Illinois

Overview

Illinois was among the first states to allow slot gaming when it legalized riverboat casinos in 1990. Twenty-five years later, the state's riverboat casinos operate about 11,000 electronic gaming devices, which generated $1.2 billion in revenue in fiscal year 2014. Although riverboat operations have remained relatively unchanged, the state did expand gaming in 2009 by allowing video gaming terminals in bars, restaurants, truck stops and other locations statewide. Through December 2014, more than 4,670 locations operated a total of 19,182 video gaming terminals in the state. The machines generated more than $485 million in revenue in fiscal year 2014. Several legislative efforts to expand gaming to include land-based casinos and online gaming have failed in recent years.

Key Events in History

* February 1990 – The Riverboat Gambling Act is passed, making Illinois the second state to legalize riverboat gambling.

* September 1991 – The first riverboat casino opens in Alton.

* June 1999 – Illinois lawmakers repeal the requirement that riverboats must cruise the waters, which opens the door for dockside operations. The change immediately boosts gaming revenue among the state's nine riverboat operations.

* July 2009 – The Video Gaming Act becomes law, legalizing video gaming terminals at bars, restaurants, truck stops and other locations throughout the state. Local municipalities could opt out of the law and ban the machines from their jurisdictions.

* October 2012 – Following years of legal challenges and other regulatory issues, the state's first video gaming terminals start operating.

Historical Slot Performance Trends

Slot Handle
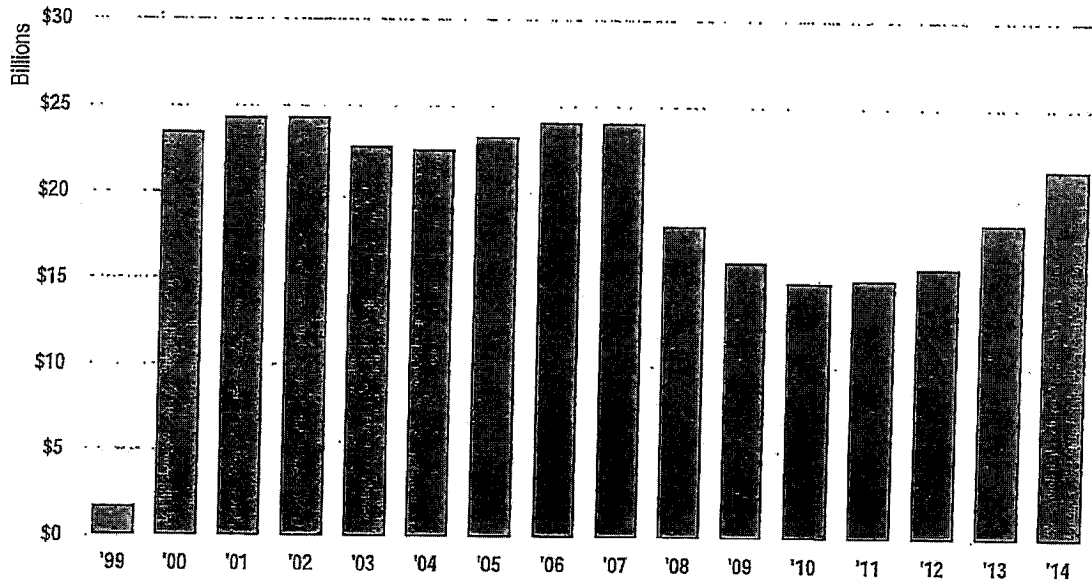
Slot Win
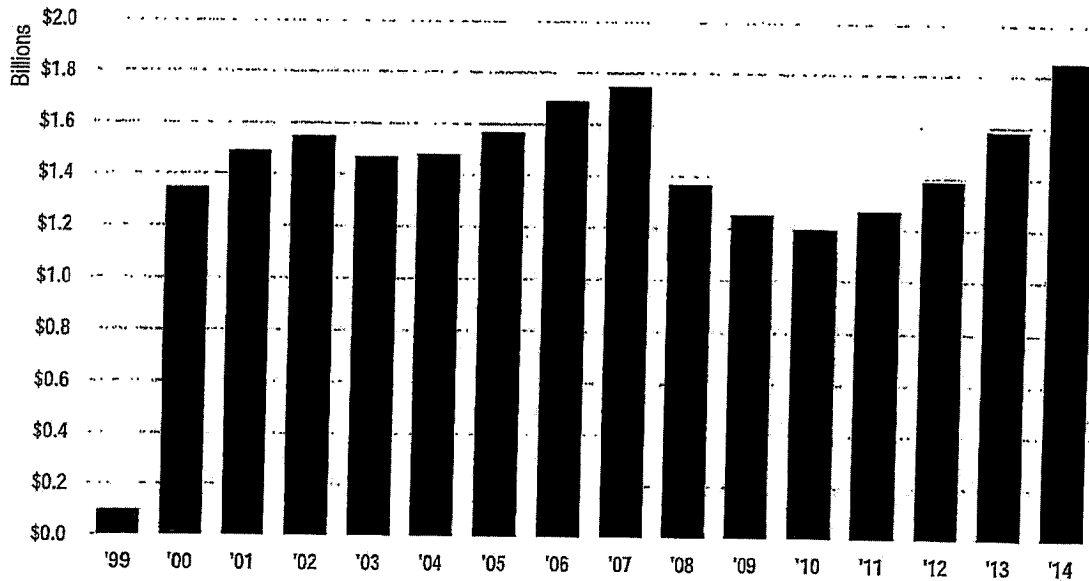
CERTIFICATE OF SERVICE

I certify that I am an employee of Robison, Belaustegui, Sharp & Low, and pursuant to NRAP 5(b)(2)(D) and N.E.F.C.R. 7, I caused the **RESPONDENT PEPPERMILL CASINOS, INC.'S ANSWERING BRIEF - APPENDIX VOLUME 11** to be filed electronically with the Clerk of the Nevada Supreme Court. Pursuant to N.E.F.C.R. 9, notice of an electronically filed document by the Court "shall be considered as valid and effective service of the document" on the below listed persons who are registered users.

H. STAN JOHNSON, ESQ.
CHRIS DAVIS, ESQ.
Cohen Johnson Parker Edwards, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, NV 89119
Email: sjohnson@cohenjohnson.com
            cdavis@cohenjohnson.com
Attorneys for Appellant

DATED: This 8th day of May, 2017.

V. JAYNE FERRETTO
Employee of Robison, Belaustegui, Sharp & Low

68.   As a result, because the probabilities of the game outcomes in real-world games are known (and are readily available on the Internet), the probabilities of equivalent game outcomes in electronic gaming devices are also known (and are the same). For example, the probability of any one of the 38 distinct pockets in a physical American (double-zero) roulette wheel is 1/38. Based on the typical payout of 36-for-one for a single-number wager, the payback percentage can be computed as

$$\frac{1}{38} * 36 + \frac{37}{38} * 0 = \frac{36}{38} = 94.74\%$$

69.   A payback of 94.74% implies a hold percentage of 5.26%. Any electronic equivalent of American roulette must also, per the regulations, have a hold percentage of 5.26%.

70.   I played an electronic version of American roulette at the GSR. While I knew what the hold percentage was before I played, I was able to use this information to discover other information about the GSR's operations. Specifically, on November 17, 2014, I played a roulette bet with a known hold of 5.26% for exactly $1900. This took 19 minutes. Because I was playing with my loyalty card, I earned a total of 500 comp points. The theoretical loss of $1900 wagered on roulette is exactly $100,[29] so I earned comp points at the rate of 5 per dollar in theo.[30]
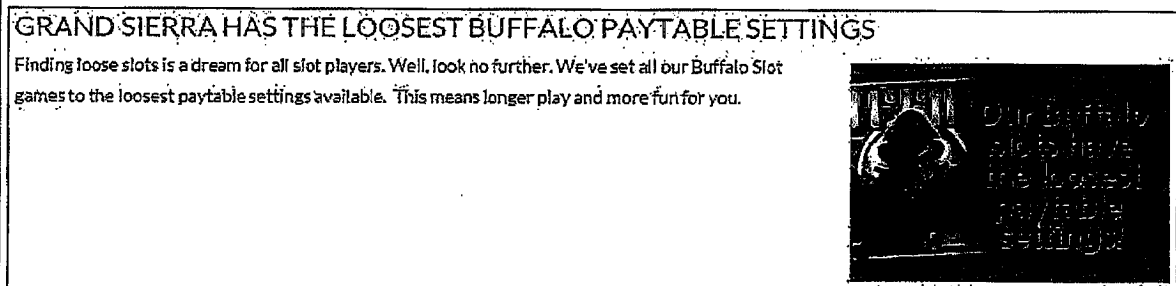
---

[29] I chose $1900 precisely for this reason.

[30] According to Mr. Vavra, learning this rate is more important than learning the par. Vavra dep., p. 178, ll. 15-19.

EXPERT REPORT OF STACY FRIEDMAN

71.   The importance of learning the comp point rate will be discussed below;

for now it suffices to say that the par (hold percentage) settings of some games are

known due to regulatory requirements and are therefore not secret. In my opinion,

the cost to obtain such pars is negligible: the cost of looking them up on the Internet.

b.   Advertising

72.   On several occasions, the GSR has advertised that certain of their slot

games have the loosest possible settings. For example, a February 15, 2015 image

capture of the GSR's website included the following text and image:[31]

GRAND SIERRA HAS THE LOOSEST BUFFALO PAYTABLE SETTINGS

Finding loose slots is a dream for all slot players. Well, look no further. We've set all our Buffalo Slot games to the loosest paytable settings available. This means longer play and more fun for you.

Figure 1

73.   Buffalo is a popular Aristocrat slot machine. The phrase "loosest

paytable settings available" is sufficient to determine the hold percentage of the

game, assuming one knows what the available settings are. A cursory glance at the

par sheet for Buffalo reveals that the "loosest" (that is, greatest payback) setting is

94.724%, indicating a hold percentage of 5.276%. Anyone with access to the par

sheet for Buffalo, which includes every casino operator in Reno, can immediately

---

[31] http://www.grandsierraresort.com/casino/casino-floor/slots-and-video-poker, captured February 15, 2015.

EXPERT REPORT OF STACY FRIEDMAN

ascertain the hold percentage for the GSR's Buffalo games, so there is nothing secret about that information.

74.   I understand that the GSR has advertised similarly in the past. The GSR's advertisement that Buffalo is set to the loosest setting has been on its website for several years, and was also on an outdoor billboard. The GSR also made a similar "loosest paytable" billboard advertisement for a number of WMS machines[32].

75.   Assuming such advertisements are truthful, the par setting for any game the GSR has advertised as having the "loosest paytable settings" (or the equivalent) is readily ascertained by looking up the loosest setting in the par sheet. The cost to do so is negligible: the time spent examining the par sheet.

c.   Theo request

76.   The next several techniques all rely on the fact that the GSR, like the Peppermill, rewards comp points based on the player's theo.

77.   On November 7, 2014, I played slot machine number 1639, named Miss Red, at the GSR using my loyalty card. I played 100 max-bet spins for $4.05 each, a total of $405 in handle. Then, without playing any other machines, I cashed out and visited the VIP desk. There, in response to my question "what's my theo," an employee named Scott told me "your theo for today is 26." With that information, the hold percentage of Miss Red is readily ascertained: it equals $26 in theo divided by $405 in handle, or 6.42%.[33] I played Miss Red for approximately 20 minutes and

---

[32] Photographs labeled Exhibit 4, dated 9/19/14.

[33] I subsequently confirmed that 6.42% is in fact one of the available hold settings listed on the par sheet for Miss Red.

spent another 10 minutes traversing the property and talking with the VIP host. Using Dr. Schwartz's suggested labor rate of $9/hour, the cost to obtain the par setting on that Miss Red game is $4.50 in labor and $26 in theoretical loss for a total of $30.50.[34]

78.   Additionally, my play generated 130 comp points.[35] 130 comp points per $26 in theo equals a rate of 5 points per dollar theo, or 5% considering that comp points are redeemable for $0.01.

d.   Ratio analysis

79.   After playing Miss Red, I then decided to test my assumption that the GSR was using a constant comp rate. It made intuitive sense that they would do so for two reasons. One is that it is simpler to do: casino loyalty systems tend to have a "master comp rate" setting and it is far more labor-intensive to set (and subsequently maintain) a set of different values on a machine-by-machine basis. Second, given that the GSR rewards comps based on theo, it would seem fairer that the rate at which they comp would be constant regardless of which game the theo was generated by. If the GSR had been considering an unequal comp rate relative to theo, they could have done what most casinos do and provide comps based on handle instead (which is by its nature an unequal rate relative to theo).

80.   If the comp rate per dollar theo is constant (a fact that was later admitted by GSR), then the following will be true:

---

[34] At my 2014 consulting rate, the cost is less than $240.
[35] Exhibit F, p. 14.

$$\frac{comp\ points\ per\ dollar\ handle\ for\ game\ 1}{comp\ points\ per\ dollar\ handle\ for\ game\ 2} = \frac{game\ 1\ hold}{game\ 2\ hold}$$

and therefore

$$game\ 2\ hold = game\ 1\ hold * \frac{game\ 2\ comp\ points}{game\ 2\ handle} / \frac{game\ 1\ comp\ points}{game\ 1\ handle}$$

81.　To test my assumption, after my $405 in handle had generated 130 comp points on Miss Red, I played several other games and calculated the hold percentage as

$$new\ game\ hold = 6.42\% * \frac{new\ game\ comp\ points}{new\ game\ handle} / \frac{130}{405}$$

Game name	Machine ID	Minutes played	Handle	Comp points earned	Calculated hold %
Willy Wonka and the Chocolate Factory	1878	16	$728	362	9.95%
Lil Lady	358	9	$400	119	5.95%
Wolf Run	20456	11	$540	202	7.48%
Wings over Olympus	101	12	$240	97	8.08%
Buffalo	2328	8	$300	80	5.33%
Video roulette	2509	5	$100	26	5.20%
Wheel of Fortune	934	9	$300	165	11.00%

Table 2

82.　Comp points are reported only in whole-number increments, rather than fractional amounts, and that has a slight but unimportant impact on the precision of these calculations when the handle is not large. For example, the calculated hold on both roulette and Buffalo (compared to their known numbers) are both off by roughly 0.06%, but the small magnitude of that discrepancy is actually strong evidence that the comp rate at the GSR is constant (which was later verified). Were

EXPERT REPORT OF STACY FRIEDMAN

RA 02642

it otherwise, the calculated hold percentage would be significantly different, not just slightly different.

83.   In any event, using ratio analysis I was able to readily ascertain the hold percentage for seven more games in a total of 70 minutes.[36] Multiplying the handle by the calculated hold for each game yields a total expected loss of $210.21, plus $10.50 in labor equals a total cost of $220.71 to determine the hold for all seven games. That averages to $31.53 per game.[37]

e.   Ratio elimination

84.   After leaving the GSR, I set about developing a technique to ascertain hold percentages on one or more games if I did not start with another known hold percentage. In the ratio analysis technique above, I started with a known par from Miss Red; I could also have started with a known par from Buffalo or from roulette. But even if I didn't know any of that, I can still determine the par settings for the games at the GSR by referring to the par sheets for the games and observing the ratios of points earned (again, under the assumption that the comp point rate is constant, which was later verified by GSR.)

85.   Referring to Table 2, I earned 80 comp points on $300 handle playing Buffalo, and I earned 130 comp points on $405 handle playing Miss Red. Thus, the observed ratio of comp rates per handle for Buffalo vs. Miss Red is

---

[36] I played an 8th game but after only three minutes was lucky enough (or for these purposes, unlucky enough) to hit a progressive jackpot. That triggered a hand-pay, causing the game to lock up until a tax form was issued by casino personnel. That process took well over 10 minutes, and I left after, so I omit that game from this evaluation.

[37] The math involved in this analysis is simple arithmetic, within the grasp of anyone able to manipulate fractions, so I do not believe a skilled consultant would be needed. Notwithstanding, at my 2014 consulting rate, the total cost for the seven games would be $706.04 and the average cost would be $100.83 per game.

EXPERT REPORT OF STACY FRIEDMAN

$$\frac{80}{300} \Big/ \frac{130}{405} = 0.831.$$

86.   Buffalo has four available hold settings listed on its par sheet and Miss Red has seven, so there are therefore 28 possible "candidate" pairs of hold settings that could be in use. By examining the ratios of available pars for those games and comparing to 0.831, I can eliminate many of those 28 candidate pairs. Initially, I will look for values that are within +/- 5% of the target value; in the case of 0.831, that's +/- 0.0416 for a range of 0.789 to 0.873.

