Page
03/11/2014	Petition for Judicial Review (District Court Case No. A-14-697515-J)	1	97-106
03/24/2014	Stipulation and Order Consolidating Cases (Consolidating A-14-697515-J with A-11-648894-J)	1	107-110
11/21/2011	Stipulation and Order for Continuance	1	25-27
10/25/2011	Stipulation and Order for Extension of Time	1	16-18
01/21/2015	Stipulation and Order for Extension of Time	1	127-129
03/30/2015	Stipulation and Order for Extension of Time	18	3858-3860
06/23/2016	Stipulation and Proposed Amended Order	19	4007-4020
01/26/2015	Supplement to the Record on Appeal in Accordance with the Nevada Administrative Procedure Act (Entire Record - Index)	1	136-139
12/09/2011	Transcript (Entered on 10/30/2012 into District Court Case No. A-11-648894-J)	1	34-47
06/08/2012	Transcript (Entered on 10/30/2012 into District Court Case No. A-11-648894-J)	1	60-83
10/27/2015	Transcript of Proceedings Before the Honorable Jerry A. Wiese, II – October 27, 2015 (Re: Oral Argument on Petition for Judicial Review) (District Court Case No. A- 11-648894-J) (Entered into District Court Case No. A-14-697515-J)	18	3879-3906
01/26/2015	Transmittal of Supplement to the Record on Appeal	1	135

Law Offices of  
**WILLIAM H. BROWN**  
A Limited Liability Company

---

6029 S. Ft. Apache Rd., Ste. 100  
Las Vegas, Nevada 89148

P: (702) 385-7280  
F: (702) 386-2699  
[Will@whbesq.com](mailto:Will@whbesq.com)

June 20, 2012

William Chisel, Executive Director  
Nevada Department of Taxation  
1500 College Pkwy., Ste. 115  
Carson City, Nevada 89706

William Chisel, Executive Director  
Nevada Department of Taxation  
Grant Sawyer Bldg., Ste. 1300  
Las Vegas, Nevada 89101

***Re: K-Kel, Inc. dba Spearmint Rhino Gentlemen's Club; Olympus Garden, Inc., dba Olympic Garden; SHAC LLC dba Sapphire; The Power Company, Inc. dba Crazy Horse Too Gentlemen's Club; D Westwood, Inc. dba Treasures; DI Food & Beverage of Las Vegas, LLC dba Scores, Deja Vu Showgirls of Las Vegas, LLC dba Deja Vu; and Little Darlings of Las Vegas, LLC dba Little Darlings***

***Supplement to Reply to Opposition to Taxpayers' NAC 360.135 Request for Subpoenas to Dino DiCianno, Michelle Jacobs, and Tesa Wanamaker.***

Dear Mr. Chisel:

Attached please find two supplemental exhibits, 1) the Nevada Department of Taxation's Supplement to Production of Documents Pursuant to NRCP 26(e) and 2) the Deposition of Dino Di Canno.

Sincerely,

/s/ *William Brown*

WILLIAM H. BROWN

cc: Brad Shafer, Esq.  
Matt Hoffer, Esq.  
Mark Ferrario, Esq.  
David Pope, Esq.  
Blake Doer, Esq.  
Vivienne Rakowsky, Esq.

**SUPP**

CATHERINE CORTEZ MASTO

Attorney General

Blake A. Doerr

Deputy Attorney General

Nevada Bar No. 009001

VIVIENNE RAKOWSKY

Deputy Attorney General

Nevada Bar No. 009160

555 E. Washington Ave., Ste. 3900

Las Vegas, Nevada 89101

Ph. (702) 486-3095

Fax: (702) 486-3416

[bdoerr@ag.nv.gov](mailto:bdoerr@ag.nv.gov)

[vrakowsky@ag.nv.gov](mailto:vrakowsky@ag.nv.gov)

Attorneys for Nevada Department of Taxation

**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

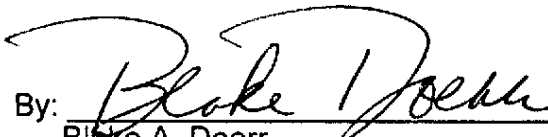
**NEVADA DEPARTMENT OF  
TAXATION'S SUPPLEMENTAL  
PRODUCTION OF DOCUMENTS  
PURSUANT TO NRCP 26(e)**

COMES NOW, Defendants NEVADA DEPARTMENT OF TAXATION, NEVADA TAX  
COMMISSION, NEVADA STATE BOARD OF EXAMINERS, and MICHELLE JACOBS, in her  
official capacity only, by and through its attorney Catherine Cortez Masto, Attorney General,  
and Vivienne Rakowsky, Deputy Attorney General, hereby submits its Supplemental  
Disclosure of Documents pursuant to NRCP 26(e).

1 2 3 4 5 6 7 8 9	The following documents are included in their un-redacted form	DV00003 DV00551-552 DV00554 DV00556-558 DV00575-576 DV00581 DV00584-587 DV00604 DV00660-662 DV00667-669 DV00675-676 DV00678-680
10 11 12 13 14 15 16	The following documents are being produced with certain additional portions un-redacted.	DV00195 revenue officer's name DV 198 – 200 revenue officers name DV 00204- un-redact Kimberly Whitfield , Debra Tombs and Linda Fleischman DV 00204 un-redacted names of Department employees DV 195 – 198- Redacted name was "Debra Toombs"
17 18 19	DV001194- 1195	Spread sheet of LET collections by taxpayer group ( the same document provided at hearing not bates stamped)

20 Respectfully submitted this 22<sup>nd</sup> day of November, 2010.

21 CATHERINE CORTEZ MASTO  
22 Attorney General

23  
24 By:   
25 Blake A. Doerr  
26 Deputy Attorney General  
27  
28



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that on the 22<sup>nd</sup> day of November, 2010, I served the foregoing  
**NEVADA DEPARTMENT OF TAXATION'S SUPPLEMENTAL PRODUCTION OF  
DOCUMENTS PURSUANT TO NRCP 26(e)** by causing to be delivered to Department of  
General Services for mailing at Las Vegas, Nevada, a true copy thereof, addressed to:

William H. Brown, Esq.  
The William H. Brown Law Office, Ltd.  
330 S. Third St., Ste. 860  
Las Vegas, NV 89101

Bradley J. Shafer  
Shafer & Associates, P.C.  
3800 Capital City Blvd., Ste. 2  
Lansing, MI 48906-2110

And via Interdepartmental mail and email to:

State of Nevada  
Department of Taxation  
2550 Paseo Verde Pkwy., Ste. 180  
Henderson, NV 89074



An employee of Office of Attorney General

The following is a breakdown from calendar year 2004 of Live Entertainment Tax revenue which was received from all taxpayers:

- \$8,295 from one time or annual events
- \$80,598 from sporting events
- \$1,151,788 from nightclubs
- \$114,776 from promoters
- \$950,560 from performing arts centers
- \$1,403,761 from raceways
- \$5,204,017 from gentlemen's clubs
- Total tax received \$8,913,795

For the first seven months of fiscal year 2005, \$4,306,370 has been collected to date. The economic forum projection for this fiscal year is \$8,700,000.

[REDACTED] DISTRICT

Cathy:

[REDACTED] and I have consulted on this question and we agree on the following Gentlemen's Clubs in our District.

[REDACTED] Originally (before LET) [REDACTED]. Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED]. No reasonable room to expand.

[REDACTED] Originally (before LET) [REDACTED]. Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED]. No reasonable room to expand.

[REDACTED]

[REDACTED] DISTRICT

We only have two "Gentlemen's Clubs". They are [REDACTED] and [REDACTED]

[REDACTED] is on the exempt list, and I have verified that their seating capacity is well below the 300.

[REDACTED] opened after we put the LET database together. It has [REDACTED]. I did a field visit when they first opened as they had indicated they were going to add dancers later. They do have more than [REDACTED] seating capacity, but the owner told me that he was [REDACTED]. The seating capacity of that area would be about 60. I will do a field visit after they open this afternoon to verify that they are using that area for the dancers.

Debra Toombs, Revenue Officer III  
Nevada Department of Taxation  
Compliance Division

# MEMORANDUM

Date: November 9, 2004

To: Chuck Chinnock

From: Cathy Chambers

CC: Dino Di Cianno

Subject: Live Entertainment Tax information for LCB on Gentleman's Clubs

The total number of Gentleman's Clubs statewide is approximately 33. There are 4 in the Reno District all with seating capacity of less than 300; 2 in the Elko District both of which are currently below 300 seating capacity; Las Vegas District has the majority with 27 clubs operating. Of the 27 clubs, 2 have been referred to Gaming Control Board for LET registration, 16 have seating capacity of less than 300, and 9 with seating capacity of 300 to 7,499. Carson district does not have any of these specific types of clubs, only brothels with capacity for less than 300 patrons. See attached worksheet for reporting information.

[REDACTED] DISTRICT

Cathy:

[REDACTED] have consulted on this question and we agree on the following Gentlemen's Clubs in our District.

[REDACTED] Originally (before LET) [REDACTED] Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED] No reasonable room to expand.

[REDACTED] Originally (before LET) [REDACTED] Definitely room to expand seating capacity.

[REDACTED] Originally (before LET) [REDACTED] No reasonable room to expand.

[REDACTED] DISTRICT

We only have two "Gentlemen's Clubs". They [REDACTED] and [REDACTED]

[REDACTED] is on the exempt list, and I have verified that their seating capacity is [REDACTED]

[REDACTED] opened after we put the LET database together. It has [REDACTED]

[REDACTED] I did a field visit when they first opened as they had indicated [REDACTED]

[REDACTED] They do have more [REDACTED] but the owner told me that he was [REDACTED]

[REDACTED] e. The seating capacity of that area would be about 60. I will do a field visit after they open this afternoon to verify that they are using that area for the dancers.

Debra Toombs, Revenue Officer III  
Nevada Department of Taxation  
Compliance Division

[REDACTED]

3. Which businesses responded advising either they were not liable due to:

a. Being non-profit. Of the 366 original potential licensees contacted, 137 responded as being non-profit organizations and not subject to the Live Entertainment Tax.

b. Seating Capacity Below 300. Of the 366 original potential licensees contacted, 106 responded that the LET was not applicable to their business because the maximum seating capacity was below 300.

c. A change in seating capacity since the inception of the tax (July 2003). At this time, the Department is aware of [REDACTED] who had their maximum seating capacity re-evaluated [REDACTED] patrons by the [REDACTED] Department after the inception of the tax. This club uses only part of a larger building [REDACTED] that was originally issued a maximum occupancy permit [REDACTED] building. See reports from individual districts explaining the process of changing maximum occupancy of a facility.

d. Discontinuation of Live Entertainment. At this time, the Department is aware of [REDACTED] [REDACTED] has live entertainment in the form of [REDACTED] but does not charge a cover or admission charge and requires no minimum drink purchase to enter the facility.

e. Potential licensees contacted by the Department that were found to be licensed gaming establishments reporting LET to Gaming Control Board. Of the original 366 original potential licensees, 37 have been cancelled with the Department because they belong to GCB.

4. Timing of events; review of when events are offered during the year; i.e., timing of special events such as NASCAR, concerts, etc., that would have an impact on the payment of LET. See attached calendar of events.

E-mail attachments include northern and southern Nevada summary lists for LET as prepared by Kimberly Whitfield in Las Vegas Office, and a calendar of events for the large facilities statewide.

Requirements for changing maximum occupancy of a facility:

**Elko:** Debra Toombs checked with the area city/county building inspectors, they all use the Uniform Building Code specifications to determine the maximum seating/load capacity. They all use editions from various years but the seating capacity is determined completely by the square feet. For instance, the 1997 UBC uses 7 square feet per person for seating, but if they were calculating a casino for example, they would use 11 square feet. They said that casinos are calculated differently because it would not be assumed that they would be putting seats in the casino. The only way that a business or facility could get their capacity changed would be to move or build a wall which would change the square footage of the area.

**Carson:** Per Linda Fleischmann, she received the following information:

5/20/04. She provided the following information. The fire department works with the building department in assessing the safe seating capacity allowances for facilities in Carson City for the purposes of holding activities. But the building department actually makes the final decision and issues the "maximum seating capacity" signs that are posted on these premises. They use a formula based on square footage and the type of activity multiplied by a preset number of people for a safe such as dancing versus a sit-down concert for the purpose of keeping a safe environment.

The promoter actually regulates the number of people walking through the door. But they are not bound by this seating capacity license for each activity. Neither the building department nor the fire department has any way to consistently regulate if the number of people at these events are exceeding the allowable limit for the facility. If the promoter/owner of the facility chooses to, for instance, remove stationary seats to reduce the number of occupants in the area, they are allowed to do so. Leeann cited an example at the [REDACTED] which they reduced a meeting area from 300 to 150 for insurance purposes. When the building department inspects these facilities, they base their findings on the type of activity on a case by case basis. If the facility promoter permanently alters the physical space, such as adding a room, they would be re-evaluated by the building and fire departments for maximum seating capacity. The city business licensing authority explained that they require a layout sketch when the live entertainment involves blocking off city streets and thoroughfares.

**Reno:** Don Christensen found the following information from the local authorities in Reno/Sparks & Washoe County areas:

**City of Reno- Fire Marshal-** Taxpayer requests re-inspection by writing letter. Inspection is done within one week. New permit is issued (usually) within one month. No annual re-inspection. Any re-inspection is done as a response to a complaint or after an incident.

**City of Sparks- Fire Marshal-** Taxpayer requests re-inspection by writing letter. Inspection is done within one week. New permit is issued (usually) within one month. There IS an annual re-inspection for nightclubs, cabarets, mens' clubs, etc. in Sparks.

**Washoe County-** Now consolidated with City of Reno. Above (Reno) rules apply.

In all jurisdictions there is absolutely NO difficulty for a business to reduce the occupancy permit. A business owner merely requests the occupancy number (ie: from 450 currently permitted to, say 295, a convenient target number) and it will be granted upon inspection. In the words of the Sparks Fire Marshal, a lower number is better for us (Fire Dept.) for obvious safety reasons.

**Las Vegas:** Paulina already E-mailed to you requirements for Las Vegas, Henderson and Clark County.



LUKE PUSCHNIG  
Legal Counsel

October 6, 2003

Mr. Dino DiCianno  
Deputy Executive Director  
Department of Taxation  
1550 E. College Parkway  
Suite 115  
Carson City, NV 89706-7937

RECEIVED

OCT 09 2003

DEPARTMENT OF TAXATION  
STATE OF NEVADA

**Re: Proposed Live Entertainment Tax Regulations**

Dear Mr. DiCianno:

The purpose of this letter is provide to the Department of Taxation some input as to the draft regulations for discussion in regard to the Live Entertainment Tax as imposed under Senate Bill 8 of the 20<sup>th</sup> Special Session.

As you may know, the Las Vegas Convention and Visitors Authority ("LVCVA") not only runs the Las Vegas Convention Center but also runs Cashman Center here in Las Vegas. The LVCVA is concerned because certain draft regulations may be interpreted to tax conventions/tradeshows/public events that are truly not events attended by patrons "for a primary purpose of viewing, hearing, or participating in live entertainment". The following comments relate to the draft regulations for discussion on October 2, 2003.

The LVCVA's main concern relates to certain conventions and public events at Cashman Center. Specifically, the LVCVA leases Cashman Center to public events such as home shows, recreational shows and consumer shows that may have "incidental" live entertainment beyond the live entertainment limitations set forth in Section 9. For example, when the Harvest Festival leases Cashman Center, the primary purpose for this event is not live entertainment but is mostly a forum by which artisans and other craft makers can display their goods and sell the same to the general public. During the Harvest Festival show, the show would have magicians, mimes and other ambient music/entertainment (like the piano players at Paris). Under the October 2, 2003 draft regulations, the Harvest Festival would then arguably be taxed. I do not believe that it is the intent of the Nevada State Legislature to tax the Harvest Festival or any like convention or tradeshow.

The above referenced concern also relates to any "convention" as opposed to a tradeshow, which may use Cashman Center and/or the Las Vegas Convention Center.

Mr. Dino DiCianno

October 6, 2003

Page 2 of 2

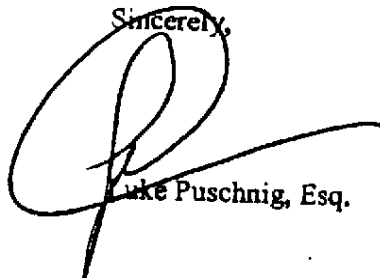
The LVCVA would suggest that you expand the scope of Section 9, which is the limitation of live entertainment, to include any "ambient entertainment" as well as ambient background music. This ambient entertainment could be defined to include mimes, magicians and other like live entertainment that is provided for the enjoyment of the patrons while they attend the event, so long as such entertainment is not the primary purpose of attending the event.

In relation to your definition of "tradeshow" set forth in Section 3, Subsection 5, I would respectfully request the language be changed to be read as follows:

"Tradeshow" means an event of limited duration, ~~not open to~~  
~~members of the general public,~~ during which the merchandise and  
services of a particular trade or industry are exhibited and/or  
matters of interest to members of the trade or industry ~~or~~ are  
discussed".

Thank you for allowing the LVCVA the opportunity to provide this written comment on the proposed regulations. The foregoing is preliminary only, and the LVCVA respectfully reserves the right to provide additional comments and suggestions as the process moves forward as additional draft regulations are considered.

Sincerely,



Luke Puschnig, Esq.

gn





October 17, 2003

Ms. Cathy Chambers  
Auditor III  
Nevada Department of Taxation  
4600 Kietzke Lane  
Building O, Room 263  
Reno, Nevada 89502

Re: Proposed Regulations  
Nonprofit Live Entertainment

Dear Ms. Chambers:

Thank you for speaking with us recently concerning the proposed regulations that your office is reviewing for purposes of paragraph (b) of subsection 5 of section 78 of Senate Bill No. 8 of the 20<sup>th</sup> Special Session. We have reviewed Sections 5 and 6 of the draft regulations and have the following questions or comments:

1. We assume, for purposes of Section 5, that the word, "inure", is being used in a manner consistent with Section 501(c)3 of the Internal Revenue Code and all related Treasury Regulations and Revenue Rulings. Thus, for example, a compensation arrangement between the Pioneer Center and a production company that is (i) consistent with the exempt purposes of the Pioneer, (ii) the result of arm's length bargaining, and (iii) based on reasonable compensation, would not result in prohibited inurement. This is clearly stated in Revenue Ruling 69-383; and
2. The Pioneer Center is very aware that a basic principle of its status is that no part of its earnings inure to the benefit of any private shareholder or individual. We understand if any arrangement results in prohibited inurement, it could be grounds for revocation of the tax exempt status, as well as a basis for assessing employment tax liabilities for unreported income; and
3. Given the foregoing, it would appear, so long as a nonprofit's tax exempt status remains in effect, that a nonprofit would always be exempt from the live entertainment excise tax.

I trust this is in order. If you have any questions, please feel free to contact us. We look forward to working through any issues so that appropriate regulations can be adopted that are consistent with tax exempt organizations and their treatment under federal law.

Very truly yours,

Fred Boyd  
President/Board Chairman

/ljt

100 South Virginia Street • Reno Nevada 89501 • (775) 688-6810 • FAX (775) 688-6830

Pioneer Center for the Performing Arts

October 27, 2003

(702) 383-8839

Dennis K. Neilander, Chairman  
Nevada State Gaming Control Board  
1919 E. College Parkway  
P.O. Box 8003  
Carson City, Nevada 89702

**Re: 10/07/03 Draft of Proposed Amendments to Regulation 13 (LET)**

Dear Mr. Chairman:

This will transmit comments and questions on behalf of MGM MIRAGE concerning the October 7, 2003, draft of "Proposed Amendments to Regulation 13." We were unable to offer testimony at your public hearing on October 8, 2003, because of insufficient time to make a thorough study of the new provisions.

The comments and questions and the sections to which they are directed are as follows:

13.010 (5) - Is it intended that Superbowl parties to which tickets are sold would fall within the definition of "live entertainment"?

13.010 (5)(b) - We support Alternative B as being in accord with the provisions of S. B. 8.

It may be that the language of Alternative B can be reshaped in some respects, but it captures the necessary essence. Types of facilities that are properly excluded from "live entertainment" by this language are casino lounges and bars where the attraction consists of the food or refreshments sold and the ambience provided. A part of the ambience is the presentation

of recorded music that is facilitated by a person. Such persons act merely as facilitators of the recorded music, determining - by the push of a button or the turn of a dial on electronic equipment - which music is most appropriate to maintain the desired ambience for the facility throughout the evening. These "music facilitators" have no substantial interaction with patrons, they do nothing that would constitute visual entertainment for patrons and their names are not advertised as an attraction for patrons.

13.010(5)(e) - We support the exclusion for "instrumental ambient background music". We assume this exclusion is not affected by 13.010(5)(d)(1) if the facility in which the "instrumental ambient background music" takes place is a bar, lounge or restaurant located in or near gaming areas.

13.010(5)(e) - We recommend adding to this provision "or as part of the background ambience of the facility." An example of this would be an excerpt from an opera sung by a waiter in an Italian restaurant once or twice every hour.

13.020(5) - We support this language. This is an appropriate method to deal with sales in facilities with no admission charges that operate under a continual time schedule. If the food, refreshment or merchandise is ordered while the facility is in a live entertainment status, the charge is taxable, if it is ordered before or after the facility is in a live entertainment status, the charge is not taxable.

13.020(11) - For purposes of clarity and consistency, we recommend that "clearly" be inserted before "see and hear" in the last line.

13.025(6) - We recommend this provision be amended to read as follows:

"If the purpose of the event is not primarily for entertainment, live entertainment at:

group. (a) Private meetings or dinners attended by members of a particular or organization,

(b) Casual assemblages,

(c) An event that limits participation to persons who are participants in conventions, extended business meetings or tournaments and their guests."

We suggest that the addition of "group" to 13.025(6)(a) will provide for celebrations of such events as weddings, birthdays and anniversaries.

It appears to us that the language proposed as 13.025(6)(c) might read better as a subsection rather than a separate paragraph.

October 27, 2003

Page 3

13.050(6) - As the contracting parties are both gaming licensees, why is the approval of the Chairman necessary? Wouldn't it be sufficient for the Chairman to be notified who will pay the tax?

13.060(1) - We suggest the following be inserted in the fourth line following "prosecution":  
"commenced prior to the end of the 5-year period".

Please let me know if there are any questions or if we need to supply clarification of any of our proposals.

Best wishes,

Robert D. Faiss

cc: Member Bobby Siller  
Member Scott Scherer  
Chairman Peter C. Bernhard  
Chief Gregory Gale  
Deputy Chief Lynda L. Hartzell  
Deputy A. G. Antonia A. Cowan  
Bruce A. Aguilera, Vice President & General Counsel, Bellagio Hotel Casino

DINO DICIANNO

---

From: aalonso@lioneisawyer.com  
Sent: Thursday, October 09, 2003 10:55 AM  
To: DINO DICIANNO  
Subject: LET INFO



LETMEMO.wpd  
(17 KB)

Here is the information that I spoke to you about. I hope it is useful to you.

Hope all is well.

A

Alfredo T. Alonso  
Government Affairs Manager  
Lionel Sawyer & Collins

-----  
This e-mail message is confidential, intended only for the named recipient(s) above and may contain information that is a trade secret, proprietary, privileged or attorney work product. If you have received this message in error, or are not the named or intended recipient(s), please immediately notify the sender at 702-383-8888 and delete this e-mail message and any attachments from your workstation or network mail system.  
-----

## MEMORANDUM

**To:** Robert D. Falss  
**From:** Louis V. Csoka  
**Subject:** S.B. 8 -Construction of "Live Entertainment"  
**Date:** October 9, 2003

---

As requested by Bruce A. Aguilera, Vice President and General Counsel of Bellagio Casino Hotel, I have researched certain issues involving the proper construction for "live entertainment" pursuant to Nevada Senate Bill 8 of the 20th Special Session. Below is the result of my research:

### **I. Questions Presented**

A. Is the meaning of "live entertainment" identical under the amended Casino Entertainment Tax ("CET") and its successor, the Live Entertainment Tax ("LET")?

B. Once promulgated, will the Department of Taxation's (the "Department") definition of "live entertainment" be controlling under both the CET and the LET?

C. Will the Department's definition of "live entertainment" supercede any other administrative definitions of the same promulgated for purposes of the CET?

### **II. Short Answers**

A. The meaning of "live entertainment" under the amended CET and LET is the same.

B. Once the Department determines the meaning of "live entertainment," that definition will control under both the CET and the LET, regardless of which agency collects the tax.

C. The Department's definition of "live entertainment" will supercede all prior or contemporaneous administrative definitions promulgated to explain that term.

**DINO DICIANNO**

---

**From:** Nevada Taxpayers Association (info@nevadataxpayers.org)  
**Sent:** Wednesday, October 08, 2003 10:31 AM  
**To:** Dino DiCianno  
**Subject:** Fw: Memo re LET

Gaylyn received a call this morning from GCB to confirm that they had received the attached which I sent via fax. She was told that they will probably not get to this reg until this afternoon.

I sent a copy to Bill Bible and told him about 233B. I couldn't write it in a way that satisfied me.

Carole

----- Original Message -----

**From:** Nevada Taxpayers Association  
**To:** Barbara Campbell  
**Cc:** Gaylyn Spriggs ; David Turner  
**Sent:** Tuesday, October 07, 2003 8:30 PM  
**Subject:** Memo re LET

FYI

Carole

---

**NEVADA TAXPAYERS ASSOCIATION**  
**Las Vegas Office**  
2303 E. Sahara Ave., Ste. 203  
Las Vegas, NV 89104  
Phone: (702) 457-8442  
Fax: (702) 457-6361  
E-Mail: [info@nevadataxpayers.org](mailto:info@nevadataxpayers.org)  
[www.nevadataxpayers.org](http://www.nevadataxpayers.org)  
**Carson City Office**  
501 So. Carson St., Ste 301  
Carson City, NV 89701  
Phone: 775/882-2697  
Fax: 775-8828938

**DINO DICIANNO**

---

**From:** Nevada Taxpayers Association [info@nevadataxpayers.org]  
**Sent:** Tuesday, October 21, 2003 2:02 PM  
**To:** Dino DiCianno  
**Subject:** Fw: 10/7/03 Draft of Proposed Amendments to Regulation 13 (LET)

**Importance:** High



mgm mirage - Reg.  
13 comments ...



mgm mirage - Reg.  
13 comments ...

Hi Dino -

Sorry I forgot to send you transcript. When I went on email just now to find it I came across this which I thought you might find interesting.

Carole

----- Original Message -----

**From:** "ROBERT FAISS" <rfaiss@lionelsawyer.com>  
**To:** <info@nevadataxpayers.org>  
**Sent:** Friday, October 17, 2003 3:39 PM  
**Subject:** 10/7/03 Draft of Proposed Amendments to Regulation 13 (LET)

Please see

-----  
-----

This e-mail message is a confidential communication from the law firm of Lionel Sawyer & Collins and is intended only for the named recipient(s) above and may contain information that is a trade secret, proprietary, privileged or attorney work product. If you have received this message in error, or are not the named or intended recipient(s), please immediately notify the sender at 702-383-8888 and delete this e-mail message and any attachments from your workstation or network mail system.

-----  
-----



October 21, 2003

(702) 383-8839

Dennis K. Neilander, Chairman  
Nevada State Gaming Control Board  
1919 E. College Parkway  
P.O. Box 8003  
Carson City, Nevada 89702

**Re: 10/07/03 Draft of Proposed Amendments to Regulation 13 (LET)**

Dear Mr. Chairman:

This will transmit comments and questions on behalf of MGM MIRAGE concerning the October 7, 2003, draft of "Proposed Amendments to Regulation 13." We were unable to offer testimony at your public hearing on October 8, 2003, because of insufficient time to make a thorough study of the new provisions.

The comments and questions and the sections to which they are directed are as follows:

13.010 (5) - Is it intended that Superbowl parties to which tickets are sold would fall within the definition of "live entertainment"?

13.010 (5)(b) - We support Alternative B as being in accord with the provisions of S. B. 8.

It may be that the language of Alternative B can be reshaped in some respects, but it captures the necessary essence. Types of facilities that are properly excluded from "live entertainment" by this language are casino lounges and bars where the attraction consists of the food or refreshments sold and the ambience provided. A part of the ambience is the presentation

of recorded music that is facilitated by a person. Such persons act merely as facilitators of the recorded music, determining - by the push of a button or the turn of a dial on electronic equipment - which music is most appropriate to maintain the desired ambience for the facility throughout the evening. These "music facilitators" have no substantial interaction with patrons, they do nothing that would constitute visual entertainment for patrons and their names are not advertised as an attraction for patrons.

13.010 (5)(e) - We support the exclusion for "instrumental ambient background music". We assume this exclusion is not affected by 13.010(5)(d)(1) if the facility in which the "instrumental ambient background music" takes place is a bar, lounge or restaurant located in or near gaming areas.

13.010(5)(e) - We recommend adding to this provision "or as part of the background ambience of the facility." An example of this would be an excerpt from an opera sung by a waiter in an Italian restaurant once or twice every hour.

13.020(5) - We support this language. This is an appropriate method to deal with sales in facilities with no admission charges that operate under a continual time schedule. If the food, refreshment or merchandise is ordered while the facility is in a live entertainment status, the charge is taxable, if it is ordered before or after the facility is in a live entertainment status, the charge is not taxable.

13.020(11) - For purposes of clarity and consistency, we recommend that "clearly" be inserted before "see and hear" in the last line.

13.025(6) - We recommend this provision be amended to read as follows:

"If the purpose of the event is not primarily for entertainment, live entertainment at:

\_\_\_\_\_ (a) Private meetings or dinners attended by members of a particular group or organization.

"(b) Casual assemblages.

"(c) An event that limits participation to persons who are participants in conventions, extended business meetings or tournaments and their guests."

We suggest that the addition of "group" to 13.025(6)(a) will provide for celebrations of such events as weddings, birthdays and anniversaries.

It appears to us that the language proposed as 13.025(6)(c) might read better as a subsection rather than a separate paragraph.

October 21, 2003  
Page 3

13.050(6) - As the contracting parties are both gaming licensees, why is the approval of the Chairman necessary? Wouldn't it be sufficient for the Chairman to be notified who will pay the tax?

13.060(1) - We suggest the following be inserted in the fourth line following "prosecution":  
"commenced prior to the end of the 5-year period".

Please let me know if there are any questions or if we need to supply clarification of any of our proposals.

Best wishes,

Robert D. Faiss

cc: Member Bobby Siller  
Member Scott Scherer  
Chairman Peter C. Bernhard  
Chief Gregory Gale  
Deputy Chief Lynda L. Hartzell  
Deputy A. G. Antonia A. Cowan  
Bruce A. Aguilera, Vice President & General Counsel, Bellagio Hotel Casino

**DINO DICIANNO**

---

**From:** Nevada Taxpayers Association [info@nevadataxpayers.org]  
**Sent:** Tuesday, October 21, 2003 2:05 PM  
**To:** Dino DiClanno  
**Subject:** Fw: LET/Gaming  
**Importance:** High

FYI

Carole

----- Original Message -----

**From:** Nevada Taxpayers Association  
**To:** Barbara Campbell ; David Turner  
**Cc:** Gaylyn Spriggs  
**Sent:** Thursday, October 16, 2003 12:19 PM  
**Subject:** LET/Gaming

Dear All -

I have attached a copy (both in Word Perfect and Word) of that portion of a transcript that Bob Faiss sent me re the Gaming Control Board meeting. I am not sending it to anyone else since I am not sure what the ground rules are concerning dissemination of transcripts. For this reason, I would appreciate it if you would use this just for your information and not share it with anyone else.

Carole

---

**NEVADA TAXPAYERS ASSOCIATION**

Las Vegas Office

2303 E. Sahara Ave., Ste. 203

Las Vegas, NV 89104

Phone: (702) 457-8442

Fax: (702) 457-6361

E-Mail: [info@nevadataxpayers.org](mailto:info@nevadataxpayers.org)

[www.nevadataxpayers.org](http://www.nevadataxpayers.org)

Carson City Office

501 So. Carson St., Ste 301

Carson City, NV 89701

Phone: 775/882-2697

Fax: 775-8828938



**FAX TRANSMISSION COVER SHEET**

**TO:** Sen. Randolph Townsend **FAX NO.:** (775) 954-2023  
Bob Faiss (702) 383-8845  
Carole Villardo (702) 457-6361  
Dino DiCianna (775) 687-5981

**FROM:** Bill Bible **FAX NO.:** (702) 735-4620

**DATE:** November 17, 2003 **TIME:** 3:40 p.m.

**PAGES:** 3 (including cover page)

**COMMENTS:**

■ 3773 HOWARD HUGHES PARKWAY #520 NORTH ■  
■ Las Vegas, Nevada 89169 ■



November 17, 2003

**MEMORANDUM**

**TO:** Barbara Campbell, Chairwoman, Nevada Tax Commission  
Peter Bernhard, Chairman, Nevada Gaming Commission  
Dennis Neilander, Chairman, State Gaming Control Board

**FROM:** William A. Bible, President 

**SUBJECT:** Proposed Regulation on Live Entertainment Tax

At the Joint Workshop on the Live Entertainment Tax that was held on October 30, 2003, I testified that it may be necessary to develop a definition of, and an exemption for, "ambient entertainment" which may take place anywhere in either a gaming or nongaming facility in order to create mood and atmosphere. This type of entertainment is not the primary attraction of the facility and is not the main basis for why patrons come to the facility.

The latest version of the Gaming Control Board's proposed Draft LET Regulations, dated 11/14/03, includes a definition of, and exemption for, "ambient entertainment." Using this definition as a starting point, the Nevada Tax Commission's proposed Draft Regulation, dated October 30, 2003, could be amended to substitute the following definition of "ambient entertainment", with appropriate language change in Section 2(7)(a), for the proposed definition of "ambient background music":

2. "Ambient entertainment" means entertainment that contributes to the general atmosphere of a facility but is not its primary attraction. The term includes:

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 a volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;
2. Instrumental or vocal music performed in restaurants by employees whose primary job function is that of preparing or serving food, refreshments or beverages to patrons, if such instrumental or vocal music is not advertised as entertainment to the public.

■ 5775 HOWARD HUGHES PARKWAY #520 NORTH ■  
■ LAS VEGAS, NEVADA 89109 ■

3. Performers of any type who stroll throughout the facility; and
4. Performers situated within the gaming or nongaming areas of a licensed gaming establishment other than in nightclubs, lounges, restaurants or showrooms who enhance the theme of the establishment or attract patrons to the areas in which they perform, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables.

It is also important to define the term "casual assemblage", found in Section 78(5)(i) of SB 8, 20<sup>th</sup> Special session, in order to create regulatory certainty. Proposed language is set forth below:

"Casual assemblage" includes, but is not limited to:

- (a) Participants in conventions, business meetings or tournaments and their guests; or
- (b) 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.

I would also endorse the comments made by Carol Vilardo of the Nevada Taxpayers Association where she advocates the elimination of "cooking or product demonstrations" from the definition of live entertainment. There are a number of events such as a rib or chili cook off in Sparks or Laughlin that allows vendors to demonstrate their culinary skills and sell products associated with these skills that just do not seem like the type of entertainment envisioned in SB8.

WAB:kd

c: Sen. Randolph Townsend  
Members, Regulatory Committee  
Bob Faiss  
Carol Vilardo  
Dino DiCianno

DINO DICIANNO

---

From: Judy Sellin (JSellin@quirkandtratos.com)

Sent: Wednesday, November 05, 2003 3:19 PM

To: 'Barbara Campbell'

Cc: 'Bob Faiss'; 'Terry Graves'; 'Ric Tuttle'

Ted Quirk  
Quirk & Tratos  
3773 Howard Hughes Parkway, Suite 500 North  
Las Vegas, Nevada 89109  
Phone - (702) 792-3773  
FAX - (702) 792-9002

---

*The information contained in this electronic transmission is confidential information and may be attorney/client privileged. It is intended only for the use of the individual or entity named above. ANY DISTRIBUTION OR COPYING OF THIS MESSAGE IS PROHIBITED, except by the intended recipient. Attempts to intercept this message are in violation of 18 U.S.C. 2511(1) of the Electronic Communications Privacy Act (ECPA), which subjects the interceptor to fines, imprisonment and/or civil damages.*





35 CONVENTION CENTER DRIVE  
LAS VEGAS, NEVADA 89109  
(702) 731-1925 • FAX (702) 731-3547

DATE: November 5, 2003

MEMO TO: Barbara Campbell, Chairwoman, Nevada Tax Commission

RE: Live Entertainment Tax

At the Tax Commission workshop last Thursday, you asked that I forward you the proposed text I read during the hearing. It was as follows:

*Service personnel whose job responsibility is to serve food, refreshments or merchandise shall not be considered live entertainment if they engage in infrequent, non-featured activities such as singing or dancing while performing their service duties.*

We also support the concept proposed by Mr. Faiss that would exempt ambient entertainment that is not the primary motivating factor or purpose of patrons visiting an establishment. We understand that Mr. Faiss, and others, are working to set forth this concept into regulatory language. I would be happy to work with anyone to assist in drafting language that includes these concepts.

We are greatly appreciative of the work being done by the Commission, Gaming Control Board, and our staffs to work through this difficult issue. If we can be of any assistance in any manner, please feel free to contact us.

Ted Quirk

Barbara Campbell: [dicianno@govmail.state.nv.us](mailto:dicianno@govmail.state.nv.us)

cc: Bob Faiss [rfaiss@lionelsawyer.com](mailto:rfaiss@lionelsawyer.com)  
Terry Graves [gravestk@aol.com](mailto:gravestk@aol.com)  
Ric Tuttle [rictuttle@beachlv.com](mailto:rictuttle@beachlv.com)

G:\Sellin\EJO\BEACH\tax-11-5-03.doc

TO NV Taxation Commission - ATTENTION ERIN

Dennis Neilander  
Gaming Control Board  
1919 E. College Parkway  
P.O. 8003  
Carson City, NV 89702


I'm Polynesian, and I know many Polynesian musicians and hula dancers. This entertainment tax is going to hurt some, and eliminate work for others. For instance, if a restaurant in a casino should decide to have a Hawaiian buffet one night a week, they will usually want to have a musician and a couple of hula dancers. The musicians will need to sing, and the girls will dance. Definitely causing patrons to look. However, this is not a show the patrons go to see, it simply adds atmosphere.

There are other restaurants that like to provide "fun" for their patrons, and would occasionally hire hula dancers. This law is guaranteed to hurt many Polynesian musicians and hula dancers. Jobs will not be created which would have been.

I understand the difficult position you are in, but when people hear that in the "entertainment capital of the world," entertainment must "not be of a nature that would tend to cause people to watch as well as listen," people shake their heads and lose faith in the system. I don't envy your situation; you were tossed a hot potato, good luck in handling it! Hula girls and musicians should be allowed to add "atmosphere" to the dining experience. Preventing them from working helps no one.

Thank you very much for your time and consideration!

Aloha,

  
Haunani Dew  
4512 Eugene Ave  
Las Vegas, NV 89108

cc: To others concerned.

**DINO DICIANNO**

---

**From:** Campbell, Barbara Smith [bcampbell@mrgmail.com]  
**Sent:** Tuesday, November 18, 2003 9:34 AM  
**To:** 'Bill Bible'  
**Subject:** RE: LET Comment Letter

Bill

We are going to incorporate the following into our proposed draft language.

(Under section 11 (4) (b))

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 a volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;
2. Instrumental or vocal music performed in restaurants by employees whose primary job function is that of preparing or serving food, refreshments or beverages to patrons if such instrumental or vocal music is not advertised as entertainment to the public.

(Under Section 11 (7))

"Casual assemblage" includes, but is not limited to:

- (a) Participants in conventions, business meetings or tournaments and their guests; or
- (b) 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.

The DAG has concerns about your recommended language in Ambient Entertainment #3. In summary, he feels the language may lead to the exemption of "entertainers" at the Gentlemen Clubs. Therefore, we did not incorporate it in our draft. We certainly welcome comments at the hearing.

Ambient Entertainment #4 appears to be appropriate under the GCB. I'm not sure that it is appropriate for Tax. Again, we welcome your comments.

**Barbara Smith Campbell**  
3950 Las Vegas Blvd. South  
Las Vegas, Nevada 89119  
702-632-7770 LV office  
702-597-2952 LV fax  
775-328-9553 Reno Office  
775-328-9505 Reno fax

-----Original Message-----

**From:** Bill Bible [mailto:williambible@lv.rmci.net]  
**Sent:** Monday, November 17, 2003 4:08 PM  
**To:** Barbara Campbell  
**Subject:** Fw: LET Comment Letter

Barbara:

Original message came back as undeliverable.  
Hopefully, this comes through.

Bill

----- Original Message -----

**From:** Bill Bible  
**To:** Dino DiCianno ; Barbara Campbell  
**Cc:** ROBERT FAISS  
**Sent:** Monday, November 17, 2003 3:39 PM  
**Subject:** LET Comment Letter

Chairwoman Campbell and Deputy Executive Director DiCianno:

Attached are the NRA's comments on the latest draft of the LET Regulations.

As I indicated during our telephone conversations, both of you have done an outstanding job in developing this regulation in a manner that will help keep Nevada as the entertainment capital of the world!

We all appreciate your efforts.

Bill

**DINO DICIANNO**

---

**From:** Bill Bible [willambible@lv.rmci.net]  
**Sent:** Monday, November 17, 2003 3:40 PM  
**To:** DINO DICIANNO; Barbara Campbell  
**Cc:** ROBERT FAISS  
**Subject:** LET Comment Letter

Chairwoman Campbell and Deputy Executive Director DiCianno:  
Attached are the NRA's comments on the latest draft of the LET Regulations.  
As I indicated during our telephone conversations, both of you have done an outstanding job in developing this regulation in a manner that will help keep Nevada as the entertainment capital of the world!  
We all appreciate your efforts.  
Bill

November 17, 2003

**MEMORANDUM**

**TO:** Barbara Campbell, Chairwoman, Nevada Tax Commission  
Peter Bernhard, Chairman, Nevada Gaming Commission  
Dennis Neilander, Chairman, State Gaming Control Board

**FROM:** William A. Bible, President

**SUBJECT:** Proposed Regulation on Live Entertainment Tax

At the Joint Workshop on the Live Entertainment Tax that was held on October 30, 2003, I testified that it may be necessary to develop a definition of, and an exemption for, "ambient entertainment" which may take place anywhere in either a gaming or nongaming facility in order to create mood and atmosphere. This type of entertainment is not the primary attraction of the facility and is not the main basis for why patrons come to the facility.

The latest version of the Gaming Control Board's proposed Draft LET Regulations, dated 11/14/03, includes a definition of, and exemption for, "ambient entertainment." Using this definition as a starting point, the Nevada Tax Commission's proposed Draft Regulation, dated October 30, 2003, could be amended to substitute the following definition of "ambient entertainment", with appropriate language change in Section 2(7)(a), for the proposed definition of "ambient background music":

2. "Ambient entertainment" means entertainment that contributes to the general atmosphere of a facility but is not its primary attraction. The term includes:

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 a volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;
2. Instrumental or vocal music performed in restaurants by employees whose primary job function is that of preparing or serving food, refreshments or beverages to patrons, if such instrumental or vocal music is not advertised as entertainment to the public.

3. Performers of any type who stroll throughout the facility; and
4. Performers situated within the gaming or nongaming areas of a licensed gaming establishment other than in nightclubs, lounges, restaurants or showrooms who enhance the theme of the establishment or attract patrons to the areas in which they perform, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables.

It is also important to define the term "casual assemblage", found in Section 78(5)(i) of SB 8, 20<sup>th</sup> Special session, in order to create regulatory certainty. Proposed language is set forth below:

"Casual assemblage" includes, but is not limited to:

- (a) Participants in conventions, business meetings or tournaments and their guests; or
- (b) 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.

I would also endorse the comments made by Carol Vilardo of the Nevada Taxpayers Association where she advocates the elimination of "cooking or product demonstrations" from the definition of live entertainment. There are a number of events such as a rib or chili cook off in Sparks or Laughlin that allows vendors to demonstrate their culinary skills and sell products associated with these skills that just do not seem like the type of entertainment envisioned in SB8.