87.   Table 3 lists the ratios of available par settings for Buffalo vs. Miss Red:

Par ratios, Buffalo vs Miss Red	Known pars, Buffalo			
Known pars, Miss Red	5.276%	8.179%	9.854%	12.320%
3.84%	1.374	2.130	2.566	3.208
5.02%	1.051	1.629	1.963	2.454
6.42%	0.822	1.274	1.535	1.919
8.00%	0.660	1.022	1.232	1.540
8.89%	0.593	0.920	1.108	1.386
10.96%	0.481	0.746	0.899	1.124
13.10%	0.403	0.624	0.752	0.940

Table 3

88.   The only pair of settings that has a ratio that falls within my target range is 0.822, found when Buffalo is set to 5.276% and Miss Red is set to 6.42%. The next two closest ratios are 0.899 and 0.752, when Buffalo is set to 9.854% and Miss Red is set to 10.96% and 13.10%, respectively. In this case, I am confident that 0.822 is the correct ratio and that 5.276% and 6.42% are the correct par settings. Aside from the fact that I already know they are correct (from other techniques), the ratio of 0.822 is only 0.009 difference from the observed ratio of 0.831. The next

EXPERT REPORT OF STACY FRIEDMAN

closest candidate pair ratios are different by 0.068 and 0.079, more than 7 times further away.

89.   In some cases, it may not be possible to eliminate all but one candidate pairs with a single ratio comparison. In that case, the analysis can continue with known handle and observed comp points earned from additional games, and subsequent candidate N-tuple[38] eliminations performed. When all but one candidate eliminations are completed, the single remaining N-tuple will indicate the hold setting for each of the N games that was played. By selecting games in advance that have relatively unique hold ratios,[39] it will usually be possible to eliminate all but one candidate N-tuple with a relatively small number of games played, such as six or fewer.

90.   On November 17, 2014 I performed a ratio elimination on the four different machines listed in Table 4:

Game name	Machine ID	Minutes played	Handle	Comp points earned	Ascertained par setting
Colossal Wizards	1520	6	$125	49	7.95%
Dragon's Law	2113	8	$150	46	6.04%
Secrets of the Forest	1299	6	$198	48	5.10%
100 Lions	239	5	$200	79	7.97%

Table 4

91.   The analysis involved is set forth in the spreadsheet attached as **Exhibit G**. It is too lengthy to fully discuss in the body of this report, but after six different ratio comparisons with narrowing tolerance, I eliminated all but one candidate and

---

[38] An "N-tuple" is a mathematical term indicating an ordered list of N elements, from the lexical sequence "pair, triple, quadruple, quintuple, etc. ...".

[39] "Relatively unique ratios" as opposed to many similar ratios. If two games are played with an observed ratio of 1.0, and they both have available hold settings of 4%, 6%, and 8%, then it is known that those games are set to the same hold percentage but it is not known which setting that is.

EXPERT REPORT OF STACY FRIEDMAN

RA 02645

had therefore ascertained the pars of the four games. Those pars are listed in rows 141-144 of Exhibit G and in the last column of Table 4.

92. The theoretical cost of the play was $45.04. The total time collecting data was 25 minutes, and the analysis itself including the setup of the spreadsheet was another two hours. Allowing for the fact that this particular analysis requires skill with spreadsheets, labor at $100/hour would cost $241.67 for a total of $286.71 to determine the hold percentage for the four games, or $71.68 per game.[40]

f.   Blind bin analysis

93. The prior two techniques, ratio analysis and ratio elimination, rely upon the fact that GSR uses a constant comp point rate, but they do not require knowing what that rate actually is. Once the comp point rate is identified, more efficient techniques for ascertaining par become available.

94. When I played Miss Red, I determined that the comp point rate for that game at the GSR was 5%, that is, five comp points earned per dollar in theo. By playing other games, I subsequently determined that the comp point rate was constant across those games. That means for any other game, I should be able to play a relatively small amount of handle, observe the accrued comp points, divide that figure by the comp point rate of 5, again by handle, and ascertain a reasonable estimate of the hold percentage of the machine. I can then examine the par sheets for the closest available setting. Because gaming manufacturers typically do not offer hold settings very close to one another, my results should be very close to one

---

[40] At my 2014 consulting rate, the total would be $1072.12 or $268.03 per game.

available hold setting and much further away from the others. For example, if I earn

31 comp points as a result of $100 play on a machine, I calculate the hold as

$$31 \, points \, / \, 5 \, points \, per \, dollar \, / \, \$100 \; = \; 6.2\%.$$

95.   If I then examine the par sheet and discover the game has available hold

settings of 4%, 6%, and 8%, I am confident that the game is set to 6%. This

analysis is called "bin analysis" because the sampled data is collected and then

sorted into bins, where the available hold settings form the bins. If a game only has

a 4%, 6% and 8% setting, it is not possible for the game to be set to 7% or 9.3%,

and this technique makes use of that fact. I use the phrase "blind" bin analysis

because the par sheets are only consulted after the fact: data gathering is performed

first.

96.   I used this technique at the GSR on November 17, 2014. After

confirming that the comp point rate was indeed 5% by playing a game with a known

hold (see paragraph 70), I played the games listed in Table 5 and derived the

reported hold settings:

Game name	Machine ID	Minutes played	Handle	Comp points earned	Calculated hold %
Black Widow	441	5	96	39	8.125%
Red Moon	2273	3	120	48	8%
Shadow Diamond	1785	4	100	40	8%
Stella Drive	2093	6	80	32	8%
Celtic Queen	2329	5	120	49	8.167%
Cleopatra	21012	4	90	26	5.778%
Double Diamond[41]	1887	5	100	13	2.6%

Table 5

[41] This particular Double Diamond game is not a penny video slot game, it is a $5-denominated mechanical 3-reel game. I wanted to test the analysis on other game types.

EXPERT REPORT OF STACY FRIEDMAN

RA 02647

97.   Later I reviewed the par sheets for those seven games. In all cases, the hold I calculated was within 0.2% of the nearest available hold setting and more than 0.6% from the next nearest setting. Even though I had only played a small amount of handle on each game, and only for a few minutes each, knowledge of the comp point rate made it easy to ascertain the hold settings on the games I played.

98.   The theoretical loss from my play was $49.40, and the total playing time was 32 minutes, at $9/hour is $4.80. The total cost to ascertain the holds was $54.20 for all seven games and an average of $7.74 per game.[42] .When including the cost of playing video roulette to establish the comp point rate (see paragraph 70), the total theoretical loss was $149.40 and the total time was 51 minutes. At $9/hour that represents a total cost of $157.05 to determine the hold and an average of $22.44 per game.[43]

g.   Minimal bin analysis

99.   Before I even tried the bin analysis technique in the prior section, I was attempting to formulate an answer to the following question: "what is the least amount of handle (coin-in) that must be played on a slot machine game in order to determine, by the number of comp points earned, that the game is set to one hold setting and not to any of the others?" That question can be answered by relying on the fact that, as described earlier, a slot machine game cannot be set to any arbitrary hold value but only one from a small number of hold settings for each game. With knowledge of the comp point rate and the list of available par settings, I derived a

---

[42] At my 2014 consulting rate, the total cost would be $276.07 for all seven games and the per-game average would be $39.44.

[43] At my 2014 consulting rate, factoring in the roulette play, the total cost would be $510.65 and the per-game average would be $72.95.

EXPERT REPORT OF STACY FRIEDMAN

RA 02648

formula for determining the minimum required handle (MRH) to ascertain which hold setting is being used. Defining "Min Delta" as the smallest difference between any two available par settings for a game, and factoring in that comp points are only reported in whole number increments, the formula is

$$MRH = \frac{\$2}{Min\ Delta * comp\ point\ rate}$$

100. For example, the par sheet for the game Jaguar Princess lists nine available hold settings. The minimum difference between any of them is 1.0%. The comp point rate at the GSR is, as above, 5 points per dollar in theo. Therefore, for Jaguar Princess,

$$MRH(Jaguar\ Princess) = \frac{\$2}{1\% * 5} = \$40.$$

101. Jaguar Princess has a max-bet spin value of $5, so it should require only eight (8) spins to ascertain the hold setting.

102. I prepared a spreadsheet with a list of the available Jaguar Princess payback percentages (RTPs), the deltas between them, and the minimum and maximum comp points I would earn from playing the MRH depending on which par setting was configured. That is reproduced as Table 6.

EXPERT REPORT OF STACY FRIEDMAN

RA 02649

Jaguar Princess Machine ID	1060		
Available RTPs	Deltas	Min points	Max points
98%	1.99%	4	4
96.01%	1.10%	7	8
94.91%	1.41%	10	11
93.50%	1.51%	13	13
91.99%	2.06%	16	17
89.93%	1.41%	20	21
88.52%	1.00%	22	23
87.52%	2.51%	24	25
85.01%		29	30

		Observed points	Derived RTP
Min Delta	1.00%	16	91.99%
MRH	40		
Max Bet	5		
Spins	8		
Handle	40		

Table 6

103. I played Jaguar Princess, machine ID 1060, at the GSR on November 17, 2014. I played exactly eight times at $5 per spin for a total of $40 in handle. This took me less than three minutes. I observed that 16 comp points had been added to my account. That falls into the 16-to-17 point bin, which corresponds to an RTP of 91.99%. Thus, with this technique I was able to ascertain the payback setting on Jaguar Princess in only eight plays.

104. In this particular case, the theoretical loss for my play was $3.20, and it took three minutes to play the game for the minimum required handle. At $9/hour for labor, the total cost to determine the payback setting for Jaguar Princess would be $3.65.[44]

105. A combination of the above two binning techniques should prove most efficient. It would be possible to compute a single MRH across a large number of

---

[44] At my 2014 consulting rate, the cost would be $24.40.

40

RA 02650

different machines, then simply go to a casino and play that amount in all of them and record the comp points earned. Later, the observed comp points can be compared to the bins derived from the par sheets of each game to ascertain the hold setting, that is, which bin the observed point quantity falls into. In the case of the GSR, $50 in handle would have been greater than the MRH for most games. If it takes 5 minutes to play $50 in handle at max-bet and then record the comp point gains, a team of eight people utilizing this technique could identify the hold on 480 games at the GSR in about five hours, and moreover, accurately estimate the floor par.[45] At an average hold of 7.5%, the theo cost would be $1800 and 40 hours' labor at $9/hour would be $360, for a total of $2160 or $4.50 per game.

h.   Video deconstruction

106.   The prior five techniques (theo request, ratio analysis, ratio elimination, and both variations of bin analysis) rely on knowing that it is GSR's practice of rewarding comp points based on theoretical loss rather than coin-in. However, it is possible to ascertain the payback of a game even without that information.

107.   Michael Shackleford is also known as the Wizard of Odds and has been a gaming mathematician and analyst for a long time. On his website, he details his efforts to reverse engineer a WMS slot machine game called Jackpot Party. He writes:

> *Historically, slot machines have been one of the few casino games that were nearly impossible to analyze without inside information*

---

[45] I have reviewed the GSR's monthly revenue report for September 2014, which lists 1131 total games and 452 penny games. 480 games represents 42% of the whole floor, a number Dr. Schwartz suggested would be sufficiently reliable for determining the floor par. Schwartz dep., p. 117, ll. 15-18. If the team only focused on penny games, five hours would be more than sufficient to identify the hold on every single penny game at the GSR.

about how an individual game was programmed. Every other casino game is open about its rules so the odds are quantifiable. However, with slots, the player is at the mercy of unknown reel strips. The casino doesn't tell the player the distribution of symbols on the strips, nor how they are weighted for single-line slots. While that doesn't seem to bother most players, it bothers me. In an effort to break this wall of secrecy, I recorded 212 spins of the game Jackpot Party on my cell phone. Then I went home and hand entered every outcome into a spreadsheet. Finally, I did the math to determine what I was up against. This page shows what I found.[46]

108.   In paragraph 20 I described that a par sheet typically contains information about the frequency of symbols and their ordering on the reels, and in paragraph 21 I discussed the expectation of a random variable. Because a slot machine game is a random variable, its expectation (payback percentage) can be calculated by knowing the values for each possible outcome and the probabilities of each one. The possible outcomes are published in a game's paytable, but as Mr. Shackleford describes, the reel strips are not. Therefore, his task was to discover the reel strips so he could compute the payback. The discussion on his website describes how he accomplished that task.

109.   He describes playing for "as fast as possible" for eight minutes and videorecording 212 plays, and then describes various analyses to understand the probabilities and compute the expectations. By the end of his analysis process, he had statistically ascertained the payback percentage of the game.

110.   I mention this technique because it is available to any member of the public, without needing to rely on either knowledge of loyalty program behavior or access to par sheets. Mr. Shackleford's technique demonstrates that the hold for a

---

[46] http://wizardofodds.com/games/slots/jackpot-party/, accessed February 16, 2015

EXPERT REPORT OF STACY FRIEDMAN

slot game can be ascertained by anyone in or out of the gaming industry, with a few minutes of gameplay and a few days' worth of mathematical effort.[47]

111. For a competing casino, this is not the most efficient method available – other methods are far quicker. However, this serves as a useful counterexample to Dr. Schwartz's mistaken belief that it would take over two years to statistically determine the hold percentage of a game by playing it. In his deposition, Mr. Vavra agrees that "with enough play" it is possible to "deconstruct a machine to reverse engineer it to determine the par."[48] It turns out that "enough play" is not over two years but only around ten minutes.

i. **Fingerprinting (a.k.a. reel strip elimination)**

112. As I discussed earlier, it is a nearly universal truth that different hold percentages for the same slot game are produced by varying the probabilities of the symbols on the reels. That normally happens by adjusting the reel strips so there are differences from one game version to the next. In casual gameplay, such differences are not noticeable by players. However, with full knowledge of the par sheets for all versions of a game, and specifically the reel strips for each game version, it is possible to observe one or more game results and eliminate from consideration those game versions that cannot produce the observed symbol combinations. In other words, for most games, reel strips are like fingerprints: no two sets are alike. In fact, it is sometimes possible to eliminate all but one possible

---

[47] Via personal email to me, Mr. Shackleford reports that the whole effort, including writing up the description on his website, took about 40 hours.

[48] Vavra dep., p. 126, ll. 16-18.

EXPERT REPORT OF STACY FRIEDMAN

set of reel strips – and therefore positively identify the configured hold – *merely by looking at the slot machine without even playing it.*

113. I was originally going to reproduce Mr. Shackleford's video deconstruction technique so I worked with the Peppermill to record several minutes of gameplay footage on a handful of its games. Figure 2 is a screenshot of the Cleopatra game, machine ID 12598 at the Peppermill, immediately after I inserted a ticket but before I started playing. In other words, the outcome on the screen was from a prior player. In this case, the screen shows the prior player had wagered 16 lines (out of 20) at one cent per line.
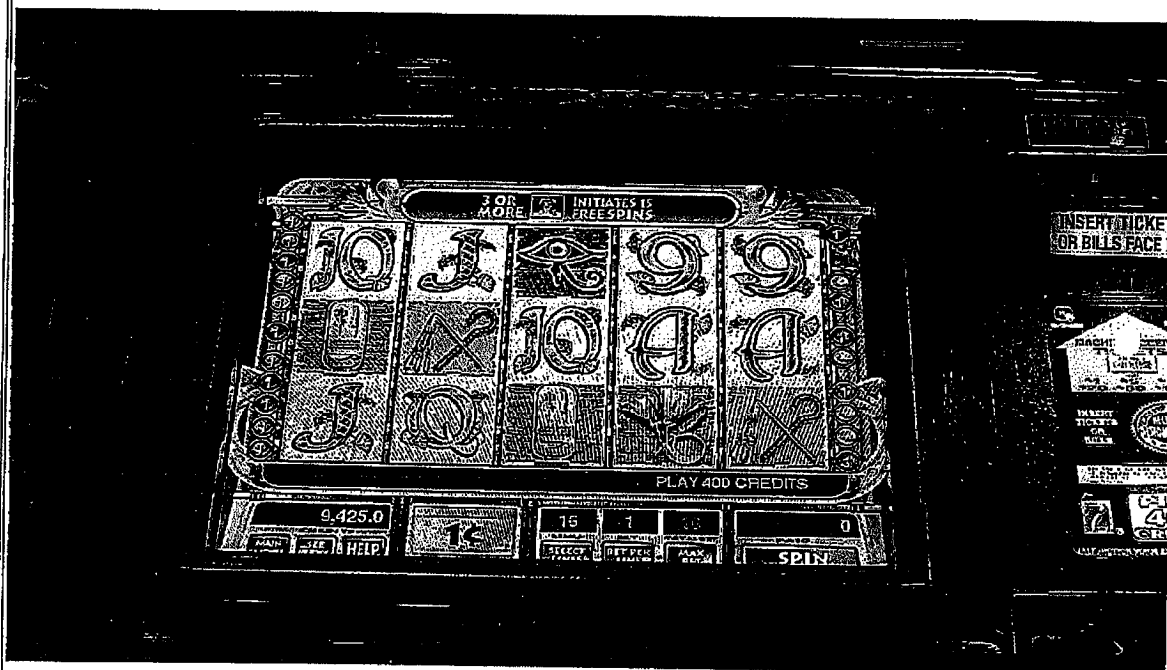
Figure 2

114. I developed a spreadsheet that enabled me to input the reel outcome of a play of a Cleopatra game, so I copied the symbols into my spreadsheet for analysis. A screenshot of that spreadsheet is shown in Figure 3.

EXPERT REPORT OF STACY FRIEDMAN

Cleopatra Game Configuration Identifier

Step 1:
Enter Game Outcome

Reel 1		Reel 2		Reel 3		Reel 4		Reel 5	
Ten	▼	Jack	▼	Eye	▼	Nine	▼	Nine	▼
Cartouche	▼	Flail	▼	Ten	▼	Ace	▼	Ace	▼
Jack	▼	Queen	▼	Cartouche	▼	Flower	▼	Flail	▼

Step 2:
Visual confirmation

Figure 3

115. The spreadsheet also contains each reel strip from each reel in each available game model. When a game outcome is input into the spreadsheet as shown in Figure 3, the spreadsheet immediately identifies which reel strips contain sections that match the selected symbols. Figure 4 shows that analysis for the depicted game outcome.

Step 3: Possible game configurations				Details Do the symbols Ten Cartouche Jack appear on reel 1?	Do the symbols Jack Flail Queen appear on reel 2?	Do the symbols Eye Ten Cartouche appear on reel 3?	Do the symbols Nine Ace Flower appear on reel 4	Do the symbols Nine Ace Flail appear on reel 5?
Paytable	Payback %	Hold %	Possible?					
V0014806	98.021%	1.979%	FALSE	NO	YES	YES	NO	NO
V0014805	97.422%	2.578%	FALSE	NO	YES	YES	YES	NO
V0014804	96.215%	3.785%	FALSE	NO	YES	YES	YES	YES
V0014803	95.025%	4.975%	TRUE	YES	YES	YES	YES	YES
V0014802	94.015%	5.985%	FALSE	YES	NO	YES	YES	YES
V0014801	92.474%	7.526%	FALSE	NO	YES	YES	NO	NO
V0014800	90.017%	9.983%	FALSE	NO	YES	YES	NO	NO
V0014799	87.485%	12.515%	FALSE	NO	YES	NO	NO	YES
V0014798	84.975%	15.025%	FALSE	YES	YES	YES	NO	NO
V0012476 / V0014816	98.085%	1.915%	FALSE	NO	NO	NO	NO	NO
V0012477 / V0014815	97.480%	2.520%	FALSE	NO	NO	NO	NO	NO
V0012478 / V0014814	96.252%	3.748%	FALSE	NO	NO	NO	NO	NO
V0012479 / V0014813	94.991%	5.009%	FALSE	NO	NO	NO	NO	NO
V0012480 / V0014812	94.031%	5.969%	FALSE	NO	NO	NO	NO	NO
V0012481 / V0014811	92.505%	7.495%	FALSE	NO	NO	NO	NO	NO
V0012482 / V0014810	90.022%	9.978%	FALSE	NO	NO	NO	NO	NO
V0012483 / V0014809	87.538%	12.462%	FALSE	NO	NO	NO	NO	NO
V0012484 / V0014808	85.065%	14.935%	FALSE	NO	NO	NO	NO	NO

Figure 4

116. As shown in Figure 4, it turns out that only one version of Cleopatra has reel strips that can generate the depicted combinations of three symbols on each of the five reels: paytable ID V0014803 with a payback of 95.025%. In other words, this technique was able to identify the hold percentage of this Cleopatra game with just a single game outcome. This will not always be the case – sometimes it will take a handful of plays -- but it is clearly possible to do in one.

117. As further demonstration, on the morning of February 23, 2015 I arrived at the Reno airport. I took a photograph of two different Cleopatra machines, machine 100077 near the gate and machine 100058 in the concourse outside security, reproduced here as Figures 5a and 5b.

Figure 5a

Figure 5b

EXPERT REPORT OF STACY FRIEDMAN

EXHIBIT 23
Part 3 of 3

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

**CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014**

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

118.   I did not play either machine; the outcomes on the screen were from prior games played by prior players. Using the same spreadsheet as above, the game configuration was immediately identified from the symbols on the reels. Screenshots of the spreadsheets are depicted in Figures 6a and 6b.

				Details				
Step 3: Possible game configurations				Do the symbols Queen Flail Ten appear on reel 1?	Do the symbols Queen Jack Flail appear on reel 2?	Do the symbols Flail Ace Eye appear on reel 3?	Do the symbols Cartouche Jack Flail appear on reel 4	Do the symbols King Ten Cleopatra appear on reel 5?
Paytable	Payback %	Hold %	Possible?					
V0014806	98.021%	1.979%	FALSE	YES	NO	NO	YES	YES
V0014805	97.422%	2.578%	FALSE	YES	NO	YES	YES	YES
V0014804	96.215%	3.785%	FALSE	YES	NO	YES	YES	YES
V0014803	95.025%	4.975%	FALSE	NO	NO	NO	YES	YES
V0014802	94.015%	5.985%	FALSE	NO	NO	NO	YES	YES
V0014801	92.474%	7.526%	FALSE	YES	NO	NO	YES	YES
V0014800	90.017%	9.983%	FALSE	YES	NO	YES	YES	YES
V0014799	87.485%	12.515%	TRUE	YES	YES	YES	YES	YES
V0014798	84.975%	15.025%	FALSE	YES	NO	NO	YES	YES
V0012476 / V0014816	98.085%	1.915%	FALSE	NO	NO	NO	NO	NO
V0012477 / V0014815	97.480%	2.520%	FALSE	NO	NO	NO	NO	NO
V0012478 / V0014814	96.252%	3.748%	FALSE	NO	NO	NO	NO	NO
V0012479 / V0014813	94.991%	5.009%	FALSE	NO	NO	NO	NO	NO
V0012480 / V0014812	94.031%	5.969%	FALSE	NO	NO	NO	NO	NO
V0012481 / V0014811	92.505%	7.495%	FALSE	NO	NO	NO	NO	NO
V0012482 / V0014810	90.022%	9.978%	FALSE	NO	NO	NO	YES	NO
V0012483 / V0014809	87.538%	12.462%	FALSE	NO	NO	NO	YES	NO
V0012484 / V0014808	85.065%	14.935%	FALSE	NO	NO	NO	YES	NO

Figure 6a: Identification for airport machine 100077

				Details				
Step 3: Possible game configurations				Do the symbols Ace Jack Cleopatra appear on reel 1?	Do the symbols Scarab Ace Nine appear on reel 2?	Do the symbols Ace Cartouche King appear on reel 3?	Do the symbols Eye Nine Ten appear on reel 4	Do the symbols Nine Scarab Ace appear on reel 5?
Paytable	Payback %	Hold %	Possible?					
V0014806	98.021%	1.979%	FALSE	YES	NO	NO	NO	YES
V0014805	97.422%	2.578%	FALSE	YES	NO	NO	NO	YES
V0014804	96.215%	3.785%	FALSE	YES	NO	NO	NO	YES
V0014803	95.025%	4.975%	FALSE	NO	NO	NO	NO	YES
V0014802	94.015%	5.985%	FALSE	NO	NO	NO	YES	YES
V0014801	92.474%	7.526%	FALSE	YES	NO	NO	NO	YES
V0014800	90.017%	9.983%	FALSE	YES	NO	NO	NO	YES
V0014799	87.485%	12.515%	TRUE	YES	YES	YES	YES	YES
V0014798	84.975%	15.025%	FALSE	YES	NO	NO	YES	YES
V0012476 / V0014816	98.085%	1.915%	FALSE	NO	NO	NO	NO	NO
V0012477 / V0014815	97.480%	2.520%	FALSE	NO	NO	NO	NO	NO
V0012478 / V0014814	96.252%	3.748%	FALSE	NO	NO	NO	NO	NO
V0012479 / V0014813	94.991%	5.009%	FALSE	NO	NO	NO	NO	YES
V0012480 / V0014812	94.031%	5.969%	FALSE	NO	NO	NO	NO	YES
V0012481 / V0014811	92.505%	7.495%	FALSE	NO	NO	NO	NO	YES
V0012482 / V0014810	90.022%	9.978%	FALSE	NO	NO	NO	NO	YES
V0012483 / V0014809	87.538%	12.462%	FALSE	NO	NO	NO	NO	YES
V0012484 / V0014808	85.065%	14.935%	FALSE	NO	NO	NO	NO	YES

Figure 6b: Identification for airport machine 100058

EXPERT REPORT OF STACY FRIEDMAN

RA 02660

119.   The results indicate that both machines at the airport are configured with a payback of 87.485% and a hold of 12.515%.[49] Further, in both Figures 5a and 5b, just the visible symbols on reel 2 alone are sufficient to uniquely identify the game configuration in play.

120.   To be safe, I estimate that two minutes' of rapid play, recorded on video, should generate enough game outcomes (at least 25) to uniquely identify the hold setting on a game using this technique. And because this technique does not rely on comp points or other loyalty information, it would be sufficient to gather the game outcome data from other players' play. In other words, simply recording other slot players playing (with zero theoretical loss) may generate enough data to perform this analysis. And because the reel strips for a slot game generally do not change based on the wager amount, playing at the *minimum* bet level is sufficient to generate the data. A few minutes' play of a penny video slot game at the minimum wager, which is often 10 to 40 cents, will frequently have a theoretical cost of less than $1. For example, 40 plays at 20 cents minimum bet is $8 handle, and at the market average hold of 7.5% that yields 60 cents in theoretical loss.

121.   The spreadsheet itself may take several hours to create – it requires importing all the reel strips from every version of a game – but once that is done it is easily reusable for all instances of that game anywhere in the market (or broader jurisdiction, in this case Nevada). Once a spreadsheet analyzer is created for a given game, examining each game outcome with that spreadsheet takes less than 30

---

[49] The persistent rumor that slot machines at Nevada airports are all set as tightly as possible is not accurate in this case, but it's close.

EXPERT REPORT OF STACY FRIEDMAN

RA 02661

seconds.[50] Therefore, if recording two minutes of play yields 25 game outcomes, each with a cost of 40 cents, each outcome taking 30 seconds to analyze, and assuming a unique setting is identified in those 25 game outcomes, then the theoretical loss (at 7.5% hold) is $0.75 and the labor cost at $9/hour is $2.18, for a total cost to identify the hold setting of $2.92 per game.

j.   Empirical confirmation

122.   After I had completed the analyses described above, I was provided my play history as recorded by the GSR's loyalty program and/or reported by GSR analysts.[51] I played a total of 27 different gaming machines over the course of my November 7 and November 17 trips to the GSR, gambling for less than 6 hours total, and **I correctly identified the hold percentage on every single game.**[52] Thus, I have empirically proven Dr. Schwartz and Mr. Vavra incorrect: it is very possible, and in fact quite easy and not at all time-consuming, for someone with the information *available to the Peppermill* to ascertain the hold percentage on a slot game at the GSR.

123.   Therefore, to conclude this section, it is my opinion that even if the Information obtained by Mr. Tors were deemed to have independent economic value, it is not a trade secret because it is readily ascertainable by the Peppermill and all of GSR's other competitors. However, because the GSR's pars have no

---

[50] To wit: I used my Cleopatra spreadsheet to analyze one of the airport photographs while I was waiting at baggage claim.

[51] GSR player data for account 200080474 for 11/7/2014 and 11/17/2014.

[52] Within 0.02% and accounting for the internal inconsistencies in the GSR's data.

EXPERT REPORT OF STACY FRIEDMAN

RA 02662

independent economic value, in my opinion they do not fit within the Nevada definition of a trade secret.

D.   The GSR failed to protect what it claims to be secret

124.   As above, I understand that a trade secret must be "the subject of efforts that are reasonable under the circumstances to maintain its secrecy." The GSR could have undertaken several efforts that would have stymied some (but not all) of the par-determination techniques presented in section II.C.2.

1.   The GSR failed to protect its alleged secret from physical access

125.   Prior to July 2013, the keyed switches on the GSR slot machines that activated the diagnostic screens were all keyed alike, using the ubiquitous 2341 key. At that time, there were no regulatory requirements that such keys be secured or otherwise accounted for, and there were literally thousands of such 2341 keys available to the hundreds of casino slot department employees in the Reno/Sparks area.

126.   All this was common knowledge among casino operators, yet the GSR apparently took no steps to protect its machines' diagnostic information (including par settings) from being accessed using a 2341 key. The GSR certainly could have, for instance by swapping out the switches for ones that used another key, ordering the gaming cabinets from the manufacturers with alternately-keyed switches already in place, or using another access method altogether (e.g., a magnetic-stripe keycard). But it did none of these things. In fact, despite the widespread availability of 2341 keys and their near-universal ability to access diagnostic information on slot machines, the GSR did not make any changes to its slot machines until March 2014

after the Nevada Gaming Control Board promulgated requirements for internal controls related to slot machine keys.[53]

2. The GSR failed to protect its alleged secret from par-determination techniques

127.   On the question of whether the par of a slot game can be determined by examination and analysis (without a 2341 key), the GSR's answers are notably inconsistent. Dr. Schwartz says it would take over 2 years to play a game to learn its par, but that doing so is actually impossible. Mr. Vavra says that one cannot learn the par on a slot machine by knowing the par on a first machine and the comp rates,[54] yet seems to contradict himself by allowing that if comp rates (reinvestment strategies) are constant then you can figure out the pars based on knowing the par of an advertised Buffalo game.[55]

128.   Based on this, it is my opinion that the GSR holds a generalized, perhaps underdeveloped comprehension of the fact that ratio analysis (see section II.C.2.d) is able to turn knowledge of a single par setting and a casino's rate of comp points per dollar theo into knowledge of another machine's par setting. The GSR may not appreciate how easy it is to deploy this technique and acquire that knowledge,[56] but I believe that (as demonstrated by Mr. Vavra) the GSR has at least some basic understanding of the relationship between gaming machine hold percentages and loyalty reinvestment strategies. Given this, if the GSR had truly wanted to keep

---

[53] NGCB Notice #2013-84, dated February 25, 2014

[54] Vavra dep., p. 125, ll. 21-25 – p. 126, ll. 1-9.

[55] Id., p. 187, ll. 17-25 – p. 188, ll. 1-5.

[56] If the GSR actually does appreciate this, its allegations that par information is secret (and therefore not readily ascertainable) would seem to be improper.

EXPERT REPORT OF STACY FRIEDMAN

machine par information secret, it could have used a variable comp point rate in its loyalty program rather than a constant rate. This would have effectively obfuscated their loyalty strategy and reduced or eliminated the effectiveness of the hold-identification techniques that rely on a constant comp point rate. Ratio analysis, for example, would have produced misleading results because the foundational assumptions would have been incorrect.

129. The GSR could also have used a loyalty program structure that rewards comp points based on handle, as so many other casinos do. In that scenario, playing a fixed handle would generate a constant and known number of comp points, rendering it impossible to understand the differences in pars between games.

130. The same parameters that made it possible for me to ascertain the hold settings of the GSR also made it possible for me to ascertain the loyalty club reinvestment rates (e.g., five points per dollar in theo). According to Mr. Vavra, that rate is what is truly important:

> Q And that's what you're telling me is really
> what's important in this analysis is not to get to the
> par or necessarily the net par but to get to that comp
> reinvestment theo for the players?
> A In my opinion, yes.
> Q That's what it's all about?
> A Yes.[57]

131. I agree with Mr. Vavra that reinvestment rate is more important than an individual par setting. As I have demonstrated with ratio analysis and bin analysis, once the comp reinvestment rate is known, it is easy to learn **all** the individual par settings. If the GSR had been concerned with the discovery of that comp

---

[57] Vavra dep., p 178, ll. 15-21

EXPERT REPORT OF STACY FRIEDMAN

reinvestment rate, they should have, at a minimum, (a) used a different comp point rate in the operation of games with a known hold, such as roulette; (b) used a different comp point rate in the operation of games with an advertised hold, such as Buffalo; and (c) instructed their VIP representatives to avoid giving out theoretical value information to players. The GSR undertook none of those efforts. I therefore conclude that the GSR did not feel that such information was worth keeping secret.