WAB:kd

c: Sen. Randolph Townsend  
Members, Regulatory Committee  
Bob Faiss  
Carol Vilardo  
Dino DiCianno

**Deja Vu et al. v. Nevada Department of Taxation**  
 Spreadsheet of LET Collections by Taxpayer Group

Taxpayer Groups 10% LET payers	FY								
	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
Gentlemen's Club	\$ 3,001,494.94	\$ 5,036,598.82	\$ 5,441,714.56	\$ 6,890,235.73	\$ 7,193,498.60	\$ 6,812,760.62	\$ 6,812,760.62	\$ 6,812,760.62	\$ 6,812,760.62
Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures	\$ 1,945.17	\$ -	\$ 19,277.17	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$ -	\$ 20,720.90	\$ 2,812.14	\$ -	\$ 150.00	\$ -	\$ -	\$ -	\$ -
Caterers	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Civic and Social Organizations	\$ 11,528.35	\$ 13,444.70	\$ 77,186.89	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Corporate, Subsidiary, and Regional Managing Offices	\$ -	\$ 1,655.37	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cosmetics, Beauty Supplies, and Perfume Stores	\$ 48,020.54	\$ 968,956.07	\$ 1,118,434.14	\$ 1,220,534.24	\$ 1,096,763.03	\$ 1,145,338.40	\$ 1,145,338.40	\$ 1,145,338.40	\$ 1,145,338.40
Dining Places (Alcoholic Beverages)	\$ -	\$ 619.60	\$ -	\$ -	\$ 38.50	\$ -	\$ -	\$ -	\$ -
Electronic Shopping	\$ 1,300.20	\$ 1,237.05	\$ 1,169.20	\$ 900.17	\$ 774.60	\$ 764.00	\$ 764.00	\$ 764.00	\$ 764.00
Fine Arts Schools	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fitness and Recreational Sports Centers	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Food Service Contractors	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Full-Service Restaurants	\$ 6,777.17	\$ 58,516.30	\$ 5,271.44	\$ 18,017.16	\$ 173.50	\$ 4,312.99	\$ 4,312.99	\$ 4,312.99	\$ 4,312.99
Gift, Novelty, and Souvenir Stores	\$ -	\$ -	\$ -	\$ -	\$ 125.11	\$ 3,338.09	\$ 3,338.09	\$ 3,338.09	\$ 3,338.09
Hotels (except Casino Hotels) and Motels	\$ -	\$ -	\$ -	\$ 1,405.46	\$ 100.00	\$ -	\$ -	\$ -	\$ -
Independent Artists, Writers, and Performers	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Lessons of Nonresidential Buildings (except Minnowhouses)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Motion Picture and Video Production	\$ 21,011.88	\$ 47,941.83	\$ 74,782.08	\$ 61,020.46	\$ 26,655.95	\$ 1,921.00	\$ 1,921.00	\$ 1,921.00	\$ 1,921.00
Musical Groups and Artists	\$ 302.58	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Direct Selling Establishments	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Spectator Sports	\$ 39,176.58	\$ 77,738.74	\$ 113,704.49	\$ 202,196.66	\$ 46,142.18	\$ 60,816.68	\$ 60,816.68	\$ 60,816.68	\$ 60,816.68
Promoters of Performing Arts, Sports, and Similar Events without Facilities	\$ 12,872.10	\$ 7,623.10	\$ 9,666.50	\$ 8,193.10	\$ 3,906.69	\$ -	\$ -	\$ -	\$ -
Recreational Goods Rental	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sound Recording Studios	\$ -	\$ 8,875.00	\$ 3,728.30	\$ 3,570.00	\$ -	\$ -	\$ -	\$ -	\$ -
Sporting and Athletic Goods Manufacturing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sporting Goods Stores	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sports and Recreation Instruction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sports Teams and Clubs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Theater Companies and Dinner Theaters	\$ 142,348.10	\$ 1,875.22	\$ 2,389.63	\$ 141,593.95	\$ 339,214.97	\$ 159,338.03	\$ 159,338.03	\$ 159,338.03	\$ 159,338.03
Unclassified	\$ 142,348.10	\$ 1,875.22	\$ 2,389.63	\$ 141,593.95	\$ 339,214.97	\$ 159,338.03	\$ 159,338.03	\$ 159,338.03	\$ 159,338.03
Subtotal of All 10% LET payers collected by the Department	\$ 3,143,843.10	\$ 5,038,474.02	\$ 5,444,104.15	\$ 6,891,829.68	\$ 7,194,611.10	\$ 6,813,901.24	\$ 6,813,901.24	\$ 6,813,901.24	\$ 6,813,901.24



**Deja Vu, et al. v. Nevada Department of Taxation**  
Spreadsheet of LET Collections by Taxpayer Group

	5% LET payers									
	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Administration of General Economic Programs										
Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures										
All Other Miscellaneous Store Retailers (except Tobacco Stores)										
Cosmetics, Beauty Supplies, and Perfume Stores	\$ 654,447.45	\$ 1,141,170.90	\$ 1,405,014.45	\$ 1,544,953.37	\$ 309,355.09	\$ 255,347.93	\$ 544,534,028,404	\$ 544,534,028,404	\$ 544,534,028,404	\$ 544,534,028,404
Drinking Places (Alcoholic Beverages)	\$ 49,363.85	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Gift, Novelty, and Souvenir Stores	\$ 29,945.81	\$ 101,543.05	\$ 91,936.57	\$ 81,820.85	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Jewelry, Watch, Precious Stone, and Precious Metals										
Lessors of Nonresidential Buildings (except MinWarehouses)										
Musical Groups and Artists										
Other Spectator Sports										
Promoters of Performing Arts, Sports, and Similar Events with Facilities	\$ 390,840.80	\$ 680,924.43	\$ 495,626.24	\$ 743,093.21	\$ 450,512.11	\$ 400,102.70	\$ 13,963.05	\$ 13,963.05	\$ 13,963.05	\$ 13,963.05
Promoters of Performing Arts, Sports, and Similar Events without Facilities										
Racetracks	\$ 2,906.82	\$ 4,555.45	\$ 4,546.09	\$ 5,495.81	\$ 3,408.95	\$ 743.75	\$ 1,031,031,031	\$ 1,031,031,031	\$ 1,031,031,031	\$ 1,031,031,031
Sound Recording Studios										
Sporting and Athletic Goods Manufacturing										
Sports Teams and Clubs	\$ 4,557.50	\$ 5,982.25	\$ 6,209.00	\$ 6,568.00	\$ 10,045.85	\$ 12,315.00	\$ 3,086.25	\$ 3,086.25	\$ 3,086.25	\$ 3,086.25
Unclassified	\$ 19,610.93	\$ 23,327.71	\$ 38,734.78	\$ 39,055.69	\$ 7,422.75	\$ 5,749.50	\$ 10,045.85	\$ 10,045.85	\$ 10,045.85	\$ 10,045.85
Subtotal of All 5% LET payers collected by the Department	\$ 1,115,673.17	\$ 2,057,996.25	\$ 2,436,341.56	\$ 2,763,347.97	\$ 1,834,201.73	\$ 1,837,201,043.32	\$ 1,837,201,043.32	\$ 1,837,201,043.32	\$ 1,837,201,043.32	\$ 1,837,201,043.32
Department Total LET Collected										
Total Gaming LET Collections	\$ 64,855,958.00	\$ 799,358,306.00	\$ 8,108,420,425.58	\$ 8,127,655,185.06	\$ 8,112,7639,258.86	\$ 8,112,405,384.94	\$ 8,112,405,384.94	\$ 8,112,405,384.94	\$ 8,112,405,384.94	\$ 8,112,405,384.94
Total LET (Gaming + Department)										
Gentlemen's Clubs as % of Total Collected per FY	3%	5%	5%	5%	5%	5%	8%	5%		

In re: Petition for  
Redetermination of Tax  
Deficiency of RCI  
Entertainment (Las Vegas),  
Inc., a Nevada corporation,  
Petitioner,  
v.  
State of Nevada, Department  
of Taxation,  
Respondent.

---

Docket No. 301549

DEPOSITION OF  
DINO DI CIANNO  
December 15, 2011  
Reno, Nevada

REPORTED BY: DEBORAH MIDDLETON GRECO, CCR #113, RDR, CRR  
LST JOB NO.: 148959

A P P E A R A N C E S

FOR THE PETITIONER:

Brandon E. Roos, Esq.  
Greenberg Traurig, LLP  
3773 Howard Hughes Parkway,  
#400 North  
Las Vegas, NV 89169  
(702) 792-3773

FOR THE RESPONDENT:

Vivienne Rakowsky, Esq.  
Deputy Attorney General  
555 East Washington Ave.,  
#3900  
Las Vegas, NV 89101  
(702) 486-3103

## I N D E X

## EXAMINATION

## PAGE

Examination by Mr. Roos	4
Examination by Ms. Rakowsky	114
Further Examination by Mr. Roos	123
Further Examination by Ms. Rakowsky	132

## E X H I B I T S

## NUMBER DESCRIPTION

## PAGE

1	11/9/04 Memo, Chambers to Chinnock/DiCianno	82
2	3/14/05 Memo, from Henderson to Chinnock/Knack	85
3	4/24/05 Memo, from DiCianno to Steveris & Ghiggeri	97
4	5/21/04 Memo, from Chambers to Chinnock and others	107
5	Redacted Document, DV 000195	110

NOTE: Original exhibits attached to original deposition.

1 BE IT REMEMBERED that on Thursday, December 15, 2011,  
2 at the hour of 9:48 a.m. of said day, at the offices of SUNSHINE  
3 LITIGATION SERVICES, 151 Country Estates Circle, Reno, Nevada,  
4 before me, DEBORAH MIDDLETON GRECO, a Certified Court Reporter,  
5 personally appeared DINO DI CIANNO, who was by me first duly  
6 sworn and was examined as a witness in said cause.

7 -o0o-

8 DINO DI CIANNO

9 called as a witness, having been duly sworn,

10 testified as follows:

11 EXAMINATION

12 BY MR. ROOS:

13 Q Good morning, Mr. DiCianno. My name is Brandon Roos.  
14 I introduced myself to you. I represent RCI Las Vegas, which is  
15 otherwise known as Rick's Cabaret Las Vegas.

16 A Okay.

17 Q We're here today to take your deposition.

18 Have you ever had your deposition taken before?

19 A Yes.

20 Q So you're familiar with the ground rules of a  
21 deposition?

22 A Yes.

23 Q You understand that the oath that you've taken here  
24 today is the same oath that you would take in a court of law?

25 A Yes.

1           Q     And do you understand that the testimony that you are  
2     to give here today is to be truthful and is subject to the same  
3     pains and penalties for perjury as would be in a court of law?

4           A     Yes.

5           Q     All right. Let me lay some of the ground rules for a  
6     deposition. I'm going to ask you about your recollection of  
7     certain events in the past, and I don't need you to speculate or  
8     guess.

9                 If you don't understand a question, you can ask me to  
10    rephrase it, and in fact, I would prefer if you ask me to  
11    rephrase a question that you don't understand so that we get a  
12    clear record.

13                The court reporter here today is going to take down  
14    questions and answers, and so it's difficult for the court  
15    reporter if we talk over each other, so try to wait until my  
16    question is done, and then you can give your answer.

17                Do you have any questions about the deposition  
18    process?

19           A     Not at this time.

20           Q     Okay. If you need a break at any time, it's okay.  
21    Just if there's a question pending, I'd ask that you give an  
22    answer to the question before you take a break.

23                You understand that?

24           A     Yes.

25           Q     All right. It's my understanding that at one point

1       you were deputy executive director of the Department of Taxation  
2       for the state of Nevada; is that correct?

3           A       That's correct.

4           Q       All right. And I have also seen documentation that  
5       indicates that you were the deputy director for compliance for  
6       the Department of Taxation; is that also accurate?

7           A       Yes.

8           Q       Was there a difference between those two positions?

9           A       No.

10          Q       Okay. So sometimes people called you the deputy  
11       director of compliance, and other times they called you the  
12       deputy executive director?

13          A       The official title is deputy executive director.  
14               The department was split up into different divisions.

15          Q       Okay.

16          A       One was the compliance, which was audit and revenue.  
17       Okay? Which I was the deputy director over. There's, there  
18       was, at that time, another deputy director position that was  
19       over administration.

20               They dealt with the fiscal end of the department,  
21       which was the accounting and distribution of revenue.

22          Q       And who headed up the administrative portion of the  
23       Department of Taxation in 2003, if you can recall?

24          A       2003, I believe that would have been Woody Thorne.

25          Q       Do you recognize, I'm going to butcher this name,

1       **Chuck Chinnoch, was it?**

2           A     Chuck Chinnoch was the executive director.

3           Q     **Was he your immediate supervisor?**

4           A     Yes.

5           Q     **Okay. Did you have any other supervisors?**

6           A     No.

7           Q     **Let's focus on the 2003 time frame because that's sort**  
8       **of relevant to what we're talking about.**

9                   **What was your sort of role or responsibility at the**  
10       **Department of Taxation as the deputy executive director?**

11          A     My responsibility was -- in compliance with the  
12       direction given by the executive director at that time, was to  
13       oversee the compliance division, which is made up of the revenue  
14       officers, tax examiners and the district offices at that time.

15                One would have been here in Reno, the field office in  
16       Elko, a district office in Las Vegas, and then the main office  
17       in Carson City.

18               Also had the responsibility over the audit section.

19          Q     **Okay. Well, let's talk about the responsibility over**  
20       **the compliance aspect.**

21               **Were you sort of in charge of setting the policy for**  
22       **the enforcement of the tax code?**

23          A     No.

24          Q     **Who was in charge of doing that?**

25          A     That would either have been the legislature, or the



1 Nevada Tax Commission. I acted merely as an administrator.

2 Q Did you have any role in interpreting the tax code?

3 A No.

4 Q So you didn't provide any advice or insight as to how  
5 the tax code should be interpreted in any way?

6 A Nope.

7 Q Okay. Whose responsibility was that?

8 A That would have been the legislature through the  
9 assistance of the Nevada Tax Commission.

10 Q All right. Did you have any role in your position  
11 with the Department of Taxation in participating in drafting  
12 legislation or regulations?

13 A Not legislation. But in assisting the tax commission,  
14 and both the chair of the tax commission and the chair of the  
15 Gaming Commission at that time as far as regulatory meetings and  
16 workshops.

17 Q And that would have been after legislation had been  
18 passed?

19 A That's correct.

20 Q And so can you tell me the process that occurred after  
21 the tax bill in 2003, and I believe it was SB 8?

22 Do you recall that?

23 A Uh-huh (affirmative).

24 Q How the process unfolded with respect to the  
25 regulations created by your department?

1           A     At that time, Barbara Smith Campbell was the chair of  
2     the Nevada Tax Commission. We did work together, along with the  
3     chairman of the Gaming Commission, and I can't recall his name  
4     right now, and I apologize for that, to set up public workshops  
5     for the language that would be used to administer the tax as  
6     created by the Nevada legislature at that time.

7           There were a number of different workshops that  
8     occurred. I can't remember the exact number. I mean, it is a  
9     matter of public record.

10          Q     All right. So, and my understanding from reviewing  
11     the legislative history on SB 8 is not exactly abundant, but my  
12     understanding was that it was more of an omnibus tax bill that  
13     had numerous different changes to the tax code, one of those  
14     being the incorporation of a live entertainment tax.

15                Is that consistent with your understanding?

16          A     That's correct.

17          Q     So when you were holding workshops through the Nevada  
18     Department of Taxation, were you holding workshops for all of  
19     the components of the tax bill, or specifically with respect to  
20     live entertainment tax?

21          A     All of them.

22          Q     And how long do you recall the workshop process  
23     lasting from the standpoint of was it months, weeks?

24          A     Yes, it was months.

25          Q     Do you recall when Senate Bill 8 was passed and

1       adopted into law in Nevada?

2           A       The specific date, no, not off the top of my head. I  
3       would have to look at it.

4           Q       Do you remember the time of year that you were dealing  
5       with the workshops? Was it the fall of 2003?

6           A       It would have been summer and fall.

7           Q       Do you remember when the live entertainment portion of  
8       Senate Bill 8 went into effect as Nevada law in 2003?

9           A       Off the top of my head, I don't recall. I would have  
10      to read the bill.

11          Q       Okay. If I told you that I believe it went into  
12      effect January 1st of 2004, would that make sense from your  
13      recollection of when you were holding the workshops?

14          A       I don't want to speculate.

15               MS. RAKOWSKY: It calls for speculation. Objection.

16               BY MR. ROOS:

17          Q       So part of the process of the workshops was to flesh  
18      out how to implement the live entertainment tax; is that  
19      correct?

20          A       That's correct.

21          Q       And what specifically did you do during these  
22      workshops in order to figure out how to implement the tax code  
23      that had been passed by the legislature?

24          A       We requested language from the affected parties. We  
25      also came up with the language that we reviewed, along, not only

1 with the, Barbara Smith Campbell, who was the chairman of the  
2 tax commission at the time, but also the Gaming Commission,  
3 because we were charged by the legislature together to come up  
4 with a regulatory process in administering the tax.

5 The gaming, the gaming side would have live  
6 entertainment associated with gaming, and then the nongaming  
7 would be the responsibility of the Department of Taxation.

8 Q Okay. Let me focus on something that you just said.

9 It's my understanding, and you can tell me if this is  
10 inconsistent with your recollection, but prior to passage of the  
11 live entertainment tax, there was in effect at that time a  
12 casino entertainment tax, correct?

13 A There was a cabaret tax that was administered by the  
14 Gaming Control Board.

15 Q When you say "cabaret tax," what do you mean?

16 A That's what they called it.

17 Q But it applied to unrestricted gaming properties,  
18 correct?

19 A That, I can't answer because that's, I'm not familiar  
20 with that.

21 Q All right. And that was administered, your  
22 understanding was that was administered by the Nevada Gaming  
23 Control Board, and that's why you wouldn't have an  
24 understanding?

25 A That's correct.

1           Q     Did you actually take meetings or participate with  
2     anybody in the legislature in 2003 regarding the shift from the  
3     casino entertainment tax into the broader live entertainment  
4     tax?

5           A     No.

6           Q     So the first time that you ever had anything to do  
7     with the live entertainment tax is when you started doing  
8     workshops?

9                     MS. RAKOWSKY: That misstates his testimony.

10          BY MR. ROOS:

11          Q     Okay. Does that misstate your testimony?

12          A     To some degree, yes.

13          Q     All right. What, how does that misstate your  
14     testimony?

15          A     I don't recall the exact dates, but I did provide  
16     testimony at the legislature.

17          Q     All right. What type of testimony did you provide at  
18     the legislature to your recollection?

19          A     To the best of my recollection, it dealt with the  
20     fiscal impacts.

21          Q     Did you perform studies or analyses regarding how the  
22     change from the casino entertainment tax to the live  
23     entertainment tax would either increase or decrease revenue for  
24     the state of Nevada?

25          A     Yes.

1 Q And how did you go about doing that?

2 A To the, again, to the best of my recollection, was  
3 through the assistance of staff in determining the number of  
4 different venues and potential admission charges to calculate  
5 the tax.

6 Q Do you recall assigning any of your staff to go out  
7 and do field studies regarding taxpayers that would fit within  
8 the new live entertainment tax?

9 A To the, I don't know. It's possible, but I don't  
10 remember.

11 Q All right. Do you remember generally how you came up  
12 with a determination as to what the fiscal impact would be to  
13 the state with respect to the live entertainment tax?

14 A It was based upon the best information available at  
15 the time with respect to admission charges.

16 Q And what was the best available information at the  
17 time?

18 A To the best -- I don't recall. Unfortunately, I don't  
19 recall.

20 Q Do you believe that people within your department  
21 actually went out to determine, or I guess audit, how much  
22 revenue was being generated from cover charges for certain  
23 businesses in the 2003 time frame?

24 A I'm going to ask you to clarify that question.

25 Are you talking about at the time the bill was being

1 discussed?

2 Q Yes.

3 A No.

4 Q All right. So what is it, then, what was your  
5 testimony at the legislature about with respect to the fiscal  
6 impact, if you can recall?

7 A To the best of my recollection, it would have had to  
8 do with the fiscal notes, but that would not have been in the  
9 policy committees. That would have been in the money  
10 committees.

11 Q All right. And when you say "the fiscal notes," what  
12 are you referring to?

13 A Every agency that has to collect revenue, associated  
14 with any kind of, whether it's a fee or a tax, can be requested  
15 by the fiscal division of the LCB, the Legislative Council  
16 Bureau, to conduct a fiscal note to determine what the impact  
17 would be to the general fund.

18 Q All right. And, I'm sorry, I'm not trying to be  
19 difficult.

20 A No. No.

21 Q I don't understand. Obviously, I was not there when  
22 you were doing this.

23 A I know.

24 Q When you're talking about providing, you know,  
25 testimony to the senate about, or to the legislature about the

1       fiscal note or the fiscal impact, what I'm trying to figure out  
2       is, how is it that you went about figuring out what the actual  
3       fiscal impact would be, if you can recall?

4           A     Again, I did not perform that.

5           Q     Right.

6           A     I relied on staff to give me that information. Now I  
7       would -- again, I would only be speculating as to how they did  
8       it.

9                   I'm sure they probably tried to determine some level  
10       of revenue associated in calculating what the tax revenue would  
11       be.

12                   But at best, at best, it's an estimate.

13          Q     All right. So in order to clarify, it wasn't like you  
14       sat your staff down and said, this is how I want you to go about  
15       doing it?

16          A     No, I did not do that.

17          Q     All right. So you relied upon your staff to figure  
18       out for themselves according to what they did in their job  
19       capacity to figure out the fiscal impact of this?

20          A     Yes.

21          Q     And do you recall having any meetings with your staff  
22       or talking to your staff about which facilities would be studied  
23       or which ones would not?

24          A     No.

25          Q     And you talked about, during the process of the



1 workshop process, requesting language from affected parties.

2 That was a term that you used.

3 What did you mean by "affected parties"?

4 A We do that, we request, when we put out a public  
5 notice, on that public notice, we encourage those that believe  
6 that they are impacted by the regulation, to provide us language  
7 to assist us in administering the tax. We do that for  
8 everything.

9 Q And so that process --

10 A Can I clarify that?

11 Q Sure.

12 A When I was there, that's what we did. Okay? I am  
13 retired. Okay?

14 Q What year did you retire?

15 A This year.

16 Q Okay. What are you doing now?

17 A Absolutely nothing.

18 Q Good for you. Congratulations.

19 A Thank you.

20 Q How many years were you with the department?

21 A Twenty-seven years.

22 Q Did you always hold the position of deputy executive  
23 director?

24 A No, I did not.

25 Q What year did you take on that position?

1           A     It was in, the deputy position? It was 1996.

2           Q     And you held that position all the way through your  
3 retirement?

4           A     No. I became the executive director in March of 2006.

5           Q     Other than the fiscal note, or fiscal impact portion  
6 of the live entertainment tax legislation, do you recall  
7 providing any other advice or assistance to the legislature in  
8 2003 with respect to the live entertainment tax?

9           A     To the legislature, specifically, no, I don't recall.

10          Q     How about to any committees of the legislature?

11          A     Not that I recall.

12          Q     How about to the Legislative Council Bureau?

13          A     Yes.

14          Q     All right. What did you do with respect to the  
15 Legislative Council Bureau in 2003?

16          A     2003?

17          Q     Yes.

18          A     That would have related to the fiscal notes.

19          Q     All right. So other than the fiscal note, you do not  
20 recall providing any other advice or assistance to the  
21 Legislative Council Bureau?

22          A     No.

23          Q     And that would be true with respect to the senate or  
24 the, I'm sorry, the legislature as a whole, as well, correct?

25          A     That's correct.

1 Q And I'm sorry if I'm mistaken, but did you say that  
2 your role was to oversee the audit division of the department,  
3 as well, in 2003?

4 A That's correct.

5 Q And what did you, how did you go about doing that with  
6 respect to the audit division?

7 A Well, I relied -- well, if you're asking what I did on  
8 a daily basis with respect to the audit division, that, I relied  
9 on the, I forgot their title.

10 Tax division managers. There's one in each district  
11 office. I relied on them.

12 Q Did the tax division managers report to you about  
13 audits that were going on?

14 A Not -- as far as live entertainment tax?

15 Q Yes.

16 A Not that I recall, no.

17 Q How did you direct the work of the tax division  
18 managers, if at all?

19 A Well, the direction was to follow the regulations as  
20 adopted by the Nevada Tax Commission, and to determine how many  
21 audits could be performed, if you're talking about the audit  
22 division, within, depending upon the number of auditors that we  
23 had at that time, to do a proper determination as far as how to  
24 audit businesses, not only just for the live entertainment tax,  
25 but for sales tax and the other taxes that we administer.

1 Q And, all right. And did you direct anybody in the, in  
2 the tax division as to who to audit, or --

3 A No.

4 Q -- how to go about auditing?

5 A No. No.

6 Q All right. And they did not report up to you as to  
7 the status of audits in any single way. I mean, did you have  
8 monthly meetings or anything of that nature to determine?

9 A We did have quarterly meetings, but we did not, I did  
10 not get into the individual details of those specific audits. I  
11 tried to look at it from a, if you want to call it a  
12 100,000-foot view, okay?

13 Q What was the purpose of the quarterly meetings?

14 A That is for all the district offices to make sure that  
15 they are consistent in what they're doing across the board and  
16 how they're treating taxpayers in the applications of the  
17 regulations.

18 Q So one of the roles of the tax division is to provide  
19 consistent application of the tax across all taxpayers?

20 A That's, that is the goal of the department in general  
21 is consistency and predictability.

22 Q What do you mean by "predictability"?

23 A Well, predictability with respect to the taxpayer as  
24 to what they can expect from the department.

25 Q How did you go about assisting taxpayers with

1 predictability regarding how the tax code would be applied?

2 MS. RAKOWSKY: Are you just referring to SB 8, or are  
3 you talking about all the taxes?

4 BY MR. ROOS:

5 Q No, I'm really, honestly, I don't really want to get  
6 into, because we'll be here all day if we're talking about sales  
7 tax, use tax, all the other types of taxes.

8 A Uh-huh (affirmative).

9 Q I'm really, if I don't ask you specifically about  
10 another kind of tax, you can assume that I'm talking about the  
11 live entertainment tax.

12 A Okay.

13 Q And for the perspective of the questions I'm asking  
14 you right now, I'm really focusing on the 2003 time frame, as  
15 well.

16 Can you read back the last question that I had asked?

17 Record read by the reporter as follows:

18 "QUESTION: How did you go about assisting taxpayers  
19 with predictability regarding how the tax code would be  
20 applied?"

21 THE WITNESS: Well, if you're talking specifically,  
22 and I'm trying to clarify the question in some respects, and  
23 correct me if I'm wrong.

24 If you're talking about 2003, I seriously doubt there  
25 would have been any audits performed on the live entertainment

1 tax, because in 2003 was the development of the regulations.

2 BY MR. ROOS:

3 Q Okay.

4 A Okay?

5 Q During the time frame when you were working on the  
6 workshops in order to put together how the live entertainment  
7 tax would be applied, what did you do in order to provide the  
8 taxpayer with some level of predictability as to how it would be  
9 applied?

10 A The predictability is through the public workshops.

11 Q All right. And what do you recall from the public  
12 workshops as to the efforts that the Nevada Department of  
13 Taxation undertook in order to provide predictability as to the  
14 live entertainment tax code?

15 A Well, it was, because it's in the public forum, we had  
16 to comply with the open meeting law. Any information that was  
17 provided to that, in that workshop, needed to be made available  
18 to anyone who was interested in it, and it was posted on our  
19 website.

20 Q And then people would show up and say, I don't believe  
21 that this tax should apply to me for X reason; is that kind of  
22 how it worked?

23 A As far as the regulations were concerned, I don't  
24 recall anyone doing that.

25 As far as someone saying that it doesn't apply to

1       them, the appropriate place for that discussion would have been  
2       at the legislature. I mean, the law had already passed.

3           Q       So you don't recall anybody coming to the legislative  
4       workshops that you were handling for live entertainment tax, and  
5       arguing with you or discussing with you, I guess "arguing" is  
6       not a good word.

7                    Discussing with you, why the application of the use  
8       tax should not, or I'm sorry. The live entertainment tax should  
9       not apply to their specific circumstance?

10          A       There may have been some discussion. I don't recall  
11       specifically.

12                   I know there was debate at the legislature. I think  
13       it may have been later. It may have been in 2005 or 2007.  
14       Okay? I don't recall specifically in 2003.

15                   But there was discussion by -- but, see, that's the  
16       problem. I can't really start talking about individual  
17       taxpayers because that's against, I mean, that's against the  
18       statute with respect to the department.

19                   I mean, it's a misdemeanor to divulge information  
20       about a specific taxpayer.

21          Q       Okay. I'm not asking you to identify any specific  
22       taxpayer. I'm just asking you generally if you recall  
23       individual taxpayers coming into the live entertainment tax  
24       workshops and discussing amongst you and the board that was  
25       there, whether or not the live entertainment tax as passed

1 should or should not apply to their specific business?

2 A It's possible they did. But I don't recall.

3 Q And let's go off the record for a second.

4 (A recess was taken)

5 BY MR. ROOS:

6 Q All right. Back on the record.

7 Mr. DiCianno, I was trying to talk to you about the  
8 workshops prior to going off the record.

9 And do you remember, do you remember an individual  
10 senator named Senator Townsend?

11 A Uh-huh (affirmative). Yes.

12 Q And do you remember that he had sort of a leading  
13 role, or more of a prominent role in the creation of the live  
14 entertainment tax bill?

15 A Well, I can't comment as to what he did or what his  
16 role was. I do know that he did try to assist both the tax  
17 commission and the Gaming Control -- I mean, the Gaming  
18 Commission in the development of the language, but it wasn't  
19 just live entertainment tax.

20 It was in discussion of all of them in SB 8.

21 Q Right.

22 But when you were having workshops with, specifically  
23 with respect to the live entertainment tax, you do recall  
24 Senator Townsend appearing at those workshops --

25 A Yes.



1 Q -- and assisting you in developing the regulations  
2 that ultimately were applied to live entertainment tax, correct?

3 A Yes. Yes.

4 Q And he not only had a role in the workshops, he was  
5 there to assist you with understanding what the purpose of the  
6 tax was, correct?

7 A I believe he provided testimony as part of the public  
8 record, yes.

9 Q And during the live entertainment tax workshops, I had  
10 asked you whether or not you recalled individual potential  
11 taxpayers coming in to ask you questions about how the tax could  
12 or could not apply to their specific business, and you had  
13 indicated that that might have occurred.

14 But you didn't have a very good recollection of that.

15 So I want to ask you about some of the specifics that  
16 I recall from listening to the live entertainment tax workshops  
17 to see if it refreshes your recollection.

18 Do you remember the discussion about The Beach, which  
19 was an entertainment club, nightclub across from the convention  
20 center in Las Vegas?

21 A I don't recall where they're located, but I do recall  
22 that they did come and discuss their situation.

23 Q Right.

24 And one of the concerns that the individual taxpayer,  
25 The Beach had, was that they had bartenders who stood up on the

1 bar and would throw napkins around, and they wanted to know  
2 whether or not that would be construed as live entertainment tax  
3 under this statute, correct?

4 A They may have. I mean, I don't recall the specific  
5 examples.

6 Q Okay.

7 A But I know they did.

8 Q Do you recall that discussion occurring?

9 A Unfortunately, I'd have to go back and reread the  
10 transcripts. Unfortunately, I haven't done that. So --

11 Q Do you recall there being issues with respect to piano  
12 players that --

13 A Yes.

14 Q Okay. That was a big one, right?

15 The piano players were afraid that they were going to  
16 lose their jobs because they were providing background music,  
17 and they didn't want to be construed as live entertainment.

18 Do you recall that?

19 A The discussion centered around whether something was  
20 ambience or actual live entertainment.

21 Q And did you go about through the process of the live  
22 entertainment workshop to craft a regulation that would have  
23 relieved those piano players from fitting within the live  
24 entertainment tax statute?

25 MS. RAKOWSKY: When you're talking about him

1 specifically? Are you talking about the department as a  
2 whole --

3 MR. ROOS: Yes.

4 MS. RAKOWSKY: -- or are you talking Mr. DiCianno  
5 actually sitting down and writing this?

6 BY MR. ROOS:

7 Q No. No. I'm not asking you that question.

8 I'm certain that if you, you probably reviewed  
9 language and commented on it. I'm certain that you weren't the  
10 guy writing it down. That's not the intent of my question.

11 Did the tax department go about crafting, or assisting  
12 in the crafting of a regulation that would have relieved the  
13 piano players from the live entertainment definition?

14 A The difficulty I'm having in responding to that is the  
15 way you have phrased the question. Whether the department tried  
16 to facilitate the removal, I guess if you'd like to put it that  
17 way, of certain venues that would not be subject to live  
18 entertainment tax. That's not the role of the department.

19 What we try to do is assist the commission and the  
20 Gaming Control Board, excuse me, the Gaming Commission, at that  
21 time in the discussions, in giving and making sure that they got  
22 the testimony and the language that was provided to us,  
23 basically, and given to them.

24 Q But wasn't it the Department of Taxation's role to  
25 craft the actual regulation?

1           A     Again, I'm having difficulty trying to respond to that  
2           because we tried to facilitate. We don't try to pointedly  
3           direct the language of the regulation. That's not what we're  
4           there for. It's not what we do.

5           Q     Okay. Well, who was actually crafting the language of  
6           the regulation in 2003?

7           A     To the best of my recollection, we did have assistance  
8           from, I believe it was language that came from the parties at  
9           the workshop.

10                  But then again, see, the difficulty for me is, is I  
11           have not gone back and reviewed the record. That's the problem.

12           Q     Actually your testimony is consistent with my  
13           understanding, as well.

14                  That people, such as lawyers from Lionel, Sawyer and  
15           Collins, and some other attorneys in town, who were representing  
16           individual parties, would submit language to the Department of  
17           Taxation during the workshop.

18                  My question is, who was it at the department of  
19           workshop -- at Department of Taxation during these workshops  
20           that accumulated those comments, and then decided which ones  
21           were worthy of putting into a regulation and which ones were  
22           not?

23           A     To the best of my recollection, we included  
24           everything. And then it was brought back to the following  
25           workshop for discussion and that, in trying to make a

1 determination, not me, not the department, but the persons that  
2 were involved in the workshops to determine which language was  
3 going to stay and which wasn't going to stay.

4 Once we were able to create -- well, if you want me to  
5 go forward.

6 I mean, if, once we had a draft, supposedly a draft,  
7 and it may not have been total agreement from both sides, okay,  
8 that was transmitted over to the LCB for their craft, for their  
9 drafting. Okay?

10 To ensure that it did conform with the bill, okay?

11 Q Well, let's talk about the ambient music issue.

12 It seems to me from my review of the documentation,  
13 that somebody somewhere came up with language that tried to  
14 construe what it meant to be ambient or background music.

15 Do you remember that?

16 A I don't remember, I don't recall who did it.

17 Q But you remember conceptually that that occurred?

18 A Yes.

19 Q All right. And so with respect to that specific  
20 language, how was that vetted or determined as to the final  
21 language that would appear in the regulation?

22 A Part of that would have been through the discussions  
23 at the workshop. Okay?

24 Q Right.

25 And so people would come in, and you would debate

1       **whether or not that language was appropriate?**

2           A       Well, I don't know if the correct term is  
3       "appropriate," but if it would be -- well, I guess you could say  
4       appropriate, within the scope of the statute, yeah.

5           Q       Right. And I'm not trying to be difficult.

6           A       No. No. No. I'm not trying to be difficult, either.

7           Q       My understanding, just from listening to the live  
8       entertainment workshops, is that people came in, and they had a  
9       concern.

10               And you as a body, as the Department of Taxation,  
11       along with, you know, the Gaming Commission, took that under  
12       consideration, and then determined that, for instance, the  
13       ambient music was probably not something that was intended to be  
14       included within the definition of live entertainment, and,  
15       therefore, a regulation was crafted that would have taken that  
16       out of the live entertainment tax; is that fair to say?

17               MS. RAKOWSKY: I object to the form of this question  
18       because you're going back and forth.

19       BY MR. ROOS:

20           Q       Well, I mean, is that fair to say?

21               MS. RAKOWSKY: You're asking him to discuss about  
22       intent. And I think intent belongs with the legislative  
23       process, not with the Department of Taxation.

24               So I have an objection. And I don't mean to have  
25       it --

1 BY MR. ROOS:

2 Q You can go ahead and answer the question.

3 A Well, I want to clarify something in your statement.

4 First of all, the department was not directing  
5 anything. All we were there for was to facilitate and assist,  
6 since we are the staff of the Nevada Tax Commission, the  
7 Department of Taxation, I answer to the Nevada Tax Commission,  
8 they are the head of the department.

9 And to cooperate and assist, in addition with the  
10 Gaming Commission, the chair who was there from the gaming side  
11 of it. Because we were charged, both the commission and the  
12 Gaming Commission, were charged to work specifically on the live  
13 entertainment tax.

14 So it was vetted in the workshops. Not that we as the  
15 department made a determination what should be in, what should  
16 be out. That was not the case.

17 Q Well, somebody at some point had to indicate to you  
18 that with, let's, I keep using this as an example because it's  
19 an easy one, the ambient music example.

20 At some point, somebody had to determine that that was  
21 not within the intent of the legislature to include ambient  
22 music in the live entertainment tax.

23 Now you've already testified that it was the  
24 department's role to have predictability and correct application  
25 of the tax code.

1           So my question is to try to understand how it is that  
2           that was communicated to the tax department so that the tax  
3           department could understand that ambient music should not be  
4           taxed?

5           A     Well, let me back up a little bit.

6                     Some of this stuff is starting to come back now,  
7           unfortunately.

8                     You have to keep in mind that the way SB 8 was  
9           written, they, basically, charged, and I could be, and I could  
10          be, I can stand to be corrected, basically, charged both the tax  
11          commission and the Gaming Commission in determining the  
12          definition of live entertainment.

13                    That will get to the answer that you're trying to ask.  
14          The question you're trying to ask as to what was included and  
15          what was not included.

16                    That discussion occurred in the workshops, and it also  
17          occurred in the final adoption in front of both the Nevada Tax  
18          Commission and the Gaming Commission.

19           Q     So, okay. So you did have a role as the Department of  
20          Taxation in coming up with the definition of live entertainment?

21           A     No.

22           Q     All right. Tell me why that's wrong.

23           A     The department does not craft the language. We assist  
24          in the crafting, getting the information that comes from all the  
25          different parties, and the direction that we get from the Nevada



1 Tax Commission, if you're talking specifically about live  
2 entertainment, and again, also from the Gaming Commission.

3 Q Okay.

4 A That's what occurred.

5 Q So when you say "assist," and maybe this is what we're  
6 struggling with, what is the assistance that you're providing?

7 A The assistance we're providing is to make sure that  
8 the information that's received in the workshop that's discussed  
9 in a public forum, at the time in front of, both by the Nevada,  
10 represented by the Nevada Tax Commission and the chair of the  
11 Gaming Commission, that is included in the document, okay, for  
12 public discussion.

13 And then that language is transmitted to the  
14 Legislative Council Bureau.

15 Again, it's a facilitation. We don't make the  
16 determination whether it should say this or should say that.  
17 That's not our role.

18 I feel like I'm back at work.

19 Q You would agree, though, that part of your role would  
20 be, once that regulation was adopted, it would be your role in  
21 the Department of Taxation to analyze and determine the  
22 applicability of that regulation as to individual taxpayers,  
23 correct?

24 A That's correct. That's correct.

25 Q And did you have internal workshop sessions to

1 discuss, you know, how this tax would be implemented across the  
2 board to taxpayers --

3 MS. RAKOWSKY: I object to the form of the question.  
4 BY MR. ROOS:

5 Q -- in the state of Nevada?

6 How did you go about internally determining who fit  
7 within the tax and who didn't?

8 A The reason why I'm hesitating in responding is I'm  
9 trying to recall what that was.

10 I believe there was some, there was information that  
11 was posted in our tax notes, and I believe, to the best of my  
12 recollection, that I think there were individuals from the  
13 different districts, I believe they were revenue officers, that  
14 actually went out and visited the different venues, and tried to  
15 gather information with respect to not only the type of venue,  
16 but also there were certain restrictions.

17 I think there was a seating capacity, if I recall,  
18 that had to be met in order to apply to the live entertainment  
19 tax.

20 Q Was it a 300-seat capacity?

21 A I believe that's correct. At that time. I think it  
22 was changed later on.

23 Q Do you have any recollection as to who came up with  
24 the 300-seating capacity?

25 A That was the legislature.

1 Q Do you have any recollection in any of your discussion  
2 as to how the legislature came up with the 300-seat capacity?

3 A Not to my recollection, no.

4 Q This was, this live entertainment statute, this wasn't  
5 a tax statute that had general applicability, correct?

6 A What do you mean by generally applicable?

7 Q Well, it didn't apply across the board to any business  
8 that was generating revenue, correct?

9 MS. RAKOWSKY: I object to the form of the question.

10 THE WITNESS: I don't understand your question.

11 BY MR. ROOS:

12 Q Well, a sales tax would be a tax of general  
13 applicability. You sell something, you pay a sales tax. It  
14 doesn't matter who you are, doesn't matter what you're doing,  
15 you're paying a sales tax, correct?

16 A Not necessarily.

17 Q Okay. Tell me why that's incorrect.

18 A I mean, retailers act as agents to collect sales tax  
19 from consumers.

20 Q Right.

21 A Retailers also that purchase items that they use in  
22 their business also have to report and pay use tax. Okay?

23 The guy that does the lawn for this facility here,  
24 that's a service. That's not, that's not subject to sales tax.

25 Q Okay. Let's talk --

1 A Nor is it subject to use tax.

2 Q Okay. And I agree with that. Let's talk about  
3 retailers.

4 If you're a retailer, you're paying either a sales tax  
5 or a use tax, correct?

6 A You are a collector. The retailer is a collector.  
7 Retailer doesn't pay the tax.

8 Q Okay.

9 A The consumer pays the tax.

10 Q So you're remitting to the state --

11 A Yes.

12 Q -- sales or use tax, correct?

13 A That's correct.

14 Q And so that generally applies across the board if  
15 you're a retailer, correct?

16 A Uh-huh (affirmative).

17 Q The live entertainment statute was not a statute of  
18 general applicability because it only applied to scenarios that  
19 included you had to have live entertainment, which was defined.

20 Had to be a seating capacity of 300, and there was  
21 numerous other exceptions, correct; is that your understanding?

22 A There were certain exclusions to the live  
23 entertainment tax, that part is correct.

24 But as far as the applicability of the tax, that's the  
25 policy of the legislature. That's not policy of the department.

1           Q     Yeah, I didn't ask you if it was your policy. I just  
2     asked you for your understanding.

3                     Your understanding was that it was not generally  
4     applicable to anybody providing live entertainment, correct?

5           MS. RAKOWSKY: I object to the form.

6           THE WITNESS: I don't know how to respond to that.

7     BY MR. ROOS:

8           Q     Well, I mean, you were tasked with administering the  
9     legislation and collecting the tax.

10                    Did you just go to everybody that was performing live  
11     entertainment and collect a tax?

12           A     The difficulty I'm having in trying to respond to  
13     that, if we can go back to the sales tax example, not every  
14     transaction is taxable.

15                    That a retailer would collect the sales tax. It is no  
16     different than any other tax. There are exclusions, and there  
17     are exemptions.

18                    Okay? The live entertainment tax was a transaction  
19     tax. Based upon admissions to see or view or whatever, live  
20     entertainment. Okay?

21                    I don't know how else better to respond to that, to  
22     that question.

23           Q     Well, I guess here's my follow-up question, and maybe  
24     you just answered it.

25                    It wasn't just a tax to any single person that was

1 providing live entertainment because there were exclusions. You  
2 just testified to that, correct?

3 A There were exclusions, yes.

4 Q So it did not generally apply to any person providing  
5 live entertainment, correct?

6 MS. RAKOWSKY: I object to the form, and it's been  
7 asked and answered.

8 THE WITNESS: I'm not trying to be difficult. I just  
9 see it no different than any other type of transaction tax like  
10 the sales tax.

11 There are certain exclusions, there are certain  
12 exemptions, there are entities that are not required to report  
13 or pay. It's no different than sales tax.

14 BY MR. ROOS:

15 Q What entities are not required to pay or report sales  
16 tax? Are there specific entities that are --

17 MS. RAKOWSKY: Objection.

18 BY MR. ROOS:

19 Q -- identified in the Nevada sales tax code as to not  
20 having to pay sales tax?

21 A Yes, the feds, the federal --

22 Q The federal government?

23 A The federal government. Local governments, state  
24 governments. Right.

25 Q What about --

1           A     There are constitutional provisions that exclude.

2           Q     What about specific individual business operators?

3                   MS. RAKOWSKY: I would object to that because  
4     Mr. DiCianno cannot discuss specific individual taxpayers.  
5     BY MR. ROOS:

6           Q     No, I'm not ask for names.

7                   I'm saying as a group, are there any types of  
8     businesses, private businesses, that are excluded from sales tax  
9     in the state of Nevada?

10          A     I'm trying to come up with an example. Unfortunately  
11     I'm drawing a blank.

12                   Well, private businesses that would be excluded from  
13     having to report and pay sales tax is like the example I gave  
14     earlier, which is the parties that provide services. Like this,  
15     her service.

16          Q     I understand. But we previously focused it on  
17     retailers.

18                   Are there any private businesses in the retail sector  
19     of the world that you can recall that were specifically  
20     identified, not by name, but by category and exempted from sales  
21     tax in Nevada?

22          A     Off the top of my head, I can't --

23          Q     But that did occur with respect to the live  
24     entertainment tax, though, correct? Specific businesses were  
25     identified?

1 MS. RAKOWSKY: I object to the form of that question.

2 THE WITNESS: I'm not sure what you're trying to ask  
3 me.

4 BY MR. ROOS:

5 Q Okay. Well, let me give you an example.

6 At some point, you recall there being a discussion  
7 about whether or not the NASCAR race at the speedway should be  
8 specifically exempted from the live entertainment tax statute,  
9 correct?

10 A That discussion occurred in front of the legislature.

11 Q Right.

12 In 2003, or do you recall it being in 2005?

13 A It wasn't 2003. I believe it was 2005.

14 Q And at some point, in the infinite wisdom of the  
15 legislature, they decided that the NASCAR cup series race that  
16 occurs every year at the speedway is not subject to live  
17 entertainment.

18 You recall that, right?

19 A Uh-huh (affirmative).

20 Q That's a yes?

21 A Yes.

22 Q In your role as the administrator of the tax at the  
23 time, you would agree, would you not, that watching cars race  
24 each other is a form of live entertainment?

25 A It doesn't matter what I believe or don't believe.



1 Q Well, you --

2 A The legislature -- as administrator for the Department  
3 of Taxation, if the legislature specifically excludes or exempts  
4 that from the administrative standpoint, that's what I do.

5 I don't pass judgment on whether or not it should  
6 apply or not apply.

7 Q Oh, and that's not my question.

8 A Okay.

9 Q Okay. I clearly understand that the legislature  
10 created an exemption for it.

11 My question is quite different. My question is,  
12 absent that exclusion by the legislature, you would agree, would  
13 you not, that watching cars go around in a circle racing each  
14 other is a form of live entertainment under the definition of  
15 live entertainment that was crafted by the legislature?

16 A I'd have to read the definition of the live  
17 entertainment. If I could.

18 Q Well, I mean, you were involved in creating the  
19 regulation that defined --

20 A Uh-huh (affirmative).

21 Q -- live entertainment, you recall that, right?

22 A I recall that. But it's been a long time since I have  
23 read it.

24 Q Okay. And I can give you the statute, and you can  
25 spend the time looking at it, but is it your general

1 recollection that a car race would fit within the definition of  
2 the live entertainment?

3 A You're asking for my own personal opinion?

4 Q No.

5 I'm asking from the standpoint of somebody who was  
6 charged with administering the tax code, absent the specific  
7 exclusion, which I grant you happened, you, in being charged  
8 with applying that tax code, you would have an understanding  
9 that that would fit within the definition of live entertainment,  
10 correct?

11 A The way you have stated it, without the legislature  
12 providing an exclusion or an exemption, yes.

13 Q Thank you.

14 So in effect, the live entertainment tax does create  
15 exclusions for certain types of activities and businesses that  
16 offer live entertainment, but the legislature decided should not  
17 be taxed.

18 That's fair to say, right?

19 A Yes.

20 Q Okay. Do you recall discussions in 2003, whether it  
21 be during the live entertainment workshops or in your capacity  
22 as providing advice regarding the fiscal note, that the  
23 intention of the legislature was to expand the casino  
24 entertainment tax?

25 In other words, let me phrase it that they were not

1       trying to reduce the overall revenue generated to the state, but  
2       to increase overall revenue?

3           A     I believe that was their intent, yes.

4           Q     Okay. So everybody, do you recall discussions about  
5       everybody that was currently taxed under the then-existing  
6       casino entertainment tax, would still be taxed, and that the  
7       legislature was just adding more potential taxpayers to the tax  
8       base?

9           A     That's, that may well be. But I'm not familiar with  
10      the casino side of it, so I don't know.

11          Q     No. I understand that, and that was your testimony.  
12                 What I'm asking is, do you recall that coming up in  
13      conversations? That, look, we have this casino entertainment  
14      tax?

15                 What we're doing with the live entertainment tax is  
16      not supposed to subtract from the casino entertainment tax.  
17      It's supposed to add to the tax base?

18          A     I believe that's, that's my understanding at the time,  
19      yes.

20          Q     All right. And so if you look at the tax code post  
21      the passage of the live entertainment tax, there's a subcategory  
22      of people who are new taxpayers under the live entertainment  
23      tax, correct?

24          A     Yes.

25          Q     All right. And that would be, basically, all the

1 people who weren't previously subject to the casino  
2 entertainment tax, which essentially stayed in effect --

3 A Uh-huh (affirmative).

4 Q -- correct?

5 A Yes.

6 Q And do you recall during your live entertainment  
7 workshops, Senator Townsend, basically, stating to the effect  
8 that the live entertainment tax that was being created was,  
9 basically, geared towards capturing adult entertainment clubs?