III. There is no evidence that the Peppermill could have derived, or in fact did derive, any benefit or revenue from either knowing or using the Information.

132. As a first point, knowing the Information is not, by itself, beneficial. Mr. Vavra has explained in his deposition that mere knowledge of a handful of competitor's hold settings is not valuable unless that knowledge is actually put to use somehow:

> *A An individual machine I don't think has the value. It's what is done with this information is really where the value comes.*
> *Q I appreciate that, and I actually agree with you.*
> *The value for these pars listed on this document is zero, correct, unless it's affected by how they're used?*
> *A Exactly.*
> *Q If they're not used, they have a value of zero dollars. Fair?*
> *A I would agree.*
> *Q So the only the time that the par information on Exhibit 15 would have any value to the Peppermill is if it was used somehow to generate a benefit?*
> *A That is correct.*
> *Q And how would you determine whether or not those pars generated a benefit?*
> *A We need to understand if they were used.*
> *Q This is the secret of the deal right here.*

EXPERT REPORT OF STACY FRIEDMAN

A Yep.[58]

133. In fact, even when the GSR advertises its loosest par settings, I do not believe that knowledge of those settings – by itself – represents valuable information unless it is somehow used by a competitor.

134. If a benefit could be derived, if at all, by acting on the Information, then the questions turns to what uses – actions taken with or in response to the Information – could lead to benefit, advantage or revenue.[59] It appears that the central theses of the GSR's claim are (a) that Peppermill's possession of the Information necessarily implies that Peppermill used the Information and (b) that Peppermill's use of the Information necessarily implies that Peppermill gained benefit, advantage or revenue from the Information. In short, GSR appears to argue that possession equals use which in turn equals benefit. I disagree with that logic, and I believe it is important to consider whether and to what extent the Peppermill actually used the Information, and if so, whether and to what extent the Peppermill derived benefit specifically from such use (as opposed to a contemporaneous benefit with an unrelated causation). The timeworn truth "correlation does not imply causation" is important to keep in mind when evaluating complex systems, such as a casino operation, based only on external evidence such as financial results.

---

[58] Vavra dep., p. 159, ll. 10-25 – p. 160, ll. 1-6.

[59] I will not speculate as to the ways the GSR may, in the future, suggest that a handful of par settings from two different dates might be used to the Peppermill's benefit. In fact, I have not actually reviewed a specific allegation from the GSR as to how the Peppermill used the Information at all, nor what the alleged benefit was. However, I have already discussed my opinion that attempting to use the Information to extrapolate the floor par at the GSR would yield an unreliable conclusion. See paragraphs 48-50.

EXPERT REPORT OF STACY FRIEDMAN

A. There is no evidence that the Peppermill used the Information

135. Mr. Vavra provides two cases that, in his opinion, would demonstrate that the Peppermill used the Information. One is whether the Peppermill changed the hold settings on its games that correspond to (have the same game theme as) the games reflected in the Information. He admits that there are many factors that go into changing par settings, but that it would indicate likely use if, for example, on the day after Mr. Tors' keyed a Wolf Run at the GSR, the Peppermill changed the hold on its Wolf Run machines.[60] Without more information, I disagree that such a correlation would imply causation. In my opinion, it is not sufficient to establish that some change was made at the Peppermill, but it is also necessary to establish that the change was made *because of* the Information. A par setting change that is merely contemporaneous with the receipt of Mr. Tors' Information does not imply that the Information was actually relied upon (used) to make that change. The Peppermill routinely changed its par settings both long before and long after Mr. Tors' activities,[61] so it seems specious to attribute causation for a particular contemporaneous change to Mr. Tors. I have not reviewed any evidence, and the Peppermill has specifically denied, that the Information was used to direct any par setting changes at the Peppermill.

136. The second way Mr. Vavra suggests the Peppermill may have used the Information is by "shopping" the GSR and looking at the rate of comp point gain to determine the comp reinvestment strategies.[62] This is essentially what I did at the

---

[60] Vavra dep., p. 163, ll. 2-16.
[61] See Chart 1 below
[62] Vavra dep., p. 188, ll. 2-13.

EXPERT REPORT OF STACY FRIEDMAN

GSR – successfully and without using a 2341 key – with ratio analysis, ratio elimination, and the bin analyses. However, Mr. Vavra does not suggest that the Peppermill actually used the Information in those ways, nor does he suggest that the Peppermill derived any benefit or revenue from using the Information in those ways. Quite the opposite: he is unaware of any profit the Peppermill made as a result of the Information it received from Mr. Tors,[63] and he doesn't know anybody at the GSR that has any information whatsoever about whether or how the Peppermill used the Information.[64] Similarly, I have not reviewed any evidence that actually demonstrates that the Peppermill used the Information either in its operations or in a competitive analysis such as that suggested by Mr. Vavra.

B.   **There is no evidence that the Peppermill gained benefit, advantage, or revenue due to using the Information**

137.   I understand that the Peppermill asserts that it did not use the Information it obtained from Mr. Tors, but that GSR nevertheless seeks damages based on a theory that the Peppermill used the Information in an as-yet-unspecified way and that, *as a consequence*, the Peppermill was unjustly enriched. In my opinion, even if the GSR demonstrates that the Peppermill did in fact use the Information somehow, it still must demonstrate that the Peppermill derived benefit from that use and not from simple contemporaneity. Again, correlation does not imply causation.

---

[63] Vavra dep., p. 146, ll. 22-25.
[64] Vavra dep., p. 153, ll. 15-121.

EXPERT REPORT OF STACY FRIEDMAN

138.   I have been provided with information regarding the weekly statistical performance of the slot machines at the Peppermill from 2010 through 2014, including data for only penny-denominated games and data for all slot games. I also gathered published statistical performance data from the Nevada Gaming Control Board's monthly revenue reports for the largest six casinos in Reno during the same timeframe.

139.   The data I have been provided allows me to investigate two different adjustments that the Peppermill may have made to their games. One is the theoretical hold (gross par) of the games. The other is the amount of free play that was redeemed.[65] A plot of the weekly gross par of the games at the Peppermill is shown in Chart 1.

Chart 1: Weekly Gross Par

Weekly Results Penny Games Gross Par   Weekly Results All Slots Gross Par

---
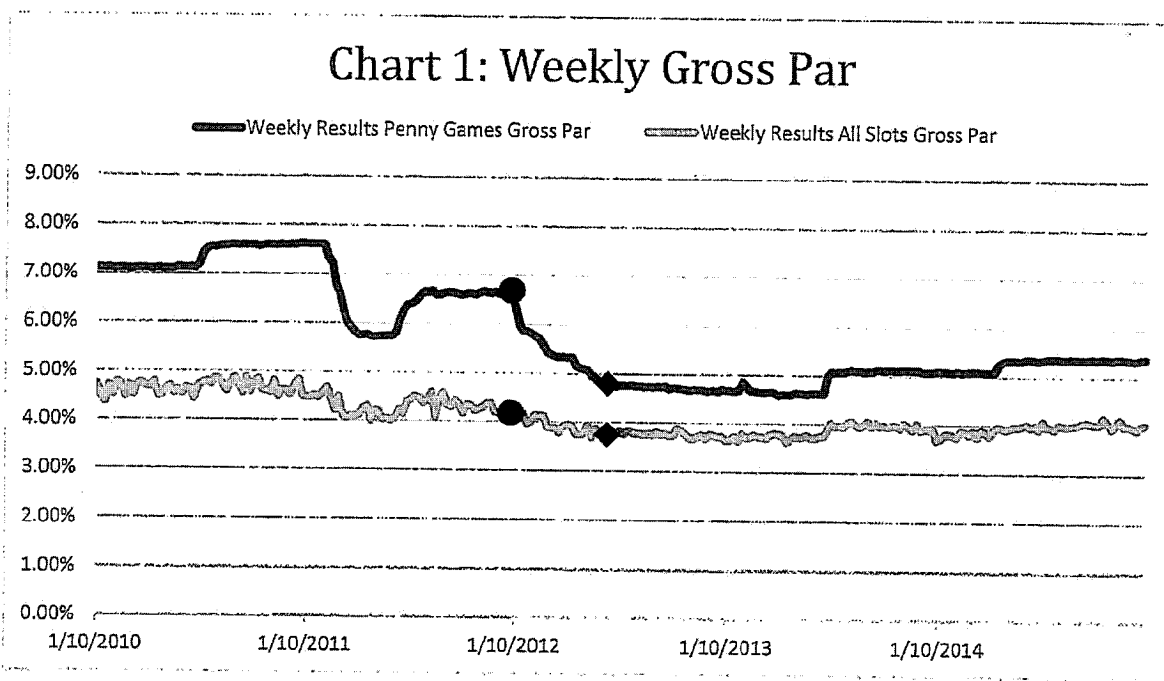
[65] In the data I have been provided, free play is accounted for when it is redeemed by players, not when it is given out. Unredeemed free play may expire and therefore would not need to be accounted for. There is a variable lag between when free play is given and when it is redeemed, but most players who do redeem free play redeem it quickly (as opposed to spending their own money).

EXPERT REPORT OF STACY FRIEDMAN

RA 02670

140.   In Chart 1 and the following several charts, the black circles indicate December 29, 2011 and the black diamonds indicate June 14, 2012. Though not with perfect regularity, the Peppermill appears to have made changes to their penny game theoretical hold at the rate of roughly every six to seven months.[66]

A plot of the weekly free play redeemed on the games at the Peppermill is shown in Chart 2:

Chart 2: Weekly Free Play
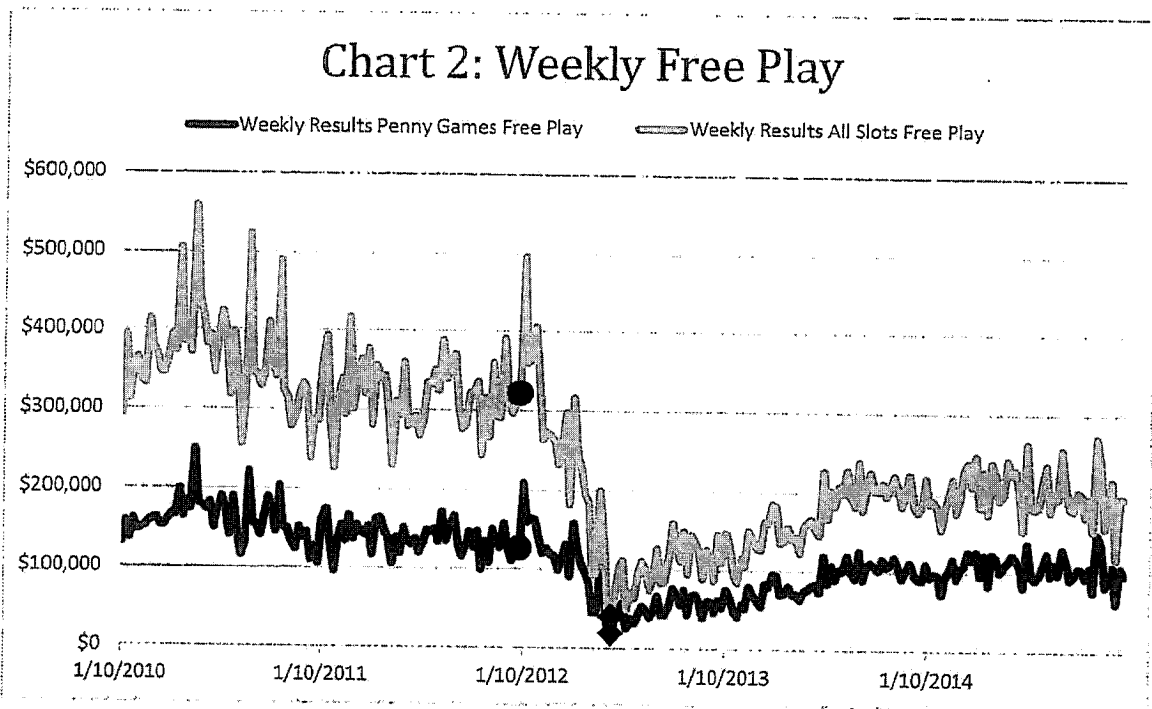
141.   Chart 3 depicts weekly net revenue (win) at the Peppermill. It is important to evaluate net win rather than gross win because (a) the effects of free play are already factored out of net win, and (b) the NGCB gaming reports also report net win and enables a straight-across comparison.

---

[66] There are nine meaningful inflection points in the penny theo data over a period of 60 months = 6.67 months on average.

EXPERT REPORT OF STACY FRIEDMAN

Chart 3: Weekly Net Win

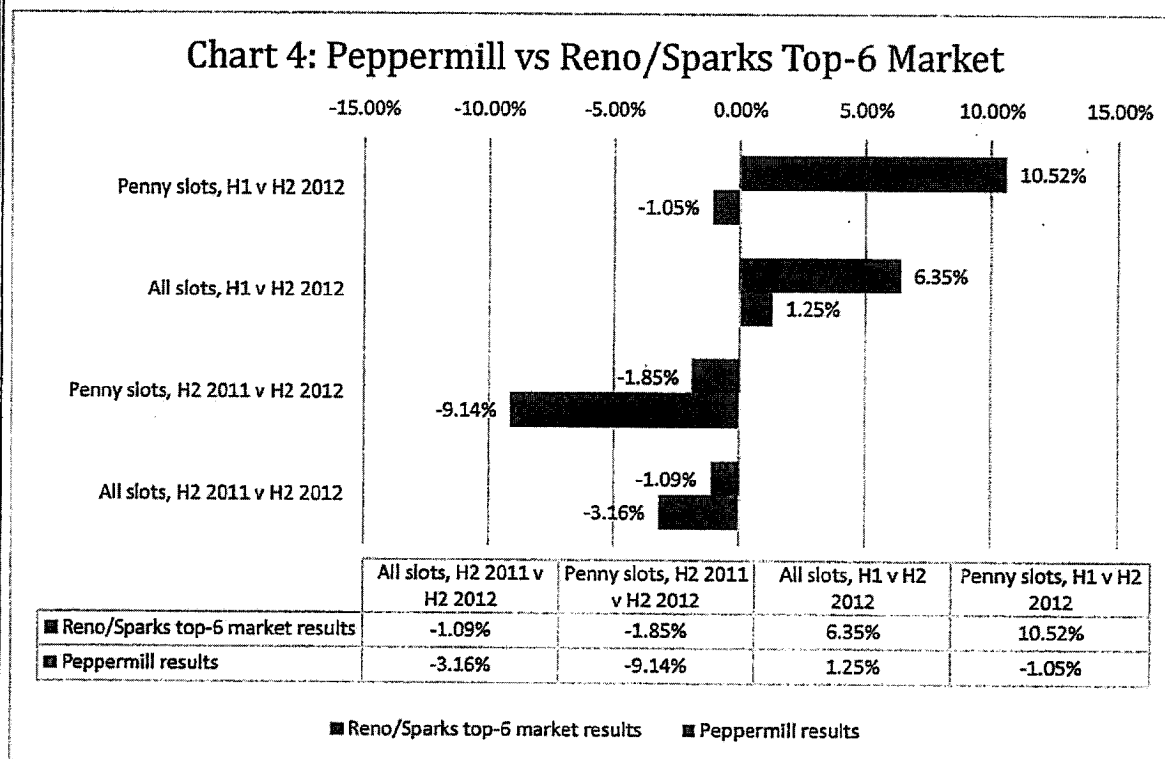Weekly Results All Slots Net Win — Weekly Results Penny Games Net Win
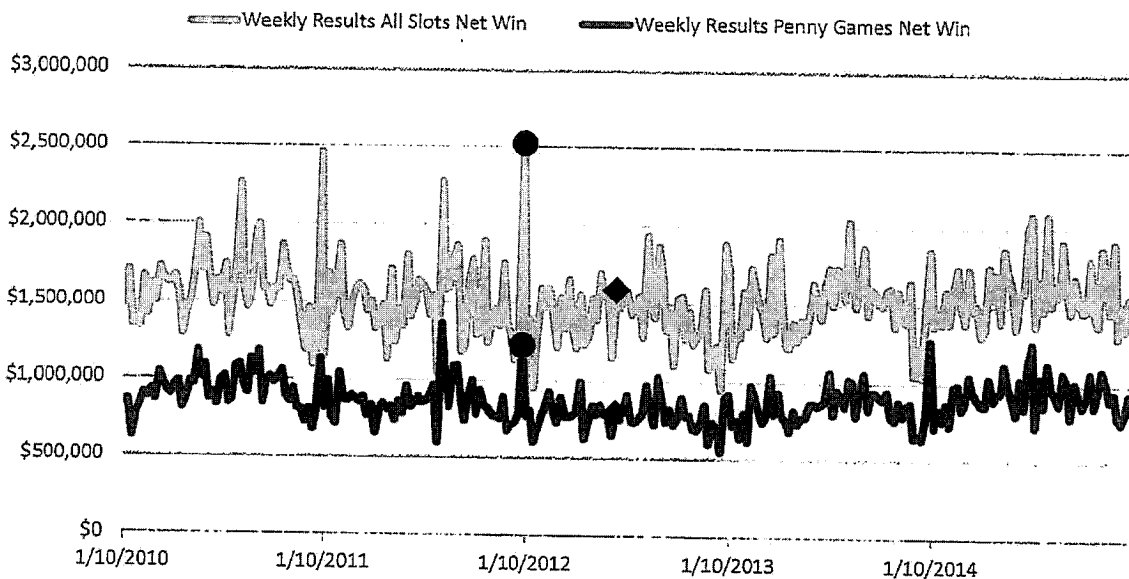
142. To give the GSR allegations the benefit of the doubt, and setting aside my prior cautions regarding correlation not implying causation, one interpretation of Chart 1 and Chart 2 is that the Peppermill relied upon on Mr. Tors' admittedly falsified December 29, 2011 data and around that time significantly decreased both gross par and free play in their gaming operations. A further interpretation of Chart 1 and Chart 2 is that the Peppermill relied upon on Mr. Tors' June 14, 2012 data and around that time began to slow the decrease of gross theo and began to increase free play. However, even assuming the Peppermill did in fact make these changes *because of* the Information, the Peppermill was nevertheless not enriched. Quite the opposite: during the timeframe in question, the Peppermill's financial results were either steady or declining in absolute dollars, and the Peppermill was losing market share compared to the competition.

EXPERT REPORT OF STACY FRIEDMAN

143. If Mr. Tors' December 29, 2011 report was falsified, as I believe it was, then the only truthful Information provided to the Peppermill was data about six machines on June 14, 2012. If the Peppermill did use Mr. Tors' June 14, 2012 data, and there is a causal link between that usage and the Peppermill's financial results in the six months prior vs. six months after that date, then using Mr. Tors' data led to a 1.05% decrease in penny game revenue despite a 1.25% increase in all slots revenue.[67]

144. On the other hand, if Mr. Tors' December 29, 2011 report was truthful and reliable, then the lost revenue is even more pronounced. If there is a causal link between using both of Mr. Tors' reports and the Peppermill's financial results, then that usage led to a 9.14% decrease in penny game revenue and a 3.16% decrease in all slots revenue when comparing the six months prior to December 29, 2011 to the six months after June 14, 2012.

145. I further note that the Peppermill's results during this timeframe do not reflect the overall market; that is, the whole market was not in a similar decline. The Peppermill's performance in the six months following June 14, 2012 significantly lagged behind the overall market in both penny slot win and all slot win. Chart 4 depicts these results:

---

[67] As above, the Peppermill had historically made changes to their penny-game par settings roughly every six months on average. It stretches the bounds of credulity that knowledge of six GSR games' payback settings could be causally linked to a meaningful change in the financial results of the Peppermill, but for the sake of argument I entertain that thesis. However, I believe it would be wholly unreasonable to suggest (and therefore I will not consider) a theory that knowledge of the same six games' payback settings had a meaningful change over a timeframe beyond the six month timeframe herein.

EXPERT REPORT OF STACY FRIEDMAN

Chart 4: Peppermill vs Reno/Sparks Top-6 Market

	All slots, H2 2011 v H2 2012	Penny slots, H2 2011 v H2 2012	All slots, H1 v H2 2012	Penny slots, H1 v H2 2012
■ Reno/Sparks top-6 market results	-1.09%	-1.85%	6.35%	10.52%
■ Peppermill results	-3.16%	-9.14%	1.25%	-1.05%

■ Reno/Sparks top-6 market results   ■ Peppermill results

146.   Chart 4 shows that, in every comparison, the Peppermill underperformed the market. Specifically for penny slot revenue – the type of games reflected in the Information – the Peppermill's results were dramatically behind its peers. For example, comparing the first half of 2012 to the second half (that is, before vs. after June 14, 2012), the market gained 10.52% in penny revenue but the Peppermill lost 1.05%. Comparing the second half of 2011 to the second half of 2012 (before December 29, 2011 vs. after June 14, 2012), the market lost 1.85% while the Peppermill lost 9.14%.

147.   Chart 5 depicts the Peppermill's quarterly revenue share, measured by percentage of net win relative to the overall market. It shows that, in fact, the Peppermill's share of the market had been slowly declining since the start of 2010. The Peppermill's share of penny game revenue dropped from a high of 52.2% to a

63

RA 02674

low of 34.4%, while their share of overall slot revenue dropped from a high of 26.2% to a low of 21.1%. That trend did not begin to reverse course until the latter half of 2013.

Chart 5: Quarterly Revenue Market Share

━━━▶Penny games Win share   ▭▭▭▷All games Win share
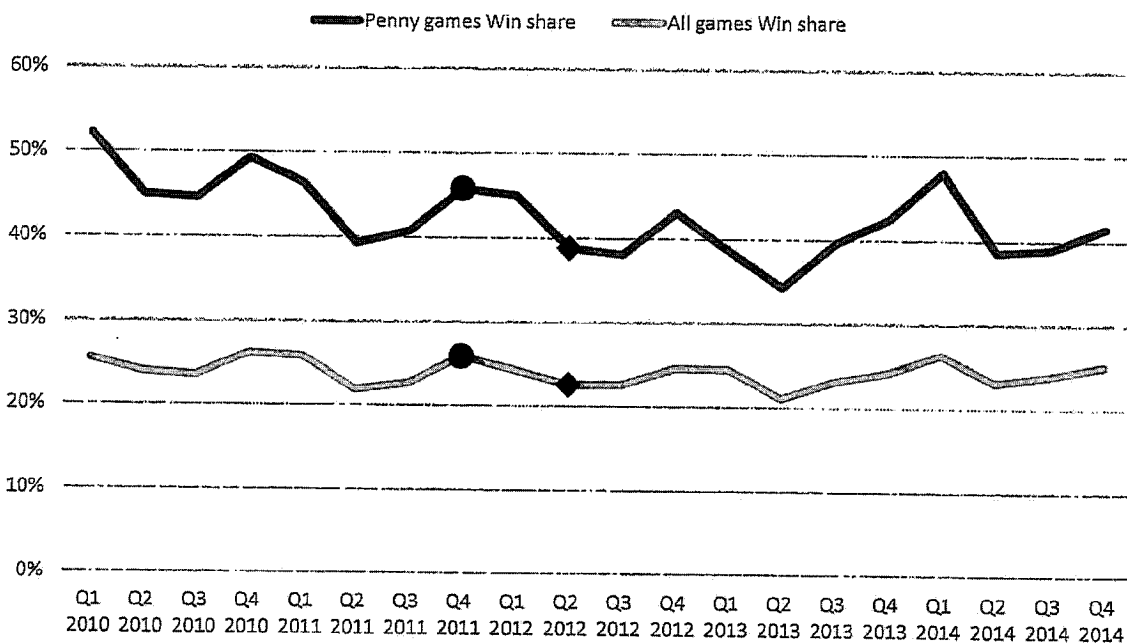
148. In my opinion, there is no causal relationship between the activities of Mr. Tors and the financial results depicted above. Alleging such a relationship would imply that knowledge of between six and thirteen accurately-reported hold settings obtained from the GSR, and between two and nine falsified ones, was somehow acted upon by the Peppermill and directly resulted in a discernable change in the Peppermill's financial results. Even if there appears to be a correlation, as

EXPERT REPORT OF STACY FRIEDMAN

RA 02675

I've mentioned above, correlation does not imply causation.[68] The Nevada Gaming Control Board conducted an exhaustive investigation and reported that its investigation "did not produce any evidence that the par information obtained by Mr. Tors was used to adjust Peppermill casino pars"[69] and further that "the par information obtained by Mr. Tors was never used by the Peppermill to gain a competitive advantage over the other casinos."[70] I have found no evidence to suggest otherwise.

149.   In fact, Mr. Vavra describes that even with a complete understanding of its entire slot floor and of its marketing programs, the GSR was unable to consistently predict whether changing par settings would increase or decrease profits. The slot team at GSR had to make changes, evaluate them, give directions, and continuously repeat that process because the system was too complex for a simple solution. He describes two contrasting cases: lowering the par setting on Buffalo machines increased profits, but lowering the par settings on WMS machines decreased profits.[71] In other words, there is no simple formula for "if you do X, then profits change to Y." If such a formula existed, savvy casino operators would simply make the relevant adjustments once and be done with it.

150.   As seen above, the Peppermill's competitive stature eroded during the period of Mr. Tors' activities (Chart 5), as did its financial results (Chart 4).

---

[68] In truth, there is much more of a correlation between the date Mr. Tors ceased his activities for the Peppermill (June 13, 2013) and the date the Peppermill's results began to turn around, but I would never suggest that Mr. Tors' departure directly caused the Peppermill's increased performance.

[69] February 20, 2014 GCB hearing transcript, p. 14.

[70] *Id.*

[71] Vavra dep., pp. 202-205.

EXPERT REPORT OF STACY FRIEDMAN

RA 02676

Therefore, even if the GSR's hold percentages were trade secrets, and assuming

there was proof that the Peppermill used that Information, and there was additional

proof that such use caused the Peppermill's financial results, it is my opinion that

the Peppermill did not realize benefit, advantage or revenues. Instead, the

Peppermill lost both revenue growth and market share.

IV.   The Information has no market value

151.   I discussed my opinion in section II.B that the Information did not have

independent economic value to the GSR's competitors in the Reno/Sparks gambling

market, at least because it was a statistically insignificant sample and therefore not

reliably actionable.

152.   There is no market for pars. I am unaware of any casino operator in the

Reno/Sparks area ever paying money to a competitor for information of equivalent

scope to the Information obtained by Mr. Tors. I suspect that casino operators

universally understand that such information would have no benefit to their

operations and would therefore not be willing to pay for it.

153.   In fact, Mr. Vavra admits that there is no track record of any sale of par

information in the gaming industry, and that there is no financial model for

evaluating the market value of par information.[72] The only evidence I have

reviewed that par information might be marketable comes from Mr. Vavra's

suggestion that he may advise the GSR to buy all the par settings at the Peppermill

---

[72] Vavra dep., p. 215, ll. 2-16.

EXPERT REPORT OF STACY FRIEDMAN

for $1,000,000.[73] Not that the GSR necessarily would – Mr. Vavra certainly didn't jump at the offer – but that he *may* advise the GSR to consider it.

154.   The information about every par setting at the Peppermill covers over 1500 machines and, more importantly, would enable the GSR to exactly know the floor par for the day that the data were collected. In addition to the valuable floor par knowledge, $1,000,000 represents a price per par setting of less than $666.67, yet Mr. Vavra was not sure whether that information was worth the asking price.

155.   In my opinion, if there is any hesitation at assigning a value of $1,000,000 to 1500 par settings and the floor par figure for the Peppermill, then it is ludicrous to assign anything remotely close to that value for six par settings from the GSR and another seven questionably-authentic settings from nearly six months before. At $666.67 per par, and without being able to obtain the GSR's floor par figure, the price for 6 to 13 par settings from the GSR cannot possibly be greater than a total of $8666.67. But because that information (and the Information) does not include the floor par, my opinion is that it is practically useless and therefore, not a marketable commodity. Accordingly, there can be no benefit, profit or advantage from possessing the information or Information. Specifically, I do not believe that any casino operator in Reno would, if given the opportunity, agree to spend $8666.67 in order to (a) receive seven current par settings from a competitor's floor, (b) wait nearly six months, and (c) receive another six then-current par settings from the same competitor's floor.

---

[73] Vavra dep., p. 173, ll. 1-4.

EXPERT REPORT OF STACY FRIEDMAN

V.   Rebuttal to Dr. Schwartz' testimony

156.   In section II.C.1, I previously addressed the testimony of Dr. Schwartz regarding his belief that the only way to obtain the par setting of a machine through observation (as opposed to using a key) would require 20,000 hours of play. In the subsequent section I disproved that belief and discussed several techniques that I used to obtained the par settings of 27 machines at the GSR with less than 6 hours of play. In this section, I return to Dr. Schwartz' testimony and examine his methods and calculations.

157.   In formulating several of his calculations, Dr. Schwartz appears to have relied upon a 2011 academic paper by Dr. Anthony F. Lucas and Dr. A. K. Singh entitled "Estimating the Ability of Gamblers to Detect Differences in the Payback Percentages of Reel Slot Machines: A Closer Look at the Slot Player Experience."[74] That paper describes that "Slot players do not produce ten-million-spin trips. If they did, this research would not be necessary, as the programmed and actual payback percentages would be inconsequentially different"[75] and "it was determined that an average of 500 spins per hour was a reasonable estimate of a reel slot player's game pace."[76]

158.   I believe that Dr. Schwartz relied upon those two figures (10,000,000 spins and 500 spins per hour) and divided to get 20,000 hours when he wrote

> *accurately determining par through simple observation ... would*

---

[74] Lucas, A. F., & Singh, A.K. (2011). Estimating the Ability of Gamblers to Detect Differences in the Payback Percentages of Reel Slot Machines. *UNLV Gaming Research & Review Journal, 15*(1), 17-36, reproduced at GSR00025-GSR00044

[75] *Id.* at 24

[76] *Id.* at 25

EXPERT REPORT OF STACY FRIEDMAN

entail in most penny machines a cost of $4.00 per play for a minimum of 20,000 hours of continuous play at 500 spins per had [sic: hour] for an estimate cost of $600,000 per machine, exclusive of labor costs.[77]

159.   Dr. Schwartz is suggesting, as Drs. Lucas and Singh did, that after 10,000,000 plays of a game the actual payback percentage experienced by a player would be "inconsequentially different" from the programmed payback (the par setting). Setting aside the more efficient techniques I have provided hereinabove, this assessment is flawed for several reasons.

160.   First, nobody who was attempting to get through 10,000,000 spins of a slot machine game to understand its mathematics would play at the "average game pace." In his description of the deconstruction of Jackpot Party, Michael Shackleford played "as fast as possible" which was 212 plays in 8 minutes, or 1590 spins per hour (also, 2.26 seconds per spin). Many slot machine games have what is known as the "slam-stop" feature, where shortly after initiating a spin, the "spin" button can be pressed a second time to immediately stop all the reels. Essentially, banging on the spin button as rapidly as possible means the game will play with a spin duration of between 2 and 3 seconds, whereas the casual play rate of 500 spins per hour is 7.2 seconds. In my own play at the GSR, I frequently used the slam-stop feature to rapidly complete my analyses, and despite the fact that I was taking the time to collect and record data, my play rate was usually much faster than 5 seconds/spin. For example, according to GSR's records of my play, I was able to play 151 spins on Buffalo, machine 2328, in 7 minutes, 5 seconds. That translates to roughly 2.81 seconds per spin or 1279 spins per hour. To illustrate the slam-stop

---

[77] Schwartz aff., par. 7.