10 A I don't recall that.

11 MS. RAKOWSKY: Object to the form.

12 BY MR. ROOS:

13 Q You have no recollection of that?

14 A Huh-uh (negative).

15 Q Do you have a recollection of talking with anybody in  
16 the 2003 time frame where you came to understand or hear in any  
17 way that the live entertainment tax was geared towards capturing  
18 gentlemen's clubs?

19 A I believe they fell under the definition. That's  
20 correct.

21 Q Okay.

22 A They were part of it, yes.

23 Q No, I'm not asking you if they're a part of it.  
24 They're clearly part of it.

25 My question is the different, do you remember anybody

1 at any time during the 2003 time frame, including the workshops  
2 that you handled, stating that it was, basically, the purpose of  
3 the legislation to gear towards capturing gentlemen's clubs?

4 A No.

5 MS. RAKOWSKY: Object to the form of the question.

6 BY MR. ROOS:

7 Q Do you disagree with that statement or that concept,  
8 that this legislation was geared towards capturing gentlemen's  
9 clubs?

10 MS. RAKOWSKY: I object to the form. It calls for  
11 speculation.

12 BY MR. ROOS:

13 Q You can answer.

14 A I can't respond to that.

15 Q Why can't you respond to that?

16 A That's not, that was not the role or purpose of my  
17 position at the time.

18 Q Well, I'm not asking you if it was your role or your  
19 position.

20 I'm asking you as a human being that lived through  
21 this, and worked through the live entertainment shops, and heard  
22 everything that was going on. I just told you what I believe  
23 occurred.

24 Do you disagree with that? Do you have a reason to  
25 disagree with that?

1 MS. RAKOWSKY: I object to the form of the question.

2 THE WITNESS: You're asking for my personal opinion,  
3 and I can't do that.

4 BY MR. ROOS:

5 Q I'm really not asking for your personal opinion.

6 What I'm asking for is, as you sit here today, do you  
7 remember any conversations or communications with anybody that  
8 you could point to where you could say, you know what? You're a  
9 hundred percent wrong, and here's why?

10 A No, I can't.

11 Q Okay. Let me read you some of the statements that  
12 Mr. Townsend made during the LET workshops and see if it can  
13 refresh your recollection.

14 Well, first of all, let me ask you generally, do you  
15 remember having any discussions during the 2003 time frame about  
16 First, potential First Amendment issues with the live  
17 entertainment tax?

18 A No.

19 Q You never had any conversations with anybody regarding  
20 that?

21 A Not that I recall. No.

22 Q Okay. Do you remember ever hearing anything about  
23 potential problems with respect to the First Amendment and the  
24 applicability of the live entertainment tax in 2003?

25 A Not that I recall.

1           Q     All right. Okay. This is September 19th, 2003,  
2     workshop. This is the comments of Senator Townsend.

3                 He says, first and foremost in the original  
4     discussions that I had with a number of my colleagues on the  
5     senate side, and I see Chairman Parks, who heads up taxation on  
6     the assembly side is here, and he can probably give you some  
7     insight as to what the other house discussed, but conversations  
8     that occurred in the senate were geared towards an emerging  
9     industry, particularly in southern Nevada, commonly known as  
10    gentlemen's clubs.

11                And our research that was certainly done by people  
12    much younger than myself led us to believe that many of the  
13    individuals that work in these establishments were in fact  
14    independent contractors.

15                So there was no work comp paid, very unlikely health  
16    benefits were paid, and most importantly, we're not paying any  
17    kind of tax other than property or a license fee, and as would  
18    have it, were a significant competitor to our largest industry  
19    in the fact that they were, obviously, encouraging many of the  
20    patrons of our largest industry to spend as much time as  
21    possible with them.

22                So the concept, the theory, the idea, the public  
23    policy, was to find a way to appropriately tax an industry that  
24    started to grow, and in many cases, create certain social  
25    obligations for which there wasn't a tax being paid.

1           In discussions with our general, with our council  
2           bureau, we found ourselves on a very, very slippery slope  
3           relative to the protections of the individual's First Amendment  
4           rights of freedom of expression being taxed and that being  
5           prohibited.

6           So that took us into a discussion of bringing it under  
7           what was commonly known as the CET.

8           MS. RAKOWSKY: Are you reading this verbatim, or are  
9           you picking out sentences?

10          MR. ROOS: No, I'm reading it verbatim.

11          MS. RAKOWSKY: Do you have a copy for us?

12          MR. ROOS: Yeah. Do you want to go off the record?  
13          I'll make a copy.

14          MS. RAKOWSKY: Sure.

15          MR. ROOS: Go ahead and go off the record.

16                   (Discussion off the record)

17          BY MR. ROOS:

18           Q       Okay. Back on the record.

19           All right. Mr. DiCianno, so the purpose of me reading  
20           that testimony was to see if it refreshed your recollection  
21           because I understand a lot of this occurred, you know, seven  
22           years ago.

23           Having heard me read that, and having read it  
24           yourself, do you now recall there being discussions, whether  
25           during the workshops that you were involved with, or at any time



1 in 2003 with respect to the live entertainment tax, that it was  
2 really geared towards capturing gentlemen's clubs?

3 MS. RAKOWSKY: I object to the question. Speculation.

4 And I think you should read the rest. If you're going  
5 to put that portion into the record, I think you should put the  
6 rest of the portion, rest of this into the record.

7 BY MR. ROOS:

8 Q Okay. Vivienne, you can do what you need to do and  
9 make the arguments you need to make.

10 My question was simply, having heard that, having what  
11 I just read to you, and having reviewed it, does that refresh  
12 your recollection in any way about discussions that occurred,  
13 whether during the workshop or at any time prior about the live  
14 entertainment tax really being geared toward capturing strip  
15 clubs?

16 MS. RAKOWSKY: Object to the form.

17 BY MR. ROOS:

18 Q Go ahead. You can answer.

19 A Well, first of all, this is Senator, at that time,  
20 Senator Townsend's opinion about what was occurring and what  
21 happened at the legislature, and the role of the department and  
22 the role of the Gaming Control Board. There's no question about  
23 that.

24 Now, there were, other than just the gentlemen's  
25 clubs, there were other venues that would become subject to the

1 live entertainment tax as the way it was defined, in addition  
2 to, I call it the cabaret tax.

3 It was called, it got changed to the casino  
4 entertainment tax. The old cabaret tax came from the federal  
5 government, but that was a long time ago.

6 But the intent was to capture other venues. There's  
7 no question about that.

8 Q The intent, according to this, was to capture  
9 gentlemen's clubs, and my question to you is, do you remember  
10 there being discussions about the intent of the statute to  
11 capture gentlemen's clubs?

12 A No.

13 MS. RAKOWSKY: Objection. Form. Calls for  
14 speculation.

15 BY MR. ROOS:

16 Q All right.

17 A No.

18 MS. RAKOWSKY: Just give me a second.

19 THE WITNESS: I'm sorry.

20 BY MR. ROOS:

21 Q So does this come as a surprise to you reading this  
22 that Senator Townsend --

23 A No.

24 Q -- was talking about capturing gentlemen's clubs?

25 A No, it doesn't surprise me. Again, this is his

1 testimony.

2 Q All right. And it's not your recollection of the  
3 purpose of the live entertainment tax, fair to say?

4 A What do you mean by "purpose"?

5 Q To capture gentlemen's clubs.

6 A The purpose was to capture other venues in addition to  
7 the casino entertainment tax.

8 Q And what other venues other than gentlemen's clubs  
9 were intending to be captured?

10 A Those providing live entertainment.

11 Q You weren't --

12 A Outside of the casino or would be under the purview of  
13 the Gaming Control Board.

14 Q With the exception of the exclusions that were  
15 created?

16 A That's correct.

17 Q So, for instance, no boxing event, licensed in the  
18 state of Nevada, even though it's live entertainment, would be  
19 subject to the live entertainment tax.

20 A There was specific discussion at the legislature with  
21 respect to unarmed combat.

22 Q What do you remember about that specific discussion?

23 A That discussion was to, because of the licensing and  
24 the venue and how it was put together, was not going to be  
25 subject to the live entertainment tax.

1           This was my understanding. As to the specific reasons  
2 as to why they wanted to exclude them, that, I do not know.

3           Q     As you sit here today, you have no recollection as to  
4 any discussions about why boxing would have been excluded?

5           A     I may have heard discussion at the legislature, but I  
6 don't recall specifics.

7           Q     Okay. Do you recall generally what those  
8 conversations were about?

9           A     No.

10          Q     So as you sit here today, you don't have any idea why  
11 the legislature decided to exclude boxing?

12          A     Not to my recollection. No.

13          Q     Did you ever hear that boxing was excluded because  
14 boxing was such a competitive type of event, meaning that other  
15 states were competing against Nevada, to put on live boxing  
16 events, and that Nevada shouldn't tax that and put that tax  
17 burden on boxing events?

18          A     I don't recall that.

19               MS. RAKOWSKY: Calls for speculation.

20 BY MR. ROOS:

21          Q     You don't recall that in any way?

22          A     Huh-uh (negative).

23          Q     Is that a no?

24          A     No.

25          Q     But it wasn't just boxing either. It's any event.

1           You were charged with applying this, so it wasn't just  
2 boxing. It was any event that was sanctioned by the Nevada  
3 Athletic Commission, correct, any live combat sport?

4           A     If I may respond, I think you have to keep in mind,  
5 and I need to clarify something.

6           I was not the one providing the majority of the  
7 testimony at the legislature in 2003 with respect to these  
8 taxes.

9           That was not my role. Okay? My role was to develop  
10 the fiscal notes, and to assist the chairman in those  
11 discussions in the workshop, okay?

12           I provided very limited testimony that I can recall or  
13 remember.

14           Q     Okay.

15           A     Okay?

16           Q     My question is not really about the testimony that you  
17 provided.

18           My question is, as the person who is charged with  
19 administering the tax, in what you have said is a predictable  
20 and, I guess, evenhanded manner, you understood that it wasn't  
21 just boxing that was excluded under this exemption. It was any  
22 form of live combat that was sanctioned by the Nevada Athletic  
23 Commission, correct?

24           A     That's my understanding, yes.

25           Q     Okay. I asked you about the NASCAR event being

1 excluded.

2 Do you, as you sit here today, know why the  
3 legislature excluded the NASCAR event from the live  
4 entertainment tax?

5 A Based upon what I heard as testimony in, and I can't  
6 remember if it was on the assembly side, on the senate side, I  
7 know there were individuals that were there that represented  
8 NASCAR that, there were even drivers that provided testimony at  
9 the legislature. I think this was in 2005.

10 My understanding was that they were attempting to  
11 bring the national office to Las Vegas for NASCAR. That was,  
12 that was discussed at the legislature in public testimony.

13 Q Okay.

14 A You can look it up. It's there.

15 Q And so your understanding was that that was the  
16 purpose of the exemption?

17 A That's my understanding. But that, again, that's the  
18 purview of the legislature. Not mine.

19 Q And in your role in enforcing the live entertainment  
20 tax, you then did not ever charge live entertainment tax to the  
21 events out at the speedway?

22 MS. RAKOWSKY: I object to the form. That misstates  
23 testimony.

24 Are you talking about every event? Are you talking  
25 about all the other races?

1 BY MR. ROOS:

2 Q Well, I'll ask you --

3 MS. RAKOWSKY: Are you talking about NASCAR?

4 BY MR. ROOS:

5 Q Okay. Let's break it down.

6 Do you charge live entertainment tax to the speedway  
7 while you were in charge of the department for events at the  
8 speedway other than the NASCAR event?

9 A To the best of my recollection, prior to the  
10 legislative change, I believe so, yes.

11 Q But after the legislative change, there was no longer  
12 entertainment tax, correct?

13 A Not that I can recall, no.

14 MS. RAKOWSKY: And your question is just for NASCAR,  
15 or for every event out there, all the other races?

16 You have to be specific.

17 BY MR. ROOS:

18 Q I think my question stands.

19 At some point, did the regulation that was crafted  
20 through the workshop process actually put into law with respect  
21 to live entertainment?

22 A That's correct.

23 Q Do you know when that occurred?

24 A I believe it was 2009. No. Pardon me. Back up.

25 It was either 2007 or 2009. I can't remember. I

1 believe, I'm, again, I'm not exactly sure.

2 I would lean towards 2007 that that was done, but not  
3 only just the live entertainment tax, it was also for the other  
4 taxes that were put in place in 2003.

5 Q Do you remember in any of your discussions why it was  
6 that your regulation, the definition of live entertainment tax,  
7 was actually put into the statute?

8 A Well, as I testified earlier, the -- based on the  
9 original SB 8 bill, the Nevada -- if we're talking specifically  
10 about the live entertainment tax and the definition of live  
11 entertainment, that was the charge that the legislature gave to  
12 the tax commission and the Gaming Control Board was to come up  
13 with that definition.

14 And clearly a regulation has effect of law. They felt  
15 at the time it would be appropriate to make it part of the  
16 statute, and they did.

17 Q Do you remember in 2004 in your role overseeing the  
18 Department of Taxation, having fiscal impact analysis performed  
19 on the revenue that was being generated from gentlemen's clubs?

20 A May have. I don't know. We may have.

21 Q Do you remember doing any fiscal impact analysis of  
22 any other industry in the state of Nevada for, to determine what  
23 type of revenue another type of industry was generating under  
24 the live entertainment tax statute?

25 A Not that I recall.



1 Q Okay. And I haven't seen -- I have seen documentation  
2 that I'll show you later that deals with specific analyses of  
3 revenue generated from strip clubs, but I haven't seen any  
4 related to any other type of industry.

5 Is that consistent with your understanding that really  
6 the only investigation that was going on was how much revenue  
7 was generated from strip clubs?

8 A That may well be the case. I don't know.

9 Q Is there any reason why in your role with the  
10 Department of Taxation there wouldn't have been a study on how  
11 much money other types of industries were generating --

12 MS. RAKOWSKY: Object to --

13 BY MR. ROOS:

14 Q -- under the live entertainment tax?

15 MS. RAKOWSKY: Object to the form. Because he says he  
16 doesn't recall. He didn't say -- you're misstating his prior  
17 testimony.

18 THE WITNESS: I don't recall.

19 BY MR. ROOS:

20 Q Do you know why in your capacity with the Department  
21 of Taxation, the department would want to know the specific  
22 revenue that was being generated from strip clubs under the live  
23 entertainment tax?

24 A I believe that would have been because of the request  
25 that would have come from LCB fiscal.

1           We do -- I mean, the department does analyses every  
2 year with respect to the economic forum. We try to project  
3 revenues for all taxes, not only just the live entertainment  
4 tax.

5           Q     All right. Well, you testified that you believe that  
6 this may have come from the LCB fiscal request.

7           A     Uh-huh (affirmative).

8           Q     Do you remember anybody associated or affiliated in  
9 any way with the LCB specifically asking you or your department  
10 to go out and perform an analysis of the revenue generated from  
11 strip clubs?

12          A     There could have been, yes. I mean, it could have  
13 come from LCB fiscal. It could have come from, it could have  
14 come from either on the assembly side or on the senate side.

15                On the assembly side, it could have come from Mark  
16 Stevens. On the senate side, it could have come from Gary  
17 Ghiggeri at that time.

18                They were the lead analysts for, Mark was the lead  
19 analyst on the assembly side. Gary Ghiggeri was the lead  
20 analyst on the senate side.

21          Q     Could it have come from, I mean, let's see how to  
22 phrase this question.

23                Based upon your experience in the Department of  
24 Taxation, could that request have come from an individual  
25 senator or assembly person?

1 A Not that I recall. And that would be very unusual.

2 Q Would a request to perform a fiscal impact analysis,  
3 or an analysis of the revenue generated from the live  
4 entertainment tax, would that have come to you, or could it have  
5 possibly come to somebody underneath you?

6 A It more than likely would come to me. Or, and let me  
7 clarify that statement.

8 It could have gone to the executive director, who  
9 would have, you know, basically, told me to deal with it.

10 Q And that would have been Chuck Chinnoek at the time?

11 A At the time, yes.

12 Q But under the structure of the department, whether it  
13 came to Chuck Chinnoek directly or you directly, you would have  
14 been the one that would have been tasked with, basically,  
15 sending out the troops to get the answer, correct?

16 A In most cases, yes.

17 Q And as you sit here today, you don't have any  
18 independent recollection of somebody asking you to specifically  
19 go out and figure out how much revenue was being generated from  
20 the strip clubs?

21 A To the best of my recollection, I did receive a  
22 request from Mr. Ghiggeri.

23 Q Did he tell you why he was specifically requesting a  
24 revenue impact analysis with respect to strip clubs?

25 A I don't recall. Unfortunately, I don't recall why.

1           Q     Do you remember Mr. Ghiggeri telling you to go out and  
2 look at any other industry to determine how much revenue they  
3 were generating as compared to other types of industries?

4           A     Not that I'm aware of, no.

5           Q     Do you remember there being discussions about making  
6 sure that dancing among patrons would not be captured within the  
7 net of the live entertainment tax?

8           A     There was discussions, this was well after, if I  
9 recall correctly, well after the regulations were done.

10                  There were, we became aware that if there was gaming  
11 at the facility, I believe if somebody were to put money in the  
12 jukebox, and the patrons started dancing on the gaming side,  
13 they would become subject to the CET.

14                  We disagreed. If there wasn't gaming, that if someone  
15 were to just start dancing because somebody put money in the  
16 jukebox, we would not consider that live entertainment.

17                  First of all, there would be no admission charge.  
18 There's no admission charge. It was never advertised as an  
19 entertainment.

20                  So that's how we responded back to, that's how I  
21 responded back to the individual at the Gaming Commission when  
22 they made that, brought that discussion up.

23           Q     Well, isn't it your understanding that there doesn't  
24 have to be an admission charge inside a casino venue?

25           A     May not. I don't know.

1           Q     So why was it the Department of Taxation's position  
2     that this specific form of dancing would not fit within the live  
3     entertainment tax?

4           A     As I indicated earlier, there's no, no one was  
5     charging admission to watch patrons dance to some sort of music,  
6     whether it's a jukebox or whatever.

7           Q     Did the Department of Taxation go out and do a study  
8     to determine that that --

9           A     No.

10          Q     Well, why not?

11          A     Because under the definition of live entertainment,  
12     and the regulations that existed at that time, we did not  
13     believe that it was subject to tax.

14          Q     No. My question is different.

15                 How did you come to the conclusion that people weren't  
16     charging a cover charge to have patrons come in and dance?

17          A     Under most circumstances, if you go into a bar, there  
18     is no cover charge to get into a bar.

19                 Some bars have jukeboxes, okay? Someone goes up and  
20     puts money in a jukebox, music starts, people get up and dance.  
21     There may not be a dance floor. They just decide they want to  
22     dance.

23                 That, in our mind, was not live entertainment.

24          Q     Right, but you didn't perform any sort of --

25          A     No.

1 Q -- analysis -- hold on.

2 A No.

3 Q You didn't perform any sort of analysis to determine  
4 whether or not in fact there were venues out there that were  
5 actually charging for patrons to come in and dance?

6 A Not that I recall, no.

7 Q All right. And if you had -- if you had done a study  
8 that showed that there were venues that charged a cover charge  
9 for people to come in and dance, are you saying that that would  
10 be live entertainment, then?

11 A It's potential, yes. But then, again, we'd also have  
12 to determine under whose jurisdiction it would be under.

13 If there were, if there was a slot operator that had  
14 games in the bar that would have, that would be under the  
15 purview of the Gaming Control Board.

16 Not us.

17 Q So who within the department made the determination in  
18 their -- that the department did not view dancing among patrons  
19 as live entertainment?

20 A Based on my discussions with the district managers and  
21 others, I made the decision that it was not subject to tax.

22 Q Was that based on your understanding of what occurred  
23 inside --

24 A Yes.

25 Q -- the venues?

1 A Yes.

2 Q Your personal?

3 A Yes.

4 Q Okay. So with respect to dancing, the act of dancing  
5 in and of itself may or may not be live entertainment?

6 A That's correct.

7 Q It just depends on who's dancing?

8 MS. RAKOWSKY: Calls for speculation. Object to the  
9 form of the question.

10 BY MR. ROOS:

11 Q Does it depend on who's dancing? Because you've said  
12 if a patron is dancing with another patron, it's not live  
13 entertainment, correct?

14 A I would not -- well, you could view it as  
15 entertainment, but as far as the application of the tax, no.

16 Q What do you mean?

17 A It does not meet the definition of live entertainment.

18 Q Okay. So it does depend on who's dancing? I don't  
19 mean that to be facetious.

20 If you're a customer dancing with another customer,  
21 that's not live entertainment?

22 A But there's other specifics that have to go along with  
23 that.

24 Is it advertised, is there an admission charge? In  
25 those cases where there wasn't, no, it's not live entertainment.

1           Q     Okay. And if somebody advertised to come to their  
2 club and dance, and if somebody charged an admission charge to  
3 come in, and all that occurred was patrons danced with each  
4 other, you would say that is or is not live entertainment?

5           MS. RAKOWSKY: Incomplete -- objection. Incomplete  
6 hypothetical. Calls for speculation.

7 BY MR. ROOS:

8           Q     Go ahead and answer. I used the examples that you  
9 gave.

10           So my hypothetical is, you have said that  
11 advertisement is important and admission charge, so I want to  
12 give you those two.

13           They will advertise, they will charge an admission,  
14 and patrons will come in and do nothing but dance with each  
15 other, is that form of dancing live entertainment under your  
16 understanding?

17           A     Under my understanding under the definition of live  
18 entertainment, no. It's not subject to tax. It is no different  
19 than someone coming in and doing karaoke.

20           Q     Which would not be construed as live entertainment?

21           A     That's correct. Unless, unless, as you describe, they  
22 provide advertising, they provide an admission charge, that that  
23 is the entertainment that is being provided. Okay?

24           It is not a matter of the individual. It's a matter  
25 of the venue. Okay?



1 Q When you say it's not a matter of the individual, it's  
2 a matter of the venue, what do you mean by that?

3 A It's not a matter of whether it is an independent  
4 contractor, a private individual, that isn't the point.

5 The point is how the live entertainment is structured,  
6 how it's advertised, is an admission charged, and how it meets  
7 the definition of live entertainment, okay?

8 Q Right.

9 And in the instance that I gave you, which is, a venue  
10 advertises that you can come to their club and dance.

11 A Uh-huh (affirmative).

12 Q But then charges you a cover charge to get in. You  
13 then go in and dance with patrons, you have testified that that  
14 would not be live entertainment, correct?

15 A No, I do not say that.

16 Q Well, I think that was your testimony. Are you, do  
17 you want to change your testimony?

18 MS. RAKOWSKY: Misstates his testimony.

19 BY MR. ROOS:

20 Q Okay. If a venue charged an admission charge, and the  
21 venue advertised that you can come to their venue and dance, and  
22 the only thing that occurs is dancing among patrons, under your  
23 understanding of the live entertainment tax, when you were in  
24 charge of enforcing it, would a live entertainment tax apply in  
25 that scenario?

1 A Potentially it could, yes.

2 Q Well, you say "potentially it could." What are the  
3 reasons that it might not?

4 A Well, there are discussions. I mean, I would assume  
5 that they would want to have a discussion with the department  
6 over, or whomever.

7 If there was gaming, also they would want to have a  
8 discussion with the Gaming Control Board as to whether or not to  
9 get a ruling, a formal ruling, as to whether or not it is  
10 subject to the live entertainment tax. Okay.

11 Q Right.

12 But when you were charged with analyzing that  
13 scenario, you understood that there was a specific exemption for  
14 dancing among and between patrons, correct?

15 A When you say "exemption," it was my understanding that  
16 that would not be considered live entertainment under the  
17 definition of live entertainment.

18 Q Right.

19 So it's exempted from live entertainment?

20 A If you want to put it that way, yes.

21 Q So under the scenario where somebody charges a  
22 coverage charge and advertises, and all that goes on in the club  
23 is dancing to recorded music, that fits within an exception of  
24 live entertainment, that would not be live entertainment?

25 A Probably not.

1 Q All right. So it depends upon who is dancing, does it  
2 not?

3 A No. It doesn't matter who is dancing. That's not the  
4 issue. The issue is how the venue is structured.

5 Q Okay. And what do you mean by "how the venue is  
6 structured"?

7 A If there's advertising, if you're going to advertise  
8 it. There's an admission charge.

9 Q Right.

10 A There's specifics associated with that, along with the  
11 definition whether or not it meets the definition of live  
12 entertainment that is currently -- well, at that time, it would  
13 have been part of the regulation. Now it would be part of the  
14 statute.

15 It's not the individual. It's how the venue is put  
16 together. Okay?

17 Q Uh-huh (affirmative).

18 If somebody that was a professional came to dance, and  
19 did a dance show, at the same club, amongst all the patrons,  
20 dancing in the middle of the dance floor because he had some  
21 special talent dancing, and it was advertised, and a cover  
22 charge was charged, and that person is dancing among the  
23 patrons, but he's a professional, that would be charged live  
24 entertainment, would it not?

25 A Yes.

1           Q     Okay. But the same scenario where that person is not  
2           there, it's just individuals dancing with each other, but  
3           there's also a coverage charge, and it's also advertised that  
4           you can come there and dance, that would not be subject to live  
5           entertainment?

6           A     In my estimation, it would be subject to live  
7           entertainment tax.

8           Q     That particular circumstance where you charged --

9           A     Yes.

10          Q     -- a cover charge --

11          A     Uh-huh (affirmative).

12          Q     -- and you advertised that you come could there and  
13          dance to recorded music, and all the patrons did was dance with  
14          each other, you would say that that would be subject to live  
15          entertainment tax?

16          A     Most likely, yes.

17          Q     Okay.

18          A     But let me add, if I may, who in the world would want  
19          to watch patrons dance? And pay for it? I don't know.

20                 MR. ROOS: How long have we been going? It would be a  
21          good time for a break.

22                         (A recess was taken)

23          BY MR. ROOS:

24          Q     Okay. Stevens and Ghiggeri, the individuals that you  
25          had identified as LCB fiscal guys for lack of a better term.

1 A Uh-huh (affirmative).

2 Q Are you aware of whether or not they did their own  
3 independent fiscal analysis of the live entertainment tax?

4 MS. RAKOWSKY: Objection. Calls for speculation.

5 THE WITNESS: I don't know.

6 BY MR. ROOS:

7 Q Okay. Would it be the pattern and practice in your  
8 dealings with the department over the time frame that you worked  
9 with Mr. Stevens and Ghiggeri, that they would deliver  
10 information to you if they had done a fiscal impact?

11 A No.

12 Q Okay. So they may have very well have done a fiscal  
13 impact that never reached the Department of Taxation?

14 A That's possible.

15 Q Okay. With respect to the exemptions that I have  
16 discussed so far, boxing, and MMA, let's talk about that one.

17 Were you ever tasked with doing a fiscal analysis to  
18 determine how much revenue the state could potentially lose by  
19 not taxing boxing or MMA?

20 A Not that I recall.

21 Q Okay. What about with respect to NASCAR?

22 Were you ever tasked with going out and performing an  
23 analysis to determine how much revenue the state could  
24 potentially be losing by not taxing the NASCAR events?

25 A We may have been asked to do a fiscal impact on the

1 bill during that time period that would have exempted NASCAR.

2 Q Are you talking about SB 8?

3 A No. This would have been after that, a while after  
4 that.

5 Q Because I haven't seen, in the documents that have  
6 been produced, an actual fiscal analysis, meaning somebody went  
7 out and got the exact information from the -- hold on. The  
8 speedway, sorry.

9 I don't recall ever seeing information produced by the  
10 state where somebody from your office went out to the speedway  
11 and got exact figures, and then analyzed the potential revenue  
12 that would be gained by taxing NASCAR.

13 Is that consistent with your understanding?

14 A Well, let me clarify that a little bit.

15 First of all, it's not, in some, not in all cases, but  
16 in most cases, no -- someone from the department would not be  
17 going out to those venues to make that determination.

18 They would either gather the information, either over  
19 the phone, ask for it, or they would analyze it based upon prior  
20 period returns --

21 Q Okay.

22 A -- that would have been provided.

23 Q But a report would be generated within the Department  
24 of Taxation?

25 A There would be a fiscal note. If we would have been

1 requested to have a fiscal note done, that's what we would do.  
2 We would not just generate it just to generate it.

3 Q Okay. And so if there does not appear to be a fiscal  
4 note related to a fiscal impact with respect to NASCAR in the  
5 documents that I have been provided from the state, that likely  
6 means that the state, your department, did not do that?

7 A I don't know. I do not know. I don't know what  
8 you've received, so I can't --

9 Q Well, let me ask you a different question.

10 If had you generated a fiscal note regarding NASCAR  
11 and the revenue that could have been generated from NASCAR with  
12 respect to live entertainment tax, you would expect it to be in  
13 the documents related to the live entertainment tax from the  
14 department, correct?

15 A I mean, it's, as far as the documentation that was  
16 provided by the department?

17 Q Yes.

18 A I would assume so.

19 The problem is, the fiscal notes are not contained in  
20 the same, the actual fiscal notes, the hard copies, are separate  
21 from all the other stuff. I mean, we keep things based upon the  
22 year of the legislature.

23 So if it was '93, that information would be contained  
24 in the box that related to the legislature in 1993. That's  
25 where those fiscal notes would be.

1           Q     Okay. Why were common areas of a shopping mall not  
2 included within the definition of live entertainment, if you can  
3 recall?

4           A     To the best of my recollection, I think there was some  
5 discussion at the workshop that had to do with the Forum.

6           Q     The Forum Shops?

7           A     Yes. Now I don't know, I don't recall what the  
8 outcome was, to be honest with you. I don't recall what the  
9 outcome was. I know there was discussion about the Forum Shops.

10          Q     Okay. Do you recall there being discussions about  
11 exempting live entertainment at a trade show?

12          A     No. I don't recall that.

13          Q     Well, as you sit here today, having administered the  
14 live entertainment tax, do you know that trade shows, if there's  
15 live entertainment at a trade show, that that's not taxed?

16          A     These are outside venues?

17          Q     What do you mean by "outside venues"?

18          A     Outside of a building. They're out in, you know,  
19 like, a craft fair.

20          Q     Well, how about at the Las Vegas Convention Center?

21                 If they have a convention, and somebody does live  
22 entertainment, and they charge the conventioners to come in,  
23 does the state then go to the convention and, say, pony up live  
24 entertainment tax?

25          A     Given -- well, simplistically, given the example that



1 you have provided, my initial reaction would be, yes, they would  
2 owe live entertainment. Now if they were specifically exempted,  
3 that, I don't recall.

4 Again, I'd have to review the current regulation and  
5 the current statute.

6 Q Okay. As you sit here today, you don't recall  
7 discussions about trade shows being exempted?

8 A I don't recall that discussion.

9 Q All right. Do you recall discussions about whether or  
10 not amusement rides that were incidental to live entertainment,  
11 or I'm sorry. I got that backwards.

12 Do you remember there being discussions about live  
13 entertainment that's incidental to an amusement ride being  
14 exempted from the live entertainment tax?

15 A I don't recall that.

16 Q Well, let me see if, this is kind of a guess on my  
17 part.

18 But do you remember there being discussions about the  
19 Star Trek Experience at the Hilton?

20 A Yes.

21 Q Okay.

22 A Yes, there was discussions about that. I think that's  
23 at the Hilton. At that time, it was at the Hilton.

24 Q Do you remember why those discussions came up, or why  
25 people believed that that should not be included within live



1 Taxation with going out and figuring out how much revenue would  
2 be gained or lost depending on whether or not professional  
3 baseball was taxed under the live entertainment tax statute?

4 A It's a possibility, but I don't recall whether we did  
5 or didn't.

6 Q And then do you also recall outdoor concerts being  
7 exempted from the live entertainment tax?

8 A There was discussion about that, yes.

9 Q What do you recall about that discussion?

10 A All I can recall is that there was a discussion  
11 concerning whether or not it should be taxable or not.

12 Again, I'd have to go back and re-review the  
13 transcripts or the tapes at the workshops.

14 Q And so would it be fair to say that you don't have a  
15 recollection of actually doing a fiscal impact study on the  
16 types of outdoor concerts and the revenue that those concerts  
17 have generated over time?

18 A Not that I recall.

19 Q Okay. Do you remember the sale of merchandise outside  
20 of the live entertainment venue being exempted from the live  
21 entertainment tax statute?

22 A There were discussions as to whether or not there  
23 should be an additional sales tax application to the selling of  
24 items at a live entertainment venue, like T-shirts, and things  
25 of that nature.

1           That there would be, if I remember correctly, there  
2           was, the rate as 10 percent over and above the existing sales  
3           tax rate.

4           Q     Right.

5           A     In addition to the existing sales tax rate.

6           Q     And there was a decision at some point that the  
7           merchandise that was sold outside of that type of a live  
8           entertainment event would not be taxed?

9           A     That's possible. I don't recall that discussion.  
10          You're talking about something that was outside the  
11          venue.

12          Q     Right.

13          A     That, I would assume so. It would not be subject to  
14          that.

15          Q     And again, as you sit here today, you would have no  
16          recollection of doing a fiscal impact study to determine how  
17          much revenue would be gained or lost depending on whether the  
18          merchandise was charged under the live entertainment statute?

19          A     There could have been, but I don't recall. Not to my  
20          recollection. I don't recall that there was one done.

21          Q     Would it be fair to say that the live entertainment  
22          statute was a difficult statute to interpret and enforce in your  
23          position as the deputy executive director of the Department of  
24          Taxation?

25          A     As a transaction tax, yes, it was difficult.

1 Q What made it difficult?

2 A Well, what made it difficult was trying to determine  
3 whether or not a particular venue met the criterion under the  
4 statute and the application of the regulation. That's the  
5 difficulty.

6 I mean, it was a new tax. It was something brand new  
7 for the department to administer.

8 Q It was a new tax in 2003?

9 A That's correct.

10 Q It wasn't a new tax when you left the Department of  
11 Taxation?

12 A No. No.

13 Q Do you remember in the 2004 time frame there becoming  
14 a discussion about lowering the seating capacity requirement for  
15 live entertainment tax from 300 seats to 200 seats?

16 A There was, I recall that there was discussion, yes.

17 Q What do you recall about those discussions?

18 A My understanding of the 300-seating capacity was tied  
19 to the fire marshal.

20 We tried to find an indicator that would assist people  
21 in trying to determine whether or not something was subject to  
22 live entertainment tax or not, and they used the fire marshal's  
23 determination for seating capacity at that time.

24 The reason for dropping it from 300 to 200, right now,  
25 I can't recall exactly what the specific, the specifics were.

1 Q Okay. Do you recall anybody at any time talking about  
2 the notion that the Department of Taxation was not capturing  
3 enough of the strip clubs because of this 300 --

4 A No.

5 Q That never occurred?

6 A Not that I recall, no.

7 Q Do you recall any discussions that if the seating  
8 capacity was lowered from 300 to 200, that the department would  
9 capture additional strip clubs?

10 A Specific to the way you have asked that question, no.  
11 I don't believe so.

12 Q Well, what about the specific way I phrased the  
13 question is causing you difficulty?

14 A Because I don't believe that that was the case.

15 If we would have received a request to make a  
16 determination on the fiscal impact, given the fact that the  
17 seating capacity would have been changed from 300 to 200, then  
18 we would do an analysis to determine what additional types of  
19 venues would now be captured under that.

20 Q Okay. So then did you, then, go out and do an audit,  
21 not in the sense of financial terms, but an inspection of, like,  
22 nightclub venues to determine how many additional nightclub  
23 venues would be captured within the live entertainment tax if  
24 the seating capacity was dropped from 300 to 200?

25 A I don't recall whether or not individuals went out and

1 did physical inspections.

2 They may have done phone calls and gathered  
3 information through that type to determine whether or not there  
4 would be additional revenue associated.

5 **Q Do you recall that happening?**

6 A I believe it did. But I don't recall specifically  
7 when it happened.

8 **Q Who do you believe would have done an analysis**  
9 **regarding whether additional nightclubs would be captured if the**  
10 **seating capacity was lowered from 300 to 200?**

11 A Again, like I indicated earlier, if we would have  
12 received a fiscal request, which we probably did, to try to make  
13 a determination what it was, it probably would have been  
14 assigned to the Las Vegas office to take the lead on it to  
15 determine what the revenue would be.

16 **Q Okay. And who from the Las Vegas office do you**  
17 **believe would have been tasked with that?**

18 A At that time, I think the district manager was Paulina  
19 Oliver. Now we would have also probably contacted the Reno  
20 office, too, to coordinate and work with the Las Vegas office in  
21 doing that.

22 Now I don't recall who the district manager was at  
23 that time because that's changed several times.

24 Boy, I can't remember who it would be at that time.  
25 We went through two or three different district managers out of

1 the Reno office.

2 Q Do you believe that a similar type of study was  
3 performed with respect to bars and restaurants lowering the 300  
4 seating capacity to 200-seating capacity?

5 A If there was a gaming venue, so to speak, I don't, I  
6 would not know that.

7 Q What about nongaming venues?

8 A I don't believe so.

9 Q Do you know if at, any sort of study was done to  
10 determine whether or not certain aspects of the speedway would  
11 be impacted by lowering the 300-seat threshold to 200 seats?

12 MS. RAKOWSKY: Object to the form.

13 THE WITNESS: To the best of my recollection, there  
14 are, there were different venues down at the speedway other than  
15 NASCAR that would have been subject to the live entertainment  
16 tax.

17 Now whether or not they would no longer be subject to  
18 it, that, I can't recall. I do not know.

19 BY MR. ROOS:

20 Q You don't recall one way or the other whether or not  
21 anybody did an --

22 A I don't.

23 Q Did an analysis to determine whether or not lowering  
24 the 300-seat to 200-seat would somehow impact the revenue  
25 generated from the smaller race venues out at the speedway?



1           A     Not that I recall, but to be clear, one has to  
2     remember now the statute also talked about venues that were  
3     7500-seating capacity and greater, which had a different  
4     application.

5                     Okay? So, again, I don't know if that was done or  
6     not.

7           Q     Yeah.

8                     And I understand that the 7500-seat issue doesn't  
9     really involve the question that I'm asking about.

10          A     Okay. All right.

11          Q     Clearly had they not been exempted, it would have fit  
12     in the 7500-seat capacity?

13          A     I would assume so.

14          Q     But the question really focuses on, in this time frame  
15     when the legislature is dropping the seating capacity from 300  
16     to 200, my question is very specific:

17                     Whether or not somebody within your department, the  
18     Department of Taxation, actually went out and figured out  
19     whether or not the speedway would be impacted in any way by  
20     lowering the 300-seat capacity to 200-seat?

21          A     That's a possibility, but again, I would have to go  
22     back and look at the fiscal note request at that time whether  
23     one was done or not. To the best of my recollection, I don't  
24     know.

25          Q     Where would somebody go about finding these fiscal

1 notes other than within the Department of Taxation?

2 A I believe a record is kept at LCB. They should be a  
3 public document because they are provided in a public forum, but  
4 again, I mean --

5 Q These are called fiscal notes?

6 A These are called fiscal notes, but again, you have to  
7 understand, I would caution a little bit because these are done  
8 under a very limited time frame.

9 They're usually about a five-day turnaround, so we  
10 have to really hump to get them done, and try to get the best  
11 information we can.

12 Now as far as accuracy, they're to best of our  
13 knowledge, best of the estimate at the time, okay?

14 The department should have those.

15 Q The Department of Taxation?

16 A Yes, I know I put them in the box.

17 Q The fiscal notes?

18 A Yes.

19 Q Okay. And I'll ask you the same question with respect  
20 to performing arts-type venues in the state of Nevada.

21 Do you recall your staff being tasked with the idea of  
22 going out and figuring out whether or not performing arts venues  
23 would be impacted by lowering the seating capacity from 300 to  
24 200?

25 A That's a possibility, but to the best of my

1 recollection, I don't know if it was done or not. It may been  
2 done. It may not have been done.

3 Q But you do know that that was actually done for strip  
4 clubs specifically, right?

5 A Yes.

6 Q And what was your role in that, if anything, in  
7 determining how revenue generated from strip clubs would be  
8 impacted by lowering the 300-seat capacity to 200 seats?

9 A I would have asked staff to perform an analysis.

10 Q Do you remember who asked you to perform that  
11 analysis?

12 A Like I indicated earlier, it could have come from LCB  
13 fiscal, it could have been from Mark Stevens, or it could have  
14 from Gary Ghiggeri.

15 Q Okay. Let me show you a document that we'll have  
16 marked for identification as Exhibit Number 1.

17 (Exhibit 1 marked for identification)

18 BY MR. ROOS:

19 Q Take your time and read through it. I won't ask any  
20 questions until you are through it. Let me know when you're  
21 ready.

22 A I'm ready.

23 Q Is this what you've been referring to as a fiscal  
24 note, or is this something different?

25 A This is something different.

1 Q Okay. What is this?

2 A This is something that would come, came as a request  
3 from the director at that time, Chuck Chinnock, and now I know,  
4 now I'm sure about who the district manager was in Reno. It was  
5 Cathy Chambers.

6 She probably worked with staff. They probably went  
7 out, because there was a limited number of venues up here in  
8 Reno, and they gathered this information and provided it to  
9 Mr. Chinnock, the director at the time.

10 Q And do you recall receiving this?

11 A I don't recall seeing this, no.

12 Q Having --

13 A I realize I'm carbon-copied on this thing, but --

14 Q And this is marked for purposes of the record as DV  
15 000198 through DV 000200.

16 Would you agree that this is a specific analysis of  
17 the impact that would occur in lowering the seating capacity  
18 from 300 to 200 with respect to gentlemen's clubs?

19 A Yes.

20 Q And as you sit here today, do you recall a similar  
21 type of memorandum being generated for any other type of  
22 industry?

23 A Not that I recall.

24 Q Are the names of business, business, businesses that  
25 are subject to live entertainment tax according to your

1 understanding privileged, just the name itself?

2 A Not --

3 MS. RAKOWSKY: Object. Calls for a legal conclusion.

4 BY MR. ROOS:

5 Q Just out of your understanding?

6 A Not the name.

7 Q All right. And is the actual seating capacity of a  
8 taxpayer a piece of privileged information to your  
9 understanding?

10 MS. RAKOWSKY: Object to the form. Asks for a legal  
11 conclusion.

12 THE WITNESS: Not that I'm aware of.

13 BY MR. ROOS:

14 Q Only the amount of tax that an individual taxpayer has  
15 paid would be the privileged information, correct?

16 MS. RAKOWSKY: Object to the form. Calls for a legal  
17 conclusion.

18 THE WITNESS: It's more than just that.

19 BY MR. ROOS:

20 Q Okay. What else?

21 A It could, it could be privileged information that the  
22 business provides to us.

23 Q Under --

24 A That could potentially put them at risk with their  
25 competition.

1 Q And would that include seating capacity?

2 A No.

3 Q Would that include the name of the venue?

4 A I doubt it.

5 Q Let's go off the record.

6 (Discussion off the record)

7 BY MR. ROOS:

8 Q All right. Let me just give you the next exhibit.

9 (Exhibit 2 marked for identification)

10 BY MR. ROOS:

11 Q Are you done?

12 A Yeah.

13 Q Okay. Sorry.

14 A No, that's fine.

15 Q All right. I'll have marked as Exhibit Number 2 this  
16 document, which is Bates-labeled DV 000002 through 000003.

17 Do you recognize this document?

18 A I don't recall ever seeing it.

19 Q All right. You've read through this document?

20 A Uh-huh (affirmative).

21 Q That's a yes?

22 A Yes. Sorry.

23 Q That's okay.

24 This document is generated by the Department of  
25 Taxation?

1 A Yes.

2 Q Chuck Chinnock was your supervisor?

3 A He was the director at that time.

4 Q Who is Marian Henderson?

5 A She is staff on the fiscal side that does  
6 distributions, revenue distributions, and Lynne Knack, at that  
7 time, she's retired, was the administrative services officer.

8 Q And this appears to be a request for an analysis of  
9 revenue impact from making changes in the LET?

10 A Yes.

11 Q All right. I want to focus your attention on the  
12 eliminate the 300-seat threshold component of this.

13 And if you read the first sentence, it says, this  
14 change would cause the inclusion of many of the smaller venues  
15 which are now exempt from the tax.

16 Do you see that?

17 A Uh-huh (affirmative).

18 Q It goes on to say, business that would now be subject  
19 to the tax would specifically include bars, nightclubs,  
20 gentlemen's club with a seating capacity of fewer than 300  
21 patrons.

22 Do you see that?

23 A Uh-huh (affirmative).

24 Q Then this is the part that I'm interested in.

25 It says, the fiscal impact is difficult to estimate as

1 not all bars and nightclubs provide live entertainment, nor do  
2 they charge a cover charge for admission.

3 A Uh-huh (affirmative).

4 Q It says, we also are not able to determine whether the  
5 live entertainment is provided on a regular, periodic or  
6 one-time basis.

7 Does this indicate to you that the department was not  
8 even able to figure out, with respect to bars and nightclubs,  
9 how the 300-seat threshold capacity would impact from a fiscal  
10 standpoint the collection of live entertainment tax?

11 MS. RAKOWSKY: Objection. The document speaks for  
12 itself.

13 THE WITNESS: The best way I can respond to that is,  
14 is that the department probably did not have the necessary  
15 information from the specific bars, nightclubs, and other  
16 gentlemen's clubs to be able to make a determination as to the  
17 revenue impact.

18 BY MR. ROOS:

19 Q Right. And --

20 A Based upon existing reporting at that time.

21 Q Okay. And are you aware of any additional reporting  
22 or information that was generated subsequent to March 14th of  
23 2005, where the department actually went out and tried to figure  
24 out whether live entertainment was provided on a regular,  
25 periodic or one-time basis with respect to bars and nightclubs?



1           A     Based on this memo, I don't believe so.

2           Q     But the department was able to determine the fiscal  
3     impact with respect to lowering the seating capacity from 300 to  
4     200 with respect to gentlemen's clubs, correct?

5           A     That's my understanding, yes.

6           Q     And that is because the department actually went out  
7     and determined on an individual club-by-club basis whether or  
8     not a club had 300 seats or 200 seats?

9                     MS. RAKOWSKY: Object to the form of the question.  
10    Misstates prior testimony.

11    BY MR. ROOS:

12           Q     Okay.

13           A     The only way I can respond to that is that under the  
14     original determination as to who owed the live entertainment tax  
15     based on the way the law was written and the regulation was  
16     adopted in 2003, there would have been information provided to  
17     the department by different clubs that did not meet that  
18     capacity requirement because they provided that information to  
19     us so they would not be subject to the tax.

20                     In other words, we would not be subjecting them to,  
21     you know, penalties and interest if they didn't report or pay.

22           Q     Okay. So the department was given information from  
23     strip clubs who wanted to be exempted from the tax?

24           A     Uh-huh (affirmative).

25           Q     Because they believed that their seating capacity was

1 below 300?

2 A Yes.

3 Q And then your testimony is that the Department of  
4 Taxation had that information, which was provided by the strip  
5 clubs, and then used that information to determine which of  
6 those clubs would be captured if --

7 A Uh-huh (affirmative).

8 Q -- the seating capacity was lowered to 200?

9 A To the best of my recollection, yes. That's what I  
10 think was done.

11 Q Okay. And it's true that by lowering the seating  
12 capacity from 300 to 200, your understanding was that you  
13 captured virtually all, if not all, of the additional strip  
14 clubs that were not previously taxed, correct?