EXPERT REPORT OF STACY FRIEDMAN

functionality, I have also attached **Exhibit H**, a video of my play on Buffalo machine 2328, showing 51 paid spins over a period of one minute 49 seconds, a rate of 2.14 seconds per spin or 1684 spins per hour.[78]

161.   Second, the cited wager amount of $4 is far too large for the task at hand. Most penny slot games are known as "multi-coin, multi-line" because they allow the player to wager on multiple winning lines and between 1 and 5 or 1 and 10 coins on each line. To continue using Buffalo as an example, the minimum wager to bet on all possible winning arrangements is $0.40. The player can bet in multiples of $0.40 and scale up the potential awards linearly. Figure 5 shows the button panel on the Buffalo game 2328 at the GSR allowing between 1x and 5x the 40 credit (cent) wager, that is between $0.40 and $2.00 in $0.40 increments:
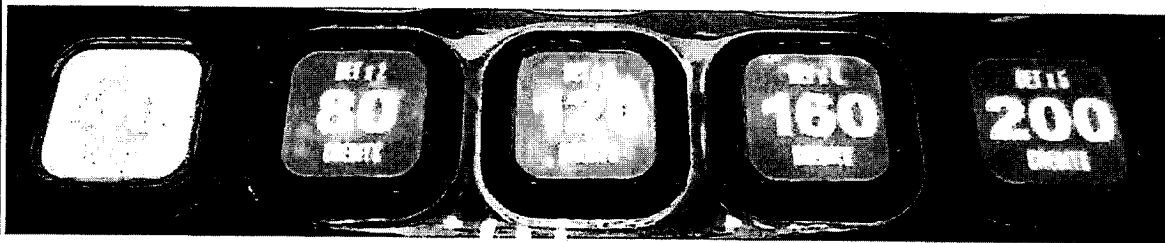
Figure 5

162.   While playing maximum credits was useful for me when I was attempting to play a large amount of handle in a small amount of time (to observe the comp points accrued) but it is unnecessary when evaluating the convergence of

---

[78] During my play, I was awarded "free spins" on two different occasions for a total of 21 spins. Free spins are, as they sound, a plurality of unpaid spins that are awarded as a bonus prize to the player, and the spins themselves often pay awards that are larger or more frequent than a standard paid-for spin. For accounting purposes, free spins should not be considered in the count of spins per hour; if they were, the total for this video would be 72 total spins in 1:49 or a rate of 1.51 seconds per spin and 2378 spins per hour.

EXPERT REPORT OF STACY FRIEDMAN

actual payback results to theoretical hold if the awards are all scaled linearly. In this case, winning a certain award at the $2.00 bet level would simply pay 5x the same award if the player had bet $0.40, so there is no need to bet $2.00. By way of analogy, if one set about experimentally evaluating the payback percentage of roulette by playing "Red" for 100,000 spins, the results would be equally valid if the wager were $0.10, $1, or $10 per spin, so the player may as well bet as low as possible to minimize the theoretical cost of the experiment. For this reason, Dr. Schwartz's use of $4.00 as the appropriate wager is too high by at least a factor of 10.

163. Third, the 10,000,000 plays figure (to achieve an "inconsequential difference" between actual loss as a percentage of handle and theoretical hold) that Dr. Schwartz relied upon is far too large for most video slot games. That figure likely comes from the paper that Drs. Lucas and Singh themselves relied upon, by Harrigan and Dixon.[79] In that paper is a volatility chart for the game Double Diamond Deluxe showing that, after 10,000,000 plays, the results are 90% likely to be within a range of 0.67% centered around the payback percentage. However, Double Diamond Deluxe is a single-line, three-reel game and such games are known in the industry to have significantly higher variance (volatility) than multi-line video slot games such as the penny games in question. Without belaboring the mathematics, a simplified explanation is that on a single payline game, the player either wins some integer multiple of their wager or they lose everything. There is

---

[79] Harrigan, K.A., & Dixon, M. (2009). PAR sheets, probabilities, and slot machine play: Implications for problem and non-problem gambling. *Journal of Gambling Issues, 23*, 81-110, reproduced at https://www.nh.gov/gsc/calendar/documents/20091117_harrigan_dixon.pdf

EXPERT REPORT OF STACY FRIEDMAN

only one payline and if a winning combination does not appear on it, the wager is entirely lost. In a penny video slot game there may be 25, 50, 243 or more paylines where winning symbol combinations may appear, and the player can wager on all of them, so the most frequent type of outcome is a "partial loss" – when the game returns some but not all of the player's initial stake. A bet of 40c and a "win" of 15c, for example, is actually a loss of 25c. Such an outcome is impossible on most single-line games, but those partial losses have the impact of lowering the average volatility of a penny slot game.

164. With its par sheet, I undertook to analyze Buffalo and determine the number of plays that would be required to achieve a 0.67% range around the payback percentage. The number is not 10,000,000 but 2,800,000. I expect that other video slots would require similar numbers of plays to obtain an equivalent experimental result using this technique.

165. Moreover, and with due respect to Dr. Schwartz, his calculations are fundamentally unreliable. 20,000 spins x $4 per play x 500 spins/hour is $40,000,000 in handle. If the theoretical cost of that $40,000,000 is $600,000, as Dr. Schwartz reports, then the theoretical hold of the game would have been 1.5%. That is an unreasonable estimate for any video slot game in Reno. In the alternate, if his damage calculations are done with the $4 wager and estimated 6% hold that Dr. Schwartz had intended to use, the actual damages would have come out to $2,580,000 per machine including labor, and if instead he had used the market-average hold, the total would have been $3,303,000 per machine. To his credit, when Dr. Schwartz was presented with evidence of these miscalculations during his

EXPERT REPORT OF STACY FRIEDMAN

deposition, he admits that they are wrong[80] and further admits that he will not stand behind them.[81] Finally, Dr. Schwartz candidly admits that his damages model is an impossibility.[82] An impossible methodology is, by its very nature, an unreliable one.

166. In any event, refining Dr. Schwartz's model is not necessary and would only be of academic interest. Dr. Schwartz's suggested technique of "play a slot machine for many months or years until the financial results statistically converge," is, relative to the other more efficient methods for ascertaining the hold percentage of a slot machine, perhaps the worst way to attempt to discover that information.

CONCLUSIONS

167. In summary, my opinions in this matter are as follows:

   a. The Information from the GSR that was obtained by Mr. Tors is not a trade secret because:

      i. The Information has no independent economic value to the public;

      ii. The Information has no independent economic value to competitors of the GSR;

      iii. The Information is readily ascertainable by the public at least due to the nature of the GSR's loyalty program;

---

[80] Schwartz dep., p. 105, ll. 9-13.
[81] Schwartz dep., p. 113, ll. 13-15.
[82] Schwartz dep., p. 84, ll. 10-18.

EXPERT REPORT OF STACY FRIEDMAN

iv. The Information is readily ascertainable by competitors of the GSR at least because those competitors have access to par sheets; and

v. The GSR did not take any steps to protect the Information;

b. The realistic cost for a competing Reno/Sparks casino to obtain a par setting on a penny slot machine at the GSR is under $20;

c. There is no evidence that the Peppermill used the Information;

d. The Peppermill did not derive any benefit, profit, advantage or increased revenue from having or, as alleged by GSR, using the Information;
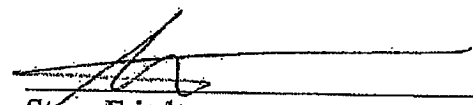
e. The Peppermill could not have derived any benefit, profit, advantage or increased revenue from having or, as alleged by GSR, using the Information;

f. The Information (GSR's par settings) has no market value;

g. The cost model presented by Dr. Schwartz is unreliable and he has disavowed it.

168. I reserve the right to amend or supplement my opinions in light of ongoing discovery and/or in the event I am presented with additional relevant facts.

DATED: ___March 2_____, 2015.

Stacy Friedman

EXHIBIT 24

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

**CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014**

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

EXHIBIT 24

MEI-GSR HOLDINGS, LLC.

(Plaintiff)

- versus -

PEPPERMILL CASINOS, INC., RYAN TORS, JOHN DOES I-X,

JANE DOES I-X, and CORPORATIONS I-X

(Defendants)

EXPERT REPORT

PROFESSOR ANTHONY LUCAS

EXPERT REPORT OF PROFESSOR ANTHONY LUCAS

February 28, 2015

Table of Contents

1

1. Qualifications

I worked in the hotel-casino industry for 11 years in the areas of operations analysis and financial planning and analysis, with a concentration in the area of casino analytics. My responsibilities included analysis of casino operations and performance, preparation of the annual operating budget, and long- and short-range business plans. I worked in three different gaming markets over the course of my career for companies such as MGM Grand Hotel & Casino, Harvey's Hotel Casino Resort, and Palace Station Hotel Casino.

In 1999, I began consulting to gaming properties in the areas of casino operations analysis and casino marketing. Over the years this business has grown considerably, as I have provided consulting services for gaming clients in both domestic and international jurisdictions, including Fortune 500 companies and governmental agencies such as the Internal Revenue Service.

The focus of my doctoral dissertation was on the role of the physical environment in the slot player satisfaction process. My model also looked at the relationship between slot player satisfaction and key customer loyalty variables such as intent to return, willingness to recommend, and desire to remain in the casino environment. This work has been replicated and extended by several scholars following its publication in 2003.

As a tenured full professor at UNLV, I have taught courses in the following areas: casino management, casino marketing, statistics (with an emphasis on gaming applications), and a research seminar in casino topics. All of these courses are offered in the William F. Harrah College of Hotel Administration. Additionally, through UNLV's International Gaming Institute, I have delivered hundreds of casino management and

marketing presentations/seminars to industry professionals from jurisdictions across the globe.

My publications include top-selling textbooks on casino management, some of which have been adopted by more than 30 colleges/universities. I have also authored more than 30 peer-reviewed academic journal articles on gaming-related matters. I have received research awards for several of these scholarly papers, including Article of the Year from Cornell Quarterly and CHRIE's prestigious Wiley Award for best original research paper in the field of hospitality. My work is frequently cited by scholars within the field.

I have served as both an expert witness and consultant to legal counsel on several gaming-related matters which are all listed on the last page of my Curriculum Vitae (See Appendix A). Additional details related to my academic achievements and industry experience can be found in my Curriculum Vitae.

2. Statement of Assignment

I have been asked by counsel for the Defendants (hereinafter Peppermill) to (1) opine on the value of knowing the house advantage (hereinafter par) associated with specific reel slot machine titles residing on a competitor's casino floor; (2) estimate the cost of acquiring par data from a competitor by way of legal means; and (3) respond to statements made by Dr. David Schwartz in his affidavit and deposition, as they relate to the application of my research to his damages model. In formulating my opinions, I have been asked to consider the pertinent case facts, the reasonable royalty defense as

3

described within the Nevada Trade Secrets statute, and extant cases in which the reasonable royalty defense was employed.

As of the date of this report I have been paid $35,626 for my work, but my compensation is in no way affected by the opinions that I express in this report or by the outcome of this case.

3. Summary of Conclusions

3.1. The plaintiff's (hereinafter GSR) par settings were not a secret to its competitors.

    3.1.1. GSR's advertisements served to effectively publish pars to its competitors (see Section 4.1)

    3.1.2. GSR's complimentary (hereinafter comp) award structure and slot club point accumulation structures provided its competitors a means to identify the par settings on many of its machines via legal means, including those allegedly keyed by the Peppermill (see Sections 4.2 and 4.3).

3.2. The economic value associated with the 6 to 15 par settings allegedly obtained by the Peppermill would be trivial at best.

    3.2.1. The vast majority of reel slot players cannot detect differences in pars from the outcomes of their play, making par an ineffective "price" positioning tool (see Section 4.4).

    3.2.2. The managerial usefulness of reel slot pars as a gaming value indicator is negligible at best. Other casino marketing variables produce profound influences on gaming value (see Section 4.4).

4

3.2.3. A casino's overall slot win is greatly affected by the quality of the resort and the desirability of the non-gaming outlets. Further, these effects are much more obvious than par settings (see Section 4.4).

3.2.4. Many location and game variables simultaneously affect the performance of a reel slot. Par information alone would be of no value, without also knowing and accounting for the other sources of influence (see Section 4.5).

3.2.5. Knowing the par of a competitor's game is not helpful in the identification of the optimal par for the same game at another casino (see Section 4.5).

3.2.6. The contribution of par to individual game performance is not possible to even reasonably estimate without conducting controlled experimentation on the slot floor of the casino that houses the games (see Section 4.5).

3.2.7. Common misunderstandings about the role of par in the customer experience lead to erroneous conclusions about the managerial value of par, especially regarding its (1) effect on play time; and (2) use in positioning a casino in terms of gaming value or "price" (see Section 4.6).

3.2.8. Notwithstanding the considerable limitations of par data as described in Sections 4.4, 4.5 and 4.6, the allegedly collected par samples would not provide a sound basis for any managerial or strategic action by the Peppermill (see Section 4.7).

3.2.9. The GSR's efforts to protect its pars appeared inconsistent with the level of protection one would afford a trade secret, or something of material value to its competitors (see Section 4.8).

5

3.2.10. The application of the 'willing buyer – willing seller' test would afford the seller an opportunity to profit and misinform the buyer. The buyer would be averse to a transaction that alerted the seller to its interest in acquiring the par settings (see Section 4.9).

3.3. I estimate the cost of acquiring 15 reel slot pars at $1,396.08 (see Section 4.10).

3.4. Dr. David Schwartz, acting as an expert witness for the GSR, misapplied an excerpt from my research to his unnecessarily costly damages model (see Section 4.11).

Section 4 of this report provides support for the conclusions advanced in Section 3. I reserve the right to revise and supplement this report based on additional materials that I might review, including materials that have not yet been made available to me.

4. Support for Conclusions

4.1. Advertised Pars

For some machines, the first step in divining the GSR's pars would be to interpret its own advertisement of game pars. Exhibit A illustrates a photograph of the GSR's billboard advertisement.[1] The ad clearly indicates that the 11 game titles feature the loosest pay tables allowed.[2]

---

[1] Complete copies of all exhibits appearing in this report can be found in Appendix B.
[2] "Loose" is a term that is often used within the gaming industry to indicate a generous payback percentage, with respect to slot machine pay tables.

Exhibit A. GSR's Billboard Advertising Selected Slot Machine Pay Tables.

Any operator who owns or leases these games will have a par sheet that identifies the licensed par settings for the advertised titles. Operators who do not own or lease the advertised games would be able to contact a sales representative from the appropriate manufacturer to obtain the possible par settings, including the loosest setting. Therefore, the GSR's ad gave its competitor's the ability to identify the par settings of the advertised games. From a competitor's perspective, the ads effectively published the GSR's pars; an act that the GSR's own Steven Rosen confirms in his deposition (see p. 97).

Additionally, Exhibit B includes the following copy from the GSR's website:

"GRAND SIERRA HAS THE LOOSEST BUFFALO PAYTABLE

SETTINGS [-] Finding loose slots is a dream for all slot players. Well,

look no further. We've set all our Buffalo Slot games to the loosest

7

paytable settings available. This means longer play and more fun for you."[3]

Similar to its billboard ads, the GSR's marquee displayed the following message: "Loosest Pay Tables Allowed" for several slot machines titles (see Exhibit A).

Moreover, the GSR's ads not only provided its competitors with sufficient information to identify the pars of the advertised games, they also permitted the discovery of many other pars on the GSR's slot floor. Sections 4.2 and 4.3 demonstrate how the ads allowed the GSR's competitors to identify these and other pars, along with alternative ways to verify the GSR's pars.

4.2. The Complimentary Rate Method

For games with pars that are not featured in advertisements, all that is needed is one game on the GSR's floor for which the competitor/acquiring party knows the par setting. There are multiple sources of such pars, including the following games: (1) advertised pars (as in Exhibits A [billboard and marquee] & B [website]); (2) electronic table games such as video roulette; and (3) wide-area progressive games such as Megabucks and selected versions of Wheel of Fortune. In the case of the electronic gaming devices such as video roulette or any gaming device that is representative of live gambling games, the mathematical probability of a symbol or other element appearing in a game outcome must be equal to the mathematical probability of that symbol or element

---

[3] Retrieved on January 30, 2015 from http://www.grandsierraresort.com/casino/casino-floor/slots-and-video-poker.

8

occurring in the live gambling game.[4] This Nevada gaming regulation allows both

competitors and patrons the ability to identify the pars of games such as video roulette.

As for the wide-area progressive games, the third-party supplier sets the pars at the same

level at each property. This convention provides gamblers the same chance of winning at

each discrete casino location. Therefore, competitors that offer the same wide-area

progressive game offered by the GSR will know the par of that common game. Going

forward, regardless of the source, the game for which the competitor/acquiring party

knows the par setting will be referred to as the Known Game.

The following example uses an arbitrary wagering level designed to facilitate

description of the par identification process. The following steps describe how a

competitor of the GSR would be able to obtain and/or verify the par of all games within

the same denomination and type (e.g., penny video reels), using information provided by

(1) the Known Game; (2) the GSR's promotional kiosk; and (3) the competitor's own par

sheets, or par information obtained from game makers.[5] This five-step method would not

work for a customer who did not have access to manufacturer par sheets.

Step 1: Join the GSR's slot club, and obtain a player tracking card.

Step 2: Place $1,000 in wagers with your player tracking card inserted in the

Known Game.

Step 3: After placing $1,000 in wagers, cash out, remove your slot club card, and

view your transactional data from the Known Game on a promotional kiosk. The screen

on the promotional kiosk will list the dollar value of the complimentary awards

---

[4] Nevada Gaming Control Act, Regulations 14.04, Section 2, Clause b. See also:
http://gaming.nv.gov/modules/showdocument.aspx?documentid=3238
[5] Although the focus of this example is on penny video reels, this approach could be applied to other
denominations and game types.

9

associated with your wagering activity. For example, let's assume the kiosk screen reads, "Comp awards earned: $5.28."

Step 4: The competitor would locate the Known Game's par from his copy of the par sheet. Once the par was located, the competitor could then compute the rate at which complimentary awards were accumulated. Continuing this example, we know from Step 3 that $5.28 in comps were earned, and let's assume the operator found the par setting of the Known Game to be 5.28% (from his own copy of the par sheet for the same game). With these data, the rate at which complimentary awards are earned can be computed by the following formula: $5.28 ÷ (($1,000)(0.0528)) = 0.10 = 10%. In this formula, the "$5.28" was obtained from the kiosk when the ticket was inserted/redeemed, the "$1,000" represents the dollar amount of wagers placed, and the "0.0528" is the decimal equivalent of the target game's par, i.e, 5.28%. In the gaming industry, comp rates are expressed as a percentage of theoretical win. Theoretical win is defined as the product of (1) the dollar amount wagered; and (2) the applicable par.

Step 5: To confirm the GSR's complimentary award rate of 10%, the competitor could repeat Steps 1 through 4 of this example on a different Known Game title. If both experiments produced the same rate, the competitor would know the GSR's comp rate, and ultimately the par for many of the GSR's games. Staying with the terms of the current example, the following two equations could be used to obtain and/or verify the par of other games, i.e., Unknown Games, once the comp rate has been identified.

Equation 1: Comp Dollars Earned on the Unknown Game ÷ 10% Comp. Rate = Theoretical Win for the Unknown Game

10

Equation 2: Theoretical Win for the Unknown Game ÷ $1,000 Wagered

on the Unknown Game = Par for the Unknown Game

The Unknown Game pars could be verified by comparing the computed pars to the manufacturer's licensed pars. For example, if the Unknown Game was Miss Red, and the par from the method described in this section was computed at 6.42%, then the par sheet for Miss Red could be checked to verify that 6.42% was a licensed par for that game.

The five-step process outlined in this section of the report relies in part on the assumption of a constant ratio of Comp Dollars Earned to Theoretical Win. Exhibit C validates this assumption by describing the GSR's process of earning slot club points by way of theoretical win. Exhibit C and the comments of the GSR's management team establish that (1) the system-generated ratio of Comp Dollars Earned to Theoretical Win is constant; (2) the standard comp reinvestment process does not vary across penny games; and (3) the ratio of Tier Points Earned to Theoretical Win is something that can be derived from playing the machines. The following paragraph provides additional support for these claims and expounds on their importance.

In Toby Taylor's deposition (p. 154), he confirms that all penny games are the same with respect to comp reinvestment. Taylor also establishes that the information contained in Exhibit C instructs the player tracking system in the assignment of comp points, which are a function of theoretical win (pp. 149-150). There is no information in Exhibit C that supports a difference in the system-generated comp reinvestment rates

11

between (1) local and non-local players; (2) electronic game type, e.g., reel and video

poker games; or (3) denomination of the minimum betting unit. This holds true within all

listed membership tiers. Finally, Taylor confirms that the ratio of Tier Points to

Theoretical Win can be derived from playing the games (see Taylor deposition, p.62).

Based on Exhibit C, this establishes that the Points to Theoretical Win ratio can also be

derived from play, as both ratios are based on a constant rate of accumulation. For

example, per Exhibit C, every $0.20 of theoretical win earns a player 1 Point, and every

$11.20 of theoretical win earns a player 1 Tier Point. This is important as the Points to

Theoretical Win ratio will determine the Comp Dollars Earned to Theoretical Win ratio,

per the system's automated process. This is true because points are converted into comp

dollars by way of a static rate. Terry Vavra's deposition supports this conclusion by

establishing the ratio of Points to Comp Dollars at 100 to 1 (p. 208).

One partial limitation of the approach outlined in this section of this report would

be its application to in-house progressive games, as the jackpot progression rate would be

unknown. However, the method advanced in this section would still allow for the

accurate calculation of the progressive game's par. Only the verification step would be

affected. That is, the acquiring party would not be able to exactly match the computed par

to a licensed par for the game in question. The computed par would be lower than the

licensed par by an amount equal to the aggregate progression rate. Given the distance

between licensed pars, it would not be difficult to derive both the game's licensed par

setting and the overall jackpot progression rate.

12

4.3. The Slot Club Points Method

The following example uses an arbitrary wagering level designed to facilitate description of the par identification process, and relies on a constant ratio of Points to Theoretical Win, as established by Exhibit C and Section 4.2. The following steps describe how a *competitor* of the GSR would be able to obtain or verify the par of other penny video reel games, using information provided by (1) a Known Game, as defined in Section 4.2; (2) the GSR's promotional kiosk; and (3) the competitor's own par sheets, or par information obtained from game makers.[6] This five-step method would not work for a customer who did not have access to manufacturer par sheets.

Step 1: Join the GSR's slot club, and obtain a player tracking card.

Step 2: Wager $1,000 with your player tracking card inserted in a Known Game.

Step 3: After placing $1,000 in wagers, cash out, remove your club card, and view your transactional data generated from the Known Game at one of the promotional kiosks. The screen on the promotional kiosk will list the slot club point total associated with your wagering activity. For example, let's assume the kiosk screen reads, "Slot club points earned: 150."

Step 4: The competitor would locate the Known Game's par from his copy of the par sheet that accompanies the game of the same title. Once the par was located, the competitor could then compute the theoretical win associated with the point total accumulated in the session of play. Continuing this example, the competitor would know from Step 3 that $1,000 in wagers were placed, and let's assume the competitor's par sheet indicated the Known Game's par was 5.28%. The product of $1,000 and 5.28% is

---

[6] Although the games in question are all penny video reels, this method could also be applied to other electronic game types and denominations.

$52.80, which represents the theoretical win for this session (i.e., $1,000 x 5.28%). Also from Step 3 of this example, the competitor would know the slot club point total from this session, i.e., 150 points. With these data, the ratio of slot club points to theoretical win can be computed. That is, the competitor would know that 150 points are awarded for every $52.80 of theoretical win within his membership tier. This would equate to 2.8409 points earned per $1.00 of theoretical win (i.e., 150 points ÷ $52.80 of theoretical win = 2.8409 points per $1 of theoretical win).

Once the competitor knows this ratio, he would be able to identify the pars of the other games, i.e., Unknown Games. Equations 3 through 5 demonstrate how a competitor would be able to identify par on an Unknown Game, beginning with a review of play on the Known Game.

Equation 3 (Known Game): 150 Points ÷ $52.80 in Theoretical Win = 2.8409 Points per $1.00 of Theoretical Win

Equation 4 (Unknown Game): Points Earned on an Unknown Game of the Same Type and Denomination ÷ 2.8409 = Theoretical Win Dollars

Equation 5 (Unknown Game): Theoretical Win Dollars ÷ $1,000 in Wagers Placed = Par for that Game

Step 5: To confirm the GSR's Points to Theoretical Win Ratio, the competitor could repeat the previous steps of this example on a second Known Game. If both single-

14

game experiments produced the same ratio, the reliability of the process would be supported, providing the competitor access to the par of other games at the GSR.

The pars of the Unknown Games could be verified by comparing the computed pars to the manufacturer's licensed pars. For example, if the Unknown Game was Miss Red, and the par from the method described in this section was computed at 6.42%, then the par sheet for Miss Red could be checked to verify that 6.42% was a licensed par for that game. In fact, on January 29, 2015, I employed the method described in this section of this report to identify the par of a penny video reel game at the GSR.

4.4. The Managerial Utility of Par

Very few slot players would have the required knowledge, awareness, and desire to employ the par identification strategies described in Sections 4.2 and 4.3. However, because of units such as video roulette games, it would be possible for players to estimate pars and therefore identify differences in pars. Due to restricted access to par sheets, it would be difficult for these fringe players to verify their estimated pars.

As for the popular notion that players can detect differences in pars from the results of their play, independent of the methods described in Sections 4.2 and 4.3, my research would suggest otherwise.[7] Many claim that par represents gaming value in the eyes of the typical slot player. However, the par of reel slots is concealed from most players. Therefore, if par is an indicator of gaming value, then reel players must be able to detect differences in pars by playing the games. To the contrary, my own research

---

[7] Lucas, A.F. & Singh, A.K. (2011). Estimating the ability of gamblers to detect differences in the payback percentages of reel slot machines: A closer look at the slot player experience. *UNLV Gaming Research & Review Journal, 15*(1), 17-36.

suggests that this is incredibly unlikely.[8] Specifically, the results of my work suggest that there is no difference to detect in most cases, as the outcomes produced by games with different pars do not afford the opportunity for a reel player to detect a statistically significant difference in the pars. Moreover, with respect to single-session play time, my research suggests that the pay table's standard deviation produces a far greater impact than that of par.[9] In summary, to presume that players are generally able to detect even considerable differences in reel slot machine pars is a heroic assumption. It is therefore difficult to understand how the Peppermill would gain an operating advantage from knowing the GSR's pars. Par is not valid proxy for price on reel slots, nor is it a useful proxy for play time. Knowledge of reel slot pars does not provide a viable means of positioning a property within a market, especially with respect to gaming value or price.

When attempting to understand a competitor's gaming value position within a market, players must jointly consider many casino marketing activities. For example, slot players might consider the following items in the assignment of a gaming value judgment: Frequency and dollar value of free-play offers, slot club point/reward structures, general comp policy, and frequency and dollar value of promotional activities. Even if a player could detect a difference in par, it would not provide a meaningful determination of gaming value for a particular casino. For example, the casino with the most generous pars could actually offer the least value to slot players, and vice versa.

Additionally, it is my opinion that the amount of slot play a casino receives is due in large part to the quality of the overall resort, the quality of the overall casino environment, the variety and quality of non-gaming amenities, and much more. After all,

---

[8] Ibid.
[9] Lucas, A.F., & Singh, A.K. (2008). Decreases in a slot machine's coefficient of variation lead to increases in customer play time. *Cornell Hospitality Quarterly, 49*(2), 122-133.

16

the non-gaming amenities are the outlets in which the players spend their comp dollars. Earning comps would be less of play incentive if the resort and the non-gaming outlets were of questionable quality. Further, the qualities of these non-gaming factors are far less obfuscated than that of par.

In support of my opinions related to non-gaming contributions, Christopher Abraham's deposition emphasizes the importance of the overall property's general condition and the variety and quality of the non-gaming outlets in attracting slot play. When asked about the GSR's program for slot market share, Mr. Abraham replied as follows (from pp. 55-56):

"It's a combination of things. It is a direct mail strategy that tries to reward guests based on — competitively based on their theoretical, their frequency, in some cases their actual loss; the ability to market our overall product; the GSR, as being new, using food as an advantage, the fact that we have an excellent food product and marketing that via offers and general marketing; the fact that many, many dollars have been invested in the property with regard to the casino floor, restaurants, nightclub, rooms, general areas; that the GSR is a new and vibrant product in the market, to the events, be it promotions, daily promotions, or we have a schedule of the something going on almost every day from slot tournaments to a seniors program to point multipliers to drawings to gift giveaways, entertainment, a variety of many — a multitude of different things to get people in the property.

We also have many, we call them complimentary products, such as a spa, the children's FunQuest, the wedding chapel, sales and conventions and the space

17

we have with regard to that dynamic, really all of those things encompassed into an overall strategy of marketing the property, and in this case specifically to the slot players and table game players and trying to drive market share via all of those amenities and products that we have."

4.5. Isolating the Effect of Par

Section 4.4 addressed multiple sources of potential influence on slot win. This section expands that discussion, addressing the difficulty of isolating the effect of a single variable such as par on game performance. For example, in Steven Rosen's deposition (p. 97), he noted that although the Williams games from Exhibit A featured similar pars they produced varied results. His belief was that differences in the game locations critically impacted the differences in performance (pp. 97-98). Mr. Rosen testified in his deposition that he believed game location to be one of the most important factors related to individual game performance (p.98). The results of my own work are consistent with his testimony, as variables such as game location within a bank of games, aisle locations, and even the ceiling height above a game's location have all produced statistically significant effects on individual game performance.[10] Even within this limited discussion, it is difficult to know whether a game's performance is due to its location or its par. This problem of identifying individual effects is quickly compounded when you consider all of

[10] Lucas, A.F., & Dunn, W.T. (2005). Estimating the effects of micro-location variables and game characteristics on slot machine volume: A performance – potential model. *Journal of Hospitality & Tourism Research, 29*(2), 170-193.

the other potential influences on a game's performance. For example, the pay table variance of a game has been found to profoundly influence performance.[11]

To even approach isolating the effect of par you would need to design and execute a controlled experiment, manipulate par, and have knowledge of individual game performance. If conducted on the slot floor, this experiment would also need to account for competing sources of influence on game performance. The GSR does not claim this additional information was obtained by the Peppermill, nor could it have been obtained.

Having a few pars from a competitor's slot floor provides no actionable business intelligence to the Peppermill. Par is but one of many variables that could potentially affect individual game performance. Results from my own empirical research also support the influence of multiple game and location variables on the performance of individual reel slots.[12] Without knowing the effects of these other competing sources of influence, the effect of par cannot be estimated. By itself, knowledge of par is not helpful in the performance optimization process.

It remains that no one knows the impact of par on individual game performance. Its value could change across target markets, within casino settings, and within individual game configurations. The theories related to the effect of par are many and often contradictory. Its impact on the success of a game remains unknown. Therefore, I do not know how the Peppermill could make any meaningful use of GSR reel slot par data.

---

[11] Ibid.; Op. cit. Lucas, A.F., & Singh, A.K. (2008); and Lucas, A.F., Singh, A.K., & Gewali, L. (2007). Simulating the effect of pay table standard deviation on pulls per losing player at the single-visit level. *UNLV Gaming Research & Review Journal, 11*(1), 41-52.

[12] Op. cit. Lucas, A.F., & Dunn, W.T. (2005); and Lucas, A.F., Dunn, W., Roehl, W.S., & Wolcott, G. (2004). Evaluating slot machine performance: A performance-potential model. *International Journal of Hospitality Management, 23*(2), 103-121.

Knowledge of 6 to 15 of the GSR's pars would not provide a competitor with a business advantage. For example, even on the games in question, the competitor could not effectively undercut the GSR with respect to "price" (i.e., par), because most players cannot discern differences among reel slot pars. My research suggests this general inability to detect differences in pars holds up across a broad range of pars.[13] Steven Rosen's deposition supports this example, in that he admitted he would not alter his slot floor based on knowledge of only six pars from a competitor's casino (see p. 82).

If an operator were to increase or decrease his par settings based on par information obtained from a competitor, or for any other reason, it would be anyone's guess as to whether the slot win would increase or decrease. Christopher Abraham (pp. 70-71) supports this conclusion in his deposition, with regard to the uncertainty of changes in par and the resulting impacts on win. There are too many competing sources of potential influence to reasonably estimate the effect of a par change on a game's win.

Due to differences in clientele and game location characteristics, the optimal par for a particular game title could vary by casino. Therefore, knowing a competitor's reel slot pars is not helpful in the optimization of a different casino's slot floor. It would make infinitely more sense to perform par experiments on your own floor.