15 A Based on this memo, okay, but my own personal  
16 recollection, no.

17 Q Okay.

18 A If this --

19 Q What's your personal recollection with respect to that  
20 particular issue?

21 A I never got into that discussion.

22 Q Well, now I'm confused because you said with respect  
23 to my personal recollection, no, not all of them were captured?

24 A No, they were not.

25 Q Okay.

1           A     There were, there were instances that I was aware of,  
2           there were several nightclubs here in Reno that were not subject  
3           to the 300-seating capacity because they did one of two things.

4           They either had the fire marshal come back out and  
5           make a redetermination as to their seating capacity. In some  
6           cases, it dropped below the 300, and we were informed of that.

7           Q     Right. And I may have improperly asked the question.

8           A     Well, okay.

9           Q     Or you didn't understand it.

10           But my question was, after you were given that  
11           information, and after you knew people were not paying the tax  
12           because it was below 300 seats, isn't it your understanding that  
13           once it was dropped to 200, that all of the strip clubs were  
14           then captured by the live entertainment tax?

15           A     That --

16           MS. RAKOWSKY: Object to form.

17           THE WITNESS: That's a possibility. I can't say with  
18           certainty that that occurred.

19           BY MR. ROOS:

20           Q     Well, do you ever remember having any discussions  
21           internally within the department where somebody said, you know,  
22           lowering it to 200, we still have three clubs, gentlemen's  
23           clubs, that still don't pay tax because they only have ten  
24           seats?

25           A     I don't recall that.

1 Q Not one way or the other?

2 A Nope.

3 Q Do you see where you said, using the same per capita  
4 analysis of the existing gentlemen's clubs which are currently,  
5 which currently have a seating capacity of fewer than 300  
6 patrons, we estimate that an additional \$4 million may be  
7 generated?

8 MS. RAKOWSKY: Object to the form because this is not  
9 his memo. He was not even copied on this.

10 MR. ROOS: No, I'm just referencing it.

11 MS. RAKOWSKY: You said --

12 BY MR. ROOS:

13 Q Oh, did I say that you wrote it? I'm sorry. Let me  
14 rephrase it, then.

15 Do you see the portion that states --

16 A Uh-huh (affirmative).

17 Q -- using the same per capita analysis of the existing  
18 gentlemen's clubs, do you know how the department went about  
19 estimating a specific dollar figure of \$4,197,900?

20 A I don't recall. No.

21 Q Do you agree with the statement above that sentence  
22 that says, the gentlemen's club, gentlemen's clubs remit a much  
23 higher per capita dollar amount of tax?

24 MS. RAKOWSKY: Where is that?

25 THE WITNESS: It's right here. It says, since the

1 gentlemen's clubs remit a much higher per capita dollar amount  
2 of tax, two separate financial analyses were conducted.

3 I don't know what they're referring to there.

4 BY MR. ROOS:

5 Q What is per capita dollar amount of tax?

6 A Well, per capita could mean a lot of different things.  
7 It could be customers. It could be population. I don't know.

8 Q All right. And as my understanding from reading this  
9 that section 1 relates to the revenue, increased revenue that  
10 would be generated from door charges, and then section 2 of the  
11 memo deals with the increased revenue that would be generated  
12 from the additional 10 percent tax on food and beverage?

13 A And sales tax, yes.

14 Q And so an analysis was done with respect to both the  
15 door charges, and the increased tax on food and beverage  
16 specifically related to gentlemen's clubs and lowering the  
17 seating capacity from 300 seats to 200 seats.

18 That's your understanding of this memo?

19 A As I read it, yes.

20 Q And you don't recall any other memos of this type  
21 being generated that broke down revenue for admission charges  
22 and tax with respect to any other type of business industry,  
23 correct?

24 A Not to my recollection. Could there have been others?  
25 Possibly. I don't know.

1 Q Okay. Now do you want to take a break?

2 MS. RAKOWSKY: Yes.

3 (A lunch recess was taken)

4 BY MR. ROOS:

5 Q All right. Mr. DiCianno, do you remember a point in  
6 time when legislation was crafted in 2005 by Senator Titus  
7 regarding live entertainment tax?

8 A Yes.

9 Q Do you recall that the legislation that Senator Titus  
10 crafted was specifically targeted towards strip clubs?

11 A That's my understanding.

12 Q And what do you recall, did you have any conversations  
13 with Senator Titus about her legislation?

14 A No.

15 Q Did you have any discussions that you can recall with  
16 her staff about her proposed legislation?

17 A As far as LCB fiscal, yes.

18 Q What do you recall about discussions you had with LCB  
19 fiscal?

20 A They wanted to know what kind of fiscal impact there  
21 could be associated with, I think it was SB 275, if I remember  
22 correctly.

23 Q AB 247?

24 A AB 247. I'm sorry. I get them confused.

25 Q That's okay.

1                   **What do you remember about AB 247 specifically?**

2           A       That she was specifically wanting to include more so  
3           on the strip clubs. I mean, that was her intent was my  
4           understanding.

5           Q       Do you remember how she intended to target the strip  
6           clubs with her legislation?

7           A       No.

8           Q       Do you remember her, basically, creating two separate  
9           categories of strip club category and everybody else?

10          A       No, I don't recall that.

11          Q       Okay. What fiscal discussions do you remember having  
12          about AB 247?

13          A       Other than providing LCB with an estimate as to the  
14          level of the revenue that would be generated by it, by the  
15          language change.

16          Q       Do you remember what language change would have driven  
17          the revenue effect?

18          A       I would have to reread the bill. Again, and, I mean,  
19          it's been so long, I don't even recall what all I even provided  
20          to LCB fiscal.

21          Q       Were you present or involved in any of the discussions  
22          where Senator Titus described her bill?

23          A       In committee?

24          Q       Yes.

25          A       It's possible, but I don't recall.

1           Q     Do you ever remember hearing her say anything in form  
2     or substance that the current legislation did not adequately  
3     bring in a group that was intended to be included in the LET  
4     statute, meaning strip clubs?

5           A     She may have. I don't know.

6           Q     She may have.

7                 You don't have any recollection of her saying that?

8           A     No. No.

9           Q     Do you remember her saying at any point that her  
10    proposed legislation would eliminate the seating requirement  
11    altogether, which was problematic with respect to strip clubs?

12          A     I don't recall that.

13          Q     All right. Do you remember her drawing a distinction  
14    between certain categories of live entertainment that she deemed  
15    to be family-oriented as opposed to strip clubs that she did not  
16    deem to be family-oriented?

17                 MS. RAKOWSKY: Objection. Calls for speculation.

18                 THE WITNESS: I don't know.

19    BY MR. ROOS:

20          Q     Do you ever remember anybody discussing a distinction  
21    between certain types of taxpayers that were construed to be  
22    family-oriented?

23                 MS. RAKOWSKY: Objection. Calls for speculation.

24                 THE WITNESS: Not that I recall.

25                 ///



1 BY MR. ROOS:

2 Q Do you remember anybody indicating that the NASCAR  
3 race was a family-oriented type of business?

4 A Not that I recall.

5 Q What about the 51s, Area 51s baseball?

6 A No.

7 Q All right. Ultimately AB 247 was not passed; is that  
8 your recollection?

9 A That's my understanding, yes.

10 Q And something different was crafted, correct, from the  
11 legislative standpoint. I mean, a bill did pass in 2005 related  
12 to live entertainment. You have that recollection, correct?

13 A That, I have my -- yes. Yes.

14 Q And so it was not AB 247. What do you remember being  
15 passed?

16 A My understanding was some clarification, and I think  
17 the, to the best of my recollection, that's when they addressed  
18 NASCAR.

19 Q Right.

20 And that's also when they addressed the seating  
21 capacity, correct?

22 A Correct. Okay. Thank you.

23 Q So in 2005, it's your recollection that the seating  
24 capacity was dropped from 300 to 200?

25 A That's my understanding.

1           Q     And that was after you did, after the Department of  
2     Taxation, did its analysis of how dropping that seating capacity  
3     would capture additional strip clubs, correct?

4           A     Based on this memo, that's my understanding.

5           Q     All right.

6           MS. RAKOWSKY: Just to clarify the record, that's  
7     Exhibit 2, and that was the memo that was not even authored or  
8     addressed to Mr. DiCianno.

9     BY MR. ROOS:

10          Q     Actually I believe it would encompass both Exhibits 1  
11     and 2, which predate the legislation.

12                 Now did you do, did your department, or anybody in  
13     your department, do an analysis after the seating capacity was  
14     dropped to determine whether or not the state gained or lost  
15     revenue as a result of that?

16          A     I don't recall, but it's possible.

17          Q     Let me, this is on a different topic, but let me draw  
18     your attention to what I will have marked as Exhibit Number 3.

19                 (Exhibit 3 marked for identification)

20     BY MR. ROOS:

21          Q     Let me know when you're done reading that.

22                 Are you done?

23          A     Uh-huh (affirmative).

24          Q     Okay. Do you recognize this email?

25          A     Yes.

1 Q Okay. This is marked as DV 001087. This is an email  
2 that you sent?

3 A Familiar. There's the spelling for Gary Ghiggeri.

4 Q This is an email that you sent?

5 A Uh-huh (affirmative).

6 Q That's a yes?

7 A Yes.

8 Q Okay.

9 A I'm sorry.

10 Q It's okay.

11 On April 24th of 2005 it looks like?

12 A Yes.

13 Q And that was prior to the 2005, or maybe during the  
14 2005 legislative session?

15 A It would have been during.

16 Q All right. And I want you to look at, this is with  
17 respect to Senator Titus' SB 247. You indicate there's no  
18 question that the focus of the bill is to tax for LET all adult  
19 entertainment except for brothels.

20 Do you see that?

21 A Uh-huh (affirmative). Yes.

22 Q And then it says, currently the vast majority of  
23 revenue that we collect comes from the gentlemen's clubs that  
24 have a seating capacity greater than 300.

25 Do you see that?

1 A Yes.

2 Q So you knew as of 2005 that the vast majority of the  
3 revenue that the Department of Taxation was collecting under the  
4 live entertainment tax was coming from gentlemen's clubs?

5 A That is correct based upon the reporting at that time.

6 Q All right. Now I want to focus your attention on the  
7 next sentence, which says, for example, 1.2 million comes from  
8 nightclubs, 1.4 million from raceways, 1.0 million from  
9 performing arts, 5.2 million from gentlemen's clubs for a total  
10 collected of about 9 million.

11 Do you see that?

12 A Yes.

13 Q All right. According to my math, that's 5.2 million  
14 out of about \$8.8 million of total revenue comes directly the  
15 strip clubs. I think you estimated you just rounded it up to 9  
16 million, correct?

17 A That's correct.

18 Q All right. Where you see \$1.4 million from raceways,  
19 that is because in 2005 NASCAR was not exempt from the live  
20 entertainment tax, correct?

21 A That's my understanding.

22 Q And so after the 2005 legislative session,  
23 \$1.4 million of revenue would completely drop off, correct?

24 MS. RAKOWSKY: Objection. Calls for speculation. And  
25 misstates prior testimony.

1 THE WITNESS: That's possible. I don't know.

2 BY MR. ROOS:

3 Q All right. Did you ever do an analysis post the  
4 legislative session to determine how the percentage of income  
5 generated from strip clubs actually increased as an overall  
6 percentage due to the fact that NASCAR was no longer included  
7 within the definition of live entertainment?

8 A Not that I'm aware of.

9 Q But as you sit here today, it would stand to reason  
10 that if NASCAR was no longer included within the live  
11 entertainment tax, then that overall percentage of revenue would  
12 increase for gentlemen's clubs, correct?

13 A Based on these figures, yes.

14 Q When you picked out, when you say, for example,  
15 nightclubs, raceways, performing arts and gentlemen's clubs,  
16 that is the revenue that was generated from the new sort of  
17 industries that were taxed separate and apart from the people  
18 that had always been taxed under the casino entertainment tax,  
19 correct?

20 A That's -- well, yes, but conditionally, because there  
21 could have been areas where gaming may have picked up nightclubs  
22 under certain circumstances that they would no longer be picking  
23 up that we would pick up because they no longer would have  
24 gaming at those venues.

25 Q Okay.

1           A     I mean, that was all part of the discovery at that  
2     time.

3           Q     All right. So I understand that.

4                     But from your analysis, when you're looking at the  
5     1.2 million from nightclubs, 1.4 million from raceways,  
6     1 million from performing arts, and 5.2 million from gentlemen's  
7     clubs, those are the sort of industries that sit under, under  
8     the purview of the Department of Taxation because they were  
9     noncasino-related, correct?

10          A     That's correct.

11          Q     And so the analysis that you were doing was,  
12     basically, focused on what is the revenue that the state is  
13     generating under my purview, as opposed to kind of putting off  
14     to the side what the casino entertainment tax was generating,  
15     correct?

16          A     That's correct.

17          Q     And you've already testified that it was your  
18     understanding that this new live entertainment tax was not meant  
19     to take away from the casino entertainment tax, correct?

20          A     That's my understanding.

21          Q     So this analysis really takes into account that the  
22     casino entertainment tax is not likely changing, and this is the  
23     additional revenue that we're getting from the live  
24     entertainment tax, correct?

25          A     One could conclude that, yes.

1           Q     All right. You say, by removing the seating capacity  
2     and eliminating the other types of venues, you would then  
3     capture all of the remaining gentlemen's clubs that are  
4     currently not paying.

5                     Do you see that?

6           A     Yes.

7           Q     What are the other types of venues that would be  
8     eliminated?

9           A     Wow. I'm drawing a blank. I apologize. It must have  
10    related to the language in the bill, and for the life of me, I  
11    don't recall the language in the bill.

12          Q     Do you see where you say --

13          A     I don't know what those other types of venues are off  
14    the top of my head right away.

15          Q     Do you see the next sentence where you say, there is  
16    no question that they are a cash cow for LET?

17          A     Based upon the statistics above, that's what I meant  
18    by that.

19          Q     And who is "they," the gentlemen's clubs?

20          A     Yes.

21          Q     All right. What did you mean by "a cash cow"?

22          A     Based upon the statistics that I indicated earlier,  
23    that they were the vast majority of the revenue generated by the  
24    LET that the department collected that was nongaming.

25          Q     So was it your view that the gentlemen's clubs were a

1       **significant source of revenue for the state?**

2           A     No. They were a significant source of revenue based  
3       upon the definition of live entertainment, specifically. And  
4       who else was having to pay it on, under the purview of the  
5       department.

6           Q     Okay. You then go on to say, my best guess is that  
7       the fiscal impact of SB 247 would be either a wash with the  
8       distinct possibility of a potential LET revenue gain.

9                     How would it be a wash if additional strip clubs were  
10       being asked --

11          A     It goes back to the prior sentence where I made the  
12       statement that by removing the seating capacity and eliminating  
13       the other types of venues, then in my estimation based on that,  
14       it would have been a wash.

15                     The problem for me right here right now is that I  
16       don't recall what those other venues were. I would have to look  
17       at the bill.

18          Q     Okay. So it would have been a wash because revenue  
19       that was generated from these unidentified other venues --

20          A     Correct.

21          Q     -- would fall away, but additional revenue would jump  
22       up because more strip clubs would be paying?

23          A     Based upon the seating capacity and the language  
24       contained in the bill.

25          Q     Do you remember ever doing any analyses after 2005



1       that compared the percentage of revenue generated by strip clubs  
2       as opposed to other types of live entertainment venues?

3           A     It's possible, but I don't recall.

4           Q     As you sit here today, having run the Department of  
5       Taxation, or maybe not run it, but having been high up in the  
6       Department of Taxation, is it your recollection, as you sit here  
7       today, that post-2005 the, a vast majority of the revenue  
8       collected for live entertainment comes from strip clubs?

9           A     Yes.

10          Q     In excess of 80 percent?

11               MS. RAKOWSKY:  Objection.  Calls for speculation.

12               THE WITNESS:  I don't know what the exact percentage  
13       is.

14       BY MR. ROOS:

15          Q     Do you have an estimate, as you sit here today?

16          A     No, but it is the majority of the revenue.

17          Q     Okay.  Do you believe that it's above 50 percent of  
18       the total revenue?

19          A     It's more than that.

20          Q     Above 60 percent?

21          A     More than that.

22          Q     More than 70 percent?

23          A     Possible.

24          Q     So it's 70, somewhere in 70 to 80 percent range?

25          A     It's possible.

1           Q     You then say, those types of venues, and I assume that  
2     you mean strip clubs, will not disappear because of the  
3     additional tax burden. They will probably expand since the  
4     customer is the one paying the tax.

5                     Had the Department of Taxation done any sort of study  
6     or analysis to determine that the customer was actually paying  
7     live entertainment tax to the strip clubs?

8           A     The customer wasn't paying the live entertainment tax.  
9     The customer was paying the admission charge.

10          Q     So why do you say --

11          A     Which was the calculation for the tax. That's where  
12     the revenue comes from.

13          Q     All right. So then I'm confused.

14                     Why do you say the customer is the one paying the tax?

15          A     Well, it's a transaction tax. There's a transaction  
16     tax. The customer pays the admission charge in which the tax is  
17     calculated on.

18                     Now what the strip club does as far as adjusting the  
19     admission tax, I don't know that.

20          Q     Okay. That really went to the heart of my question.

21                     Is whether or not the Department of Taxation did an  
22     analysis to determine whether or not the strip clubs were  
23     accounting for an increase in admissions or an increase in drink  
24     prices in order to capture the live entertainment tax?

25          A     No.

1 Q Okay.

2 A We did not.

3 Q So when you said this, that the customer is the one  
4 paying the tax, that may very well have been wrong if the --

5 A It's possible.

6 Q Did the Department of Taxation do a study to find out  
7 whether or not certain strip clubs were artificially trying to  
8 lower their seating capacity to avoid the 300 seats?

9 A No.

10 Q You had indicated that there was a discussion about  
11 the fire marshal.

12 Was there some anecdotal evidence that that was  
13 occurring, that strip clubs were in fact lowering their seating  
14 capacity to avoid the 300 seat?

15 A To the best of my recollection, I had heard that there  
16 were several of the businesses were asking the fire marshal to  
17 revisit their seating capacity because it probably had been a  
18 long time that they had reviewed it, to ensure that in case, in  
19 fact that was a true seating capacity.

20 And in some cases, I was told, or heard, that they had  
21 changed their physical capacity to adjust for that 300-seating  
22 capacity.

23 Q These were the strip clubs that --

24 A Yes. Yes, and other venues. As a business decision  
25 that they were doing these things.

1 Q And did you come to learn that the fire marshal was  
2 more than happy to do that because it made their job easier?

3 A No.

4 Q You never heard that the fire marshal was okay with  
5 people lowering their occupancy loads?

6 A No.

7 Q All right.

8 MS. RAKOWSKY: Can we go off the record for a few  
9 minutes while you go through your papers?

10 MR. ROOS: Of course.

11 (Discussion off the record)

12 (Exhibit 4 marked for identification)

13 BY MR. ROOS:

14 Q Okay. All right. Mr. DiCianno, in 2005, do you ever  
15 remember anybody discussing, either internally or amongst the  
16 legislative body, issues with respect to whether or not the 2005  
17 legislative changes to the live entertainment tax created First  
18 Amendment issues?

19 A No.

20 Q In the entire span of the time that you dealt with  
21 live entertainment tax, from 2003 until you were no longer with  
22 the department, do you ever remember having discussions  
23 internally or amongst the legislature about First Amendment  
24 issues with respect to live entertainment?

25 MS. RAKOWSKY: You're not including any kind of

1 discussions with counsel or anything?

2 BY MR. ROOS:

3 Q Yeah. I'm not including discussions that you've had  
4 with counsel, whether it be related to this particular matter or  
5 any other matter.

6 I'm just saying amongst the regulatory body, that is,  
7 the Department of Taxation, as well as overall within your  
8 dealings with the legislature, can you remember having any  
9 discussions about First Amendment issues with respect to the  
10 live entertainment tax?

11 A No.

12 Q Let me ask you a question about this document that is  
13 marked as Exhibit Number 4 for identification.

14 If you turn to the page that's labeled DV 000205,  
15 actually there's two copies of that page. I think the state  
16 changed its mind on redactions, so if you turn to the last page,  
17 it's actually --

18 A Sure.

19 Q -- less redacted.

20 I want to see if this refreshes your recollection  
21 about the seating capacity issue.

22 Do you see at the bottom where it says, in all  
23 jurisdictions there is absolutely no difficulty for a business  
24 to reduce the occupancy permit?

25 A That is the opinion of the individual who wrote the

1 memo.

2 Q Okay. And the person that wrote the memo was  
3 Catherine Chambers of the tax division manager for Reno?

4 A That's correct.

5 Q And this went to Chuck Chinnock?

6 A Uh-huh (affirmative).

7 Q And you were copied on it, as well, right?

8 A Yes.

9 Q And according to Miss Chambers, she had indicated that  
10 a business owner just requests that the occupancy number be  
11 lowered?

12 A I'm sorry. What --

13 Q If you read the next sentence, she says, a business  
14 owner merely requests the occupancy number -- I guess what she's  
15 saying is that she believes that a business owner could just go  
16 to the fire marshal and request an occupancy number; is that  
17 your understanding?

18 MS. RAKOWSKY: Objection, calls for speculation.

19 THE WITNESS: Again, that's an opinion of whoever  
20 crafted this memo.

21 BY MR. ROOS:

22 Q All right. And I'm not really interested in her  
23 opinion, but do you remember having discussions amongst  
24 yourselves about whether or not a business owner could drop its  
25 occupancy number to, as the example that Miss Chambers gave,

1 something like 295 to avoid the 300-seat capacity issue?

2 A I don't recall having that discussion.

3 Q And this doesn't refresh your recollection as to  
4 having that discussion?

5 A Huh-uh (negative).

6 Q That's a no?

7 A No. I never had that discussion.

8 Q Okay.

9 A And if I may, if possible without any objection, to  
10 clarify a piece of testimony that I provided earlier as to who  
11 the deputy director was over administrative services.

12 It was Tom Summers at that time, and not Woody Thorne.

13 Q Oh. Thank you for that correction.

14 A Too many people.

15 Q Do you remember in the 2005 time frame when Senator  
16 Titus' SB 247 bill, basically, died, and then there was an  
17 effort to get another bill passed related to live entertainment?

18 A There may well have been. I don't recall that.

19 Q So I take it, then, that you weren't involved with any  
20 senators or assembly people to try to put together an  
21 alternative bill quickly?

22 A Not that I'm aware of.

23 (Exhibit 5 marked for identification)

24 BY MR. ROOS:

25 Q Is this just a duplicate?

1 A It appears to be, yes.

2 Q Which one is it a duplicate of?

3 A DV 000190. I don't know which exhibit number it is.

4 Q I couldn't discern that, so I was not sure.

5 A It appears to be. It doesn't contain the memorandum  
6 part of it. It appears, this appears to be only the --

7 Q Oh, I see.

8 A The content --

9 Q Right.

10 A -- of the memo.

11 Q Okay.

12 A It appears to be the same thing. I mean, you can  
13 correct me if I'm wrong.

14 Q I think I agree with you, so you just cut time out of  
15 your deposition.

16 Do you ever remember asking anybody to do an analysis  
17 of the specific revenue that would be generated by strip clubs  
18 as a subcategory of the overall businesses that have 300 seats  
19 or less?

20 A Not that I recall, no.

21 Q Do you have any reason to know why anybody at the  
22 Department of Taxation would have done something like that?

23 A Not to my, not to my knowledge, no. Unless if they  
24 were requested by -- well, what time period was this?

25 Q I don't have a time period. It's just a blank piece



1 of paper.

2 A Well, I can tell you this much. When I was a  
3 director, no, I never requested that. Prior to that, the prior  
4 executive director, maybe. I don't know. But I was not aware  
5 of it.

6 Q The prior executive director, meaning?

7 A Chuck Chinnock.

8 Q Okay. So you as the person that was charged with  
9 applying the tax, live entertainment tax, you did not have any  
10 interest in knowing what the income generated from gentlemen's  
11 clubs was as a subset of all those paying taxes with 300 seats  
12 or less?

13 A No.

14 Q Is there any reason why you did not want to know that?

15 A No. To the best of my knowledge, no, I don't.

16 Q Okay. Is there, as you sit here today, do you know of  
17 any reason why anybody else in the Department of Taxation would  
18 have wanted to have known that information?

19 A Not that I'm aware of, no.

20 Q Is there anything special about gentlemen's clubs from  
21 the perspective of live entertainment that would have sparked  
22 the interest in anybody over who had oversight into figuring out  
23 how much revenue was generated by that subset of live  
24 entertainment taxpayers?

25 A Not that I'm aware of. No.

1 Q And it's your testimony, as you sit here today, that  
2 the live entertainment tax from your perspective in all of your  
3 dealings from 2003 until you left, were not, that live  
4 entertainment tax statute was not intended to target gentlemen's  
5 clubs?

6 A Not to my recollection, no.

7 Q Okay. Was there ever any discussions, whether during  
8 the LET workshops or internally amongst your employees, about  
9 whether or not the continual addition of exemptions to the live  
10 entertainment tax was significantly reducing the LET taxpayer  
11 base?

12 A No. No.

13 Q Did you ever have any concerns that individual  
14 business entities were being granted an exception when they were  
15 clearly providing live entertainment?

16 A It's not our purview. We are simply the  
17 administrator.

18 Q I understand, but from the perspective of you wanting  
19 to apply this tax evenhandedly across --

20 A No.

21 Q -- those subject to the tax, did it ever occur in your  
22 mind or ever become a concern of the Department of Taxation that  
23 there was a significant number of businesses that were being  
24 exempted out of the live entertainment tax?

25 A No.

1           Q     And knowing that the -- there are in fact significant  
2 groups of businesses that are exempted from the live  
3 entertainment tax, even though they provide live entertainment,  
4 you don't have a concern that the tax was being applied in an  
5 uneven manner?

6           A     That was not in my purview. No.

7           Q     Well, that was in your purview, making sure that tax  
8 was applied evenhandedly?

9           A     But the way you stated the question is the legislature  
10 had specifically provided for exclusions and exemptions, no.  
11 That's their concern.

12                     As an administrator, I would administer what they had  
13 passed. No more, no less.

14           Q     Okay. All right. I don't think I have any other  
15 questions. I appreciate your time.

16           A     No. No. Not a problem.

17                     MS. RAKOWSKY: I just have a few follow-ups.

18                     THE WITNESS: Can I take a quick break, please?

19                     MS. RAKOWSKY: You bet. You can take a slow break.

20                                     (A recess was taken)

21                                     EXAMINATION

22           BY MS. RAKOWSKY:

23           Q     Go back on the record.

24                     Good afternoon, Mr. DiCianno.

25           A     Hi.

1 Q I'm Vivienne Rakowsky. I represent the Department of  
2 Taxation, State of Nevada.

3 When you discussed how taxes are applied evenhandedly  
4 across the board, were you, basically, saying that it's handled  
5 evenhandedly between each group or type of taxpayer?

6 A That's correct.

7 MR. ROOS: Objection. Leading.

8 Go ahead. You can answer.

9 THE WITNESS: I mean, that's correct. Because that is  
10 one of the main tenets to the Taxpayers' Bill of Rights.

11 BY MS. RAKOWSKY:

12 Q So you wouldn't single out one gentlemen's club and  
13 say, because they pay a lot of revenue, they're not subject to  
14 the LET?

15 A No, we would never do that.

16 Q Was a lot of the language that was incorporated into  
17 the live entertainment tax, as it was written in 2003 and  
18 adopted in, changed in 2005, was a lot of that language and  
19 exemptions originally included in the casino entertainment tax?

20 MR. ROOS: Objection. Calls for speculation and lacks  
21 foundation.

22 THE WITNESS: Well, yes, because of some of the  
23 discussions that occurred in the workshop, yes.

24 BY MS. RAKOWSKY:

25 Q Is the LET a transactional tax?

1 A Yes.

2 Q Is it based on admissions?

3 A Yes.

4 Q Is it based on the message provided in the  
5 entertainment itself?

6 A No.

7 Q Are nonprofit organizations excluded from paying sales  
8 and use tax?

9 A Yes.

10 Q Are you aware that independent Indy races and other  
11 races out at the speedway are not exempt from the live  
12 entertainment tax?

13 MR. ROOS: Objection. Lack of foundation, and calls  
14 for speculation.

15 THE WITNESS: To the best of my knowledge, there are  
16 some things that are not.

17 BY MS. RAKOWSKY:

18 Q Are you aware that certain exemptions were given to  
19 certain types of events and sporting events because other taxes  
20 are paid by those particular types of venues so the state does  
21 collect tax from them?

22 A That was part of the discussion. To the best of my  
23 knowledge, that's my understanding, yes.

24 Q Did anyone ever ask you about your thoughts as to who  
25 should be exempt from the live entertainment tax?

1 A No.

2 Q And when you were talking about the patrons dancing,  
3 was it your understanding that live entertainment tax would  
4 apply to somebody who had actually come there to watch those  
5 particular patrons dance because they were the entertainment?

6 A As I indicated earlier, I mean, it depends upon the  
7 venue.

8 Was it advertised as such? Was there admission  
9 charged to view this? If that were the case, then, yes. There  
10 would be, there would be a live entertainment tax associated  
11 with it.

12 Q The fiscal note that you refer to, were those  
13 generated because of requests by the legislature or by LCB?

14 A Yes, but I also needed to make you aware that there  
15 are such things as unsolicited fiscal notes that our department  
16 or any agency, executive branch agency can make.

17 To the best of my recollection, any fiscal notes  
18 related to the live entertainment tax and the new taxes at that  
19 time were specific requests from Legislative Council Bureau.

20 Q But the Department of Taxation will regularly prepare  
21 fiscal notes with regards to a number of issues not, they didn't  
22 only prepare fiscal notes because of live entertainment tax,  
23 they do it on other taxes, too?

24 A That's correct. That's correct.

25 Q And it's part of the regular work of the agency?

1 A That's correct.

2 Q Okay. Is it difficult to administer most new taxes?

3 A Initially, yes.

4 Q So the tax on financial institutions was also a little  
5 difficult to --

6 A That's correct, because we had to work within the  
7 guidelines that the legislature had put together with respect to  
8 how they defined what a financial institution was.

9 Q When the Department of Taxation gathers information  
10 for fiscal notes, do they sometimes send out letters?

11 A Yes.

12 Q They don't necessarily go to the venue and inspect  
13 them themselves?

14 A No. Not necessarily. No.

15 Q Exhibit 1, I believe it's Exhibit 2. I'm sorry.

16 MR. ROOS: Which one is that?

17 MS. RAKOWSKY: I'll give you that, the Bates number is  
18 DV 000002 and 3.

19 BY MS. RAKOWSKY:

20 Q On page, on the second page of that particular memo,  
21 it gives a breakdown from 2004 of different venues that were  
22 paying live entertainment tax.

23 So in your reading of this, were there a number of  
24 other venues besides gentlemen's clubs that were paying live  
25 entertainment tax?

1 A Yes.

2 Q And this was only the live entertainment which was  
3 administered by the Department of Taxation; is that correct?

4 A That's my understanding, yes.

5 Q Are you aware, if there is a venue inside of a hotel,  
6 such as a restaurant that does concerts, or restaurants that  
7 provides live entertainment, doesn't necessarily have gaming  
8 inside that restaurant, but it's within the curb-to-curb  
9 definition of a casino, is that particular live entertainment  
10 tax administered by Gaming Control?

11 A Yes.

12 MR. ROOS: Objection. Lack of foundation.

13 BY MS. RAKOWSKY:

14 Q So there are a number, so there are a number of  
15 gentlemen's clubs or adult entertainment that takes part, takes  
16 place in a casino that pays live entertainment, but that's  
17 governed by Gaming Control?

18 MR. ROOS: I'm going to object again. Lack of  
19 foundation.

20 He's already testified that he was not involved in  
21 administering the casino side of it, and now he's answering  
22 questions, so I'm going to object.

23 BY MS. RAKOWSKY:

24 Q Was there ever an instance, to your knowledge, where,  
25 when this tax first came into being, where certain venues that



1 were inside of a, the curb-to-curb definition of a casino,  
2 accidentally paid Department of Taxation?

3 A That we would have picked up?

4 Q That they acted, they paid you, and it was,  
5 eventually, refunded back to that particular venue or the Gaming  
6 Control?

7 A That's possible, but I don't recall.

8 Q Okay. Okay. Mr. Roos showed you a transcription of  
9 comments made by a Senator Randolph Townsend on September 19th,  
10 2003.

11 A Uh-huh (affirmative).

12 Q He read, he read a portion of it into the record which  
13 had to do with capturing certain clubs.

14 If you'd turn to page 4.

15 A Okay.

16 Q It discusses the legislative intent, on line 14, and  
17 it says, well, our intention was to find additional revenue, not  
18 reduce revenue.

19 Was that the intent of the live entertainment tax?

20 A That's my understanding. That's the intent of every  
21 new tax.

22 Q Okay. And was the intent, and was that the intent  
23 when they took the casino entertainment tax and expanded it to  
24 cover other nongaming venues?

25 A That's --

1 MR. ROOS: Objection. Calls for speculation. He  
2 already testified that he wasn't involved in that.

3 THE WITNESS: I mean, I wasn't, again, I was not  
4 involved in the gaming side, but, yes, that was the intent.  
5 BY MS. RAKOWSKY:

6 Q Okay. And he goes on to say, as a result, I  
7 encouraged him to help us find language. At the same time, I  
8 assured him that we were looking for, first of all and foremost,  
9 a minimum of revenue neutral, but certainly we would ask for a  
10 way to make this a revenue enhancement.

11 So does that go to say that the object was to find  
12 additional revenue?

13 A Based on his testimony, yes.

14 Q And going on to page 5.

15 He states, so in our efforts to find a better  
16 across-the-board public policy for entertainment at large, it  
17 was a conscious decision.

18 Does this show that the intent of the legislature was  
19 to have an evenhanded, across-the-board tax that was fair to all  
20 taxpayers?

21 MR. ROOS: Objection. Calls for speculation. Object  
22 to the form of the question. Speculative.

23 THE WITNESS: If you're referring to nongaming versus  
24 gaming-type venues, then the answer is yes.

25 ///

1 BY MS. RAKOWSKY:

2 Q And I just want to go to line 11 where he states, but  
3 the goal originally was to capture more revenue for the state  
4 because we were reasonable -- because we're responsible for  
5 Medicaid, and we were responsible for a great deal of bad debt  
6 in the health arena, and a lot of the subsequent social problems  
7 that face the state could be generated with burgeoning, with a  
8 burgeoning industry. That was the original goal and intent.

9 Do you have any reason to believe that that was not  
10 the intent of the legislature in expanding the casino  
11 entertainment tax into the live entertainment tax, which covered  
12 nongaming, as well as gaming venues?

13 A If the intent was to capture not only gaming-type  
14 venues along with nongaming-type venues, then, yes, but this  
15 statement is specifically to Senator Townsend, and I can't  
16 really speak to that.

17 Q But that was Senator Townsend's intent?

18 A Yes.

19 Q And you have no reason to believe that it was not  
20 Senator Townsend's intent?

21 A No.

22 Q When you discussed that you recall the fiscal note  
23 requests with regards to gentlemen's clubs, there could have  
24 been additional requests of fiscal notes on other businesses  
25 that were also included in the nongaming side of the live

1 entertainment tax; is that correct?

2 A Yes.

3 MR. ROOS: Objection. Asked and answered.

4 BY MS. RAKOWSKY:

5 Q And as you testified before, was the purpose of this  
6 tax to raise revenue?

7 A Yes.

8 Q Is that the purpose of most taxes?

9 A Yes.

10 Q Was the purpose of this tax to put any kind of  
11 gentlemen's clubs out of business because of their message?

12 A No, not that I recall.

13 MR. ROOS: All right. Just a number follow-ups to  
14 those questions.

15 FURTHER EXAMINATION

16 BY MR. ROOS:

17 Q All right. With respect to the fiscal notes,  
18 Ms. Rakowsky asked you whether or not it was possible that other  
19 fiscal notes were generated with respect to  
20 nonstrip-club-related businesses, and you said, yes. It's  
21 possible.

22 If those fiscal notes were generated, and the  
23 Department of Taxation was in receipt of those, those would have  
24 been produced by the state, correct, in this litigation?

25 A I don't know.

1           Q     Were you in charge of putting together documentation,  
2                or did you oversee putting together documentation related to  
3                litigation between the strip clubs and the state specifically --

4           A     No.

5           Q     -- related to live entertainment?

6                Did you task somebody with that job?

7           A     No.

8           Q     Do you believe that the Department of Taxation would  
9                withhold fiscal notes from this litigation if those fiscal notes  
10               existed and related to businesses other than gentleman's clubs?

11          A     No.

12               MR. ROOS:  Objection.  Calls for speculation.

13          BY MR. ROOS:

14          Q     Right.

15                That wouldn't make any sense, because the state would  
16                be more than willing to show that other fiscal notes were  
17                generated with respect to revenue that did not relate to  
18                gentlemen's clubs.  Wouldn't that stand to reason?

19               MS. RAKOWSKY:  Objection.  Calls for speculation.

20               THE WITNESS:  As I indicated, it would, it possibly  
21                could be in the fiscal notes.  It may not be.

22          BY MR. ROOS:

23          Q     You don't think that there actually are other fiscal  
24                notes?

25          A     I don't know.  I don't know if there are or not.

1 Q And you had testified that there are other taxes that  
2 are difficult to administer, but if you're being honest, this  
3 particular tax was very difficult to administer from the day  
4 it's been in, put into effect until the day you left; wouldn't  
5 that be a fair statement?

6 A No. Because based on my experience, at that time,  
7 they instituted a business license, they also instituted the  
8 live entertainment tax, a modified business tax.

9 And the business license tax was probably just as  
10 cumbersome and as difficult to administer as the live  
11 entertainment tax.

12 Q I didn't ask you to compared to another tax. I'm  
13 asking, this live entertainment tax has been difficult to  
14 administer from day one until the day that you left?

15 A All taxes are difficult to administer.

16 Q Okay. Ms. Rakowsky had asked you questions about, and  
17 I didn't really understand the question, it was part of the  
18 discussion about exempting sports was that they were already  
19 paying taxes.

20 Do you recall that line of questioning?

21 A Yes.

22 Q What is it that you're referring to that --

23 A I believe that came out in testimony at the  
24 legislature.

25 Q Okay. When I had asked you about why the baseball was

1       exempted, you indicated that you couldn't, you didn't know.

2               Are you now, do you now have a better recollection  
3       that there was a reason related to other taxes --

4               MS. RAKOWSKY:  Objection.  Misstates the testimony.  
5       I'm sorry.

6       BY MR. ROOS:

7               Q       -- every -- I'm sorry.

8               That related to baseball being exempted?

9               A       As I indicated --

10              MS. RAKOWSKY:  Objection.  Misstates testimony.

11              THE WITNESS:  As I indicated, to the best of my  
12       knowledge, when you first asked me, no.  That refreshed my  
13       memory.  There was discussion, yes, at the legislature with  
14       respect to what level of other types of revenue were being paid  
15       by these other venues to the state.

16       BY MR. ROOS:

17              Q       Well, what type of other revenue was being paid to the  
18       state by, for instance, the Las Vegas 51s?

19              A       I don't know.

20              Q       Okay.

21              A       I do not know.

22              Q       So when you were referring to these other taxes that  
23       were already being paid by sports facilities, were you referring  
24       to somebody other than the 51s?

25              A       No.  What I'm -- what I'm trying to respond and say

1 is, I don't recall the specific types of either fees, license  
2 fees, or other taxes that the department doesn't collect, that  
3 they were paying that was discussed at the legislature that  
4 would have led them to change their policy as far as not to  
5 include them within the live entertainment tax.

6 Q Okay. So as you sit here today, you don't know what  
7 those other taxes or fees could have been?

8 A No.

9 Q You just have a recollection that that's something  
10 that may have been discussed?

11 A That may have been discussed, and I'd have to go back  
12 and review the legislative minutes.

13 Q Is it possible that that was not discussed?

14 A Oh, I'm sure it was discussed.

15 Q Are you positive that it was discussed?

16 A Yes.

17 Q And the 51s, they pay sales and use tax, correct, the  
18 baseball team, for merchandise and food and drink that they  
19 sell?

20 A They, yes.

21 Q Okay. So that tax existed before the live  
22 entertainment tax, correct?

23 A Yes.

24 Q And strip clubs paid sales and use taxes on drinks  
25 before the live entertainment tax, correct?



1 A Yes.

2 Q So that's not an additional tax that a sports club  
3 would be paying that would make up for not paying the live  
4 entertainment tax.

5 Then what is the other tax --

6 A There could be -- well, okay.

7 Some people refer to fees as taxes. To me, it's not  
8 as crystal clear and black and white as to the distinction  
9 between a fee and a tax.

10 It depends on how it's defined in the statute.

11 But there are certain items, I'll call them items that  
12 they pay, sporting events pay to other jurisdictions, whether  
13 they be local or state, through either like the athletic  
14 commission or whatever.

15 I don't, I'm not familiar specifically with what they  
16 pay. But I do recall that there was discussion about what those  
17 other types were in the legislative hearings.

18 What they are specifically, off the top of my head, I  
19 don't know right now.

20 Q Okay. Do you remember that discussion occurring with  
21 respect to boxing?

22 A It's possible.

23 Q Do you remember that discussion occurring with respect  
24 to NASCAR?

25 A That's possible. I don't know.

1           Q     When Senator Townsend said that it, this is on page 5.  
2     He says -- Ms. Rakowsky pointed this out, so in our efforts to  
3     find a better across-the-board public policy for entertainment  
4     at large, it was a conscious decision.

5                     It was a conscious decision, do you see that?

6           A     Uh-huh (affirmative).

7           Q     Then the immediate next sentence is about how this  
8     across-the-board public policy decision was made to exempt  
9     boxing, correct?

10          A     That, what he's referring to there, and again, I can't  
11     speak for Senator Townsend, but from what I gather as to what  
12     he's saying here, is that it would create a noncompetitive edge  
13     to tax boxing for live entertainment.

14          Q     Right.

15          A     That's how I read this.

16          Q     Right.

17          A     Okay?

18          Q     So when you're creating an across-the-board public  
19     policy for taxing entertainment, and you start excluding forms  
20     of entertainment, it's no longer an across-the-board tax, is it?

21          A     Again, that's a matter of interpretation.

22          Q     Well, I mean, you were in charge of administering this  
23     tax.

24                     If you have an across-the-board public policy of  
25     charging live entertainment tax for live entertainment, and you

1 charged live entertainment regardless of whatever entertainment  
2 it is, that's one thing.

3 But would you agree that it's not an across-the-board  
4 public policy if you start exempting out boxing, and NASCAR, and  
5 amusement rides, and various other forms of live entertainment  
6 that we've discussed today?

7 A As my, in my official capacity as either the deputy  
8 executive director or executive director at that time, of which  
9 now I'm retired, that was not under my purview. That was under  
10 the legislative purview.

11 Whatever they pass, that is what we administer.

12 Q So you cannot speak one way or another --

13 A No.

14 Q -- with respect to this statement, across-the-board  
15 public policy, what that meant?

16 A The person who administers the tax should not have any  
17 say whatsoever in determining whether a policy is fair or not  
18 fair.

19 Q And I agree with that.

20 A That's not our purview.

21 Q I agree with that.

22 And so, therefore, you cannot testify one way or the  
23 other with respect to Mr. Townsend's comment that this is an  
24 across-the-board public policy given that all of these are  
25 exempted?

1 A At the time he was a legislator that was his opinion.

2 Q Okay. And you can't testify as to whether or not that  
3 is accurate because that's not part of your purview, correct?

4 A Well, if that's what he said in the workshop, that's a  
5 public comment. It's on the public record. That's his opinion.

6 Q All right. You didn't administer the tax across the  
7 board to any single person that was providing live entertainment  
8 because you had to follow the statute, correct?

9 MS. RAKOWSKY: Objection. Object to the form of the  
10 question.

11 MR. ROOS: Well, no, I'm asking -- okay. Go ahead.

12 MS. RAKOWSKY: I just object to the form of the  
13 question, and you're asking him to speculate.

14 BY MR. ROOS:

15 Q No, I'm, I'm actually not asking him to speculate.  
16 I'm asking him a really simple question.

17 In your capacity of administering this tax, did you  
18 not apply it across the board to any single person that was  
19 providing live entertainment because certain people were  
20 exempted, correct?

21 A Again, as I've indicated already, it doesn't matter  
22 what I believe or don't believe.

23 It's a matter of the way the statutes are written and  
24 the application of the law.

25 Q And the way the statute is written, is not applied

1 across the board to any person providing live entertainment?

2 A I can't respond to that.

3 Q Okay. You can't respond to how the statute is  
4 crafted? You administered it.

5 A The way it's crafted is based upon legislative intent.

6 Q I'm not ascribing any intent to you. I'm asking you,  
7 based upon your efforts to administer the tax, you would have to  
8 agree that it's not applied across the board to all live  
9 entertainment provided by any source because when you were  
10 administering it, you knew that certain sources of live  
11 entertainment were exempted, correct?

12 A No. One, no. Two, I can't respond to that. That's  
13 not my purview.

14 That's not up to me.

15 Q To enforce the tax?

16 A To enforce the tax, correct, based upon the way the  
17 statute is written. Regardless of what one may believe or not  
18 believe. It doesn't matter.

19 MS. RAKOWSKY: I just have one follow-up question.  
20 I'm sorry.

21 FURTHER EXAMINATION

22 BY MS. RAKOWSKY:

23 Q But you did apply the tax across the board to all  
24 persons providing live entertainment who were not otherwise  
25 exempt pursuant to the statute?

1           A     That's correct.

2                   MR. ROOS: All right. Go off the record.

3  
4                               (Proceedings concluded at 1:33 p.m.)

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

[illegible]

\* \* \* \* \*

I, DINO DI CIANNO, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action under penalty of perjury.

That I have read, corrected and do hereby affix my signature to said deposition.

DINO DI CIANNO, Deponent	Date
--------------------------	------

NOTE: Original deposition, per request of counsel, delivered to witness.

1 STATE OF NEVADA )  
2 ) ss.  
3 COUNTY OF WASHOE )

4 I, DEBORAH MIDDLETON GRECO, a Certified Court Reporter  
5 in and for the State of Nevada, do hereby certify:

6 That on Thursday, December 15, 2011, at the hour of  
7 9:48 a.m. of said day, at 151 Country Estates Circle, Reno,  
8 Nevada, personally appeared DINO DI CIANNO, who was duly sworn  
9 by me to testify the truth, the whole truth and nothing but the  
10 truth, and thereupon was deposed in the matter entitled herein;

11 That I am not a relative, employee or independent  
12 contractor of counsel to any of the parties, or a relative,  
13 employee or independent contractor of the parties involved in  
14 the proceedings, or a person financially interested in the  
15 proceeding;

16 That said deposition was taken in verbatim stenotype  
17 notes by me, a Certified Court Reporter, and thereafter  
18 transcribed into typewriting as herein appears;

19 That the foregoing transcript, consisting of pages 1  
20 through 135, is a full, true and correct transcription of my  
21 stenotype notes of said deposition.

22 DATED: At Reno, Nevada, this 27th day of December,  
23 2011.

24 \_\_\_\_\_  
25 DEBORAH MIDDLETON GRECO  
CCR #113, RDR, CRR



<b>A</b>	103:21 105:3	<b>adopted</b> 10:1	130:19,21	<b>answer</b> 5:16,22
<b>AB</b> 93:23,24	120:17 121:12	18:20 32:20	132:8	11:19 30:2,7
94:1,12 96:7	122:24 128:2	88:16 115:18	<b>agreement</b> 28:7	31:13 44:13
96:14	<b>addressed</b> 96:17	<b>adoption</b> 31:17	<b>ahead</b> 30:2	48:18 58:15
<b>able</b> 28:4 87:4,8	96:20 97:8	<b>adult</b> 43:9 98:18	47:15 48:18	63:8 115:8
87:16 88:2	<b>adequately</b> 95:2	119:15	63:8 115:8	121:24
<b>absent</b> 40:12	<b>adjust</b> 106:21	<b>advertise</b> 63:13	131:11	<b>answered</b> 36:24
41:6	<b>adjusting</b>	66:7	<b>alternative</b>	37:7 123:3
<b>absolutely</b> 16:17	105:18	<b>advertised</b>	110:21	<b>answering</b>
108:23	<b>administer</b> 9:5	59:18 62:24	<b>altogether</b> 95:11	119:21
<b>abundant</b> 9:11	18:25 76:7	63:1 64:6,21	<b>ambience</b> 25:20	<b>answers</b> 5:14
<b>accidentally</b>	114:12 118:2	66:21 67:3,12	<b>ambient</b> 28:11	<b>anybody</b> 12:2
120:2	125:2,3,10,14	117:8	28:14 29:13	19:1 22:3 36:4
<b>account</b> 101:21	125:15 130:11	<b>advertisement</b>	30:19,21 31:3	43:15,25 45:7
<b>accounting</b> 6:21	131:6 132:7	63:11	<b>Amendment</b>	45:19 57:8
105:23	<b>administered</b>	<b>advertises</b> 64:10	45:16,23 47:3	77:1 79:21
<b>accumulated</b>	11:13,21,22	65:22	107:18,23	95:20 96:2
27:20	71:13 119:3,10	<b>advertising</b>	108:9	97:12 107:15
<b>accuracy</b> 81:12	132:4	63:22 66:7	<b>amount</b> 84:14	111:16,21
<b>accurate</b> 6:6	<b>administering</b>	<b>advice</b> 8:4 17:7	91:23 92:1,5	112:17,22
131:3	11:4 16:7 36:8	17:20 41:22	<b>amusement</b>	<b>apart</b> 100:17
<b>across-the-bo...</b>	41:6 52:19	<b>affiliated</b> 57:8	72:10,13 130:5	<b>apologize</b> 9:4
121:16,19	119:21 129:22	<b>affirmative</b> 8:23	<b>analyses</b> 12:21	102:9
129:3,8,18,20	131:17 132:10	20:8 23:11	56:2 57:1 92:2	<b>appear</b> 28:21
129:24 130:3	<b>administers</b>	35:16 39:19	103:25	70:3
130:14,24	130:16	40:20 43:3	<b>analysis</b> 55:18	<b>appeared</b> 4:5
<b>act</b> 34:18 62:4	<b>administration</b>	57:7 64:11	55:21 57:10	135:7
<b>acted</b> 8:1 120:4	6:19	66:17 67:11	58:2,3,24 61:1	<b>appearing</b> 23:24
<b>action</b> 134:18	<b>administrative</b>	68:1 85:20	61:3 68:3,17	<b>appears</b> 86:8
<b>activities</b> 41:15	6:22 40:4 86:7	86:17,23 87:3	68:23 69:6	111:1,5,6,6,12
<b>actual</b> 15:2	110:11	88:24 89:7	73:10 77:18	135:17
25:20 26:25	<b>administrator</b>	91:16 97:23	78:8 79:23	<b>applicability</b>
69:6 70:20	8:1 39:22 40:2	98:5,21 109:6	82:9,11 83:16	32:22 34:5,13
84:7	113:17 114:12	120:11 129:6	86:8 91:4,17	35:18,24 45:24
<b>add</b> 42:17 67:18	<b>admission</b> 13:4	<b>affix</b> 134:19	92:14 97:2,13	<b>applicable</b> 34:6
<b>adding</b> 42:7	13:15 59:17,18	<b>afraid</b> 25:15	100:3 101:4,11	36:4
<b>addition</b> 30:9	59:24 60:5	<b>afternoon</b>	101:21 105:6	<b>application</b>
49:1 50:6 75:5	62:24 63:2,11	114:24	105:22 111:16	19:19 22:7
113:9	63:13,22 64:6	<b>agency</b> 14:13	<b>analyst</b> 57:19,20	30:24 62:15
<b>additional</b> 74:23	64:20 66:8	117:16,16,25	<b>analysts</b> 57:18	74:23 76:4
77:9,18,22	87:2 92:21	<b>agents</b> 34:18	<b>analyze</b> 32:21	80:4 131:24
78:4,9 87:21	105:9,16,19	<b>ago</b> 47:22 49:5	69:19	<b>applications</b>
89:13 91:6	117:8	<b>agree</b> 32:19 35:2	<b>analyzed</b> 69:11	19:16
92:12 97:3	<b>admissions</b>	39:23 40:12	<b>analyzing</b> 65:12	<b>applied</b> 11:17
101:23 103:9	36:19 105:23	83:16 91:21	<b>anecdotal</b>	20:1,20 21:7,9
	116:2	111:14 130:3	106:12	24:2 35:18

114:4,8 115:3 131:25 132:8 <b>applies</b> 35:14 <b>apply</b> 21:21,25 22:9 23:1 24:12 33:18 34:7 37:4 40:6 40:6 64:24 113:19 117:4 131:18 132:23 <b>applying</b> 41:8 52:1 112:9 <b>appreciate</b> 114:15 <b>appropriate</b> 22:1 29:1,3,4 55:15 <b>appropriately</b> 46:23 <b>April</b> 98:11 <b>Area</b> 96:5 <b>areas</b> 71:1 100:21 <b>arena</b> 122:6 <b>arguing</b> 22:5,5 <b>arguments</b> 48:9 <b>artificially</b> 106:7 <b>arts</b> 81:22 99:9 100:15 101:6 <b>arts-type</b> 81:20 <b>ascribing</b> 132:6 <b>asked</b> 20:16 24:10 36:2 37:7 52:25 68:25 77:10 82:9,10 90:7 103:10 123:3 123:18 125:16 125:25 126:12 <b>asking</b> 18:7 20:13 22:21,22 26:7 29:21 41:3,5 42:12 43:23 44:18,20 45:2,5,6 57:9	58:18 80:9 106:16 111:16 125:13 131:11 131:13,15,16 132:6 <b>Asks</b> 84:10 <b>aspect</b> 7:20 <b>aspects</b> 79:10 <b>assembly</b> 46:6 53:6 57:14,15 57:19,25 110:20 <b>assigned</b> 78:14 <b>assigning</b> 13:6 <b>assist</b> 16:7 23:16 24:5 26:19 30:5,9 31:23 32:5 52:10 76:20 <b>assistance</b> 8:9 13:3 17:7,20 27:7 32:6,7 <b>assisting</b> 8:13 19:25 20:18 24:1 26:11 <b>associated</b> 11:6 14:13 15:10 57:8 66:10 78:4 93:21 117:10 <b>assume</b> 20:10 65:4 70:18 75:13 80:13 105:1 <b>assured</b> 121:8 <b>athletic</b> 52:3,22 128:13 <b>attached</b> 3:17 <b>attempting</b> 53:10 <b>attention</b> 86:11 97:18 99:6 <b>Attorney</b> 2:15 <b>attorneys</b> 27:15 <b>audit</b> 6:16 7:18 13:21 18:2,6,8	18:21,24 19:2 77:20 <b>auditing</b> 19:4 <b>auditors</b> 18:22 <b>audits</b> 18:13,21 19:7,10 20:25 <b>authored</b> 97:7 <b>available</b> 13:14 13:16 21:17 <b>Ave</b> 2:16 <b>avoid</b> 106:8,14 110:1 <b>aware</b> 59:4,10 68:2 84:12 87:21 90:1 100:8 110:22 112:4,19,25 116:10,18 117:14 119:5 <b>a.m</b> 4:2 135:6 <hr/> <b>B</b> <hr/> <b>B</b> 3:7 <b>back</b> 20:16 23:6 25:9 27:11,24 29:18 31:5,6 32:18 36:13 47:18 54:24 59:20,21 73:20 74:12 80:22 90:4 103:11 114:23 120:5 127:11 <b>background</b> 25:16 28:14 <b>backwards</b> 72:11 <b>bad</b> 122:5 <b>bar</b> 25:1 60:17 60:18 61:14 <b>Barbara</b> 9:1 11:1 <b>bars</b> 60:19 79:3 86:19 87:1,8 87:15,25 <b>bartenders</b>	24:25 <b>base</b> 42:8,17 113:11 <b>baseball</b> 73:12 73:17 74:3 96:5 125:25 126:8 127:18 <b>based</b> 13:14 36:19 53:5 55:8 57:23 61:20,22 69:19 70:21 87:20 88:1,15 89:15 97:4 99:5 100:13 102:17 102:22 103:2 103:13,23 116:2,4 121:13 125:6 132:5,7 132:16 <b>basically</b> 26:23 31:9,10 42:25 43:7,9 44:2 58:9,14 94:8 101:12 110:16 115:4 <b>basis</b> 18:8 87:6 87:25 88:7 <b>Bates</b> 118:17 <b>Bates-labeled</b> 85:16 <b>Beach</b> 24:18,25 <b>becoming</b> 76:13 <b>believe</b> 6:24 8:21 10:11 13:20 16:5 21:20 24:7 27:8 33:10,11 33:13,21 39:13 39:25,25 42:3 42:18 43:19 44:22 46:12 54:10,24 55:1 56:24 57:5 59:11 60:13 77:11,14 78:6	78:8,17 79:2,8 81:2 88:1 97:10 104:17 118:15 122:9 122:19 124:8 125:23 131:22 131:22 132:17 132:18 <b>believed</b> 72:25 88:25 <b>believes</b> 109:15 <b>belongs</b> 29:22 <b>benefits</b> 46:16 <b>best</b> 12:19 13:2 13:14,16,18 14:7 15:12,12 27:7,23 33:11 54:9 58:21 71:4 79:13 80:23 81:10,12 81:13,25 87:13 89:9 96:17 103:6 106:15 112:15 116:15 116:22 117:17 126:11 <b>bet</b> 114:19 <b>better</b> 36:21 67:25 121:15 126:2 129:3 <b>beverage</b> 92:12 92:15 <b>big</b> 25:14 <b>bill</b> 8:21 9:12,19 9:25 10:8,10 13:25 23:14 28:10 55:9 69:1 94:18,22 96:11 98:18 102:10,11 103:17,24 110:16,17,21 115:10 <b>bit</b> 31:5 69:14 81:7 <b>black</b> 128:8
--	---	--	--	--

<b>blank</b> 38:11 102:9 111:25	122:7,8	121:1,21	<b>case</b> 30:16 56:8	<b>certainty</b> 90:18
<b>board</b> 11:14,23 19:15 22:24 26:20 33:2 34:7 35:14 48:22 50:13 55:12 61:15 65:8 115:4 131:7,18 132:1 132:8,23	<b>business</b> 23:1 24:12 34:7,22 38:2 83:24,24 84:22 86:18 92:22 96:3 106:24 108:23 109:10,13,15 109:24 113:14 123:11 125:7,8 125:9	124:12,19 <b>Campbell</b> 9:1 11:1 <b>capacity</b> 15:19 33:17,20,24 34:2 35:20 41:21 56:20 76:14,18,23 77:8,17,24 78:10 79:4,4 80:3,12,15,20 81:23 82:8 83:17 84:7 85:1 86:20 87:9 88:3,18 88:25 89:8,12 90:3,5 91:5 92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	77:14 106:18 117:9 <b>cases</b> 46:24 58:16 62:25 69:15,16 90:6 106:20 <b>cash</b> 102:16,21 <b>casino</b> 11:12 12:3,22 41:23 42:6,10,13,16 43:1 49:3 50:7 50:12 59:24 100:18 101:14 101:19,22 115:19 119:9 119:16,21 120:1,23 122:10 <b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>CERTIFICA...</b> 134:1 <b>Certified</b> 4:4 135:3,16 <b>certify</b> 134:17 135:4 <b>CET</b> 47:7 59:13 <b>chair</b> 8:14,14 9:1 30:10 32:10 <b>chairman</b> 9:3 11:1 46:5 52:10 <b>Chambers</b> 3:10 3:14 83:5 109:3,9,25 <b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>body</b> 29:10 107:16 108:6	<b>businesses</b> 13:23 18:24 38:8,8,12,18 38:24 41:15 83:24 106:16 111:18 113:23 114:2 122:24 123:20 124:10	80:3,12,15,20 81:23 82:8 83:17 84:7 85:1 86:20 87:9 88:3,18 88:25 89:8,12 90:3,5 91:5 92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>chairman</b> 9:3 11:1 46:5 52:10 <b>Chambers</b> 3:10 3:14 83:5 109:3,9,25 <b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>box</b> 70:24 81:16	<b>butcher</b> 6:25	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>boxing</b> 50:17 51:4,11,13,14 51:15,17,25 52:2,21 68:16 68:19 128:21 129:9,13 130:4	<b>butcher</b> 6:25	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>Boy</b> 78:24	<b>C</b>	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>branch</b> 117:16	<b>C 2:1</b>	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>brand</b> 76:6	<b>cabaret</b> 4:15	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>Brandon</b> 2:3 4:13	11:13,15 49:2 49:4	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>break</b> 5:20,22 54:5 67:21 93:1 114:18,19	<b>calculate</b> 13:4	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>breakdown</b> 118:21	<b>calculated</b> 105:17	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>bring</b> 53:11 95:3	<b>calculating</b> 15:10	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>bringing</b> 47:6	<b>calculation</b> 105:11	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b> 38:20 94:9 <b>Catherine</b> 109:3 <b>Cathy</b> 83:5 <b>cause</b> 4:6 86:14 <b>causing</b> 77:13 <b>caution</b> 81:7 <b>CCR</b> 1:24 135:24 <b>center</b> 24:20 71:20 <b>centered</b> 25:19 <b>certain</b> 5:7 13:22 26:8,9 26:17 33:16 35:22 37:11,11 41:15 46:24 79:10 95:14,21 100:22 106:7 116:18,19 119:25 120:13 128:11 131:19 132:10 <b>certainly</b> 46:11 121:9	<b>change</b> 12:22 54:10,11 64:17 86:14 94:15,16 127:4 134:2 <b>changed</b> 33:22 49:3 77:17 78:23 106:21 108:16 115:18 <b>changes</b> 9:13 86:9 107:17 <b>changing</b> 101:22 <b>charge</b> 7:21,24 53:20 54:6,7 55:11 59:17,18 59:24 60:16,18 61:8 62:24 63:2,11,13,22 64:12,20,24 65:22 66:8,22 67:3,10 71:22 87:2,2 105:9 105:16 124:1 129:22 <b>charged</b> 11:3 30:11,12 31:9 31:10 41:6,7 52:1,18 61:8 63:2 64:6,20
<b>broad</b> 12:3	<b>call</b> 19:11 49:2	92:17 96:21,24 97:2,13 98:24 102:1 103:12 103:23 106:8 106:14,17,19 106:21,22 108:21 110:1 130:7 131:17	<b>categories</b> 94:9 95:14 <b>category</b>	

65:12 66:22,23 67:8 75:18 112:8 117:9 130:1 <b>charges</b> 13:4,15 13:22 64:12 65:21 92:10,15 92:21 <b>charging</b> 60:5 60:16 61:5 129:25 <b>Chinnock</b> 3:14 7:1,2 58:10,13 83:3,9 86:2 109:5 112:7 <b>Chinnock/Di...</b> 3:10 <b>Chinnock/Kn...</b> 3:11 <b>Chuck</b> 7:1,2 58:10,13 83:3 86:2 109:5 112:7 <b>CIANNO</b> 1:16 4:5,8 134:17 134:21 135:7 <b>circle</b> 4:3 40:13 135:6 <b>circumstance</b> 22:9 67:8 <b>circumstances</b> 60:17 100:22 <b>City</b> 7:17 <b>clarification</b> 96:16 <b>clarify</b> 13:24 15:13 16:10 20:22 30:3 52:5 58:7 69:14 97:6 110:10 <b>clear</b> 5:12 80:1 128:8 <b>clearly</b> 40:9 43:24 55:14 80:11 113:15	<b>club</b> 24:19 63:2 64:10 65:22 66:19 86:20 88:8 91:22 94:9 105:18 115:12 128:2 <b>clubs</b> 43:9,18 44:3,9 46:10 48:2,15,25 49:9,11,24 50:5,8 55:19 56:3,7,22 57:11 58:20,24 77:3,9 82:4,7 83:18 87:16 88:4,17,23 89:5,6,14 90:13,22,23 91:4,18,22 92:1,16 93:10 94:3,6 95:4,11 95:15 97:3 98:23 99:4,9 99:15 100:5,12 100:15 101:7 102:3,19,25 103:9,22 104:1 104:8 105:2,7 105:22 106:7 106:13,23 111:17 112:11 112:20 113:5 118:24 119:15 120:13 122:23 123:11 124:3 124:10,18 127:24 <b>club-by-club</b> 88:7 <b>code</b> 7:22 8:2,5 9:13 10:22 20:1,19 21:14 30:25 37:19 41:6,8 42:20 <b>colleagues</b> 46:4 <b>collect</b> 14:13	34:18 36:11,15 98:23 116:21 127:2 <b>collected</b> 99:10 102:24 104:8 <b>collecting</b> 36:9 99:3 <b>collection</b> 87:10 <b>collector</b> 35:6,6 <b>Collins</b> 27:15 <b>combat</b> 50:21 52:3,22 <b>come</b> 11:3 24:22 28:25 31:6 38:10 49:21 55:12 56:25 57:6,13,13,14 57:15,16,21,24 58:4,5,6 60:15 60:16 61:5,9 63:1,3,14 64:10,21 67:4 67:12 71:22 82:12 83:2 90:4 107:1 117:4 <b>comes</b> 31:24 98:23 99:7,14 104:8 105:12 <b>coming</b> 22:3,23 24:11 31:20 42:12 63:19 73:13 99:4 <b>comment</b> 23:15 130:23 131:5 <b>commented</b> 26:9 <b>comments</b> 27:20 46:2 120:9 <b>commission</b> 8:1 8:9,13,14,15 9:2,3 11:2,2 18:20 23:17,18 26:19,20 29:11 30:6,7,10,11 30:12 31:11,11	31:18,18 32:1 32:2,10,11 52:3,23 55:12 59:21 128:14 <b>committee</b> 94:23 <b>committees</b> 14:9 14:10 17:10 <b>common</b> 71:1 <b>commonly</b> 46:9 47:7 <b>communicated</b> 31:2 <b>communicatio...</b> 45:7 <b>comp</b> 46:15 <b>compared</b> 59:3 104:1 125:12 <b>competing</b> 51:15 <b>competition</b> 84:25 <b>competitive</b> 51:14 <b>competitor</b> 46:18 <b>completely</b> 99:23 <b>compliance</b> 6:5 6:11,16 7:11 7:13,20 <b>comply</b> 21:16 <b>component</b> 86:12 <b>components</b> 9:19 <b>concept</b> 44:7 46:22 <b>conceptually</b> 28:17 <b>concern</b> 29:9 113:22 114:4 114:11 <b>concerned</b> 21:23 <b>concerning</b>	74:11 <b>concerns</b> 24:24 113:13 <b>concerts</b> 74:6,16 74:16 119:6 <b>conclude</b> 101:25 <b>concluded</b> 133:4 <b>conclusion</b> 60:15 84:3,11 84:17 <b>conditionally</b> 100:20 <b>conduct</b> 14:16 <b>conducted</b> 92:2 <b>conform</b> 28:10 <b>confused</b> 89:22 93:24 105:13 <b>Congratulatio...</b> 16:18 <b>conscious</b> 121:17 129:4,5 <b>consider</b> 59:16 <b>consideration</b> 29:12 <b>considered</b> 65:16 <b>consistency</b> 19:21 <b>consistent</b> 9:15 19:15,19 27:12 56:5 69:13 <b>consisting</b> 135:18 <b>constitutional</b> 38:1 <b>construe</b> 28:14 <b>construed</b> 25:2 25:17 63:20 95:21 <b>consumer</b> 35:9 <b>consumers</b> 34:19 <b>contacted</b> 78:19 <b>contain</b> 111:5 <b>contained</b> 70:19 70:23 103:24
--	---	--	---	---

<b>content</b> 111:8	50:16 52:3,23	120:24	<b>D</b> 3:1	129:8
<b>continual</b> 113:9	54:12,22 58:15	<b>coverage</b> 65:22	<b>daily</b> 18:8	<b>declare</b> 134:17
<b>contractor</b> 64:4	62:6,13 63:21	67:3	<b>dance</b> 60:5,16	<b>decrease</b> 12:23
135:11,12	64:14 65:14	<b>covered</b> 122:11	60:20,21,22	<b>deem</b> 95:16
<b>contractors</b>	70:14 76:9	<b>cow</b> 102:16,21	61:5,9 63:2,14	<b>deemed</b> 95:14
46:14	84:15 88:4	<b>craft</b> 25:22	64:10,13,21	<b>Deficiency</b> 1:8
<b>Control</b> 11:14	89:14 92:23	26:25 28:8	66:18,19,20	<b>defined</b> 35:19
11:23 23:17	96:10,12,21,22	31:23 71:19	67:4,13,13,19	40:19 49:1
26:20 48:22	97:3 99:5,16	<b>crafted</b> 29:15	117:5	118:8 128:10
50:13 55:12	99:17,20,23	40:15 54:19	<b>danced</b> 63:3	<b>definition</b> 26:13
61:15 65:8	100:12,19	93:6,10 96:10	<b>dancing</b> 59:6,12	29:14 31:12,20
119:10,17	101:9,10,15,16	109:20 132:4,5	59:15 60:2	40:14,16 41:1
120:6	101:19,24	<b>crafting</b> 26:11	61:18 62:4,4,7	41:9 43:19
<b>convention</b>	103:20 109:4	26:12 27:5	62:11,12,18,20	55:6,10,13
24:19 71:20,21	111:13 115:6,9	31:24	63:15 64:22	60:11 62:17
71:23	117:24,24	<b>create</b> 28:4	65:14,23 66:1	63:17 64:7
<b>conventioners</b>	118:1,6 119:3	41:14 46:24	66:3,20,21,22	65:17 66:11,11
71:22	123:1,24	129:12	67:2 117:2	71:2 100:7
<b>conversations</b>	127:17,22,25	<b>created</b> 8:25 9:6	<b>date</b> 10:2 134:21	103:3 119:9
42:13 45:7,19	129:9 131:3,8	40:10 43:8	<b>DATED</b> 135:21	120:1
46:7 51:8	131:20 132:11	50:15 107:17	<b>dates</b> 12:15	<b>degree</b> 12:12
93:12	132:16 133:1	<b>creating</b> 40:18	<b>day</b> 4:2 20:6	<b>deliver</b> 68:9
<b>cooperate</b> 30:9	135:19	94:8 129:18	125:3,4,14,14	<b>delivered</b>
<b>coordinate</b>	<b>corrected</b> 31:10	<b>creation</b> 23:13	135:6,21	134:24
78:20	134:19	<b>criterion</b> 76:3	<b>deal</b> 58:9 122:5	<b>department</b>
<b>copied</b> 91:9	<b>correction</b>	<b>CRR</b> 1:24	<b>dealing</b> 10:4	1:11 6:1,6,14
109:7	110:13	135:24	<b>dealings</b> 68:8	6:20,23 7:10
<b>copies</b> 70:20	<b>correctly</b> 59:9	<b>crystal</b> 128:8	108:8 113:3	8:11,25 9:18
108:15	75:1 93:22	<b>cumbersome</b>	<b>deals</b> 56:2 92:11	11:7 13:20
<b>copy</b> 47:11,13	<b>council</b> 14:15	125:10	<b>dealt</b> 6:20 12:19	16:20 18:2
<b>corporation</b> 1:9	17:12,15,21	<b>cup</b> 39:15	107:20	19:20,24 21:12
<b>correct</b> 6:2,3	32:14 47:1	<b>curb-to-curb</b>	<b>debate</b> 22:12	22:18 26:1,11
8:19 9:16	117:19	119:8 120:1	28:25	26:15,18,24
10:19,20 11:12	<b>counsel</b> 108:1,4	<b>current</b> 72:4,5	<b>DEBORAH</b>	27:16,18,19
11:18,25 17:24	134:24 135:11	95:2	1:24 4:4 135:3	28:1 29:10,23
17:25 18:4	<b>Country</b> 4:3	<b>currently</b> 42:5	135:23	30:4,7,8,15
20:23 24:2,6	135:6	66:12 91:4,5	<b>debt</b> 122:5	31:2,3,19,23
25:3 29:2	<b>COUNTY</b> 135:2	98:22 102:4	<b>December</b> 1:17	32:21 35:25
30:24 32:23,24	<b>course</b> 107:10	<b>customer</b> 62:20	4:1 135:5,21	40:2 48:21
32:24 33:21	<b>court</b> 4:4,24 5:3	62:20 105:4,6	<b>decide</b> 60:21	54:7 55:18
34:5,8,15 35:5	5:13,14 135:3	105:8,9,14,16	<b>decided</b> 27:20	56:10,20,21
35:12,13,15,21	135:16	106:3	39:15 41:16	57:1,9,23
35:23 36:4	<b>cover</b> 13:22	<b>customers</b> 92:7	51:11	58:12 60:1,7
37:2,5 38:24	60:16,18 61:8	<b>cut</b> 111:14	<b>decision</b> 61:21	61:17,18 65:5
39:9 41:10	64:12 66:21		75:6 106:24	68:8,13 69:16
42:23 43:4,20	67:10 87:2		121:17 129:4,5	69:23 70:6,14
		<b>D</b>		

70:16 73:25	<b>DESCRIPTI...</b>	31:25 33:13,14	<b>discussed</b> 14:1	113:7 115:23
75:23 76:7,10	3:9	36:16 37:9,13	32:8 46:7	<b>distinct</b> 103:8
77:2,8 80:17	<b>details</b> 19:10	40:11 43:25	53:12 68:16	<b>distinction</b>
80:18 81:1,14	<b>determination</b>	60:14 63:18	115:3 122:22	95:13,20 128:8
81:15 85:24	13:12 18:23	70:9 78:25	127:3,10,11,13	<b>distribution</b>
87:7,14,23	28:1 30:15	79:14 80:3	127:14,15	6:21
88:2,6,17,22	32:16 61:17	82:24,25 88:17	130:6	<b>distributions</b>
89:3 90:21	69:17 76:23	92:6 96:10	<b>discusses</b> 120:16	86:6,6
91:18 97:1,12	77:16 78:13	97:17 118:21	<b>discussing</b> 22:5	<b>district</b> 7:14,16
97:13 99:3	87:16 88:14	<b>difficult</b> 5:14	22:7,24 95:20	18:10 19:14
101:8 102:24	<b>determine</b> 13:21	14:19 29:5,6	107:15	61:20 78:18,22
103:5 104:4,6	14:16 15:9	37:8 75:22,25	<b>discussion</b> 22:1	78:25 83:4
105:5,21 106:6	18:20 19:8	76:1,2 86:25	22:10,15 23:20	<b>districts</b> 33:13
107:22 108:7	28:2 30:20	118:2,5 125:2	24:18 25:8,19	<b>division</b> 7:13
111:22 112:17	32:21 55:22	125:3,10,13,15	27:25 31:16	14:15 18:2,6,8
113:22 115:1	59:2 60:8 61:3	<b>difficulty</b> 26:14	32:12 34:1	18:10,12,17,22
117:15,20	61:12 68:18,23	27:1,10 36:12	39:6,10 47:6	19:2,18 109:3
118:9 119:3	75:16 76:2,21	76:5 77:13	47:16 50:20,22	<b>divisions</b> 6:14
120:2 123:23	77:18,22 78:3	108:23	50:23 51:5	<b>divulge</b> 22:19
124:8 127:2	78:15 79:10,23	<b>DINO</b> 1:16 4:5	59:22 65:5,8	<b>Docket</b> 1:7
<b>department's</b>	87:4 88:2 89:5	4:8 134:17,21	71:5,9 72:8	<b>document</b> 3:15
30:24	97:14 100:4	135:7	73:4,13,23	32:11 81:3
<b>depend</b> 62:11,18	105:6,22	<b>direct</b> 18:17	74:8,9,10 75:9	82:15 85:16,17
<b>depending</b>	<b>determined</b>	19:1 27:3	76:14,16 85:6	85:19,24 87:11
18:22 74:2	28:20 29:12	<b>directing</b> 30:4	89:21 106:10	108:12
75:17	88:7	<b>direction</b> 7:12	107:11 110:2,4	<b>documentation</b>
<b>depends</b> 62:7	<b>determining</b>	18:19 31:25	110:7 116:22	6:4 28:12 56:1
66:1 117:6	13:3 31:11	<b>directly</b> 58:13	125:18 126:13	70:15 124:1,2
128:10	33:6 82:7	58:13 99:14	128:16,20,23	<b>documents</b> 69:5
<b>deponent</b> 134:1	130:17	<b>director</b> 6:1,5	<b>discussions</b>	70:5,13
134:17,21	<b>develop</b> 52:9	6:11,12,13,17	26:21 28:22	<b>doing</b> 7:24 12:7
<b>deposed</b> 135:9	<b>developing</b> 24:1	6:18 7:2,10,12	41:20 42:4	13:1 14:22
<b>deposition</b> 1:15	<b>development</b>	16:23 17:4	45:15 46:4	15:15 16:16
3:17 4:17,18	21:1 23:18	58:8 75:23	47:1,24 48:12	18:5 19:15
4:21 5:6,17	<b>DI</b> 1:16 4:5,8	83:3,9 86:3	49:10 51:4	21:24 34:14
111:15 134:18	134:17,21	110:11 112:3,4	52:11 55:5	42:15 55:21
134:19,24	135:7	112:6 130:8,8	59:5,8 61:20	63:19 68:17
135:15,20	<b>DiCianno</b> 3:12	<b>disagree</b> 44:7,24	65:4 71:10	73:10 74:15
<b>deputy</b> 2:15 6:1	4:13 23:7 26:4	44:25	72:7,9,12,18	75:16 78:21
6:5,10,12,13	38:4 47:19	<b>disagreed</b> 59:14	72:22,24 73:7	101:11 103:25
6:17,18 7:10	93:5 97:8	<b>disappear</b> 105:2	73:16,20 74:22	106:25
16:22 17:1	107:14 114:24	<b>discern</b> 111:4	76:17 77:7	<b>dollar</b> 91:19,23
75:23 110:11	<b>died</b> 110:16	<b>discovery</b> 101:1	90:20 93:15,18	92:1,5
130:7	<b>difference</b> 6:8	<b>discuss</b> 24:22	94:11,21	<b>door</b> 92:10,15
<b>describe</b> 63:21	<b>different</b> 6:14	29:21 33:1	107:22 108:1,3	<b>doubt</b> 20:24
<b>described</b> 94:22	9:7,13 13:4	38:4	108:9 109:23	85:4

<b>draft</b> 28:6,6	132:7	18:14,24 20:11	75:8,18,21	81:13 86:25
<b>drafting</b> 8:11	<b>either</b> 7:25	20:25 21:6,14	76:15,22 77:23	91:6 94:13
28:9	12:23 29:6	22:4,8,23,25	79:15 83:25	104:15
<b>draw</b> 97:17	35:4 51:25	23:14,19,23	87:1,5,10,24	<b>estimated</b> 99:15
<b>drawing</b> 38:11	54:25 57:14	24:2,9,16,19	88:14 90:14	<b>estimating</b>
95:13 102:9	69:18,18 90:4	25:2,17,20,22	93:7 95:14	91:19
<b>drink</b> 105:23	103:7 107:15	25:24 26:13,18	96:12 98:19	<b>estimation</b> 67:6
127:18	127:1 128:13	29:8,14,16	99:4,20 100:7	103:13
<b>drinks</b> 127:24	130:7	30:13,22 31:12	100:11,18	<b>evenhanded</b>
<b>driven</b> 94:16	<b>eliminate</b> 86:12	31:20 32:2	101:14,18,19	52:20 121:19
<b>drivers</b> 53:8	95:10	33:18 34:4	101:22,24	<b>evenhandedly</b>
<b>drop</b> 99:23	<b>eliminated</b>	35:17,19,23	103:3 104:2,8	113:19 114:8
109:24	102:8	36:4,11,18,20	105:7,8,24	115:3,5
<b>dropped</b> 77:24	<b>eliminating</b>	37:1,5 38:24	107:17,21,24	<b>event</b> 50:17
90:6,13 96:24	102:2 103:12	39:8,17,24	108:10 110:17	51:14,25 52:2
97:14	<b>Elko</b> 7:16	40:14,15,17,21	112:9,21,24	52:25 53:3,24
<b>dropping</b> 76:24	<b>email</b> 97:24	41:2,9,14,16	113:2,4,10,15	54:8,15 75:8
80:15 97:2	98:1,4	41:21,24 42:6	113:24 114:3,3	<b>events</b> 5:7 51:16
<b>due</b> 100:6	<b>emerging</b> 46:8	42:13,15,16,21	115:17,19	51:17 53:21
<b>duly</b> 4:5,9 135:7	<b>employee</b>	42:22 43:2,6,8	116:5,12,25	54:7 68:24
<b>duplicate</b>	135:10,12	43:9,17 44:21	117:3,5,10,18	116:19,19
110:25 111:2	<b>employees</b>	45:17,24 48:1	117:22 118:22	128:12
<b>DV</b> 3:15 83:14	113:8	48:14 49:1,4	118:25 119:2,7	<b>eventually</b>
83:15 85:16	<b>encompass</b>	50:3,7,10,18	119:9,15,16	120:5
98:1 108:14	97:10	50:19,25 53:4	120:19,23	<b>everybody</b>
111:3 118:18	<b>encourage</b> 16:5	53:19,20 54:6	121:16 122:11	36:10 42:4,5
<b>E</b>	<b>encouraged</b>	54:12,21 55:3	122:11 123:1	94:9
<b>E</b> 2:1,1,3 3:1,7	121:7	55:6,10,11,24	124:5 125:8,11	<b>evidence</b> 106:12
<b>earlier</b> 38:14	<b>encouraging</b>	56:14,23 57:3	125:13 127:5	<b>exact</b> 9:8 12:15
55:8 60:4	46:19	58:4 59:7,16	127:22,25	69:7,11 104:12
78:11 82:12	<b>enforce</b> 75:22	59:19 60:3,11	128:4 129:3,13	<b>exactly</b> 9:11
102:22 110:10	132:15,16	60:23 61:10,19	129:19,20,25	55:1 76:25
117:6	<b>enforcement</b>	62:5,13,15,17	129:25 130:1,1	<b>Examination</b>
<b>easier</b> 107:2	7:22	62:21,25 63:4	130:5 131:7,19	3:2,3,4,4,5
<b>East</b> 2:16	<b>enforcing</b> 53:19	63:15,18,20,23	132:1,9,11,24	4:11 114:21
<b>easy</b> 30:19	64:24	64:5,7,14,23	<b>entire</b> 107:20	123:15 132:21
<b>economic</b> 57:2	<b>enhancement</b>	64:24 65:10,16	<b>entities</b> 37:12,15	<b>examined</b> 4:6
<b>edge</b> 129:12	121:10	65:17,19,24,24	37:16 113:14	<b>examiners</b> 7:14
<b>effect</b> 10:8,12	<b>ensure</b> 28:10	66:12,24 67:5	<b>entitled</b> 135:9	<b>example</b> 30:18
11:11 41:14	106:18	67:7,15 68:3	<b>Esq</b> 2:3,15	30:19 36:13
43:2,7 55:14	<b>entertainment</b>	70:12,13 71:2	<b>essentially</b> 43:2	38:10,13 39:5
94:17 125:4	1:9 9:14,20	71:11,14,15,22	<b>establishments</b>	71:25 99:7
<b>effort</b> 110:17	10:7,18 11:6	71:24 72:2,10	46:13	100:14 109:25
<b>efforts</b> 21:12	11:11,12 12:3	72:13,14 73:1	<b>Estates</b> 4:3	<b>examples</b> 25:5
121:15 129:2	12:3,7,22,23	73:14,18 74:3	135:6	63:8
	13:8,13 17:6,8	74:7,20,21,24	<b>estimate</b> 15:12	<b>exception</b> 50:14

65:23 113:14	36:17 37:12	<b>fair</b> 29:16,20	92:2 118:4,8	123:19,22
<b>exceptions</b>	68:15 113:9	41:18 50:3	<b>financially</b>	124:9,9,16,21
35:21	114:10 115:19	71:19 74:14	135:13	124:23
<b>excess</b> 104:10	116:18	75:21 121:19	<b>find</b> 46:23 76:20	<b>fit</b> 13:7 33:6
<b>exclude</b> 38:1	<b>exempts</b> 40:3	125:5 130:17	106:6 120:17	41:1,9 60:2
51:2,11	<b>exhibit</b> 82:16,17	130:18	121:7,11,15	80:11
<b>excluded</b> 38:8	85:8,9,15 97:7	<b>fall</b> 10:5,6	129:3	<b>fits</b> 65:23
38:12 51:4,13	97:18,19	103:21	<b>finding</b> 80:25	<b>fitting</b> 25:23
52:21 53:1,3	107:12 108:13	<b>familiar</b> 4:20	<b>fine</b> 85:14	<b>five-day</b> 81:9
116:7	110:23 111:3	11:19 42:9	<b>fire</b> 76:19,22	<b>flesh</b> 10:17
<b>excludes</b> 40:3	118:15,15	98:3 128:15	90:4 106:11,16	<b>floor</b> 60:21
<b>excluding</b>	<b>exhibits</b> 3:17	<b>family-oriented</b>	107:1,4 109:16	66:20
129:19	97:10	95:15,16,22	<b>first</b> 4:5 12:6	<b>focus</b> 7:7 11:8
<b>exclusion</b> 40:12	<b>existed</b> 60:12	96:3	30:4 45:14,16	86:11 98:18
41:7,12	124:10 127:21	<b>far</b> 8:15 18:14	45:16,23 46:3	99:6
<b>exclusions</b> 35:22	<b>existing</b> 75:2,5	18:23 21:23,25	47:3 48:19	<b>focused</b> 38:16
36:16 37:1,3	87:20 91:4,17	35:24 62:15	59:17 69:15	101:12
37:11 41:15	<b>expand</b> 41:23	68:16 70:15	86:13 107:17	<b>focuses</b> 80:14
50:14 114:10	105:3	81:12 93:17	107:23 108:9	<b>focusing</b> 20:14
<b>excuse</b> 26:20	<b>expanded</b>	105:18 127:4	119:25 121:8	<b>follow</b> 18:19
<b>executive</b> 6:1,12	120:23	<b>federal</b> 37:21,22	126:12	131:8
6:13 7:2,10,12	<b>expanding</b>	37:23 49:4	<b>fiscal</b> 6:20 12:20	<b>following</b> 27:24
16:22 17:4	122:10	<b>feds</b> 37:21	13:12 14:5,8	<b>follows</b> 4:10
58:8 75:23	<b>expect</b> 19:24	<b>fee</b> 14:14 46:17	14:11,15,16	20:17
112:4,6 117:16	70:12	128:9	15:1,1,3,19	<b>follow-up</b> 36:23
130:8,8	<b>experience</b>	<b>feel</b> 32:18	17:5,5,18,19	132:19
<b>exempt</b> 86:15	57:23 72:19	<b>fees</b> 127:1,2,7	41:22 52:10	<b>follow-ups</b>
99:19 116:11	125:6	128:7	55:18,21 56:25	114:17 123:13
116:25 129:8	<b>expression</b> 47:4	<b>fell</b> 43:19	57:6,13 58:2	<b>food</b> 92:12,15
132:25		<b>felt</b> 55:14	67:25 68:3,10	127:18
<b>exempted</b> 38:20	<b>F</b>	<b>fewer</b> 86:20	68:12,17,25	<b>foregoing</b>
39:8 65:19	<b>face</b> 122:7	91:5	69:6,25 70:1,3	134:17 135:18
69:1 72:2,7,14	<b>facetious</b> 62:19	<b>field</b> 7:15 13:7	70:4,10,19,20	<b>foremost</b> 46:3
73:17 74:7,20	<b>facilitate</b> 26:16	<b>figure</b> 10:22	70:25 73:10	121:8
80:11 88:23	27:2 30:5	15:1,17,19	74:15 75:16	<b>forgot</b> 18:9
113:24 114:2	<b>facilitation</b>	58:19 87:8,23	77:16 78:12	<b>form</b> 29:17 33:3
126:1,8 130:25	32:15	91:19	80:22,25 81:5	34:9 36:5 37:6
131:20 132:11	<b>facilities</b> 15:22	<b>figured</b> 80:18	81:6,17 82:13	39:1,24 40:14
<b>exempting</b>	126:23	<b>figures</b> 69:11	82:23 86:5,25	43:11 44:5,10
71:11 125:18	<b>facility</b> 34:23	100:13	87:9 88:2	45:1 48:16
130:4	59:11	<b>figuring</b> 15:2	93:17,19,20	49:13 52:22
<b>exemption</b>	<b>fact</b> 5:10 46:13	74:1 81:22	94:11,20 103:7	53:22 56:15
40:10 41:12	46:19 61:4	112:22	117:12,15,17	60:2 62:9
52:21 53:16	77:16 100:6	<b>final</b> 28:20	117:21,22	63:15 79:12
65:13,15 73:13	106:13,19	31:17	118:10 122:22	84:10,16 88:9
<b>exemptions</b>	114:1	<b>financial</b> 77:21	122:24 123:17	90:16 91:8



95:1 121:22 131:9,12 <b>formal</b> 65:9 <b>forms</b> 129:19 130:5 <b>forth</b> 29:18 <b>forum</b> 21:15 32:9 57:2 71:5 71:6,9 81:3 <b>forward</b> 28:5 <b>found</b> 47:2 <b>foundation</b> 115:21 116:13 119:12,19 <b>frame</b> 7:7 13:23 20:14 21:5 43:16 44:1 45:15 68:8 76:13 80:14 81:8 110:15 <b>freedom</b> 47:4 <b>front</b> 31:17 32:9 39:10 <b>full</b> 135:19 <b>fund</b> 14:17 <b>Further</b> 3:4,5 123:15 132:21	119:7,10,17 120:5 121:4 122:12 <b>gaming-type</b> 121:24 122:13 <b>Gary</b> 57:16,19 82:14 98:3 <b>gather</b> 33:15 69:18 129:11 <b>gathered</b> 78:2 83:8 <b>gathers</b> 118:9 <b>gear</b> 44:3 <b>geared</b> 43:9,17 44:8 46:8 48:2 48:14 <b>general</b> 2:15 14:17 19:20 34:5,12 35:18 40:25 47:1 <b>generally</b> 13:11 22:22 34:6 35:14 36:3 37:4 45:14 51:7 <b>generate</b> 70:2,2 <b>generated</b> 13:22 42:1 55:19 56:3,7,22 57:10 58:3,19 69:23 70:10,11 74:17 79:25 82:7 83:21 85:24 87:22 91:7 92:10,11 92:21 94:14 100:5,16 102:23 103:19 104:1 111:17 112:10,23 117:13 122:7 123:19,22 124:17 <b>generating</b> 34:8 55:23 56:11 59:3 101:13,14	<b>gentleman's</b> 124:10 <b>gentlemen's</b> 43:18 44:3,8 46:10 48:2,24 49:9,11,24 50:5,8 55:19 83:18 86:20 87:16 88:4 90:22 91:4,18 91:22,22 92:1 92:16 98:23 99:4,9 100:12 100:15 101:6 102:3,19,25 112:10,20 113:4 115:12 118:24 119:15 122:23 123:11 124:18 <b>getting</b> 31:24 101:23 <b>Ghiggeri</b> 3:13 57:17,19 58:22 59:1 67:24 68:9 82:14 98:3 <b>give</b> 5:2,16,21 15:6 39:5 40:24 46:6 49:18 63:12 85:8 118:17 <b>given</b> 7:12 26:23 71:25,25 77:16 88:22 90:10 116:18 130:24 <b>gives</b> 118:21 <b>giving</b> 26:21 <b>go</b> 13:1,6 15:14 18:5 19:4,25 20:18 23:3 25:9,21 26:11 28:5 30:2 33:6 36:10,13 40:13 47:12,15,15 48:18 57:10	58:19 59:1 60:7,17 62:22 63:8 64:13 71:23 73:20 74:12 77:20 80:21,25 85:5 103:6 107:8,9 109:15 114:23 115:8 118:12 121:11 122:2 127:11 131:11 133:2 <b>goal</b> 19:20 122:3 122:8 <b>goes</b> 60:19 65:22 86:18 103:11 121:6 <b>going</b> 5:6,13 6:25 13:24 18:13 23:8 25:15 28:3,3 29:18 44:22 48:4 50:24 56:6 66:7 67:20 68:22 69:17 74:1 81:22 119:18 119:22 121:14 <b>good</b> 4:13 16:18 22:6 24:14 67:21 114:24 <b>governed</b> 119:17 <b>government</b> 37:22,23 49:5 <b>governments</b> 37:23,24 <b>grant</b> 41:7 <b>granted</b> 113:14 <b>great</b> 122:5 <b>greater</b> 80:3 98:24 <b>GRECO</b> 1:24 4:4 135:3,23 <b>Greenberg</b> 2:4 <b>ground</b> 4:20 5:5	<b>group</b> 38:7 95:3 115:5 <b>groups</b> 114:2 <b>grow</b> 46:24 <b>guess</b> 5:8 13:21 22:5 26:16 29:3 36:23 52:20 72:16 103:6 109:14 <b>guidelines</b> 118:7 <b>guy</b> 26:10 34:23 <b>guys</b> 67:25
<hr/>				
<b>H</b>				
<hr/>				
<b>H</b> 3:7				
<b>handled</b> 44:2 115:4 <b>handling</b> 22:4 <b>happened</b> 41:7 48:21 78:7 <b>happening</b> 78:5 <b>happy</b> 107:2 <b>hard</b> 70:20 <b>head</b> 10:2,9 30:8 38:22 102:14 128:18 <b>headed</b> 6:22 <b>heads</b> 46:5 <b>health</b> 46:15 122:6 <b>hear</b> 43:16 51:13 <b>heard</b> 44:21 47:23 48:10 51:5 53:5 106:15,20 107:4 <b>hearing</b> 45:22 95:1 <b>hearings</b> 128:17 <b>heart</b> 105:20 <b>held</b> 17:2 <b>help</b> 121:7 <b>Henderson</b> 3:11 86:4 <b>hesitating</b> 33:8				

<b>Hi</b> 114:25	75:16 77:16	92:11,15 100:5	31:24 32:8	<b>interested</b> 21:18
<b>high</b> 104:5	79:24 83:17	<b>independent</b>	33:10,15 68:10	86:24 109:22
<b>higher</b> 91:23	86:9,25 87:9	46:14 58:18	69:7,9,18	135:13
92:1	87:17 88:3	64:3 68:3	70:23 78:3	<b>internal</b> 32:25
<b>Hilton</b> 72:19,23	93:20 103:7	116:10 135:10	81:11 83:8	<b>internally</b> 33:6
72:23	<b>impacted</b> 16:6	135:12	84:8,15,21	90:21 107:15
<b>history</b> 9:11	79:11 80:19	<b>indicate</b> 30:17	87:15,22 88:16	107:23 113:8
<b>hold</b> 16:22 61:1	81:23 82:8	87:7 98:17	88:18,22 89:4	<b>interpret</b> 75:22
69:7	<b>impacts</b> 12:20	<b>indicated</b> 24:13	89:5 90:11	<b>interpretation</b>
<b>holding</b> 9:17,18	<b>implement</b>	60:4 78:11	112:18 118:9	129:21
10:13	10:18,22	82:12 102:22	<b>informed</b> 90:6	<b>interpreted</b> 8:5
<b>honest</b> 71:8	<b>implemented</b>	106:10 109:9	<b>initial</b> 72:1	<b>interpreting</b> 8:2
125:2	33:1	117:6 124:20	<b>Initially</b> 118:3	<b>introduced</b> 4:14
<b>honestly</b> 20:5	<b>important</b> 63:11	126:1,9,11	<b>inside</b> 59:24	<b>investigation</b>
<b>hotel</b> 119:5	<b>importantly</b>	131:21	61:23 119:5,8	56:6
<b>hour</b> 4:2 135:5	46:16	<b>indicates</b> 6:5	120:1	<b>involve</b> 80:9
<b>house</b> 46:7	<b>improperly</b> 90:7	<b>indicating</b> 96:2	<b>insight</b> 8:4 46:7	<b>involved</b> 28:2
<b>Howard</b> 2:4	<b>incidental</b> 72:10	<b>indicator</b> 76:20	<b>inspect</b> 118:12	40:18 47:25
<b>Hughes</b> 2:4	72:13	<b>individual</b> 19:10	<b>inspection</b> 77:21	94:21 110:19
<b>Huh-uh</b> 43:14	<b>include</b> 30:21	22:16,23 23:9	<b>inspections</b> 78:1	119:20 121:2,4
51:22 110:5	85:1,3 86:19	24:10,24 27:16	<b>instance</b> 29:12	135:12
<b>human</b> 44:20	94:2 127:5	32:22 38:2,4	50:17 64:9	<b>issue</b> 28:11 66:4
<b>hump</b> 81:10	<b>included</b> 27:23	57:24 59:21	119:24 126:18	66:4 80:8
<b>hundred</b> 45:9	29:14 31:14,15	63:24 64:1,4	<b>instances</b> 90:1	89:20 108:21
<b>hypothetical</b>	32:11 35:19	66:15 84:14	<b>instituted</b> 125:7	110:1
63:6,10	71:2 72:25	88:7 108:25	125:7	<b>issues</b> 25:11
	95:3 100:6,10	113:13	<b>institution</b>	45:16 107:16
<b>I</b>	115:19 122:25	<b>individuals</b>	118:8	107:18,24
<b>idea</b> 46:22 51:10	<b>including</b> 44:1	33:12 46:13	<b>institutions</b>	108:9 117:21
81:21	107:25 108:3	53:7 67:2,24	118:4	<b>items</b> 34:21
<b>identification</b>	<b>inclusion</b> 86:14	77:25	<b>intended</b> 29:13	74:24 128:11
82:16,17 85:9	<b>income</b> 100:4	<b>individual's</b>	94:5 95:3	128:11
97:19 107:12	112:10	47:3	113:4	
108:13 110:23	<b>Incomplete</b> 63:5	<b>industries</b> 56:11	<b>intending</b> 50:9	<b>J</b>
<b>identified</b> 37:19	63:5	59:3 100:17	<b>intent</b> 26:10	<b>January</b> 10:12
38:20,25 67:25	<b>inconsistent</b>	101:7	29:22,22 30:21	<b>job</b> 1:25 15:18
<b>identify</b> 22:21	11:10	<b>industry</b> 46:9,18	42:3 49:6,8,10	107:2 124:6
<b>immediate</b> 7:3	<b>incorporated</b>	46:20,23 55:22	94:3 120:16,19	<b>jobs</b> 25:16
129:7	115:16	55:23 56:4	120:20,22,22	<b>judgment</b> 40:5
<b>impact</b> 13:12	<b>incorporation</b>	59:2 83:22	121:4,18 122:8	<b>jukebox</b> 59:12
14:6,16 15:1,3	9:14	92:22 122:8	122:10,13,17	59:16 60:6,20
15:19 17:5	<b>incorrect</b> 34:17	<b>Indy</b> 116:10	122:20 132:5,6	<b>jukeboxes</b> 60:19
55:18,21 58:2	<b>increase</b> 12:23	<b>infinite</b> 39:14	<b>intention</b> 41:23	<b>jump</b> 103:21
58:24 68:10,13	42:2 100:12	<b>information</b>	120:17	<b>jurisdiction</b>
68:25 70:4	105:23,23	13:14,16 15:6	<b>interest</b> 88:21	61:12
73:10 74:15	<b>increased</b> 92:9	21:16 22:19	112:10,22	<b>jurisdictions</b>

108:23 128:12	<b>knowledge</b>	81:2 82:12	107:23 108:8	36:18,19 37:1
<b>K</b>	81:13 111:23	93:17,18 94:13	114:9 117:13	37:5 38:23
<b>karaoke</b> 63:19	112:15 116:15	94:20 117:13	118:7 121:18	39:8,16,24
<b>keep</b> 30:18 31:8	116:23 119:24	<b>lead</b> 57:18,18,19	122:10 125:24	40:14,15,16,21
52:4 70:21	126:12	78:14	126:13 127:3	41:2,9,14,16
<b>kept</b> 81:2	<b>known</b> 4:15	<b>leading</b> 23:12	<b>letters</b> 118:10	41:21 42:15,21
<b>kind</b> 14:14	46:9 47:7	115:7	<b>let's</b> 7:7,19 23:3	42:22 43:6,8
20:10 21:21	112:18	<b>lean</b> 55:2	28:11 30:18	43:17 44:21
46:17 72:16	<b>L</b>	<b>learn</b> 107:1	34:25 35:2	45:16,24 48:1
93:20 101:13	<b>labeled</b> 108:14	<b>led</b> 46:12 127:4	54:5 57:21	48:13 49:1
107:25 123:10	<b>lack</b> 67:25	<b>left</b> 76:10 113:3	68:16 85:5	50:3,10,18,19
<b>Knack</b> 86:6	116:13 119:12	125:4,14	<b>level</b> 15:9 21:8	50:25 51:15
<b>knew</b> 90:11 99:2	119:18	<b>legal</b> 84:3,10,16	94:14 126:14	52:3,22 53:3
132:10	<b>lacks</b> 115:20	<b>legislation</b> 8:12	<b>license</b> 46:17	53:19,20 54:6
<b>know</b> 13:9 14:23	<b>language</b> 9:5	8:13,17 17:6	125:7,9 127:1	54:21 55:3,6
14:24 22:12	10:24,25 16:1	36:9 44:3,8	<b>licensed</b> 50:17	55:10,10,24
23:16 25:1,7	16:6 23:18	93:6,9,13,16	<b>licensing</b> 50:23	56:14,22 57:3
29:2,11 33:1	26:9,22 27:3,5	94:6 95:2,10	<b>life</b> 102:10	58:3 59:7,16
36:6,21 42:10	27:8,16 28:2	97:11	<b>limited</b> 52:12	60:2,11,23
45:8 47:21	28:13,20,21	<b>legislative</b> 9:11	81:8 83:7	61:10,19 62:5
51:2 53:2,7	29:1 31:23	14:15 17:12,15	<b>line</b> 120:16	62:12,17,21,25
54:23 55:20	32:13 94:15,16	17:21 22:3	122:2 125:20	63:4,15,17,20
56:8,20,21	102:10,11	29:22 32:14	134:2	64:5,7,14,23
58:9 59:25	103:23 115:16	54:10,11 96:11	<b>Lionel</b> 27:14	64:24 65:10,16
67:19 68:5	115:18 121:7	98:14 99:22	<b>listening</b> 24:16	65:17,19,24,24
70:7,7,7 71:7,9	<b>large</b> 121:16	100:4 107:16	29:7	66:11,23 67:4
71:14,18 79:6	129:4	107:17 117:19	<b>litigation</b> 4:3	67:6,14 68:3
79:9,18 80:5	<b>largest</b> 46:18,20	120:16 127:12	123:24 124:3,9	70:12,13 71:2
80:24 81:16	<b>Las</b> 1:9 2:5,17	128:17 130:10	<b>little</b> 31:5 69:14	71:11,14,15,21
82:1,3,20 83:3	4:14,15 7:16	132:5	81:7 118:4	71:23 72:2,10
88:21 90:21	24:20 53:11	<b>legislator</b> 131:1	<b>live</b> 9:14,20 10:7	72:12,14,25
91:18 92:3,7	71:20 78:14,16	<b>legislature</b> 7:25	10:18 11:5,11	73:13,17 74:3
92:25 93:20	78:20 126:18	8:8 9:6 10:23	12:3,7,22 13:8	74:7,20,20,24
95:5,18 97:21	<b>lasting</b> 9:23	11:3 12:2,16	13:13 17:6,8	75:7,18,21
100:1 102:13	<b>law</b> 4:24 5:3	12:18 14:5,25	18:14,24 20:11	76:15,22 77:23
104:12 105:19	10:1,8 21:16	17:7,9,10,24	20:25 21:6,14	79:15 83:25
111:3,21 112:4	22:2 54:20	22:2,12 30:21	22:4,8,23,25	87:1,5,10,24
112:14,16	55:14 88:15	33:25 34:2	23:13,19,23	88:14 90:14
123:25 124:25	131:24	35:25 39:10,15	24:2,9,16 25:2	93:7 95:14
124:25 126:1	<b>lawn</b> 34:23	40:2,3,9,12,15	25:17,20,21,23	96:12 99:4,19
126:19,21	<b>lawyers</b> 27:14	41:11,16,23	26:13,17 29:7	100:7,10
127:6 128:19	<b>lay</b> 5:5	42:7 48:21	29:14,16 30:12	101:18,23
128:25	<b>LCB</b> 14:15 28:8	50:20 51:5,11	30:22 31:12,20	103:3 104:2,8
<b>knowing</b> 112:10	56:25 57:6,9	52:7 53:3,9,12	32:1 33:18	105:7,8,24
114:1	57:13 67:25	53:18 55:11	34:4 35:17,19	107:17,21,24
		70:22,24 80:15	35:22 36:4,10	108:10 110:17

112:9,21,23	78:10 89:8	<b>marshal's</b> 76:22	97:7 109:1,2	<b>money</b> 14:9
113:2,3,9,15	109:11	<b>math</b> 99:13	109:20 111:10	56:11 59:11,15
113:24 114:2,3	<b>lowering</b> 76:14	<b>matter</b> 9:9	118:20	60:20
115:17 116:11	79:3,11,23	34:14,14 39:25	<b>memorandum</b>	<b>monthly</b> 19:8
116:25 117:3	80:20 81:23	63:24,24 64:1	83:21 111:5	<b>months</b> 9:23,24
117:10,18,22	82:8 83:17	64:2,3 66:3	<b>memory</b> 126:13	<b>morning</b> 4:13
118:22,24	88:3 89:11	108:4,5 129:21	<b>memos</b> 92:20	<b>music</b> 25:16
119:2,7,9,16	90:22 92:16	131:21,23	<b>merchandise</b>	28:11,14 29:13
120:19 122:11	106:13 107:5	132:18 135:9	74:19 75:7,18	30:19,22 31:3
122:25 124:5	<b>LST</b> 1:25	<b>mean</b> 9:8 11:15	127:18	60:5,20 65:23
125:8,10,13	<b>lunch</b> 93:3	16:3 19:7,22	<b>merely</b> 8:1	67:13
127:5,21,25	<b>Lynne</b> 86:6	22:2,17,19	109:14	
128:3 129:13		23:17 25:4	<b>message</b> 116:4	<hr/> <b>N</b> <hr/>
129:25,25	<hr/> <b>M</b> <hr/>	28:6 29:20,24	123:11	<b>N</b> 2:1 3:1
130:1,5 131:7	<b>main</b> 7:16	34:6,18 36:8	<b>met</b> 33:18 76:3	<b>name</b> 4:13 6:25
131:19 132:1,8	115:10	40:18 50:4	<b>middle</b> 66:20	9:3 38:20 84:1
132:10,24	<b>majority</b> 52:6	57:1,12,21	<b>MIDDLETON</b>	84:6 85:3
<b>lived</b> 44:20	98:22 99:2	62:16,19 64:2	1:24 4:4 135:3	<b>named</b> 23:10
<b>LLP</b> 2:4	102:23 104:7	65:4 66:5	135:23	<b>names</b> 38:6
<b>loads</b> 107:5	104:16	70:15,21 71:17	<b>million</b> 91:6	83:24
<b>local</b> 37:23	<b>making</b> 26:21	76:6 81:4 92:6	99:7,8,8,9,10	<b>napkins</b> 25:1
128:13	59:5 86:9	94:3,18 96:11	99:13,14,16,18	<b>NASCAR</b> 39:7
<b>located</b> 24:21	114:7	101:1 102:21	99:23 101:5,5	39:15 52:25
<b>long</b> 9:22 40:22	<b>mall</b> 71:1	105:2 111:12	101:6,6	53:3,8,11 54:3
49:5 67:20	<b>manager</b> 78:18	115:9 117:6	<b>mind</b> 31:8 52:4	54:8,14 68:21
94:19 106:18	78:22 83:4	121:3 129:22	60:23 108:16	68:24 69:1,12
<b>longer</b> 54:11	109:3	<b>meaning</b> 51:14	113:22	70:4,10,11
79:17 100:6,10	<b>managers</b> 18:10	69:6 95:4	<b>mine</b> 53:18	79:15 96:2,18
100:22,23	18:12,18 61:20	112:6	<b>minimum</b> 121:9	99:19 100:6,10
107:21 129:20	78:25	<b>means</b> 70:6	<b>minor-league</b>	128:24 130:4
<b>look</b> 10:3 19:11	<b>manner</b> 52:20	<b>meant</b> 28:14	73:12	<b>national</b> 53:11
42:13,20 53:14	114:5	101:18 102:17	<b>minutes</b> 107:9	<b>nature</b> 19:8
59:2 80:22	<b>March</b> 17:4	130:15	127:12	74:25
98:16 103:16	87:22	<b>Medicaid</b> 122:5	<b>misdeemeanor</b>	<b>necessarily</b>
<b>looking</b> 40:25	<b>Marian</b> 86:4	<b>meet</b> 62:17	22:19	34:16 118:12
101:4 121:8	<b>Mark</b> 57:15,18	88:17	<b>misstate</b> 12:11	118:14 119:7
<b>looks</b> 98:11	82:13	<b>meeting</b> 21:16	12:13	<b>necessary</b> 87:14
<b>lose</b> 25:16 68:18	<b>marked</b> 82:16	<b>meetings</b> 8:15	<b>misstates</b> 12:9	<b>need</b> 5:7,20 48:8
<b>losing</b> 68:24	82:17 83:14	12:1 15:21	53:22 64:18	48:9 52:5
<b>lost</b> 74:2 75:17	85:9,15 97:18	19:8,9,13	88:10 99:25	<b>needed</b> 21:17
97:14	97:19 98:1	<b>meets</b> 64:6	126:4,10	117:14
<b>lot</b> 47:21 92:6	107:12 108:13	66:11	<b>misstating</b>	<b>negative</b> 43:14
115:13,16,18	110:23	<b>memo</b> 3:10,11	56:16	51:22 110:5
122:6	<b>marshal</b> 76:19	3:12,14 88:1	<b>mistaken</b> 18:1	<b>net</b> 59:7
<b>lower</b> 106:8	90:4 106:11,16	89:15 91:9	<b>MMA</b> 68:16,19	<b>neutral</b> 121:9
<b>lowered</b> 77:8	107:1,4 109:16	92:11,18 97:4	<b>modified</b> 125:8	<b>Nevada</b> 1:9,11

1:18 4:3 6:2 8:1,9 9:2,6,17 10:1,8 11:22 12:24 18:20 21:12 30:6,7 31:17,25 32:9 32:10 33:5 37:19 38:9,21 46:9 50:18 51:15,16 52:2 52:22 55:9,22 81:20 115:2 135:1,4,7,21 <b>never</b> 45:19 59:18 68:13 73:7 77:5 89:21 107:4 110:7 112:3 115:15 <b>new</b> 13:8 42:22 76:6,6,8,10 100:16 101:18 117:18 118:2 120:21 <b>nightclub</b> 24:19 77:22,22 <b>nightclubs</b> 78:9 86:19 87:1,8 87:15,25 90:2 99:8 100:15,21 101:5 <b>noncasino-rel...</b> 101:9 <b>noncompetitive</b> 129:12 <b>nongaming</b> 11:6 79:7 102:24 120:24 121:23 122:12,25 <b>nongaming-ty...</b> 122:14 <b>nonprofit</b> 116:7 <b>nonstrip-club...</b> 123:20 <b>Nope</b> 8:6 91:2 <b>North</b> 2:5	<b>note</b> 3:17 14:16 15:1 17:5,19 41:22 69:25 70:1,4,10 80:22 82:24 117:12 122:22 134:24 <b>notes</b> 14:8,11 17:18 33:11 52:10 70:19,20 70:25 81:1,5,6 81:17 117:15 117:17,21,22 118:10 122:24 123:17,19,22 124:9,9,16,21 124:24 135:16 135:20 <b>notice</b> 16:5,5 <b>notion</b> 77:2 <b>number</b> 3:9 9:7 9:8 13:3 18:22 46:4 82:16 83:7 85:15 97:18 108:13 109:10,14,16 109:25 111:3 113:23 117:21 118:17,23 119:14,14 123:13 <b>numerous</b> 9:13 35:21 <b>NV</b> 2:5,17 <hr/> <b>O</b> <hr/> <b>oath</b> 4:23,24 <b>object</b> 29:17 33:3 34:9 36:5 37:6 38:3 39:1 43:11 44:5,10 45:1 48:3,16 53:22 56:12,15 62:8 79:12 84:3,10,16 88:9 90:16	91:8 119:18,22 121:11,21 131:9,12 <b>objection</b> 10:15 29:24 37:17 49:13 63:5 68:4 73:2 87:11 95:17,23 99:24 104:11 109:18 110:9 115:7,20 116:13 119:12 121:1,21 123:3 124:12,19 126:4,10 131:9 <b>obligations</b> 46:25 <b>obviously</b> 14:21 46:19 <b>occupancy</b> 107:5 108:24 109:10,14,16 109:25 <b>occur</b> 38:23 83:17 113:21 <b>occurred</b> 8:20 9:8 24:13 28:17 31:16,17 32:4 39:10 44:23 46:8 47:21 48:12 54:23 61:22 63:3 73:4,20 77:5 90:18 115:23 <b>occurring</b> 25:8 48:20 106:13 128:20,23 <b>occurs</b> 39:16 64:22 <b>offer</b> 41:16 <b>office</b> 7:15,16,16 18:11 53:11 69:10 78:14,16 78:20,20 79:1 <b>officer</b> 86:7	<b>officers</b> 7:14 33:13 <b>offices</b> 4:2 7:14 19:14 <b>official</b> 6:13 130:7 <b>Oh</b> 40:7 91:13 110:13 111:7 127:14 <b>okay</b> 4:16 5:20 5:20 6:10,15 6:17 7:5,19 8:7 10:11 11:8 12:11 16:12,13 16:16 19:12 20:12 21:3,4 22:14,21 25:6 25:14 27:5 28:7,9,10,23 31:19 32:3,11 34:17,22,25 35:2,8 36:18 36:20 39:5 40:8,9,24 41:20 42:4 43:21 45:11,22 46:1 47:18 48:8 51:7 52:9 52:11,14,15,25 53:13 54:5 56:1 60:19 62:4,18 63:1 63:23,25 64:7 64:20 65:10 66:5,16 67:1 67:17,24 68:7 68:12,15,21 69:21 70:3 71:1,10 72:6 72:21 74:19 77:1,20 78:16 80:5,10 81:13 81:19 82:15 83:1 84:20 85:13,23 87:21 88:12,22 89:11	89:15,17,25 90:8 93:1,25 94:11 96:22 97:24 98:1,8 98:10 100:25 103:6,18 104:17 105:20 106:1 107:4,14 109:2 110:8 111:11 112:8 112:16 113:7 114:14 118:2 120:8,8,15,22 121:6 125:16 125:25 126:20 127:6,21 128:6 128:20 129:17 131:2,11 132:3 <b>old</b> 49:4 <b>Oliver</b> 78:19 <b>omnibus</b> 9:12 <b>once</b> 28:4,6 32:20 90:13 <b>ones</b> 15:23 27:20,21 <b>one-time</b> 87:6 87:25 <b>open</b> 21:16 <b>operator</b> 61:13 <b>operators</b> 38:2 <b>opinion</b> 41:3 45:2,5 48:20 108:25 109:19 109:23 131:1,5 <b>opposed</b> 95:15 101:13 104:2 <b>order</b> 10:22 15:13 21:6,7 21:13 33:18 105:24 <b>organizations</b> 116:7 <b>original</b> 3:17,17 46:3 55:9 88:14 122:8 134:24
---	---	---	---	---

<b>originally</b> 115:19 122:3	86:24 101:1 111:6 116:22	35:4 46:16 90:11 102:4	<b>perjury</b> 5:3 134:18	30:20 39:6,14 45:8 54:19
<b>outcome</b> 71:8,9	117:25 119:15	103:22 105:4,6	<b>permit</b> 108:24	64:4,5 75:6
<b>outdoor</b> 74:6,16	125:17 131:3	105:8,9,14	<b>person</b> 36:25	93:5 95:9
<b>outside</b> 50:12	<b>participate</b> 12:1	106:4 112:11	37:4 52:18	<b>pointed</b> 129:2
71:16,17,18	<b>participating</b>	116:7 118:22	57:25 66:22	<b>pointedly</b> 27:2
74:19 75:7,10	8:11	118:24 125:19	67:1 109:2	<b>policy</b> 7:21 14:9
<b>overall</b> 42:1,2	<b>particular</b> 67:8	127:3 128:3,3	112:8 130:16	35:25,25 36:1
100:5,11 108:7	76:3 89:20	<b>pays</b> 35:9	131:7,18 132:1	46:23 121:16
111:18	108:4 116:20	105:16 119:16	135:13	127:4 129:3,8
<b>oversee</b> 7:13	117:5 118:20	<b>penalties</b> 5:3	<b>personal</b> 41:3	129:19,24
18:2 124:2	119:9 120:5	88:21	45:2,5 62:2	130:4,15,17,24
<b>overseeing</b>	125:3	<b>penalty</b> 134:18	89:15,19,23	<b>pony</b> 71:23
55:17	<b>particularly</b>	<b>pending</b> 5:21	<b>personally</b> 4:5	<b>population</b> 92:7
<b>oversight</b>	46:9	<b>people</b> 6:10	135:7	<b>portion</b> 6:22
112:22	<b>parties</b> 10:24	13:20 21:20	<b>persons</b> 28:1	10:7 17:5 48:5
<b>owe</b> 72:2	16:1,3 27:8,16	27:14 28:25	132:24	48:6 91:15
<b>owed</b> 88:14	31:25 38:14	29:8 42:22	<b>perspective</b>	120:12
<b>owner</b> 109:10	135:11,12	43:1 46:11	20:13 112:21	<b>position</b> 6:18
109:14,15,24	<b>pass</b> 40:5 96:11	60:15,20 61:9	113:2,18	8:10 16:22,25
<b>ooo</b> 4:7	130:11	72:25 76:20	<b>Petition</b> 1:7	17:1,2 44:17
	<b>passage</b> 11:10	90:11 100:17	<b>Petitioner</b> 1:10	44:19 60:1
	42:21	107:5 110:14	2:3	75:23
<b>P</b>	<b>passed</b> 8:18 9:25	110:20 128:7	<b>phone</b> 69:19	<b>positions</b> 6:8
<b>P</b> 2:1,1	10:23 22:2,25	131:19	78:2	<b>positive</b> 127:15
<b>page</b> 3:2,9	96:7,15 110:17	<b>percent</b> 45:9	<b>phrase</b> 41:25	<b>possibility</b> 74:4
108:14,15,16	114:13	75:2 92:12	57:22	80:21 81:25
118:20,20	<b>patron</b> 62:12,12	104:10,17,20	<b>phrased</b> 26:15	90:17 103:8
120:14 121:14	<b>patrons</b> 46:20	104:22,24	77:12	<b>possible</b> 13:9
129:1 134:2	59:6,12 60:5	<b>percentage</b>	<b>physical</b> 78:1	23:2 46:21
<b>pages</b> 135:18	60:16 61:5,18	100:4,6,11	106:21	68:14 75:9
<b>paid</b> 46:15,16	63:3,14 64:13	104:1,12	<b>piano</b> 25:11,15	94:25 97:16
46:25 84:15	64:22 65:14	<b>perform</b> 12:21	25:23 26:13	100:1 104:3,23
116:20 120:2,4	66:19,23 67:13	15:4 57:10	<b>pick</b> 100:23	104:25 106:5
126:14,17,23	67:19 86:21	58:2 60:24	<b>picked</b> 100:14	110:9 120:7
127:24	91:6 117:2,5	61:3 82:9,10	100:21 120:3	123:18,21
<b>pains</b> 5:3	<b>pattern</b> 68:7	<b>performed</b>	<b>picking</b> 47:9	127:13 128:22
<b>paper</b> 112:1	<b>Paulina</b> 78:18	18:21 20:25	100:22	128:25
<b>papers</b> 107:9	<b>pay</b> 34:13,22	55:18 79:3	<b>piece</b> 84:8	<b>possibly</b> 58:5
<b>Pardon</b> 54:24	35:7 37:13,15	<b>performing</b>	110:10 111:25	92:25 124:20
<b>Parks</b> 46:5	37:20 38:13	36:10 68:22	<b>place</b> 22:1 55:4	<b>post</b> 42:20 100:3
<b>Parkway</b> 2:4	67:19 88:21	81:20,22 99:9	119:16	<b>posted</b> 21:18
<b>part</b> 10:17 24:7	90:23 103:4	100:15 101:6	<b>players</b> 25:12,15	33:11
28:22 32:19	115:13 127:17	<b>period</b> 69:1,20	25:23 26:13	<b>post-2005</b> 104:7
35:23 43:22,23	128:12,12,16	111:24,25	<b>please</b> 114:18	<b>potential</b> 13:4
43:24 55:15	<b>paying</b> 34:15	<b>periodic</b> 87:5,25	<b>point</b> 5:25 30:17	24:10 42:7
66:13,13 72:17				

45:16,23 61:11 69:11 103:8 <b>potentially</b> 65:1 65:2 68:18,24 84:24 <b>practice</b> 68:7 <b>predate</b> 97:11 <b>predictability</b> 19:21,22,23 20:1,19 21:8 21:10,13 30:24 <b>predictable</b> 52:19 <b>prefer</b> 5:10 <b>prepare</b> 117:20 117:22 <b>presence</b> 73:7 <b>present</b> 94:21 <b>previously</b> 38:16 43:1 89:14 <b>prices</b> 105:24 <b>prior</b> 11:10 23:8 48:13 54:9 56:16 69:19 88:10 98:13 99:25 103:11 112:3,3,6 <b>private</b> 38:8,12 38:18 64:4 <b>privileged</b> 84:1 84:8,15,21 <b>probably</b> 15:9 26:8 29:13 46:6 65:25 78:12,13,19 83:6,6 87:14 105:3 106:17 125:9 <b>problem</b> 22:16 27:11 70:19 103:15 114:16 <b>problematic</b> 95:11 <b>problems</b> 45:23 122:6	<b>proceeding</b> 135:14 <b>proceedings</b> 133:4 135:13 <b>process</b> 5:18 8:20,24 9:22 10:17 11:4 15:25 16:1,9 25:21 29:23 54:20 <b>produced</b> 69:6,9 123:24 <b>professional</b> 66:18,23 73:12 73:17 74:2 <b>prohibited</b> 47:5 <b>project</b> 57:2 <b>prominent</b> 23:13 <b>proper</b> 18:23 <b>properties</b> 11:17 <b>property</b> 46:17 <b>proposed</b> 93:16 95:10 <b>protections</b> 47:3 <b>provide</b> 8:4 12:15,17 16:6 19:18 21:7,13 38:14 63:22,22 87:1 114:3 <b>provided</b> 21:17 24:7 26:22 52:12,17 53:8 63:23 69:22 70:5,16 72:1 81:3 83:8 87:5 87:24 88:16,18 89:4 94:19 110:10 114:10 116:4 132:9 <b>provides</b> 84:22 119:7 <b>providing</b> 14:24 17:7,20 25:16 32:6,7 36:4	37:1,4 41:12 41:22 50:10 52:6 94:13 113:15 131:7 131:19 132:1 132:24 <b>provisions</b> 38:1 <b>public</b> 9:4,9 16:4,5 21:10 21:11,15 24:7 32:9,12 46:22 53:12 81:3,3 121:16 129:3,8 129:18,24 130:4,15,24 131:5,5 <b>purchase</b> 34:21 <b>purpose</b> 19:13 24:5 44:2,16 47:19 50:3,4,6 53:16 123:5,8 123:10 <b>purposes</b> 83:14 <b>pursuant</b> 132:25 <b>purview</b> 50:12 53:18 61:15 101:8,13 103:4 113:16 114:6,7 130:9,10,20 131:3 132:13 <b>put</b> 16:4 21:6 26:16 48:5,5 50:24 51:15,16 54:20 55:4,7 59:11,15 65:20 66:15 81:16 84:24 110:20 118:7 123:10 125:4 <b>puts</b> 60:20 <b>putting</b> 27:21 101:13 124:1,2 <b>p.m</b> 133:4	<b>quarterly</b> 19:9 19:13 <b>question</b> 5:9,11 5:16,21,22 13:24 20:16,18 20:22 26:7,10 26:15 27:18 29:17 30:2 31:1,14 33:3 34:9,10 36:22 36:23 39:1 40:7,11,11 43:25 44:5 45:1 48:3,10 48:22 49:7,9 52:16,18 54:14 54:18 57:22 60:14 62:9 70:9 77:10,13 80:9,14,16 81:19 88:9 90:7,10 98:18 102:16 105:20 108:12 114:9 121:22 125:17 131:10,13,16 132:19 <b>questioning</b> 125:20 <b>questions</b> 5:14 5:17 20:13 24:11 82:20 114:15 119:22 123:14 125:16 <b>quick</b> 114:18 <b>quickly</b> 110:21 <b>quite</b> 40:11	<b>raceways</b> 99:8 99:18 100:15 101:5 <b>racing</b> 40:13 <b>raise</b> 123:6 <b>Rakowsky</b> 2:15 3:4,5 10:15 12:9 20:2 25:25 26:4 29:17,21 33:3 34:9 36:5 37:6 37:17 38:3 39:1 43:11 44:5,10 45:1 47:8,11,14 48:3,16 49:13 49:18 51:19 53:22 54:3,14 56:12,15 62:8 63:5 64:18 68:4 73:2 79:12 84:3,10 84:16 87:11 88:9 90:16 91:8,11,24 93:2 95:17,23 97:6 99:24 104:11 107:8 107:25 109:18 114:17,19,22 115:1,11,24 116:17 118:17 118:19 119:13 119:23 121:5 122:1 123:4,18 124:19 125:16 126:4,10 129:2 131:9,12 132:19,22 <b>Randolph</b> 120:9 <b>range</b> 104:24 <b>rate</b> 75:2,3,5 <b>RCI</b> 1:8 4:14 <b>RDR</b> 1:24 135:24 <b>reached</b> 68:13
---	---	--	--	---

<b>reaction</b> 72:1	24:21,21 25:4	67:22 93:3	128:7	70:24 92:16
<b>read</b> 10:10	25:8,11,18	114:20	<b>referencing</b>	96:11 102:10
20:16,17 40:16	28:16 33:9,17	<b>recognize</b> 6:25	91:10	108:4 110:17
40:23 45:11	38:19 39:6,12	85:17 97:24	<b>referring</b> 14:12	117:18 124:2,5
47:23,23 48:4	39:18 40:21,22	<b>recollection</b> 5:6	20:2 82:23	124:10 126:3,8
48:11 82:19	41:20 42:4,12	10:13 11:10	92:3 121:23	<b>relates</b> 92:9
85:19 86:13	43:6,10 45:21	12:18,19 13:2	125:22 126:22	<b>relative</b> 47:3
92:19 109:13	45:25 47:24	14:7 24:14,17	126:23 129:10	135:10,11
120:12,12	51:6,7,18,21	27:7,23 33:12	<b>refresh</b> 45:13	<b>relevant</b> 7:8
129:15 134:19	52:12 54:13	33:23 34:1,3	48:11 110:3	<b>relied</b> 15:6,17
<b>reading</b> 47:8,10	55:25 56:16,18	41:1 43:13,15	<b>refreshed</b> 47:20	18:7,8,11
47:19 49:21	58:1,25,25	45:13 47:20	126:12	<b>relieved</b> 25:23
92:8 97:21	59:9 61:6	48:12 50:2	<b>refreshes</b> 24:17	26:12
118:23	68:20 69:9	51:3,12 54:9	108:20	<b>remaining</b>
<b>ready</b> 82:21,22	71:3,7,8,10,12	58:18,21 71:4	<b>refunded</b> 120:5	102:3
<b>realize</b> 83:13	72:3,6,8,9,15	73:19 74:15	<b>regarding</b> 12:2	<b>remember</b> 9:8
<b>really</b> 20:5,5,9	73:3,8,16,22	75:16,20 79:13	12:21 13:7	10:4,7 13:10
20:14 22:16	73:23 74:4,6,9	80:23 82:1	20:1,19 41:22	13:11 23:9,9
45:5 48:2,14	74:10,18 75:9	89:9,16,19,23	45:19 70:10	23:12 24:18
52:16 56:5	75:19,20 76:16	92:24 95:7	78:9 93:7	28:15,16,17
73:20 80:9,14	76:17,25 77:1	96:8,12,17,23	<b>regardless</b>	43:25 45:7,15
81:10 101:21	77:6,7,25 78:5	104:6 106:15	130:1 132:17	45:22 49:9
105:20 109:22	78:6,22 79:18	108:20 110:3	<b>regards</b> 117:21	50:22 52:13
122:16 125:17	79:20 80:1	113:6 117:17	122:23	53:6 54:25
131:16	81:21 83:10,11	126:2 127:9	<b>regular</b> 87:5,24	55:5,17,21
<b>reason</b> 21:21	83:20,23 85:18	<b>record</b> 5:12 9:9	117:25	57:8 59:1,5
33:8 44:24	90:25 91:20	20:17 23:3,6,8	<b>regularly</b>	72:12,18,24
56:9 76:24	92:20 93:9,12	24:8 27:11	117:20	73:13 74:19
100:9 111:21	93:15,18 94:10	47:12,15,16,18	<b>regulation</b> 16:6	75:1 76:13
112:14,17	94:19,25 95:12	48:5,6 81:2	25:22 26:12,25	78:24 80:2
122:9,19	95:24 96:4	83:14 85:5,6	27:3,6,21	82:10 90:20
124:18 126:3	97:16 102:11	97:6 107:8,11	28:21 29:15	93:5,21 94:1,5
134:2	103:16 104:3	114:23 120:12	32:20,22 40:19	94:8,11,16
<b>reasonable</b>	110:2,18	131:5 133:2	54:19 55:6,14	95:1,9,13,20
122:4	111:20 120:7	<b>recorded</b> 65:23	66:13 72:4	96:2,14 103:25
<b>reasons</b> 51:1	122:22 123:12	67:13	76:4 88:15	107:15,22
65:3	125:20 127:1	<b>redacted</b> 3:15	<b>regulations</b> 8:12	108:8 109:23
<b>recall</b> 6:23 8:22	128:16	108:19	8:25 18:19	110:15 111:16
9:3,22,25 10:9	<b>recalled</b> 24:10	<b>redactions</b>	19:17 21:1,23	128:20,23
12:15 13:6,18	<b>receipt</b> 123:23	108:16	24:1 59:9	<b>REMEMBER...</b>
13:19 14:6	<b>receive</b> 58:21	<b>redeterminati...</b>	60:12	4:1
15:3,21 17:6,9	<b>received</b> 32:8	1:8 90:5	<b>regulatory</b> 8:15	<b>remit</b> 91:22
17:11,20 18:16	70:8 77:15	<b>reduce</b> 42:1	11:4 108:6	92:1
21:11,24 22:3	78:12	108:24 120:18	<b>relate</b> 124:17	<b>remitting</b> 35:10
22:10,14,22	<b>receiving</b> 83:10	<b>reducing</b> 113:10	<b>related</b> 17:18	<b>removal</b> 26:16
23:2,23 24:16	<b>recess</b> 23:4	<b>refer</b> 117:12	56:4 70:4,13	<b>removing</b> 102:1



103:12	94:18	119:6,8	124:17 126:14	102:21 103:15
<b>Reno</b> 1:18 4:3	<b>research</b> 46:11	<b>restaurants</b>	126:17	103:15 105:13
7:15 78:19	<b>respect</b> 8:24	79:3 119:6	<b>revenues</b> 57:3	107:7,14 109:7
79:1 83:4,8	9:19 13:13,15	<b>restrictions</b>	<b>review</b> 28:12	109:22 111:9
90:2 109:3	14:5 17:8,14	33:16	72:4 73:21	114:14 123:13
135:6,21	17:23 18:6,8	<b>result</b> 97:15	127:12	123:17 124:14
<b>rephrase</b> 5:10	19:23 22:18	121:6	<b>reviewed</b> 10:25	128:19 129:14
5:11 91:14	23:23 25:11	<b>retail</b> 38:18	26:8 27:11	129:16 131:6
<b>report</b> 18:12	28:19 33:15	<b>retailer</b> 35:4,6,7	48:11 106:18	133:2
19:6 34:22	38:23 45:23	35:15 36:15	<b>reviewing</b> 9:10	<b>rights</b> 47:4
37:12,15 38:13	48:1 50:21	<b>retailers</b> 34:18	<b>revisit</b> 106:17	115:10
69:23 88:21	52:7 54:20	34:21 35:3	<b>re-review</b> 74:12	<b>risk</b> 84:24
<b>REPORTED</b>	57:2 58:24	38:17	<b>Rick's</b> 4:15	<b>role</b> 7:9 8:2,10
1:24	62:4 68:15,21	<b>retire</b> 16:14	<b>ride</b> 72:13	18:2 23:13,13
<b>reporter</b> 4:4	70:4,12 79:3	<b>retired</b> 16:13	<b>rides</b> 72:10	23:16 24:4
5:13,15 20:17	81:19 83:18	86:7 130:9	130:5	26:18,24 30:24
135:3,16	87:8,25 88:3,4	<b>retirement</b> 17:3	<b>right</b> 5:5,25 6:4	31:19 32:17,19
<b>reporting</b> 87:20	89:19,22 92:14	<b>returns</b> 69:20	8:10 9:4,10	32:20 39:22
87:21 99:5	92:22 95:11	<b>revenue</b> 6:16,21	11:21 12:13,17	44:16,18 48:21
<b>represent</b> 4:14	98:17 107:16	7:13 12:23	13:11 14:4,11	48:22 52:9,9
115:1	107:24 108:9	13:22 14:13	14:18 15:5,13	53:19 55:17
<b>represented</b>	118:7 123:17	15:10,10 33:13	15:17 17:14,19	56:9 82:6
32:10 53:7	123:19 124:17	34:8 42:1,2	19:1,6 20:14	<b>roles</b> 19:18
<b>representing</b>	126:14 128:21	55:19,23 56:3	21:11 23:6,21	<b>Roos</b> 2:3 3:3,4
27:15	128:23 130:14	56:6,22 57:10	24:23 25:14	4:12,13 10:16
<b>request</b> 16:4	130:23	58:3,19,24	28:19,24 29:5	12:10 20:4
56:24 57:6,24	<b>respects</b> 20:22	59:2 68:18,23	31:22 34:20	21:2 23:5 26:3
58:2,22 77:15	<b>respond</b> 27:1	69:11 70:11	37:24 39:11,18	26:6 29:19
78:12 80:22	36:6,12,21	74:1,16 75:17	40:21 41:18	30:1 33:4
83:2 86:8	44:14,15 52:4	78:4,15 79:24	42:20,25 46:1	34:11 36:7
109:16 134:24	87:13 88:13	82:7 86:6,9	47:19 49:16	37:14,18 38:5
<b>requested</b> 10:24	126:25 132:2,3	87:17 92:9,9	50:2 57:5	39:4 43:12
14:14 70:1	132:12	92:11,21 94:14	60:24 61:7	44:6,12 45:4
111:24 112:3	<b>responded</b>	94:17 97:15	64:8 65:11,18	47:10,12,15,17
<b>requesting</b> 16:1	59:20,21	98:23 99:3,14	66:1,9 72:9	48:7,17 49:15
58:23	<b>Respondent</b>	99:23 100:11	73:25 75:4,12	49:20 51:20
<b>requests</b> 109:10	1:12 2:15	100:16 101:12	76:24 80:10	54:1,4,17
109:14 117:13	<b>responding</b>	101:23 102:23	82:4 84:7 85:8	56:13,19 62:10
117:19 122:23	26:14 33:8	103:1,2,8,18	85:15,19 86:11	63:7 64:19
122:24	<b>responsibility</b>	103:21 104:1,7	87:19 90:7	67:20,23 68:6
<b>required</b> 37:12	7:9,11,18,19	104:16,18	91:25 92:8	73:6 79:19
37:15	8:7 11:7	105:12 111:17	93:5 95:13	82:18 84:4,13
<b>requirement</b>	<b>responsible</b>	112:23 115:13	96:7,19 97:5	84:19 85:7,10
76:14 88:18	122:4,5	120:17,18	98:16 99:6,13	87:18 88:11
95:10	<b>rest</b> 48:4,6,6	121:9,10,12	99:18 100:3	90:19 91:10,12
<b>reread</b> 25:9	<b>restaurant</b>	122:3 123:6	101:3 102:1,14	92:4 93:4

95:19 96:1	<b>SB</b> 8:21 9:11	108:20,22	99:22 100:4	73:22 75:15
97:9,20 100:2	20:2 23:20	111:7 129:5	<b>sessions</b> 32:25	83:20 100:9
104:14 107:10	31:8 55:9 69:2	<b>seeing</b> 69:9	<b>set</b> 9:4	101:7 104:4,6
107:13 108:2	93:21 98:17	83:11 85:18	<b>setting</b> 7:21	104:15 112:16
109:21 110:24	103:7 110:16	<b>seen</b> 6:4 56:1,1,3	<b>seven</b> 47:21	113:1 127:6
115:7,20	<b>scenario</b> 64:25	69:5	<b>shift</b> 12:2	<b>sitting</b> 26:5
116:13 118:16	65:13,21 67:1	<b>sell</b> 34:13	<b>shopping</b> 71:1	<b>situation</b> 24:22
119:12,18	<b>scenarios</b> 35:18	127:19	<b>shops</b> 44:21	<b>slippery</b> 47:2
120:8 121:1,21	<b>scope</b> 29:4	<b>selling</b> 74:23	71:6,9	<b>slope</b> 47:2
123:3,13,16	<b>seat</b> 106:14	<b>senate</b> 9:25 10:8	<b>show</b> 21:20 56:2	<b>slot</b> 61:13
124:12,13,22	<b>seating</b> 33:17	14:25 17:23	66:19 71:11,15	<b>slow</b> 114:19
126:6,16	35:20 76:14,23	46:5,8 53:6	82:15 121:18	<b>smaller</b> 79:25
131:11,14	77:7,17,24	57:14,16,20	124:16	86:14
133:2	78:10 79:4	<b>senator</b> 23:10	<b>showed</b> 61:8	<b>Smith</b> 9:1 11:1
<b>rounded</b> 99:15	80:15 81:23	23:10,24 43:7	120:8	<b>social</b> 46:24
<b>rules</b> 4:20 5:5	83:17 84:7	46:2 48:19,20	<b>shows</b> 71:14	122:6
<b>ruling</b> 65:9,9	85:1 86:20	49:22 57:25	72:7	<b>sold</b> 75:7
<b>run</b> 104:4,5	88:3,25 89:8	93:6,9,13	<b>side</b> 11:5 30:10	<b>somebody</b> 28:13
	89:11 90:5	94:22 98:17	42:10 46:5,6	30:17,20 41:5
<b>S</b>	91:5 92:17	110:15 120:9	53:6,6 57:14	58:5,18 59:11
<b>S</b> 2:1 3:7	95:10 96:20,23	122:15,17,20	57:14,15,16,19	59:15 63:1,2
<b>sale</b> 74:19	97:2,13 98:24	129:1,11	57:20 59:12	65:21 66:18
<b>sales</b> 18:25 20:6	102:1 103:12	<b>senators</b> 110:20	73:4,9 86:5	69:6,10 71:21
34:12,13,15,18	103:23 106:8	<b>send</b> 118:10	101:14 119:21	80:17,25 90:21
34:24 35:4,12	106:13,17,19	<b>sending</b> 58:15	121:4 122:25	117:4 124:6
36:13,15 37:10	108:21	<b>sense</b> 10:12	<b>sides</b> 28:7	126:24
37:13,15,19,20	<b>seats</b> 76:15,15	77:21 124:15	<b>signature</b>	<b>sorry</b> 14:18
38:8,13,20	79:11 82:8	<b>sent</b> 98:2,4	134:19	17:24 18:1
74:23 75:2,5	88:8,8 90:12	<b>sentence</b> 86:13	<b>significant</b>	22:8 49:19
92:13 116:7	90:24 92:17,17	91:21 99:7	46:18 103:1,2	69:8 72:11
127:17,24	106:8 111:18	102:15 103:11	113:23 114:1	85:13,22 91:13
<b>sanctioned</b> 52:2	112:11	109:13 129:7	<b>significantly</b>	93:24 98:9
52:22	<b>second</b> 23:3	<b>sentences</b> 47:9	113:10	109:12 118:15
<b>sat</b> 15:14	49:18 118:20	<b>separate</b> 70:20	<b>similar</b> 79:2	126:5,7 132:20
<b>Sawyer</b> 27:14	<b>section</b> 7:18	92:2 94:8	83:20	<b>sort</b> 7:7,9,21
<b>saying</b> 21:25	92:9,10	100:17	<b>simple</b> 131:16	23:12 60:5,24
38:7 61:9 95:7	<b>sector</b> 38:18	<b>September</b> 46:1	<b>simplistically</b>	61:3 79:9
95:9 108:6	<b>see</b> 22:15 24:17	120:9	71:25	100:16 101:7
109:15 115:4	27:10 36:19	<b>series</b> 39:15	<b>simply</b> 48:10	105:5
129:12	37:9 45:12	<b>seriously</b> 20:24	113:16	<b>source</b> 103:1,2
<b>says</b> 46:3 56:15	46:5 47:20	<b>service</b> 34:24	<b>single</b> 19:7	132:9
86:13,25 87:4	57:21 72:16	38:15	36:25 115:12	<b>sources</b> 132:10
91:22,25 98:22	86:16,22 91:3	<b>services</b> 4:3	131:7,18	<b>southern</b> 46:9
99:7 108:22	91:15 98:20,25	38:14 86:7	<b>sit</b> 45:6 51:3,10	<b>span</b> 107:20
109:13 120:17	99:11,18 102:5	110:11	53:2 58:17	<b>sparked</b> 112:21
129:2	102:12,15	<b>session</b> 98:14	71:13 72:6	<b>speak</b> 79:5

122:16 129:11	104:11 109:18	69:10 70:5,6	82:13	88:20
130:12	115:20 116:14	71:23 81:20	<b>Steveris</b> 3:12	<b>submit</b> 27:16
<b>speaks</b> 87:11	121:1,21	97:14 101:12	<b>stood</b> 24:25	<b>subsequent</b>
<b>special</b> 66:21	124:12,19	103:1 108:15	<b>strip</b> 48:14 56:3	87:22 122:6
112:20	<b>Speculative</b>	115:2 116:20	56:7,22 57:11	<b>subset</b> 112:11
<b>specific</b> 10:2	121:22	122:3,7 123:24	58:20,24 77:3	112:23
19:10 22:9,20	<b>speedway</b> 39:7	124:3,15	77:9 82:3,7	<b>substance</b> 95:2
22:21 23:1	39:16 53:21	126:15,18	88:23 89:4,13	<b>subtract</b> 42:16
24:12 25:4	54:6,8 69:8,10	128:13 135:1,4	90:13 93:10	<b>summer</b> 10:6
28:19 37:16	79:10,14,25	<b>stated</b> 41:11	94:3,5,9 95:4	<b>Summers</b>
38:2,4,24 41:6	80:19 116:11	114:9	95:11,15 97:3	110:12
50:20,22 51:1	<b>spelling</b> 98:3	<b>statement</b> 30:3	99:15 100:5	<b>SUNSHINE</b> 4:2
54:16 56:2,21	<b>spend</b> 40:25	44:7 58:7	103:9,22 104:1	<b>supervisor</b> 7:3
60:2 65:13	46:20	91:21 103:12	104:8 105:2,7	86:2
73:19 76:25	<b>split</b> 6:14	122:15 125:5	105:18,22	<b>supervisors</b> 7:5
77:10,12 80:16	<b>sport</b> 52:3	130:14	106:7,13,23	<b>supposed</b> 42:16
83:16 87:15	<b>sporting</b> 116:19	<b>statements</b>	111:17 124:3	42:17
91:19 111:17	128:12	45:11	127:24	<b>supposedly</b> 28:6
117:19 127:1	<b>sports</b> 125:18	<b>states</b> 51:15	<b>structure</b> 58:12	<b>sure</b> 15:9 16:11
<b>specifically</b> 9:19	126:23 128:2	91:15 121:15	<b>structured</b> 64:5	19:14 26:21
10:21 17:9	<b>ss</b> 135:1	122:2	66:4,6	32:7 39:2
20:9,21 22:11	<b>staff</b> 13:3,6 15:6	<b>stating</b> 43:7	<b>struggling</b> 32:6	47:14 55:1
22:14 23:22	15:14,17,21,22	44:2	<b>studied</b> 15:22	59:6 83:4
26:1 30:12	30:6 81:21	<b>statistics</b> 102:17	<b>studies</b> 12:21	108:18 111:4
32:1 38:19	82:9 83:6 86:5	102:22	13:7	114:7 127:14
39:8 40:3 55:9	93:16	<b>status</b> 19:7	<b>study</b> 56:10 60:7	<b>surprise</b> 49:21
57:9 58:18,23	<b>stand</b> 31:10	<b>statute</b> 22:18	61:7 74:15	49:25
72:2 78:6 82:4	100:9 124:18	25:3,24 29:4	75:16 79:2,9	<b>sworn</b> 4:6,9
86:19 92:16	<b>standpoint</b> 9:23	34:4,5 35:17	105:5 106:6	135:7
93:10 94:1,2	40:4 41:5	35:17 39:8	<b>stuff</b> 31:6 70:21	
103:3 114:10	87:10 96:11	40:24 49:10	<b>subcategory</b>	<b>T</b>
122:15 124:3	<b>stands</b> 54:18	55:7,16,24	42:21 111:18	<b>T</b> 3:7
128:15,18	<b>Star</b> 72:19	66:14 72:5	<b>subject</b> 5:2	<b>take</b> 4:17,24
<b>specifics</b> 24:15	<b>start</b> 22:16	74:3,21 75:18	26:17 34:24	5:13,22 12:1
51:6 62:22	59:15 129:19	75:22,22 76:4	35:1 39:16	16:25 78:14
66:10 76:25	130:4	80:2 95:4	43:1 48:25	82:19 93:1
<b>speculate</b> 5:7	<b>started</b> 12:7	113:4 128:10	50:19,25 59:13	101:19 110:19
10:14 131:13	46:24 59:12	131:8,25 132:3	60:13 61:21	114:18,19
131:15	<b>starting</b> 31:6	132:17,25	63:18 65:10	<b>taken</b> 4:18,23
<b>speculating</b> 15:7	<b>starts</b> 60:20	<b>statutes</b> 131:23	67:4,6,14	23:4 29:15
<b>speculation</b>	<b>state</b> 1:11 6:2	<b>stay</b> 28:3,3	75:13 76:21	67:22 93:3
10:15 44:11	12:24 13:13	<b>stayed</b> 43:2	79:15,17 83:25	114:20 135:15
48:3 49:14	33:5 35:10	<b>stenotype</b>	86:18 88:19	<b>takes</b> 101:21
51:19 62:8	37:23 38:9	135:15,20	90:2 113:21	119:15,15
63:6 68:4 73:2	42:1 50:18	<b>Stevens</b> 57:16	115:13	<b>talent</b> 66:21
95:17,23 99:24	55:22 68:18,23	67:24 68:9	<b>subjecting</b>	<b>talk</b> 5:15 7:19

23:7 28:11	26:18 29:16	92:12,13,15,22	76:11 77:2	<b>telling</b> 59:1
34:25 35:2	30:6,7,13,22	93:7 98:18	80:18 81:1,15	<b>ten</b> 90:23
68:16	30:25 31:2,2	99:4,20 100:11	85:25 89:4	<b>tenets</b> 115:10
<b>talked</b> 15:25	31:10,17 32:1	100:18 101:14	97:2 99:3	<b>term</b> 16:2 29:2
80:2	32:10 33:1,7	101:18,19,22	101:8 104:5,6	67:25
<b>talking</b> 7:8	33:11,19 34:5	101:24 105:3,4	105:5,21 106:6	<b>terms</b> 77:21
13:25 14:24	34:12,12,13,15	105:7,8,11,14	108:7 111:22	<b>testified</b> 4:10
15:22 18:21	34:18,22,24	105:15,16,16	112:17 113:22	30:23 37:2
20:3,6,10,21	35:1,4,5,7,9,12	105:19,24	115:2 117:20	55:8 57:5
20:24 22:16	35:23,24 36:9	106:4 107:17	118:9 119:3	64:13 101:17
25:25 26:1,4	36:11,13,15,16	107:21 108:10	120:2 123:23	119:20 121:2
32:1 43:15	36:18,19,25	109:3 112:9,9	124:8	123:5 125:1
49:24 53:24,24	37:9,10,13,16	113:2,4,10,19	<b>Taxation's</b>	<b>testify</b> 130:22
54:3 55:9 69:2	37:19,20 38:8	113:21,24	26:24 60:1	131:2 135:8
75:10 77:1	38:13,21,24	114:3,4,7	<b>taxed</b> 31:4 41:17	<b>testimony</b> 5:1
117:2	39:8,22 41:6,8	115:17,19,25	42:5,6 47:4	12:9,11,14,16
<b>tapes</b> 74:13	41:14,24 42:6	116:8,12,21,25	71:15 74:3	12:17 14:5,25
<b>target</b> 94:5	42:7,14,15,16	117:3,10,18,22	75:8 89:14	24:7 26:22
113:4	42:17,20,21,23	118:4,22,25	100:17,18	27:12 42:11
<b>targeted</b> 93:10	43:2,8,17	119:10,25	<b>taxes</b> 18:25 20:3	47:20 50:1
<b>task</b> 124:6	45:17,24 46:17	120:19,21,23	20:7 52:8 55:4	52:7,12,16
<b>tasked</b> 36:8	46:23,25 48:1	121:19 122:11	57:3 112:11	53:5,8,12,23
58:14 68:17,22	48:14 49:1,2,4	122:11 123:1,6	115:3 116:19	56:17 64:16,17
73:10,25 78:17	49:4 50:3,7,19	123:10 125:3,8	117:18,23	64:18 73:21
81:21	50:25 51:16,16	125:8,9,11,12	118:2 123:8	88:10 89:3
<b>tax</b> 1:8 7:14,22	52:19 53:4,20	125:13 127:5	125:1,15,19	99:25 110:10
8:1,2,5,9,13,14	53:20 54:6,12	127:17,21,22	126:3,22 127:2	113:1 121:13
8:21 9:2,5,12	55:3,6,10,12	127:25 128:2,4	127:7,24 128:7	125:23 126:4
9:13,14,19,20	55:24 56:14,23	128:5,9 129:13	<b>taxing</b> 68:19,24	126:10
10:18,22 11:2	57:4 58:4 59:7	129:20,23,25	69:12 129:19	<b>Thank</b> 16:19
11:4,11,12,13	60:3,13 61:21	130:16 131:6	<b>taxpayer</b> 19:23	41:13 96:22
11:15 12:3,4,7	62:15 63:18	131:17 132:7	21:8 22:20,22	110:13
12:22,23 13:5	64:23,24 65:10	132:15,16,23	24:24 84:8,14	<b>then-existing</b>
13:8,13 14:14	67:7,15 68:3	<b>taxable</b> 36:14	113:10 115:5	42:5
15:10 16:7	70:12,13 71:14	74:11	<b>taxpayers</b> 13:7	<b>theory</b> 46:22
17:6,8 18:10	71:24 72:14	<b>taxation</b> 1:11	19:16,19,25	<b>thing</b> 64:22
18:12,14,17,20	73:14,18 74:3	6:1,6,23 7:10	20:18 22:17,23	83:13 111:12
18:24,25 19:2	74:7,21,23	8:11 9:18 11:7	24:11 32:22	130:2
19:18,19 20:1	75:3,5,25 76:6	21:13 27:17,19	33:2 38:4 42:7	<b>things</b> 70:21
20:7,7,10,11	76:8,10,15,22	29:10,23 30:7	42:22 95:21	74:24 90:3
20:19 21:1,7	77:23 79:16	31:20 32:21	112:24 115:10	92:6 106:25
21:14,21 22:4	83:25 84:14	40:3 46:5	121:20	116:16 117:15
22:8,8,23,25	86:15,19 87:10	55:18 56:10,21	<b>team</b> 127:18	<b>think</b> 22:12
23:14,16,19,23	88:14,19,23	57:24 60:7	<b>tell</b> 8:20 11:9	29:22 33:12,17
24:2,6,9,11,16	90:11,14,23	68:13 69:24	31:22 34:17	33:21 48:4,5
25:2,24 26:11	91:23 92:2,5	74:1 75:24	58:23 112:2	52:4 53:9

54:18 64:16	111:14,24,25	135:17	<b>type</b> 12:17 33:15	101:3 113:18
71:4 72:22	114:15 117:19	<b>transcript</b>	37:9 51:14	125:17
78:18 89:10	121:7 125:6	135:18	55:23,23 56:4	<b>understanding</b>
93:21 96:16	130:8 131:1	<b>transcription</b>	75:7 78:3 79:2	5:25 9:10,12
99:15 108:15	<b>times</b> 6:11 78:23	120:8 134:17	83:21,21 92:20	9:15 11:9,22
111:14 114:14	<b>title</b> 6:13 18:9	135:19	92:22 96:3	11:24 24:5
124:23	<b>Titus</b> 93:6,9,13	<b>transcripts</b>	115:5 126:17	27:13 29:7
<b>Thorne</b> 6:24	94:22 98:17	25:10 74:13	<b>types</b> 20:7 38:7	35:21 36:2,3
110:12	110:16	<b>transmitted</b>	41:15 56:11	41:8 42:18
<b>thoughts</b> 116:24	<b>today</b> 4:17,24	28:8 32:13	59:3 74:16	51:1 52:24
<b>three</b> 78:25	5:2,13 45:6	<b>Taurig</b> 2:4	77:18 95:21	53:10,15,17
90:22	51:3,10 53:2	<b>treating</b> 19:16	102:2,7,13	56:5 59:23
<b>threshold</b> 79:11	58:17 71:13	<b>Trek</b> 72:19	103:13 104:2	61:22 63:16,17
86:12 87:9	72:6 73:22	<b>tried</b> 15:9 19:11	105:1 116:19	64:23 65:15
<b>throw</b> 25:1	75:15 83:20	26:15 27:2	116:20 126:14	69:13 76:18
<b>Thursday</b> 4:1	100:9 104:4,7	28:13 33:14	127:1 128:17	84:1,5,9 88:5
135:5	104:15 112:16	76:20 87:23	<b>typewriting</b>	89:12 90:12
<b>tied</b> 76:18	113:1 127:6	<b>troops</b> 58:15	135:17	92:8,18 93:11
<b>time</b> 5:19,20	130:6	<b>true</b> 17:23 89:11	<b>T-shirts</b> 74:24	94:4 96:9,16
6:18 7:7,12,14	<b>told</b> 10:11 44:22	106:19 135:19	<hr/> <b>U</b> <hr/>	96:25 97:4
8:15 9:1,6	58:9 106:20	<b>truth</b> 135:8,8,9	<b>Uh-huh</b> 8:23	99:21 101:18
10:4 11:2,11	<b>Tom</b> 110:12	<b>truthful</b> 5:2	20:8 23:11	101:20 109:17
12:6 13:15,17	<b>top</b> 10:2,9 38:22	<b>try</b> 5:15 23:16	35:16 39:19	116:23 117:3
13:23,25 18:23	102:14 128:18	26:19 27:2	40:20 43:3	119:4 120:20
20:14 21:5	<b>topic</b> 97:17	31:1 57:2	57:7 64:11	<b>understood</b>
26:21 32:9	<b>total</b> 28:7 99:9	78:12 81:10	66:17 67:11	52:20 65:13
33:21 39:23	99:14 104:18	110:20	68:1 85:20	<b>undertook</b>
40:22,25 42:18	<b>town</b> 27:15	<b>trying</b> 14:18	86:17,23 87:3	21:13
43:16 44:1,1	<b>Townsend</b>	15:1 20:22	88:24 89:7	<b>uneven</b> 114:5
44:17 45:15	23:10,24 43:7	23:7 27:1,25	91:16 97:23	<b>unfolded</b> 8:24
46:20 47:25	45:12 46:2	29:5,6 31:13	98:5,21 109:6	<b>unfortunately</b>
48:13,19 49:5	49:22 120:9	31:14 33:9	120:11 129:6	13:18 25:9,10
55:15 57:17	122:15 129:1	36:12 37:8	<b>ultimately</b> 24:2	31:7 38:10
58:10,11 60:12	129:11	38:10 39:2	96:7	58:25
66:12 67:21	<b>Townsend's</b>	42:1 76:2,21	<b>unarmed</b> 50:21	<b>unidentified</b>
68:8 69:1	48:20 122:17	106:7 126:25	<b>underneath</b>	103:19
72:23 74:17	122:20 130:23	<b>turn</b> 108:14,16	58:5	<b>unrestricted</b>
76:13,23 77:1	<b>trade</b> 71:11,14	120:14	<b>understand</b>	11:17
78:18,23,24	71:15 72:7	<b>turnaround</b>	4:23 5:1,9,11	<b>unsolicited</b>
80:14,22 81:8	<b>transaction</b>	81:9	5:23 14:21	117:15
81:13 82:19	36:14,18 37:9	<b>Twenty-seven</b>	31:1,3 34:10	<b>unusual</b> 58:1
83:3,9 86:3,7	75:25 105:15	16:21	38:16 40:9	<b>use</b> 20:7 22:7
87:20 93:6	105:15	<b>two</b> 6:8 63:12	42:11 43:16	34:21,22 35:1
99:5 101:2	<b>transactional</b>	78:25 90:3	47:21 80:8	35:5,12 116:8
106:18 107:20	115:25	92:2 94:8	81:7 90:9	127:17,24
110:12,15	<b>transcribed</b>	108:15 132:12		<b>usually</b> 81:9

<b>V</b>	62:14 102:25 117:9	31:8 41:11 43:17 46:23 48:12 49:1 51:21 57:9 65:20 77:10,12 79:20 80:19 87:13 88:13,15 91:1 114:9 121:10 130:12 130:22 131:23 131:25 132:5 132:16	95:18,24 100:1 104:12 109:19 114:18 115:9 115:22 116:15 121:3,23 124:20 126:11 134:24 <b>Woody</b> 6:24 110:12 <b>word</b> 22:6 <b>words</b> 41:25 88:20 <b>work</b> 9:2 18:17 30:12 32:18 46:13,15 78:20 117:25 118:6 <b>worked</b> 21:22 44:21 68:8 83:6 <b>working</b> 21:5 <b>workshop</b> 9:22 16:1 21:17 25:22 27:9,17 27:19,25 28:23 32:8,25 46:2 48:13 52:11 54:20 71:5 115:23 131:4 <b>workshops</b> 8:16 9:4,7,17,18 10:5,13,17,22 12:8 21:6,10 21:12 22:4,24 23:8,22,24 24:4,9,16 27:19 28:2 29:8 30:14 31:16 41:21 43:7 44:1 45:12 47:25 74:13 113:8 <b>world</b> 38:19 67:18 <b>worthy</b> 27:21 <b>wouldn't</b> 11:23 56:10 115:12	124:15,18 125:4 <b>Wow</b> 102:9 <b>writing</b> 26:5,10 <b>written</b> 31:9 88:15 115:17 131:23,25 132:17 <b>wrong</b> 20:23 31:22 45:9 106:4 111:13 <b>wrote</b> 91:13 108:25 109:2
<b>v</b> 1:10 <b>various</b> 130:5 <b>vast</b> 98:22 99:2 102:23 104:7 <b>Vegas</b> 1:9 2:5,17 4:14,15 7:16 24:20 53:11 71:20 78:14,16 78:20 126:18 <b>venue</b> 33:15 50:24 59:24 63:25 64:2,9 64:20,21,21 66:4,5,15 74:20,24 75:11 76:3 79:5 85:3 117:7 118:12 119:5 120:5 <b>venues</b> 13:4 26:17 33:14 48:25 49:6 50:6,8 61:4,8 61:25 69:17 71:16,17 77:19 77:22,23 79:7 79:14,25 80:2 81:20,22 83:7 86:14 100:24 102:2,7,13 103:13,16,19 104:2 105:1 106:24 116:20 118:21,24 119:25 120:24 121:24 122:12 122:14,14 126:15 <b>verbatim</b> 47:8 47:10 135:15 <b>versus</b> 121:23 <b>vett</b> 28:20 30:14 <b>view</b> 19:12 36:19 61:18	<b>W</b> <b>wait</b> 5:15 <b>want</b> 10:14 15:14 19:11 20:5 24:15 25:17 28:4 30:3 47:12 56:21 60:21 63:11 64:17 65:5,7,20 67:18 86:11 93:1 98:16 99:6 108:20 112:14 122:2 <b>wanted</b> 25:1 51:2 88:23 93:20 112:18 <b>wanting</b> 94:2 113:18 <b>wash</b> 103:7,9,14 103:18 <b>Washington</b> 2:16 <b>WASHOE</b> 135:2 <b>wasn't</b> 15:13 23:18 26:24 28:3 34:4 36:25 39:13 46:25 51:25 52:1,20 59:14 62:25 76:10 105:8 121:2,3 <b>watch</b> 60:5 67:19 117:4 <b>watching</b> 39:23 40:13 <b>way</b> 8:5 17:2 19:7 26:15,17	<b>website</b> 21:19 <b>weeks</b> 9:23 <b>went</b> 10:8,11 13:21 15:2 33:14 69:6,10 77:25 78:25 80:18 83:6 87:23 88:6 91:18 105:20 109:5 <b>weren't</b> 26:9 43:1 50:11 60:15 110:19 <b>we'll</b> 20:6 82:15 <b>we're</b> 4:17 7:8 20:6 27:3 32:5 32:7 42:15 46:16 55:9 101:23 122:4 <b>we've</b> 130:6 <b>whatsoever</b> 130:17 <b>white</b> 128:8 <b>willing</b> 124:16 <b>wisdom</b> 39:14 <b>withhold</b> 124:9 <b>witness</b> 4:6,9 20:21 34:10 36:6 37:8 39:2 45:2 49:19 56:18 68:5 73:3 79:13 84:12,18 87:13 90:17 91:25	<b>X</b> <b>X</b> 3:1,7 21:21	<b>Y</b> <b>yeah</b> 29:4 36:1 47:12 80:7 85:12 108:3 <b>year</b> 10:4 16:14 16:15,25 39:16 57:2 70:22 <b>years</b> 16:20,21 47:22 <b>younger</b> 46:12
				<b>\$</b> <b>\$1.4</b> 99:18,23 <b>\$4</b> 91:6 <b>\$4,197,900</b> 91:19 <b>\$8.8</b> 99:14
				<b>#</b> <b>#113</b> 1:24 135:24 <b>#3900</b> 2:16 <b>#400</b> 2:5
				<b>0</b> <b>000002</b> 85:16 118:18 <b>000003</b> 85:16 <b>000190</b> 111:3

000195 3:15	88:4,8 89:8,12	<b>3</b>	<b>7</b>
000198 83:15	90:13,22 92:17	3 3:12 97:18,19	70 104:22,24,24
000200 83:15	96:24	118:18	702 2:6,17
000205 108:14	200-seat 79:24	3/14/05 3:11	7500-seat 80:8
001087 98:1	80:20	300 35:20 76:15	80:12
<b>1</b>	200-seating 79:4	76:24 77:3,8	7500-seating
1 3:10 82:16,17	2003 6:23,24 7:7	77:17,24 78:10	80:3
92:9 97:10	8:21 10:5,8	79:3 80:15	792-3773 2:6
101:6 118:15	12:2 13:23	81:23 83:18	<b>8</b>
135:18	17:8,15,16	86:20 88:3,8	8 8:21 9:11,25
1st 10:12	18:3 20:14,24	89:1,12 90:6	10:8 20:2
1.0 99:8	21:1 22:14	90:12 91:5	23:20 31:8
1.2 99:7 101:5	27:6 39:12,13	92:17 96:24	55:9 69:2
1.4 99:8 101:5	41:20 43:16	98:24 106:8,14	80 104:10,24
1:33 133:4	44:1 45:15,24	111:18 112:11	82 3:10
10 75:2 92:12	46:1 48:1 52:7	300-seat 33:20	85 3:11
100,000-foot	55:4 76:8	34:2 79:11,24	89101 2:17
19:12	88:16 107:21	80:20 82:8	89169 2:5
107 3:14	113:3 115:17	86:12 87:9	<b>9</b>
11 122:2	120:10	110:1	9 99:10,15
11/9/04 3:10	2004 10:12	300-seating	9:48 4:2 135:6
110 3:15	55:17 76:13	33:24 76:18	93 70:23
114 3:4	118:21	90:3 106:21	97 3:12
123 3:4	2005 22:13	301549 1:7	
132 3:5	39:12,13 53:9	3773 2:4	
135 135:19	87:23 93:6	<b>4</b>	
14 120:16	96:11,23 98:11	4 3:3,14 107:12	
14th 87:22	98:13,14 99:2	108:13 120:14	
148959 1:25	99:19,22	4/24/05 3:12	
15 1:17 4:1	103:25 107:14	486-3103 2:17	
135:5	107:16 110:15	<b>5</b>	
151 4:3 135:6	115:18	5 3:15 110:23	
19th 46:1 120:9	2006 17:4	121:14 129:1	
1993 70:24	2007 22:13	5.2 99:9,13	
1996 17:1	54:25 55:2	101:6	
<b>2</b>	2009 54:24,25	5/21/04 3:14	
2 3:11 85:9,15	2011 1:17 4:1	50 104:17	
92:10 97:7,11	135:5,22	51s 96:5,5	
118:15	24th 98:11	126:18,24	
200 76:15,24	247 93:23,24	127:17	
77:8,17,24	94:1,12 96:7	555 2:16	
78:10 79:11	96:14 98:17	<b>6</b>	
80:16 81:24	103:7 110:16	60 104:20	
82:8 83:18	27th 135:21		
	275 93:21		
	295 110:1		

**STATE OF NEVADA  
TAX COMMISSION  
TELECONFERENCED OPEN MEETING**

**MONDAY, JUNE 25, 2012**

**CARSON CITY, NEVADA**

**THE BOARD:**

ROBERT BARENGO, Chairman  
JOHN MARVEL, Member  
JOAN LAMBERT, Acting Chairman  
DAVID TURNER, Member  
ANN BERSI, Member  
ROBERT JOHNSON, Member  
CRAIG WITT, Member

**FOR THE DEPARTMENT:**

CHRISTOPHER NIELSEN,  
Executive Director  
  
TERRY RUBALD Chief, Division  
of Assessment Standards  
  
ERIN FIERRO  
Management Assistant

**FOR THE BOARD:**

JENNIFER CRANDALL,  
Sr. Deputy Attorney General

**REPORTED BY:**

CAPITOL REPORTERS  
BY: MICHEL LOOMIS,  
Nevada CCR #228  
515 W. Fourth St., Ste. B  
Carson City, Nevada, 89703  
(775) 882-5322

CAPITOL REPORTERS (775) 882-5322



# AGENDA/INDEX

AGENDA ITEM	PAGE
F. Petition for reconsideration of Department's denial of exemption status for organization created for religious, charitable or educational purposes (sales/use tax):	
1) National Association of School Resource Officers, Inc.	52
2) Airborne Law Enforcement Association, Inc.	52
G. Taxpayers' opportunity to district court order dated January 24, 2012 to present additional evidence to the NTC so that the NTC can amend the findings of fact, conclusions of law dated October 12, 2007, reverse the decision, or affirm the decision and consideration of taxpayers' request for subpoenas:	
1) K-Kel, Inc., dba Spearmint Rhino Gentlemen's Club; Olympus Garden, Inc., dba Olympic Garden; SHAC LLC, dba Sapphire; The Power Company, Inc., dba Crazy Horse Too Gentlemen's Club; D Westwood Inc., dba Treasures; DI Food & Beverage of Las Vegas, LLC, dba Scores; Déjà vu Showgirls of Las Vegas, LLC, dba Déjà vu; and Little Darlings of Las Vegas, LLC, dba Little Darlings	66
H. Taxpayer's appeal of Hearing Officer's decision upholding Department's denial of use tax refund request/sales tax deficiencies on complimentary meals and Department's partial appeal of Hearing Officer's decision:	
1) Exber, Inc./El Cortez	99
I. Limited supplemental briefing and consideration of statute of limitations issue on taxpayer's appeal of Hearing Officer's decision upholding Department's denial of use tax refund request/sales tax deficiencies on complimentary meals and employee meals:	
1) Harrah's Entertainment Inc.	123

1 MEMBER WITT: Second.

2 ACTING CHAIRMAN LAMBERT: We have a motion and a  
3 second to uphold the Department's denial of the exemption  
4 status for the National Association of School Resource  
5 Officers, Incorporated and the Airborne Law Enforcement  
6 Association, Incorporated. Any discussion? Hearing none all  
7 who approve signify by saying aye. Anyone who doesn't nay.  
8 The motion passes. Thank you very much for your time,  
9 Mr. Moreno.

10 MR. MORENO: Thank you, Commissioners, and thank  
11 you, Jed, it was a pleasure meeting you by telephone.

12 CHAIRMAN BARENGO: Thank you.

13 (Motion carries.)

14 ACTING CHAIRMAN LAMBERT: Is anybody ready for a  
15 break? How about we take a 15-minute break.

16 CHAIRMAN BARENGO: How long?

17 ACTING CHAIRMAN LAMBERT: 15 minutes. So we'll  
18 come --

19 CHAIRMAN BARENGO: 15 minutes. Okay.

20 ACTING CHAIRMAN LAMBERT: We'll come back at  
21 quarter to 11:00 by the clock in our room.

22 (Recess taken.)

23 ACTING CHAIRMAN LAMBERT: Okay. So we are back  
24 on the record.

25 MR. NIELSEN: Madam Chair, again for the record

1 this is Chris Nielsen. The next agenda item up for the  
2 Commission's consideration today is again under item IV,  
3 Compliance Division. G, which is taxpayers' opportunity  
4 pursuant to District Court order dated January 24th, 2012 to  
5 present additional evidence to the Nevada Tax Commission so  
6 that the NTC can amend the findings of fact, conclusions of  
7 law dated October 12th, 2007. Reverse decision or affirm the  
8 decision in consideration of taxpayers' request for subpoenas.

9 The specific Case Number 1 is K-Tell, Inc. doing  
10 business as Spearmint Rhino's Gentlemen's Club, Olympus  
11 Garden, Inc. doing business as Olympic Garden, SHAC LLC doing  
12 business as Sapphire, the Power Company, Inc. doing business  
13 as Crazy Horse Too Gentlemen's Club, D Westwood, Inc. doing  
14 business as Treasures, DI Food and Beverage of Las Vegas, LLC  
15 doing business as Scores, Déjà Vu Girls of Las Vegas, LLC  
16 doing business as Déjà Vu and Little Darlings of Las Vegas,  
17 LLC doing business as Little Darlings.

18 And for the Department I believe we have  
19 Blake Doerr and I believe also David Pope will be giving a  
20 brief overview of this agenda item.

21 ACTING CHAIRMAN LAMBERT: Thank you. Having not  
22 seen anything like this before, Jennifer, could you give us  
23 some of the options we have, I mean, do we have to admit the  
24 evidence because there's a court order or do we have options  
25 on what we admit?

1 MS. CRANDALL: No, I think the court was asking  
2 you to make a determination as to whether the materials should  
3 be admitted and considered by you. I think it was pretty well  
4 briefed by the parties so I -- if you're looking for guidance  
5 when we get to making a motion I can help with that if you'd  
6 like.

7 ACTING CHAIRMAN LAMBERT: Thank you. I was  
8 just -- wanted to be clear whether we did have any options to  
9 consider and apparently we do. Thank you.

10 MS. CRANDALL: Yeah, I think you absolutely do.

11 ACTING CHAIRMAN LAMBERT: Thank you. Mr. Pope,  
12 do you want to give us an overview and then the representative  
13 from the taxpayers can talk to us for -- I think we'll keep it  
14 to 15 minutes each.

15 MR. POPE: Thank you, Madam Chair, Commissioners.  
16 Good morning, David Pope and Vivienne Rikowski for the  
17 Department. First of all, this case has about a five-year  
18 history and so we apologize for lengthy briefing, but we  
19 wanted to give all the background and all the relevant  
20 information.

21 Pursuant to the agenda there are two items for  
22 your consideration, one is the District Court order remanding  
23 this matter for you to consider additional information and the  
24 request for subpoenas. And I believe that your determination  
25 with regard to the scope of the additional evidence that

1 you're going to review is going to have an impact on your  
2 request for the subpoenas.

3 This matter is back before you because the  
4 appellants have requested that if we remand it to you to look  
5 at additional evidence pursuant to NRS 233B.131, that statute  
6 provides that additional evidence can be presented to this  
7 Commission provided that it is shown to the court that that  
8 evidence is both material and that there was good reasons for  
9 it not having been presented to the Commission during -- or  
10 during the first appeal.

11 Considering the statute the judge, and this is in  
12 the transcript of the hearing, the judge indicated that he had  
13 to find materiality and good reasons.

14 And then the judge's order, it simply says that  
15 petitioner's application for leave to present additional  
16 evidence is granted so the administrative agency can look at,  
17 and I quote, additional evidence. So, the District Court  
18 order remanded this matter specifically for you to consider,  
19 and I quote again, additional evidence. And to then determine  
20 whether to affirm, reverse or modify your original decision  
21 that was issued in '07.

22 The parties here disagree with regard to what the  
23 scope of that additional evidence is. The Department's  
24 position is that the District Court's findings with regard to  
25 materiality and good cause had to do with the additional

1 evidence that existed at the time of that hearing and that  
2 would be essentially the discovery obtained through the  
3 District Court proceedings.

4 The appellants on the other hand, they're  
5 requesting that -- subpoenas so that they can do some  
6 additional discovery.

7 We see your options -- we see that you have two  
8 options, one, you can read the court's order as limiting you  
9 to reviewing only that additional evidence that existed at the  
10 time of the hearing on the motion for remand and that would be  
11 Bates Numbers 1 through 1192 and then starting again at 1200  
12 through 1510, which are provided by appellants on a CD.

13 The other option would be to read the court's  
14 order to allow the appellants actually reopen discovery and  
15 get subpoenas and possibly conduct depositions.

16 The Department's position is that no additional  
17 evidence is going to change your original decision that you  
18 issued in 2007 and we're asking that you deny those subpoenas  
19 and affirm your original decision. If you do not believe that  
20 the additional evidence is going to change your original  
21 decision then you can affirm that decision. And that is the  
22 end of the brief overview.

23 ACTING CHAIRMAN LAMBERT: Thank you. If the  
24 taxpayers' attorneys would like to present for 15 minutes or  
25 less if you can read everything that you've supplied us. We

1 can't hear you if anyone is talking. Hello?

2 CHAIRMAN BARENGO: I don't hear anybody either.

3 MR. FERRARIO: That's something that rarely  
4 happens when I speak, so is that better?

5 ACTING CHAIRMAN LAMBERT: Yes, if you could state  
6 your name for the record and spell your last name for the  
7 court reporter, please?

8 MR. FERRARIO: We'll start over. Members of the  
9 Commission, Mark Ferrario appearing on behalf of SHAC, LLC.  
10 To my left is Will Brown, he's appearing on behalf of the  
11 remaining parties in this matter.

12 And I'm going to address the procedural posture  
13 of this case because suffice to say we disagree with the  
14 presentation made by the attorney general.

15 We're here for one reason and that is to finalize  
16 a record in this matter so that you can make a final  
17 determination based upon a complete record dealing with the  
18 application of the LAT tax to my client and Mr. Brown's  
19 clients.

20 The case has a rather tortured procedural history  
21 and that is set out in the material that's in front of you.  
22 I'm not going to go over all the -- the issues and the twists  
23 and turns this case took. We were ready to go to trial in the  
24 District Court when our Supreme Court came down with the  
25 decision Southern California Edison versus First Judicial

CAPITOL REPORTERS (775) 882-5322

1 District, I'm sure everyone affiliated with the Commission is  
2 aware of that decision.

3 That decision clarified the process that  
4 taxpayers were to employ in challenging matters coming out of  
5 the Commission. And what it basically said is that you have  
6 to -- you don't get a de novo hearing in District Court, which  
7 is how everyone was proceeding at that time.

8 The judge when the case was brought to her  
9 attention recognized that it would have been patently unfair  
10 to limit my client's ability to perfect a record. And  
11 contrary to what the State said determined that there was a  
12 need to come back and finalize the process. And that is why  
13 we're here. We're here to complete a process that began in  
14 '07 that was interrupted because of then understanding of the  
15 law. The law has now been clarified and the judge has found  
16 that there is a need to come back and perfect the record. And  
17 I think the judge has already determined that there is good  
18 cause and a necessity to do so.

19 So that's why we're here.

20 In furtherance of that we made a request to issue  
21 subpoenas to three individuals that we believe can provide  
22 valuable testimony and information relating to the enforcement  
23 of the live entertainment tax scheme. And that is the first  
24 issue that this Commission should address. And I find it  
25 interesting that -- and I don't know that the attorney general



1 meant what he said, but if I understood him correctly, you  
2 can -- you can make a determination as to whether or not that  
3 information would be valuable before you even know what it is.  
4 And I don't know how that can happen.

5           So, what we -- what we have here is a situation  
6 that really no one could have predicted until the Supreme  
7 Court issued its opinion. A District Court judge after  
8 hearing the same arguments made by the State because they  
9 didn't want us to come back here, said no, there is good  
10 reason to in effect start over, but we're not going to start  
11 over.

12           We're not going to rehash what happened up to  
13 '07. We supplemented the record with extensive briefing. We  
14 have three subpoenas that we would like to see issued. And  
15 what I think should occur is I think those subpoenas should  
16 issue and we should set this matter now for a full and fair  
17 evidentiary hear -- well, a full and fair hearing which will  
18 embody evidence that we can elicit from those three witnesses.

19           So that's our position on the procedural posture  
20 of the case.

21           ACTING CHAIRMAN LAMBERT: Thank you. I think  
22 we'll keep our questions till everyone has made a  
23 presentation. Mr. Pope or Ms. Rikowski?

24           MR. FERRARIO: I think Mr. Brown has some  
25 comments. If you would allow him.

1           ACTING CHAIRMAN LAMBERT: Oh, I'm sorry, please.  
2 If you'd state your name for the record, please, Mr. Brown?

3           MR. BROWN: Thank you. William Brown on behalf  
4 of the taxpayers, all the taxpayers except SHAC, LLC, who is  
5 represented by Mr. Ferrario. Additionally, just a procedural  
6 note, taxpayers Déjà Vu Show Girls of Las Vegas, LLC dba Déjà  
7 Vu and Little Darlings of Las Vegas, LLC dba Little Darlings I  
8 believe are not properly part of this. They didn't begin  
9 requesting refunds until 2004. They were not parties to the  
10 PJR action which brought us here today.

11           So with that procedural note, in the interest of  
12 brevity I won't reiterate everything Mr. Ferrario said, rather  
13 I would just join in those comments. And if I might I would  
14 just like to read for the Commission what Judge Weiss said at  
15 the hearing when we asked to have this matter remanded.

16           What he said is this. The thing is as a judge I  
17 want to try to do the right thing, and if the right thing  
18 requires me to only look at the record on a petition for  
19 judicial review I'm limited to review of the record. There's  
20 a question whether or not something is in the record that  
21 should be or something missing from the record that maybe  
22 should be in the record I'm inclined to allow the  
23 administrative agency an opportunity to review that so that  
24 when it comes back up to me, and I'm sure this will come back  
25 up to me, I've got all of the evidence.

—CAPITOL REPORTERS (775) 882-5322—

1           So I'm not going to dismiss the case, what I'm  
2 going to do is I'm going to remand it right now so the  
3 administrative agency can look at the evidence that's  
4 requested by the petitioners.

5           In preparing for this hearing I had the  
6 opportunity to review the prior hearing and it was pretty  
7 clear that at least at that time Commissioner Kelesis  
8 expressed this specifically and I think it was the  
9 Commission's -- the consensus of the Commission that they  
10 wanted as full and complete a record as possible. Obviously,  
11 that's exactly what we're asking for, we feel the more  
12 information, the more facts that we're able to put in front of  
13 the Commission the more informed the resulting decision would  
14 be.

15           With that I would pass. Thank you.

16           ACTING CHAIRMAN LAMBERT: Thank you. Mr. Pope or  
17 Ms. --

18           MR. POPE: Thank you, Madam Chair. Yeah, I  
19 just -- I do have a few follow-up comments. First of all,  
20 with regard to the procedure that followed final decisions of  
21 the Tax Commission, the Malotne (Ph.) case was in existence  
22 the last time this case was here and that case did say that as  
23 applied challenges had to be decided by the administrative  
24 body. So that is something to consider.

25           Second, with regard to, you know, the appellant's

1 comments that -- that you can't make a decision on evidence  
2 before you see it, that's exactly our point, they have it  
3 backwards. The District Court is supposed to decide  
4 materiality and good cause and cannot do so unless they have  
5 the evidence, which is what we argued in our briefs, the  
6 evidence that the District Court had was the discovery, which  
7 is the Bates numbers that I mentioned earlier. To correct why  
8 we're here, it is specifically to take additional evidence,  
9 it's a limited remand pursuant to 233B.131. It is not a  
10 remand pursuant to 233B.135.

11 So, this record was final, it's not a question of  
12 whether we have a final record. Generally, there's no  
13 discovery allowed in administrative cases and there's no  
14 constitutional right to discovery in administrative cases,  
15 that's the Duchess case, 124 Nevada 713; however, that case  
16 also says that discovery in administrative cases is allowed to  
17 the extent that regulations allow it.

18 In this case we have NAC 360.135 which allows  
19 subpoenas and we have NAC 361.145 which allows depositions.  
20 Depositions that can be done pursuant to instruction by the  
21 hearing officer or by any party. So this party had the  
22 ability to request depositions prior to coming here the first  
23 time, failed to do so, waived their right and you have no  
24 obligation to reinstate that right. It would not be a  
25 violation of due process to deny additional discovery because

1 they had the right to do it the first time.

2 With that, we'd request that you deny the request  
3 for subpoenas and affirm your original decision issued in 2007  
4 because this additional evidence just doesn't change it.

5 Thank you.

6 ACTING CHAIRMAN LAMBERT: Thank you, Mr. Pope.  
7 Do the taxpayer's representative want a minute for rebuttal?

8 MR. FERRARIO: Certainly. I think it's a gross  
9 misreading of the decision from -- can you hear me?

10 ACTING CHAIRMAN LAMBERT: Yes.

11 MR. FERRARIO: From two District Court judges.  
12 These arguments were made by the attorney general in the lower  
13 court to try to cut off our ability to present our case based  
14 upon a complete record.

15 Judge Gonzales first realized that was unfair and  
16 then Judge Weiss as Mr. Brown articulated when he quoted from  
17 Judge Weiss's comments recognized the unfairness of the  
18 approach being adopted by the State.

19 The State didn't talk about the -- the change in  
20 the law that was occasioned as a result of the Southern  
21 California Edison case. That's why we're here. Prior to that  
22 time, and there's -- and we -- and we've got this in material  
23 in front of you. Everybody believed that you would get a de  
24 novo review on these issues at the District Court level. That  
25 case changed that idea forever. The court clarified the

1 process and two District Court judges presented with the same  
2 arguments being made by the State disagreed. And so we're  
3 here asking for nothing more than an opportunity to have a  
4 fair hearing based upon a complete record. And in furtherance  
5 of that we would like to subpoena the three witnesses that we  
6 have requested in the letter that was sent to you by Mr. Brown  
7 so that we can get testimony from them on issues that are very  
8 important to my clients and to the state as a whole.

9 And going back to the comments made at the very  
10 beginning of this process when this -- this Commission said we  
11 want to make a decision based upon a complete record and all  
12 the evidence.

13 So, with that, we think that the subpoena should  
14 issue and we should continue this matter so that we can have a  
15 hearing with the testimony from those three witnesses in  
16 addition to the material that we previously submitted.

17 ACTING CHAIRMAN LAMBERT: Thank you. Mr. Brown,  
18 do you have any comments?

19 MR. BROWN: Thank you. I just kind of want to  
20 underscore the import of Southern California Edison. Prior to  
21 Southern California Edison the law at the time as we construed  
22 it allowed the taxpayers after the administrative hearing to  
23 file an original action. What that meant was the full panoply  
24 of discovery under NRCP, that meant request for production of  
25 documents, admissions, interrogatories and depositions.

1           And the depositions of three -- these three  
2 individuals that we are seeking subpoenas for now were noticed  
3 and the only reason they did not occur is because -- is  
4 because Southern California Edison was handed down, that ended  
5 our opportunity to conduct any kind of meaningful discovery.

6           The -- the significance and the result is that  
7 this venue is the only opportunity that our taxpayers will  
8 have for any meaningful factual discovery. After this hearing  
9 everything will be appellate review. No new facts presumably  
10 will be introduced, this is our one and only shot to present  
11 factual evidence supporting our argument. So the import of  
12 Southern California Edison was to substantially divest the  
13 taxpayers of their ability to uncover facts and offer those  
14 facts in support of their argument.

15           So I think both because our rights to conduct  
16 discovery were curtailed by Southern California Edison and  
17 simply in the interest as having as full and complete a record  
18 as possible, the subpoenas are not only appropriate, I think  
19 they're essential.

20           ACTING CHAIRMAN LAMBERT: Thank you. We'll now  
21 bring it back to the Commission for discussion.

22           MR. POPE: Madam Chair, I'm sorry, may I  
23 briefly -- just briefly make a few comments?

24           ACTING CHAIRMAN LAMBERT: Well, briefly.

25           MR. POPE: Thank you. Just -- just to correct I

1 guess the overall view of the record is these appellants first  
2 filed in Federal Court. And through those proceedings it's  
3 clear that they knew of Chapter 233B, therefore, would have  
4 known of the judicial review process. And after that case got  
5 dismissed then they filed in State Court.

6 So this is really, you know, has to do with their  
7 strategy and the way that they decided to go forward. They  
8 had a chance to do this in 2007. They shouldn't get an  
9 another bite at the apple.

10 MS. RIKOWSKI: Vivienne Rikowski from the --  
11 deputy attorney general for the Tax Commission -- I'm sorry,  
12 Department of Taxation. In 2007 when they appeared before  
13 this Commission they appeared in July of 2007 and they said  
14 that they did not take a discovery. And the Commission asked  
15 them if they have anything else they'd like to present and  
16 gave them a month to get together everything they had and they  
17 said you want everything and the Commission -- I believe it  
18 was Commissioner Kelesis said I want everything. If you don't  
19 present in 2007 you're done. And that's exactly what the  
20 transcript said. They appeared a month later and presented  
21 their case and there was a full blown hearing.

22 We've got 90-something pages of transcript before  
23 the Commission -- before the Commission made a decision in  
24 2007. And what we're asking for is for the Commission to  
25 uphold what it looked at in 2007 and -- and not allow them to



1 reopen discovery and start a new case under a new idea.

2 MR. POPE: Thank you.

3 ACTING CHAIRMAN LAMBERT: Thank you. Now,  
4 what's -- what's the Commission's pleasure.

5 CHAIRMAN BARENGO: Madam Chairman, can we have  
6 Jennifer our legal counsel to kind of help us clarify this  
7 matter? It is my recollection that when we had the hearings  
8 on the -- on the comp food matters that the -- the -- the  
9 petitioners wanted to present additional evidence to the Tax  
10 Commission. And we were told at that time that they could --  
11 that it was not in the best practice, I guess, maybe even not  
12 correct to have additional evidence presented to us at a  
13 hearing that we only could review the records ourselves. And  
14 that procedure was to send the matter back to the ALJ to hear  
15 any additional evidence.

16 Could Jennifer comment on -- on that, please?

17 MS. CRANDALL: Absolutely. Absolutely. Thank  
18 you, Chairman. What Chairman Barengo is getting at is if this  
19 body chooses to rule in favor of the taxpayers' position and  
20 decide to reopen discovery, then what we -- I would recommend  
21 to this Commission is that you would remand this back to the  
22 ALJ to take that additional evidence and to reissue an  
23 opinion. And then it would come up to this body for judicial  
24 review standard.

25 So that's correct, Chairman Barengo, but that's

1 if this Commission chooses to side with the taxpayer on this  
2 issue.

3 CHAIRMAN BARENGO: Got you. Thank you.

4 ACTING CHAIRMAN LAMBERT: Any other comments?

5 MEMBER JOHNSON: Madam Chairman?

6 ACTING CHAIRMAN LAMBERT: Commissioner Johnson?

7 MEMBER JOHNSON: I have some questions for the  
8 parties. What I'm looking at is we've got a request for a  
9 deposition. And we've also got information in the record  
10 regarding the court order additional evidence that was in  
11 existence at the time the court order was issued.

12 Now, has that additional evidence that was in  
13 existence at the time the court order was issued --

14 CHAIRMAN BARENGO: Could you speak up a little,  
15 please?

16 MEMBER JOHNSON: I'm trying. Has that additional  
17 evidence that was presented to the court been made available  
18 to the Commission?

19 MS. RIKOWSKI: Yes, Commissioner, it has. Part  
20 of the brief.

21 MEMBER JOHNSON: Part of the brief. But was  
22 it -- but was it made available at the hearing, I mean, has it  
23 been --

24 MR. POPE: In 2007?

25 MEMBER JOHNSON: In 2007.

1 MR. POPE: It was -- it was discovered --

2 MR. FERRARIO: That was the whole --

3 ACTING CHAIRMAN LAMBERT: Excuse me, if you could  
4 identify yourself for the court reporter?

5 MR. FERRARIO: Mark Ferrario. I'm sorry,  
6 Mark Ferrario. The information was generated through the  
7 discovery process in state court that both parties were  
8 engaging in. And it -- the fact that we were doing that runs  
9 counter to the very statements made by the attorney general  
10 today. We were engaging in discovery at the state court  
11 level. That information has been put in this record now.

12 What we didn't get to do was complete the  
13 discovery process because Southern California Edison case came  
14 down.

15 And so we now need to address the unique  
16 circumstance we find ourselves in and we need to complete that  
17 process. And the only avenue we have is to do it here. And  
18 we would have no objection whatsoever to going back to an ALJ  
19 to complete the record. We never had an ALJ in the first  
20 instance I'd point out.

21 MR. POPE: Well, there again is a comment,  
22 David Pope for the Department, is a comment about an  
23 incomplete record. I have a case in front of me here that  
24 talks about when -- when you can use discovery to complete a  
25 record that is incomplete because of bad behavior on behalf of

1 the government. This is not that case. This is Tasty Duty  
2 case which is 530 F sub 786. You know, yes, we were engaged  
3 in discovery and in the District Court after the  
4 administrative revenues were exhausted.

5 The -- these -- the NACs that were available that  
6 were law at the time allowed these appellants to request  
7 depositions, issue subpoenas, obtain the same information,  
8 most of this information is public information. I would say  
9 the majority of it, I'm going to guess at three-quarters or at  
10 least two-thirds is legislative history which is available to  
11 everybody from LCB and regulation workshops. I mean, this  
12 stuff could have been -- it should have been discovered before  
13 they started their case.

14 MEMBER JOHNSON: Identify yourself.

15 MR. FERRARIO: Mark Ferrario again. You know,  
16 with all due respect to Mr. Pope these are the same arguments  
17 he made in court. Okay? They tried to cut us off, they want  
18 to take advantage of the clarification enunciated by the  
19 Supreme Court and stop us from getting a hearing on a complete  
20 record. And two judges have considered that. And neither  
21 judge bought their position.

22 And so for them to go back and say we should have  
23 done something in '07 based upon the way the world was in '07  
24 ignores the impact of Southern California Edison. That's what  
25 I'm hearing from the State, those are the same arguments they

1 made in court. And if they were correct, if this was such a  
2 clear process why did the State engage in discovery right up  
3 to the time we were getting ready to try this case?

4 ACTING CHAIRMAN LAMBERT: Thank you.

5 MR. FERRARIO: If there was no need to do so.

6 ACTING CHAIRMAN LAMBERT: We've heard your  
7 arguments, if we could bring us back to the Commission,  
8 please.

9 MEMBER BERSI: This is -- this is Ann, I'm -- I'm  
10 interested in the competing orders that were presented to  
11 Judge Weiss. Can one of the parties address those, please?  
12 I -- I understand that the taxpayer is saying that the order  
13 comes out the way it wants it to. So maybe Mr. Pope should  
14 tell me about that.

15 MR. POPE: Thank you, Commissioner Bersi. I  
16 guess in the big picture appellant's order wanted to open the  
17 door to full blown discovery and ours was trying to limit it  
18 to the evidence before the judge. And the judge took out both  
19 of those references and sent it back to this Commission to  
20 look at. And that's why I cornered it before additional  
21 evidence.

22 Now, where we were in the discovery process is is  
23 the judge had basically said that there is no more discovery.  
24 I mean, we were at the end, the deadlines had ran a couple of  
25 times, they had two depositions noticed, I believe it was

1 Mr. Diciano and Michele Mujacobs. And that was all they were  
2 going to be able to do. So we were -- we were just about done  
3 with discovery. So to open it up again when there really is  
4 no basis to do so, it wouldn't be fair, it would be unfair.

5 MEMBER BERSI: Thank you.

6 ACTING CHAIRMAN LAMBERT: Is there any other  
7 questions from the Commissioners? I have one, just -- I -- I  
8 thought I had this all clear. Let me just be sure. The  
9 discovery that you did in the first case that was stopped by  
10 Southern California Edison, is that part of the record in your  
11 current case in addition to what was before the Tax  
12 Commission, was that part of what was before the Tax  
13 Commission?

14 MR. POPE: Madam Chair, the -- this additional  
15 evidence that the appellants are trying -- or that this matter  
16 was remanded for you to consider additional evidence that  
17 which is the Bates numbers I referenced earlier, that  
18 additional evidence is not in the administrative record as it  
19 exists, it was not presented to the Commission.

20 ACTING CHAIRMAN LAMBERT: Okay. Thought so.  
21 Thank you.

22 MEMBER JOHNSON: Madam Chair, are you ready to  
23 take any motions?

24 ACTING CHAIRMAN LAMBERT: Since we don't seem to  
25 have any more discussion, yes, make a motion and we can talk.

1 MEMBER TURNER: Let me make a comment first for  
2 the other Commissioners and the other Commissioners can  
3 correct me if I'm wrong.

4 It seems to me like the taxpayers had a theory of  
5 how they were going to approach this case when they came  
6 before us in 2007. And they were sent back by a comment made  
7 by Commissioner Kelesis, anything else they wanted us to  
8 consider to get in we have 30 days to do that.

9 And it seems like they decided not to put certain  
10 things before us, maybe not to pursue them at that time  
11 because they were relying on a trial de novo to overturn us.  
12 They could have put this information in front of us back in  
13 2007, they could have pursued it at that time. And they chose  
14 not to do so. And now we're being asked to give them another  
15 bite of the apple. I'm uncomfortable with that.

16 ACTING CHAIRMAN LAMBERT: Commissioner Johnson?

17 MEMBER JOHNSON: Yes. Madam Chair, I would  
18 recommend -- or my motion would be that the request for  
19 depositions be denied and that the record as it existed at the  
20 time the court remanded this matter back to us be presented to  
21 an administrative law judge for consideration based on the  
22 2007 decision.

23 ACTING CHAIRMAN LAMBERT: Could you do the last  
24 part again after the --

25 MEMBER JOHNSON: The evidence that existed at the

1 time the court made its decision to remand this matter back to  
2 the Commission be presented to an administrative law judge for  
3 consideration in light of the 2007 decision regarding  
4 taxpayers' request.

5 ACTING CHAIRMAN LAMBERT: Thank you. We have a  
6 motion from Commissioner Johnson. Is there a second?

7 CHAIRMAN BARENGO: Let me ask a question,  
8 Commissioner Johnson, I'm not sure I understand it and maybe  
9 it's because I didn't hear well fully. Are you saying that  
10 the evidence as it existed at the conclusion of the matter  
11 before the Tax Commission be sent to the ALJ -- no, first --  
12 first that we deny the motion -- the motion asked for now,  
13 that the record go back to the ALJ and she do what, she makes  
14 the determination of whether there should be additional  
15 evidence taken? What -- what are you intending for her to  
16 do -- or him to do?

17 MEMBER JOHNSON: Mr. Chairman, what I'm  
18 recommending is that the record that was presented as it  
19 existed in the court, District Court, be considered by our  
20 administrative law judge in light of our 2007 decision and  
21 that the -- then that would be the complete record that we  
22 would be asked to review and that no further depositions be  
23 taken in this matter. And that record as it existed in  
24 District Court be the only thing that -- together what with  
25 the record that existed at the Commission be the only evidence



1 that we would consider in looking at the -- the original  
2 question.

3 CHAIRMAN BARENGO: So you're asking the ALJ to  
4 take the District Court evidence and -- and -- and -- and  
5 documents and things and our other documents to sign and  
6 analyze that and make a decision and come back to us or uphold  
7 her?

8 MEMBER JOHNSON: Yes, and make the decision and  
9 come back to us, Mr. Chairman, whether the ALJ -- the original  
10 decision be in any way amended or modified or sustained as it  
11 originally was entered into.

12 CHAIRMAN BARENGO: And that -- further discussion  
13 on my part that seems to support I think what Commissioner --  
14 I'm losing my mind here.

15 MS. CRANDALL: Turner.

16 CHAIRMAN BARENGO: Turner just said, yes, Jen,  
17 thank you. No, that the evidence before us was the evidence  
18 before us and they said that's all we had, and so we were not  
19 going to go -- we're just going to have a review of it, would  
20 that be correct or am I wrong?

21 MEMBER JOHNSON: Mr. Chairman, I think that from  
22 what the parties had said there is additional evidence that  
23 was not considered by the Commission presented to the District  
24 Court and that's the additional evidence that I would  
25 recommend -- that recommend be addressed by us in the remand

1 or the review.

2 CHAIRMAN BARENGO: And the ALJs would look at  
3 that and say either it's in or out?

4 MEMBER JOHNSON: Not whether it's in or it's out,  
5 it's the additional evidence that would modify the original  
6 decision, 2007.

7 CHAIRMAN BARENGO: Okay. I'm just trying to  
8 understand where you're going -- what your thinking is. Thank  
9 you.

10 MEMBER TURNER: This may be a question for  
11 Jennifer or anybody else that wants to jump in.

12 ACTING CHAIRMAN LAMBERT: Excuse me, can we get a  
13 second before we discuss this motion? Whoops, I think I just  
14 stopped a second, so maybe we just better have open  
15 discussion.

16 MEMBER TURNER: Ultimately I believe what the  
17 taxpayers are arguing is that the application of the live  
18 entertainment tax to this industry is unconstitutional. I'm  
19 not even sure that's a ruling this Commission is empowered to  
20 make. I'm not sure this is the right forum for that argument  
21 and that conclusion.

22 MS. CRANDALL: I don't think that issue is before  
23 the Commission here today. I think the only issue is to  
24 whether or not you want to reopen discovery and allow  
25 additional subpoenas and depositions to go forward or

1 whether -- and take into consideration Commissioner Johnson's  
2 recent motion, whether you want to remand it back to the ALJ  
3 for consideration of the additional material that came forward  
4 before the District Court. Or whether you want to just cut it  
5 off at this point and send it back up to the District Court as  
6 being considered -- considering the material before you and --  
7 and calling it good today.

8 ACTING CHAIRMAN LAMBERT: It appears -- the  
9 motion is going to die for a lack of a second if I don't hear  
10 one. Is there another motion?

11 MEMBER TURNER: I think --

12 CHAIRMAN BARENGO: Well, back on Commissioner  
13 Turner's comment, I -- I somewhat agree with his position  
14 that, you know, they weren't going to give it to us, they're  
15 going to go up to the court and then use it against us. And  
16 so they've kind of precluded themselves, but I don't know if  
17 there is something that says that they have -- the judge  
18 seemed to me to think that they maybe have some ability to add  
19 additional evidence. And maybe that's the issue that should  
20 be just that narrow issue is there under the rules some  
21 evidence that could be introduce -- introduced even after they  
22 said they were finished.

23 ACTING CHAIRMAN LAMBERT: Chairman Barengo, are  
24 you asking if there's another avenue for them to present  
25 additional evidence in the current District Court case?

1 CHAIRMAN BARENGO: Yeah, because it's -- well,  
2 now it's a de novo on the record, it's de novo. And, you  
3 know, the court seem to want to make sure that we -- I'm not  
4 clear what the court's rulings is and I don't really  
5 understand what they were saying.

6 So I don't know what we're -- how to address it.  
7 I've read and read and read -- reread and I don't just -- it  
8 seems to me the court was just kind of saying, well, I don't  
9 want to dismiss this case so I'll let you have -- you know,  
10 maybe there's some additional evidence. I don't know what  
11 that meant.

12 ACTING CHAIRMAN LAMBERT: Jennifer, could you  
13 outline the various options that the Commission has and the  
14 taxpayers' ability to provide more evidence if we don't allow  
15 them to?

16 MS. CRANDALL: Okay. I -- and I hope the parties  
17 will jump in here and help me, but the way I see it you really  
18 have maybe three options. You can just consider the  
19 material -- maybe four. You can consider the material that  
20 was submitted in the briefs today, the new evidence that was  
21 submitted, this was my -- my thinking was this was the  
22 evidence that was submitted to the District Court judge and  
23 it's the evidence that's before you today that -- that  
24 Mr. Pope has outlined. You could look at that evidence and  
25 see whether or not you think it materially changes the

1 decision of the Commission. And if you think it doesn't  
2 change the -- doesn't change the decision, then you could just  
3 state that and send it back up to the District Court.

4 You could determine that new discovery is  
5 warranted and reopen it for subpoenas and depositions. And I  
6 would suggest you remand that back down to the administrative  
7 law judge for that to happen and then she consider all the new  
8 material or he and determine -- make a determination as to  
9 whether or not the decision is materially changed or not.

10 So I don't know if there's another option you  
11 guys see.

12 MR. FERRARIO: Mark Ferrario on behalf of the  
13 taxpayers. I think one thing that's gotten lost here is Judge  
14 Weiss's order so I -- Mr. Brown just handed it to me. I think  
15 we should read this. We had an application for leave to  
16 present additional evidence. That's what was in front of the  
17 judge. The State objected to that. They didn't want  
18 additional evidence. Here's what the judge said.  
19 Petitioner's application, that's the application we had to  
20 present additional evidence to the Nevada Tax Commission is  
21 granted. Granted.

22 So look at our petition, look what we wanted to  
23 do. And why was it granted? So this agency in light of the  
24 change in the law, Southern California Edison, can look at the  
25 additional evidence and do one of the following. Amend the

1 findings of fact, conclusions of law dated October 12, 2007,  
2 reverse that decision or affirm the decision.

3 Now, I don't know how you can read that any other  
4 way than to -- that the District Court said come back here for  
5 the opportunity to complete your record. And -- and if you  
6 look at the entire record here that's based upon the change in  
7 the law occasioned by Southern California Edison.

8 And the comments and the arguments being made by  
9 the State basically negate and gut that judge's decision.

10 MS. RIKOWSKI: Can I -- Vivienne Rikowski for the  
11 Department of Taxation. I'd like to just bring your  
12 attention, I did submit it as an exhibit that they -- that the  
13 petitioners put in a competing order which was not signed.  
14 The competing order twice asks for discovery to be reopened.  
15 The first time they say petitioners seek remand from this  
16 court to allow the discovery and presentation of additional  
17 evidence pursuant to 233B.131.2.

18 They asked for additional -- they asked for  
19 additional discovery. Now, there at the conclusion of their  
20 order they reiterated that they actually remanded to the Tax  
21 Commission to permit the petitioner to take additional  
22 discovery as they be permitted by the Nevada Tax Commission as  
23 to additional evidence.

24 The judge did not sign the seven-page order. He  
25 signed an order just allowing additional evidence. And

1 additional evidence is -- in order for the judge to have found  
2 that additional evidence to be both material and good cause  
3 for not submitting it in 2007, the judge had looked at that  
4 evidence. Additional evidence doesn't mean a new fishing  
5 expedition. Additional evidence is to time.

6 MR. POPE: This is David Pope and I just -- I  
7 agree with Jennifer's two options that she gave you. The  
8 first one's going to be is that you agree with our argument  
9 that you're limited to that additional evidence that existed  
10 at the time of the hearing on the motion for remand and that  
11 the -- that the judge's order because it's written pursuant to  
12 that statute that requires the judge to make that finding  
13 materiality and good cause, that your first option would be to  
14 say yep, we're limited to that additional evidence that the  
15 judge saw that's on the CD that was presented to you and then  
16 consider that evidence and see if that changes your original  
17 decision whether you want to affirm, reverse or modify.

18 The second option would be to read the judge's  
19 order as opening the door to new discovery and as Ms. Rikowski  
20 said for a fishing expedition.

21 MR. FERRARIO: Again, I've been doing this too  
22 long and it's always funny when lawyers get in court and try  
23 to speculate as to what a judge may or may not have done when  
24 the judge saw competing orders. The judge rejected the  
25 State's competing order which they're now trying to in effect

1 get you to adopt. I'm going to read what the judge said. Our  
2 application --

3 CHAIRMAN BARENGO: We heard that, we don't need  
4 to hear it again. It's granted.

5 MR. FERRARIO: And if you look at the application  
6 it will tell you what the judge said what he was granting.

7 MS. CRANDALL: Okay. Hold on just a second,  
8 Mr. Ferrario. I heard -- Chairman Barengo, did you have  
9 something -- I heard him say --

10 CHAIRMAN BARENGO: No, he's read that order three  
11 times and I've got it myself, we don't need to have him  
12 continue to read that.

13 MR. FERRARIO: I think I was just pointing out  
14 that there's an order there that -- that eliminates any need  
15 to go to the competing orders that were entered by the -- or  
16 that were submitted by the parties.

17 MR. BROWN: And if I may, William Brown, Judge  
18 Weiss granted the application. The application in part  
19 specifically asks the taxpayers, this is a quote, be afforded  
20 the opportunity to depose representatives of the State in  
21 regard to these documents before either the Commission or this  
22 court makes a final determination on the taxpayers'  
23 constitutional claims.

24 The taxpayer specifically asked Judge Weiss to  
25 remand this matter to allow us to present additional evidence.



1 One of the specific pieces of evidence we asked him to allow  
2 us to produce was deposition testimony. He granted that  
3 application.

4 ACTING CHAIRMAN LAMBERT: Thank you.  
5 Commissioner Johnson, would you like to make your motion  
6 again?

7 MEMBER JOHNSON: Yes, I would. The motion -- my  
8 motion consists of two things. First of all, to deny any  
9 additional discovery or depositions. That's the first part of  
10 my motion.

11 The second part of my motion is that all the  
12 evidence that was presented to or made available or existed at  
13 the time the court remanded the matter back to the Commission  
14 be considered by the Commission in determining whether the  
15 original decision should be amended, modified or sustained.

16 And following our practice of what we did in the  
17 Harrah's matter, remanding or taking that additional evidence,  
18 presenting it to an ALJ to review, have the parties  
19 participate or make their presentation to the ALJ and then  
20 have the ALJ come up with a proposed decision that either  
21 amend, modifies or sustains our original decision.

22 ACTING CHAIRMAN LAMBERT: Thank you. Is there --

23 MEMBER JOHNSON: That's the second part of my  
24 motion.

25 ACTING CHAIRMAN LAMBERT: Is there a second?

1 MEMBER TURNER: I'll second to get it off the  
2 table.

3 ACTING CHAIRMAN LAMBERT: Thank you. We have a  
4 motion and a second and now we get to see what happens to it.  
5 Is there any other discussion on this motion, is everybody  
6 clear what it does?

7 CHAIRMAN BARENGO: I want to make just sure --  
8 Commissioner Johnson, what you're intending is is that that  
9 application to take leave of evidence, that material contained  
10 in the application for additional evidence is all the ALJ will  
11 be considering?

12 MEMBER JOHNSON: All of the -- all the new  
13 evidence, whatever evidence existed at the time of the initial  
14 decision's part of the record.

15 CHAIRMAN BARENGO: And what they'd asked, because  
16 they outlined in -- what they were at in their petition, so  
17 just those things?

18 MEMBER JOHNSON: That's correct. With no new  
19 depositions.

20 CHAIRMAN BARENGO: Thank you.

21 ACTING CHAIRMAN LAMBERT: Is everybody ready to  
22 vote? Let's start with Commissioner Marvel?

23 MEMBER MARVEL: Aye.

24 ACTING CHAIRMAN LAMBERT: Commissioner Turner?

25 MEMBER TURNER: Aye.

1                   ACTING CHAIRMAN LAMBERT: Commissioner Witt?  
2                   MEMBER WITT: Aye.  
3                   ACTING CHAIRMAN LAMBERT: Commissioner Bersi?  
4                   MEMBER BERSI: No.  
5                   ACTING CHAIRMAN LAMBERT: Commissioner Barengo?  
6                   CHAIRMAN BARENGO: No.  
7                   ACTING CHAIRMAN LAMBERT: Commissioner Johnson?  
8                   MEMBER JOHNSON: Aye.  
9                   ACTING CHAIRMAN LAMBERT: And acting chair votes  
10                  aye. Five to two, the motion passes. Thank you.  
11                  (Motion carries.)  
12                  ACTING CHAIRMAN LAMBERT: And thanks to all the  
13                  parties.  
14                  MR. FERRARIO: Thank you.  
15                  MR. POPE: Thank you.  
16                  MR. NIELSEN: Madam Chair, the next agenda item  
17                  up for the Commission's consideration is again under the  
18                  Compliance Division IV-H, this is taxpayer's appeal of hearing  
19                  officer's decision upholding Department's denial of use tax  
20                  refund request/sales tax deficiencies on complimentary meals  
21                  and Department's partial appeal on hearing officer's decision.  
22                  The first item under that agenda topic is Exber,  
23                  Inc./El Cortez. And this -- there has been a request for a  
24                  partial closed hearing in this matter.  
25                  ACTING CHAIRMAN LAMBERT: Okay. Thank you.

\_\_\_\_CAPITOL REPORTERS (775) 882-5322\_\_\_\_

1 STATE OF NEVADA, )  
2 CARSON CITY. ) ss.

3  
4  
5 I, MICHEL DOTY LOOMIS, Official Court Reporter for  
6 the State of Nevada, Department of Taxation, do hereby  
7 certify:

8 That on Monday, the 25th day of June, 2012, I was  
9 present for the purpose of reporting in verbatim stenotype  
10 notes the within-entitled closed session of the public  
11 meeting;

12 That the foregoing transcript, consisting of pages 1  
13 through 201, inclusive, includes a full, true and correct  
14 transcription of my stenotype notes of said closed session of  
15 the public meeting.

16  
17 Dated at Carson City, Nevada, this 12th day of July,  
18 2012.

19  
20  
21 

22 MICHEL LOOMIS, NV CCR #228  
23  
24  
25



**STATE OF NEVADA  
DEPARTMENT OF TAXATION**

**Web Site: <http://tax.state.nv.us>**

1550 College Parkway, Suite 115  
Carson City, Nevada 89706-7937  
Phone: (775) 684-2000 Fax: (775) 684-2020

RENO OFFICE  
4600 Kietzke Lane  
Building L, Suite 235  
Reno, Nevada 89502  
Phone: (775) 687-9999  
Fax: (775) 688-1303

BRIAN SANDOVAL  
*Governor*  
ROBERT R BARENGO  
*Chair, Nevada Tax Commission*  
CHRISTOPHER G. NIELSEN  
*Executive Director*

LAS VEGAS OFFICE  
Grant Sawyer Office Building, Suite 1300  
555 E. Washington Avenue  
Las Vegas, Nevada 89101  
Phone: (702) 486-2300 Fax: (702) 486-2373

HENDERSON OFFICE  
2550 Paseo Verde Parkway, Suite 180  
Henderson, Nevada 89074  
Phone: (702) 486-2300  
Fax: (702) 486-3377

**DECISION LETTER**

September 6, 2012

**CERTIFIED MAIL 7012 1010 0001 5652 9354**

William H. Brown, Esq.  
Law Offices of William H. Brown, Ltd.  
6029 S. Ft. Apache Rd., Ste. 100  
Las Vegas, NV 89148

**CERTIFIED MAIL 7012 1010 0001 5652 9361**

Mark E. Ferrario, Esq.  
Greenberg Traurig, LLP  
3773 Howard Hughes Pkwy., Ste. 400 N.  
Las Vegas, NV 89169

**IN THE MATTER OF:      K-KEL, ET AL.'S OPPORTUNITY, PURSUANT TO DISTRICT  
COURT ORDER DATED JANUARY 24, 2012, TO PRESENT  
ADDITIONAL EVIDENCE TO THE NEVADA TAX COMMISSION  
SO THAT THE COMMISSION CAN AMEND THE FINDINGS OF  
FACT, CONCLUSIONS OF LAW DATED OCTOBER 12, 2007,  
REVERSE THE DECISION OR AFFIRM THE DECISION, AND  
CONSIDERATION OF TAXPAYER'S REQUEST FOR  
SUBPOENAS FOR DEPOSITIONS**

Dear Messrs. Brown and Ferrario:

The above matter came before the Nevada Tax Commission ("Commission") for hearing on June 25, 2012. Senior Deputy Attorney General David Pope and Deputy Attorney General Vivienne Rakowsky appeared on behalf of the Respondent, Department of Taxation ("Department"). For the Petitioners, Mark E. Ferrario, Esq. appeared on behalf of Shac, LLC and William H. Brown, Esq. appeared on behalf of K-Kel dba Spearmint Rhino, The Power Company dba Crazy Horse Too Gentlemen's Club, D. Westwood, Inc. dba Treasures, Olympus Garden, Inc. dba Olympic Garden, DI Food and Beverage of Las Vegas dba Scores, Déjà vu Showgirls of Las Vegas, LLC dba Déjà vu, and Little Darlings of Las Vegas LLC, dba Little Darlings. The entire record of the administrative proceedings was provided to and considered by the Commission in the proceeding, and forms the basis of these findings of fact and conclusions of law.

The Commission hereby makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. This matter was before this Commission in July and August of 2007 and, on October 12, 2007, the Commission issued Findings of Fact, Conclusions of Law and a Decision.
2. Déjà vu Showgirls of Las Vegas, LLC dba Déjà vu and Little Darlings of Las Vegas LLC, dba Little Darlings stated that they are not part of this proceeding and are not part of the Petition for Judicial Review that is before the District Court (Case #A-11-648894-J). In fact, Déjà vu and Little Darlings did not appear before this Commission in 2007, are not parties to the administrative record, were not aggrieved by the final decision and, therefore, are not parties to this proceeding and shall be stricken from the caption. NRS 233B.130.
3. On or about September 23, 2011, following the dismissal of their District Court case (Case #08A554970), Petitioners filed a Petition for Judicial Review in District Court (Case #A-11-648894-J) pursuant to the relevant court order dated December 19, 2011.
4. On or about September 28, 2011, Petitioners filed a motion pursuant to NRS 233B.131 requesting the Court grant them permission to present additional evidence to the Commission in order to supplement the administrative record with information obtained through discovery in the District Court case (Case #06A533273), i.e. documents identified as Bates Nos. DV00001 through DV001510, which were not part of the administrative record.
5. The Court granted the motion to present additional evidence, stating that the matter is remanded to allow the Commission to "look at additional evidence and do one of the following: Amend the Findings of Fact, Conclusions of Law dated October 12, 2007, Reverse the Decision, or Affirm the Decision." *District Court Order dated January 24, 2012.*
6. On or about June 14, 2012, in anticipation of the matter being presented to this Commission on remand, the Petitioners requested that the Department issue subpoenas in order to allow them to question three witnesses and thereafter supplement the record with what would be newly obtained testimony.
7. Petitioners argued that their rights to discovery, which they waited to conduct during the District Court proceedings that were dismissed, were curtailed by the decision in *Southern Cal. Edison v. First Judicial Dist. Court*, 127 Nev. Adv. Op 22, 255 P.3d 231 (May 26, 2011) which clarified that appeals of final decisions of this Commission must proceed as petitions for judicial review.
8. During the administrative proceeding that took place in 2007, this Commission continued the hearing for one month to allow the parties to provide all evidence that they wanted considered by the Commission. The parties were told that this was their final opportunity to supplement the record.

9. Petitioners provided an additional 568 pages of evidence that was fully reviewed and considered by the Commission prior to rendering the administrative decision in October 2007.
10. Petitioners were or should have been aware of the provisions of the Nevada Administrative Procedures Act, NRS Chapter 233B.
11. In addition, NAC 360.135 and NAC 360.145 allowed Taxpayers to request subpoenas and depositions before this matter was presented to this Commission in 2007. Nonetheless, Petitioners failed to ask for subpoenas or depositions when this matter was before the Commission in 2007.
12. Pursuant to NRS 233B.131, when considering a motion to allow a party to present additional evidence to the Commission, a district court must determine whether the additional evidence is material and whether there are good reasons for the party to have failed to present the evidence to the Commission the first time.
13. In order to determine that the additional evidence is material and that there were good reasons for the failure to present the evidence to the Commission in 2007, it was necessary for the District Court Judge to have reviewed the proposed additional evidence existing at the time of the motion hearing.
14. At the hearing, the District Court Judge stated, "My inclination is that there is good cause and that the evidence is material, and I would prefer that the tax commission review everything before I review it." *Transcript from Motion Hearing Argued to District Court on December 9, 2011*, p. 5-6.
15. The Judge reasoned that, because he is limited to a review of the record of the administrative proceeding, if there is a question as to whether or not something should be in the record he is inclined to allow the administrative agency the opportunity to review it so that he has all the evidence when he performs judicial review. *Id.* at 11.
16. Both the Petitioners and Respondents provided competing proposed orders to the District Court Judge. Petitioners twice stated in their proposed order that discovery would be reopened and depositions allowed. The Judge did not sign the petitioner's proposed order which would have allowed the reopening of discovery and depositions.
17. The Judge signed an order which stated that the matter would be remanded to the Commission to allow the Commission to "look at additional evidence and do one of the following: Amend the Findings of Fact Conclusions of Law dated October 12, 2007, Reverse the Decision or Affirm the Decision." *District Court Order* dated January 24, 2012.
18. If any Finding of Fact is more properly classified as a Conclusion of Law, then it shall be deemed as such.

### **CONCLUSIONS OF LAW**

1. Pursuant to NRS 233B.131, the District Court must find materiality in the additional evidence and good cause for the failure to present the evidence in order to allow a petitioner to supplement the administrative record with additional evidence.
2. The District Court found materiality with regard to Bates Nos. DV00001 through DV001510 and the administrative record shall be supplemented with these documents.
3. With regard to the request for additional discovery, in administrative matters discovery is allowed to the extent that the relevant regulations allow it. *Dutchess Business Servs., Inc. v. Nev. State Bd. of Pharmacy*, 124 Nev. 701, 713-714, 191 P.3d 1159 (2008).
4. Although NAC 360.135 allows subpoenas and NAC 360.145 allows depositions, during the administrative proceedings in 2007 the Petitioners failed to ask for subpoenas or depositions and therefore waived the right to pursue these methods of discovery.
5. There is no due process violation because the Petitioners had the right to ask for subpoenas and depositions in 2007 and failed to do so and nothing prohibited them from requesting such discovery regardless of how they may have later chosen to proceed after receiving a final decision from the Commission.
6. The Commission has no obligation to reinstate the right to request subpoenas and depositions.
7. Pursuant to NRS Chapter 233B.130(1), the remedy for a party aggrieved by a final agency decision is judicial review.
8. Pursuant to the Nevada Supreme Court's decision in *Malecon Tobacco, LLC v. Dept. of Taxation*, 118 Nev. 837, 840-842 (2002), "as applied" constitutional challenges requiring factual determinations must be decided by the administrative agency.
9. Pursuant to NRS 360.245 and NRS 233B.135(3), this matter is being remanded to an Administrative Law Judge (hereinafter "ALJ") with the entire record including the additional documents obtained through discovery in the District Court case which are identified as Bates Nos. DV00001 through DV001510. The ALJ shall review the additional evidence, along with the original record, and determine whether the findings of fact, conclusions of law and final decision issued in 2007 should be amended, reversed or affirmed.
10. Upon appeal of the decision of the ALJ, this Commission will either affirm, reverse or modify the decision. NRS 360.245; NRS 233B.135.
11. If any Conclusion of Law is more properly classified as a Finding of Fact, then it shall be deemed as such.



**DECISION**

1. The requested subpoenas will not be issued and additional discovery and/or depositions will not be permitted.
2. The administrative record is supplemented with the additional evidence that was not considered by the Commission in 2007 but was thereafter obtained through discovery in the District Court case and existing on January 12, 2012 at the time that the Court made the decision to remand the matter to the Commission, i.e. Bates Nos.DV00001 through DV001510.
3. This matter is remanded to an ALJ with instructions to review the additional evidence and the original record and do one of the following: amend the Findings of Fact, Conclusions of Law and Decision dated October 12, 2007, reverse the decision or affirm the decision.
4. If a party is aggrieved by the decision of the ALJ, that party may appeal the decision to this Commission pursuant to NRS 360.245.

FOR THE COMMISSION

*Deanne E. Contine for:*

---

CHRISTOPHER G. NIELSEN  
Executive Director  
Nevada Department of Taxation

cc: Vivienne Rakowsky, Deputy Attorney General  
David Pope, Senior Deputy Attorney General  
Blake Doerr, Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the forgoing document upon all parties of record in this proceeding by mailing a copy thereof, properly addressed, with postage prepaid to:

**CERTIFIED MAIL 7012 1010 0001 5652 9354**

William H. Brown, Esq.  
Law Offices of William H. Brown, Ltd.  
6029 S. Ft. Apache Rd., Ste. 100  
Las Vegas, NV 89148

**CERTIFIED MAIL 7012 1010 0001 5652 9361**

Mark E. Ferrario, Esq.  
Greenberg Traurig, LLP  
3773 Howard Hughes Pkwy., Ste. 400 N.  
Las Vegas, NV 89169

Dated at Carson City, Nevada, the 6<sup>th</sup> day September 2012.

  
\_\_\_\_\_  
Erin Fierro

STATE OF NEVADA  
DEPARTMENT OF TAXATION

In the Matter of: )  
)  
K-Kel, Inc., Olympus Garden, Inc., ) Live Entertainment Tax  
Shac, LLC, The Power Company, Inc., ) Refund Requests  
D. Westwood, Inc., D.I. Food & Beverage )  
of Las Vegas, LLC, )  
) HEARING OFFICER'S  
Petitioners. ) ORDER ON REMAND  
)

K-Kel, Inc. dba Spearmint Rhino Gentlemen's Club, Olympus Garden, Inc. dba Olympic Garden, Shac, LLC dba Sapphire, The Power Company dba Crazy Horse Too Gentlemen's Club, D. Westwood, Inc. dba Treasures, and D.I. Food & Beverage of Las Vegas, LLC dba Scores (collectively as "Petitioners") operated exotic dancing establishments or adult entertainment venues in Las Vegas, Nevada. The businesses offered entertainment in the form of live dance performances and sold alcoholic beverages. Petitioners charged their patrons admission charges to enter the venues. Petitioners did not offer gaming and had occupancy ratings between 200 and 7400 persons. The businesses operated from January 2004 through April 2004.

Petitioners requested refunds of live entertainment taxes ("LET") paid to the Nevada Department of Taxation ("Department") for the periods January 2004 through April 2004.<sup>1</sup> Petitioners based their refund requests on claims that 1) the LET was a facially unconstitutional tax on First Amendment activities and 2) Petitioners were exempt from paying the tax pursuant to NRS 368A.200(5)(a) because they provided "live entertainment that the State is prohibited from taxing under the Constitution, laws or treaties of the United States or Nevada Constitutions."

<sup>1</sup> In lieu of reciting the tortured procedural history of this matter from its inception, only the relevant events leading to this review and order will be discussed.

1 The Department denied the refund requests and the matter proceeded on appeal  
2 to the Nevada Tax Commission ("Commission"), where the denials were upheld.<sup>2</sup>  
3 Petitioners then appealed to the District Court. In September 2011, Petitioners  
4 requested the District Court grant them the opportunity to submit 1510 pages of  
5 additional documents into the record. The District Court remanded the matter to the  
6 Commission to review the additional documents and determine whether those  
7 documents changed the Commission's October 12, 2007 decision.

8 During their June 25, 2012 presentation to the Commission regarding the District  
9 Court remand and the additional documents, Petitioners requested the Commission  
10 grant them the opportunity to depose three witnesses. Their request was denied. By its  
11 decision letter dated September 6, 2012, the Commission referred this matter to the  
12 undersigned "with the entire record including the additional documents obtained through  
13 discovery in the District Court case which are identified as Bates Nos. DV00001 through  
14 DV001510. The ALJ shall review the additional evidence, along with the original record,  
15 and determine whether the findings of fact, conclusions of law and final decision issued  
16 in 2007 should be amended, reversed or affirmed."

17 Upon learning that this matter had been referred to the undersigned, Petitioners  
18 submitted a letter to the undersigned dated August 13, 2013 in which Petitioners  
19 renewed their requests for depositions and requested further unspecified discovery.<sup>3</sup>  
20 Petitioners also requested a hearing before the undersigned because Petitioners "would  
21 not presume to impose such a task," the task of reviewing the additional 1510 pages of  
22 documents, on the undersigned. Rather, Petitioners would use the hearing to "distill and  
23

24  
25 <sup>2</sup> Petitioners' Refund Requests have been consolidated on appeal.

26 <sup>3</sup> Petitioners based this request on an argument that the Commission's September 12, 2012 written decision did not accurately reflect the Commission's oral decision. Petitioners have had 11 months to challenge the September 12, 2012 order or to request clarification from the Commission. They have chosen not to do so and this is not the proper forum for that issue.

1 clarify exactly what portions of these documents are relevant, and why.”

2 Notwithstanding Petitioners’ attempt to avoid a review by the undersigned of the very  
3 documents which Petitioners fought so hard to include in the record and despite  
4 Petitioners’ surprising admission that the documents are to some degree repetitious,  
5 unclear, and irrelevant, the undersigned has reviewed the 1510 pages as ordered by  
6 the Commission.

7 Petitioners’ additional documents included extensive legislative and regulatory  
8 histories surrounding the enactment and subsequent amendment of NRS 368A and the  
9 corresponding provisions of NAC 368A. Petitioners also included legislative history  
10 regarding SB 247 (2005), which was intended to amend 368A but was not enacted.  
11 Finally, the production included documents generated by the Department: requests for  
12 information from taxpayers concerning the LET, informational letters and educational  
13 materials regarding the LET, various statistical breakdowns concerning non-gaming  
14 LET revenue collected by the Department, and internal memoranda responding to  
15 requests for statistical information regarding LET.

16 Petitioners have not offered any persuasive legal support for their argument that  
17 this tax on admission charges and sales runs afoul of the First Amendment. Rather,  
18 their arguments appear to be based upon the idea that the Department’s application of  
19 the tax discriminates against Petitioners’ adult entertainment venues in some respect, or  
20 that the tax itself is so burdensome to Petitioners as to imperil their freedom of speech  
21 and expression. These new arguments indicate that sometime after filing their Refund  
22 Requests, Petitioners shifted their focus from a facial challenge of the LET to an as-  
23 applied challenge. A facial challenge is a “claim that a statute is always unconstitutional  
24 on its face- that is, that it always operates unconstitutionally.” Black’s Law Dictionary  
25 244 (8th ed. 2004). An as-applied challenge is a “claim that a statute is unconstitutional  
26 on the facts of a particular case or in its application to a particular party.” Id. When

1 Petitioners asked the court to examine factually how the LET impacts one business  
2 versus another, Petitioners proposed an as-applied challenge to the LET.

3 In this regard, Petitioners alleged that they bore a disproportionate tax burden,  
4 presumably because their adult entertainment venues paid more LET than did other  
5 non-gaming entertainment venues. While they may have paid more LET in absolute  
6 terms when compared to other non-gaming venues, Petitioners have failed to develop  
7 any facts to show that this was unconstitutional in some respect.

8 LET is an excise tax which functions like a sales tax on the gross receipts from  
9 admission charges and retail sales of prepared food, alcohol and merchandise. LET is  
10 imposed as a fixed percentage of the gross receipts from admission charges and sales.  
11 Therefore, a business with more revenue from admission charges and sales will  
12 necessarily pay more LET than a business with less revenue from admission charges  
13 and sales. If Petitioners paid more in LET, it was only because they generated more  
14 revenue from sales and admission charges than did other entertainment venues. In  
15 absolute terms, Petitioners' LET liability increased as their sales and admissions  
16 revenue increased. In relative terms, Petitioners' LET liability was identical to that of the  
17 next taxpayer.

18 Since LET is imposed upon gross receipts as opposed to net receipts, it may  
19 disproportionately impact a business with narrow operating margins unless the tax is  
20 passed on to or borne by patrons or consumers. Petitioners have not alleged that they  
21 had narrow operating margins or that there were any practical or legal impediments that  
22 prevented them from passing the tax burden on to their patrons as allowed by NRS  
23 368A. To the contrary, their sales figures would suggest that their patrons happily  
24 shouldered the burden of the tax.

25 In their efforts to show that they paid more LET than other entertainment venues,  
26 Petitioners have actually undermined their own arguments that the LET is punitive or

1 discriminatory. If the LET were punitive or discriminatory toward Petitioners, one would  
2 reasonably expect Petitioners' receipts from admissions and sales to have declined as  
3 compared to the admissions and sales of competing entertainment venues. Petitioners  
4 have not shown that their admissions and sales declined relative to those of competing  
5 entertainment venues, nor have they attempted to show that such a decline will likely  
6 occur in the future. Petitioners cannot demonstrate that the LET unconstitutionally  
7 burdens adult entertainment because they cannot show that the application of the tax  
8 puts their venues at a competitive or commercial disadvantage when compared with  
9 other entertainment venues. Likewise, Petitioners cannot demonstrate that the tax is so  
10 burdensome that it imperils free speech and freedom of expression at their venues. To  
11 the contrary, the tax appears to have had no discernible impact upon Petitioners' ability  
12 to conduct live dance performances at their venues.

13       Petitioner's also argued there was an illicit intent on the part of the legislature to  
14 target the tax toward adult entertainment venues. The Commission's October 12, 2007  
15 decision specifically addressed Petitioners' allegations of an illicit legislative motive and  
16 held that "[m]ention by legislators of taxability of live entertainment under a proposed bill  
17 that was subsequently enacted does not prove that the bill was enacted because of  
18 disagreement with the message provided by live adult entertainment." Petitioners'  
19 presentation of more pages of legislative history does not alter this conclusion. With  
20 regard to the legislative history pertaining to SB 247 (2005) which was not enacted, the  
21 Commission ruled that "[s]tatements by legislators with respect to a bill that would have  
22 taxed live adult entertainment as a separate class, where the bill did not pass, does not  
23 prove the intent of a separate bill that did not select live entertainment." Petitioners'  
24 second presentation of the same information and argument does not change the  
25 Commission's conclusion.

26       Neither Petitioners' documents nor their as-applied constitutional challenges

1 compel amendments to the Commission's October 12, 2007 decision. Petitioners failed  
2 to allege or demonstrate incorrect application of the LET provisions to Petitioners or that  
3 the Department applied a peculiar interpretation of the LET to Petitioners. Other than  
4 the more expansive LET statistics presented, there are no additional facts to assist in  
5 determining if Petitioners have been subjected to an unconstitutional application of LET.  
6 And the few additional facts presented fail to establish Petitioners' claims. Frankly, it is  
7 difficult to imagine that there might be facts to support Petitioners' assertions.  
8 Petitioners' position that the Nevada legislature enacted the LET in an attempt to  
9 suppress entertainment in Nevada, the lifeblood of this tourism-dependent state,  
10 borders on the absurd.

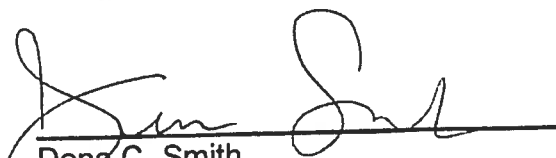
11 ORDER

12 Based upon the foregoing, and GOOD CAUSE APPEARING THEREFORE, IT IS  
13 HEREBY ORDERED, ADJUDGED AND DECREED that:

14 1. Petitioners' August 13, 2013 requests that the undersigned exceed the scope  
15 of the Commission's September 6, 2012 decision by: 1) convening a hearing in this  
16 matter, 2) allowing Petitioners to depose three witnesses, and 3) allowing Petitioners to  
17 engage in additional unspecified discovery are denied.

18 2. Petitioner's additional documents Bates DV000001 through DV001510 are  
19 insufficient to change the October 12, 2007 decision of the Commission. The  
20 Commission's October 12, 2007 decision is hereby affirmed.

21  
22 DATED this 27<sup>th</sup> day of August, 2013.

23  
24  
25   
26 Dena C. Smith  
Administrative Law Judge



APPEAL RIGHTS

You may appeal this decision to the Nevada Tax Commission provided that you file a notice of appeal within thirty (30) days after the date of service of this decision upon you. Although notice of the appeal need not be in any particular format, it must be in writing, must clearly state your desire to appeal this decision, and must be filed with the executive staff of the Department of Taxation within thirty (30) days after the date of service of this decision. In this regard, you are advised to mail or personally deliver any notice of appeal to the attention of

Lezlie Helget, Supervising Auditor II  
Nevada Department of Taxation  
1550 College Parkway, Suite 115  
Carson City, Nevada 89706

Pursuant to NRS 360.245, this decision will become final thirty (30) days after service upon you unless you file a notice of appeal within those thirty (30) days.

All the above general information is provided to you pursuant to NRS 360.2925 and as a matter of courtesy only. You, or your counsel, should ascertain with more particularity the regulatory or statutory requirements pertinent to your further appeal rights.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Hearing Officer's Order on Remand in the matter of K-Kel, Inc. et. al. Live Entertainment Tax Refund Request, upon all parties of record in this proceeding as follows:

By mailing a copy thereof via certified mail, properly addressed, with postage prepaid to:

*Certified Mail: 7011 2000 0001 5246 0539*  
William H. Brown, Esq.  
Law Offices of William H. Brown, Ltd.  
6029 S. Ft. Apache Rd., Ste. 100  
Las Vegas, NV 89148

*Certified Mail: 7011 2000 0001 5246 0546*  
Mark E. Ferrario, Esq.  
Greenberg Traurig, LLP  
3773 Howard Hughes Pkwy., Ste. 400 N.  
Las Vegas, NV 89169

By electronic mail to:

William H. Brown, Esq. at [wbrown@lambrosebrown.com](mailto:wbrown@lambrosebrown.com)

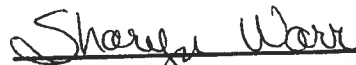
Mark E. Ferrario, Esq. at [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)

Vivienne Rakowsky, Deputy Attorney General, Counsel for Nevada Department of Taxation, at [VRakowsky@ag.nv.gov](mailto:VRakowsky@ag.nv.gov)

Christopher G. Nielsen, Executive Director, Nevada Department of Taxation

Nevada Tax Commission Members

Dated at Henderson, Nevada, this 27<sup>th</sup> day of August, 2013.

  
Signature