4.6. Par Misconceptions and Erroneous Conclusions of Value

It is my opinion that there are many widespread misconceptions about the role, effect, and value of par. For example, par is a long-term and/or aggregate measure that is meaningful to management, as it is responsible for the performance of all the games over

---

[13] Op. cit. Lucas, A.F. & Singh, A.K. (2011).

long periods of time. Management usually reviews and discusses the performance of slots in terms of aggregated results, which affects its perspective regarding the role and effect of par in the player's experience. Customers interface with games in a very different way, as they typically play one game at a time. Because the customer experience is rooted in the extreme short-term, the effects of par on their gaming experiences are muted. This is why par is not a meaningful proxy for price, as differences in par cannot be detected from short-term gaming outcomes per se. Par is far more meaningful as a long-term or aggregate measure. However, even in the long-term, the optimal value of pars cannot be known without experimentation. Obtaining 6 to 15 pars from a competitor will not be helpful in identifying the optimal pars for the Peppermill.

Decreases in par are often assumed to increase play time, while increases in par are assumed to decrease play time. For example, the GSR's own website advertisement equates a decrease in pars to longer play time. The following is an excerpt from Exhibit B.

"GRAND SIERRA HAS THE LOOSEST BUFFALO PAYTABLE SETTINGS [-] Finding loose slots is a dream for all slot players. Well, look no further. We've set all our Buffalo Slot games to the loosest paytable settings available. This means longer play and more fun for you."[14]

This copy demonstrates another misunderstanding, as this general claim is not necessarily true. My own research examines how changes in par and pay table variance

---

[14] Retrieved on January 30, 2015 from http://www.grandsierraresort.com/casino/casino-floor/slots-and-video-poker.

21

affect play time.[15] The results of my experiment found the game with the lowest par to produce the least play time and the game with the highest par to produce the most play time. In short, the effect of the changes in the pay table variance greatly overpowered the potential effect of any change in par. Other studies have established a clear relationship between pay table variance and expected play time.[16] In spite of these findings, I have never seen a slot advertisement that has equated extended play time with lower pay table variances. Consistent with my position, Dunn (2004) questions whether operators should concern themselves with par settings in their efforts to manage play time, create customer loyalty, and generally position the casino and/or brand with respect to gaming value.[17]

Frequent players such as those in the local Reno market often focus on play time, and have well established notions of how long their bankroll should last. These players are far more likely to associate gaming value with extended play time.[18] Again, my study found that pay table variance is the critical influence on play time, overpowering any potential effect of par. If the goal is to improve the local player's perception of gaming value, in terms of increased play time, the discussion should focus on the pay table variance.

Using data from Table 1, the following example highlights the problem with using par as an indicator for gaming value from the customer's perspective. With 201 reel stops on each of three reels, the top award can be expected to hit once in every 8,120,601 spins (i.e., 201^3). As there is only one jackpot symbol combination that results in a payout

---

[15] Op. cit. Lucas, A.F. & Singh, A.K. (2008).
[16] Op. cit. Lucas, A.F., Singh, A.K.. & Gewali, L. (2007).
[17] Dunn, W. (2004). Standard deviation: A way to optimize the slot floor. *Slot Manager*, January, 22-24.
[18] The trade literature supports the notion that play time is critical in the slot player's satisfaction process. See: Ibid.; Klebanow, A. (2006). What players really want. *Indian Gaming*, 16(12), 48-49; and Higgins, C. (2010). Finally! One longtime Vegas casino owner loosens slots. Retrieved on February 28, 2015 from http://www.examiner.com/article/finally-one-longtime-vegas-casino-owner-loosens-slots

(i.e., 3 consecutive Cherries), all other outcomes result in a loss of the player's entire wager. Let's assume one credit is wagered on each spin, and that the payout for 3 consecutive Cherries is 8,079,998 credits, or 99.5% of the credits wagered over the expected jackpot cycle. With a payback percentage of 99.5% (i.e., a par of 0.5%), management would surely think of this game as loose, but only one player would agree with that conclusion. Every other player would lose every wager placed on every spin. No gaming experience could be tighter from the player's perspective. Therefore, it is unwise to conflate par and gaming value, especially when considering the customer perspective. For example, many regular customers have well established notions of how long their bankroll should last in terms of play time. While the game in Table 1 features a very low par, it would provide a minimum amount of play time to nearly every player. Regular customers who are sensitive to play time would not consider such a game to have great gaming value.

Table 1[19]
Symbol Inventory for a Three-reel Slot Machine

Symbols	Reel 1	Reel 2	Reel 3
Blanks	200	200	200
Cherries	1	1	1
Total	201	201	201

Note. Cells represent the number of symbols on each reel.

Management's *belief* that knowledge of competitor par settings is valuable does not make it so. Additionally, the *belief* that par serves as the slot player's primary proxy for gaming value does not make it true. Positioning a slot floor in terms of par is not an

---

[19] Adapted from Kilby, J. Fox, J. & Lucas, A.F. (2004). *Casino Operations Management, 2nd ed.* New York: Wiley, p.136; and op. cit. Lucas, A.F., Singh, A.K., & Gewali, L. (2007).

23

effective way to convey gaming value to frequent players, as the long-term effects of par are obscured by the short-term interactions common to the player experience.

The only way to work toward optimizing par settings is though controlled experimentation in your own casino. Knowledge of a few competitor par settings is not critical information. Differences in facilities, target markets, marketing promotions, free-play offers, and slot club reward structures all combine to render such information too difficult to interpret.

Keying a competitor's slot machines to obtain par settings is not wise, nor is it ethical, but it is also not necessary. I believe that acts such as this are often motivated by a misunderstanding of the information to be gained and its potential benefit. In this case, it may have been a misunderstanding of the managerial value of a competitor's par settings. The point is that these kinds of misconceptions to lead to incorrect and greatly exaggerated conclusions about the value of par. Such conclusions often become accepted "facts" within the industry.

4.7. Integrity of Samples

Independent of the previously listed limitations of par data and its secrecy to competitors, the general usefulness of the samples described in Exhibits D and E was impaired by the way in which the data were gathered. Exhibit D describes the pars of 9 games that were allegedly keyed on 12/29/2011, and Exhibit E describes 6 games that were allegedly keyed on 6/14/2012, nearly six months later. Because the data describe pars of dates that were nearly 6 months apart, the observations cannot be considered collectively, i.e., as 15 games. They represent a 9-game sample on one date and a 6-game

24

sample on another date. Also, the 6 to 15 games in question were all penny video reels, with no representation of other types and denominations. Because it was not a random sample selected from the overall population of 1,128 GSR games, any inference of the sample statistics would be limited to penny video reels. That is, samples comprised of 6 and 9 penny video reels would not be representative of the GSR's entire slot floor and therefore would not allow the Peppermill's management to draw any meaningful conclusions related to the GSR's overall average floor par. Additionally, even within the category of penny video reels, the small sample sizes would greatly limit any potential use of the information obtained. For example, with sample sizes of 6 and 9 games each, the range of potential values for the GSR's average par on penny video reels would be considerable.

Exhibit D includes the following footnote: "all machines that I can key quickly were flagged as having been loosened, some had the dangler pulled off." This note implies another source of sample bias, as games that could not be keyed quickly would appear to have been omitted from the sample. Such games could have had location-related characteristics critical to the GSR's par strategy, further limiting the applicability of the sample results. Moreover, Ryan Tors testified that he was uncertain as to whether he actually keyed any games on 12/29/2011 or 6/14/2012, and he admitted to reporting made up information related to keying activities that never actually took place (see Tors deposition, pp. 134-173). Additionally, Exhibit D lists two different game titles with the same machine number, i.e., 440. This is clearly an error.

Given the extensive limitations of reel slot par information, the difficulty of measuring the impact of any individual effect on slot performance, and the extremely

25

limited, inaccurate, possibly contrived, and unrepresentative sample of pars, I cannot see how the Peppermill would gain a meaningful benefit from such information.

4.8. GSR's Measure of Care

I have no reason to believe that the GSR failed to install, maintain and monitor the required surveillance equipment, as prescribed by Nevada's gaming regulations. Additionally, I assume that the GSR maintained security personnel with a consistent presence on the casino floor. However, given the GSR's position on the value of the par settings allegedly obtained by the Peppermill,[20] it would be a reasonable measure of care to replace the locks accessible via the 2341 key before placing the machines in the casino. Exhibit F shows the cost of this measure as relatively inexpensive when compared to the alleged value of the par settings.

The GSR's management team must have known that 2341 keys were ubiquitous among operators, and the ease with which they could be obtained online.[21] Further, given the assumed experience of the GSR's management team, they must have known that most games on their slot floor were accessible with a 2341 key.[22] The inaction of the GSR appears inconsistent with its claim that the par settings are a valuable trade secret. If the par settings were such a valuable trade secret it would seem reasonable and prudent for the GSR to at least change the locks on the games, especially given the abundance of 2341 keys held by each of its competitors and the ease with which a game could be keyed. This is a curious amount of exposure for such a valuable trade secret.

---

[20] From the damages estimate advanced in the affidavit of the GSR's expert witness, David Schwartz.
[21] Stutz, H. (March 14, 2014). Slot machine keys sold online but are they useful. The Washington Times. Retrieved from http://www.washingtontimes.com/news/2014/mar/14/slot-machine-keys-sold-online-but-are-they-useful/?page=all#!
[22] Ibid.

The GSR chose to advertize its par settings via billboard, marquee, and website. These ads effectively published the pars of many games, at least from a competitor's perspective. Additionally, the ads opened another door to the discovery of the GSR's pars through legal means (see Sections 4.2. and 4.3). Moreover, the examples described Sections 4.2 and 4.3 challenge the basic notion that pars are secret among operators and that the GSR engaged in reasonable efforts to protect something that is supposedly a trade secret, or of material value to another competitor.

4.9. Willing Buyer – Willing Seller Test

In UCC v. Lykes, a 'willing buyer – willing seller' test served to clarify the damage award in a reasonable royalty claim.[23] In this case, the test could be applied to determine the dollar amount to be paid as a reasonable royalty for unrestricted use of the trade secret (i.e., the pars). The reasonable royalty would reflect the price to be paid by a willing buyer, not compelled to buy; and a willing seller, not compelled to sell. While logical in its approach to a difficult valuation question, I would argue that it does not apply to the unique conditions of this case.

In this case, assuming one were to assign value to par settings, it would be in the best interest of any of the GSR's competitors to obtain the par settings by way of the methods described in Sections 4.2 and 4.3 of this report. Use of these methods would not alert the GSR to the acquisition of its par settings. This is important to my argument, as knowledge of an outright sale would allow the GSR to (1) receive compensation for knowledge of the par settings; and (2) change its par settings after the sale. If the buyer were to purchase the information with the intent of positioning its slot product, vis-à-vis

---

[23] University Computing Co. v. Lykes-Youngstown Corp., 504 F.2d 518 (1974).

the GSR, the transaction could be remarkably unsuccessful. That is, the seller could change its par settings after the sale, greatly diminishing the value of the information purchased by the buyer.

By acquiring the par settings by way of the methods described in Sections 4.2 and 4.3 of this report, the buyer would mitigate the business risk associated with alerting the seller to the acquisition of its par settings. This would in turn limit the buyer's exposure to an intentional change in the seller's par settings immediately following the sale. Again, in this hypothetical example, such a change would critically devalue the information purchased by the buyer.

I am not suggesting that a casino's par settings have value, or that they should be used to position the slot floor in terms of gaming value. I am only pointing out a plausible limitation of the 'willing buyer – willing seller' test as it applies to this case. Given the hypothetical intent of the buyer in this example, I do not believe there would be a party described as a willing buyer. To the contrary, given the same hypothetical conditions, I do believe that it would be possible to find a willing seller. Alternatively, Section 4.10 advances a cost model for obtaining a competitor's par settings by way of the methods described in Sections 4.2 and 4.3 of this report.

4.10. Cost Estimate for Par Settings

This section is intended to advance a model for computing the cost of acquiring 15 par settings, assuming the acquiring party were to obtain the par settings by way of the method described in Section 4.3. This cost model is not intended to represent the value of

any benefit to the Peppermill's business. In this case, it is my opinion that the cost of obtaining the pars would exceed the value of the benefit to the Peppermill.

Cost Model Assumptions:

1. Corporate analyst's annual salary: $40,000;

2. Assuming a 40-hour work week, there would be 2,080 work hours in a year (i.e., 52 weeks x 40 hours per week);

3. Annual benefits in addition to the salary: $16,000 (i.e., 40% of $40,000);

4. Total annual compensation: $56,000 (i.e., $40,000 + $16,000);

5. Assumptions 1 - 4 would result in an hourly rate of $26.92 (i.e., $56,000 ÷ 2,080);

6. A maximum of $1,000 in bankroll would be required to obtain the initial point total and/or comp dollars associated with play on the game for which the acquiring party knows the par (i.e., the Known Game). However, on average, only a fraction of this $1,000 would be lost by the acquiring party. That is, the expected loss on a game with a 5.26% par (i.e., double-zero video roulette) after $1,000 in wagers would be $52.60 (i.e., $1,000 x 5.26%);

7. A maximum of $1,000 in bankroll would be required to produce the dollar value of wagers needed to obtain the par information for a single target game (i.e., the Unknown Game). However, only a fraction of this $1,000 would be lost by the acquiring party. Assuming the Unknown

29

Game featured a par of 8.0%, the expected cost to the acquiring party would be $80.00 after placing $1,000 in wagers (i.e., $1,000 x 8.0%); and

8. It takes no more than 20 minutes to acquire the information needed from the Known Game.

9. It takes no more than 20 minutes per game to acquire the information needed to compute the par setting of an Unknown Game.

To acquire the pars of 15 games, the estimated cost would be computed as follows:

Estimated labor cost: $143.48.

This labor cost calculation is based on 5.33 hours play time, at $26.92 per hour. 5.33 hours would be required to acquire 15 pars, as a 16th game would have to be played to identify the point accumulation rate (i.e., 16 games x 20 minutes per game = 5.33 hours). This 16th game would be the Known Game. Finally, 5.33 hours of play at a cost of $26.92 per hour results in a total labor cost of $143.48 (i.e., 5.33 hours x $26.92 per hour).

Expected gaming loss: $1,252.60

Expected loss on the Known Game: $52.60 (i.e., $1,000 in wagers placed x 5.26% player disadvantage).

Expected loss on the 15 Unknown Games: $1,200.00 (i.e., $15,000 in wagers placed x 8.0% house advantage).

Total expected loss: $1,252.60 (i.e., $1,200.00 on the 15 Unknown Games + $52.60 on the one Known Game).

30

Total cost estimate of acquiring 15 unknown pars: $1,396.08 (i.e., $1,252.60 in

expected gaming losses + $143.48 in labor cost).

4.11. Dr. Schwartz's Damages Model

Dr. Schwartz uses an excerpt from my work to ground a component of his

damages model described in his affidavit and discussed in his deposition. From his

affidavit Dr. Schwartz states, "Based on a survey of the current academic literature, I

estimate this accurately determining the par through simple observation (rather than using

illicit means to discover that information) would entail in most penny machines a cost of

$4.00 per play for a minimum of 20,000 hours of continuous play at 500 spins per had for

an estimate cost of $600,000 per machine, exclusive of labor costs." Although these

calculations produce a curiously low par for a penny reel games (i.e., 1.5%), Dr.

Schwartz states in his deposition that 10,000,000 spins (20,000 hrs. x 500 spins per hr.)

are necessary to estimate par. Dr Schwartz claims his minimum 10,000,000 spins

assumption comes from my research. I assume he is referring to a general reference in my

co-authored work related to the number of spins needed to produce an inconsequential

difference in the actual and theoretical hold percentages.[24]

Our general reference to "10-million-spin trips" was used an example of

excessive play that would result in an inconsequential difference between actual and

theoretical hold percentages. It was not stated as a minimum in our work, and it was used

in a different context from that of the current case, resulting in a misapplication of the

statement from our work in Dr. Schwartz's damages model. Our statement was certainly

not meant to serve as a parameter for use in such a model. For example, depending on the

[24] Op. cit. Lucas, A.F. & Singh, A.K. (2011), p.24.

31

math of the game, the number spins required to achieve an inconsequential difference could vary significantly in either direction. Moreover, the standard of an inconsequential difference would not be needed in this case.

Although I do not endorse the cost model advanced by Dr. Schwartz, the number of spins required to estimate the par of a game using his approach is likely to be significantly less than the figure used in our journal article example. This is true because the estimate produced by the game trials would be evaluated within the framework of licensed pars. For example, let's assume (1) a game featured licensed pars of 3%, 6% and 9%; (2) the acquiring party had access to the par sheets; and (3) after 500,000 spins, a 90% confidence interval included a lower bound of 4% and an upper bound of 7%. From this, one could reasonably conclude that the game's par is equal to 6%. The basis of the conclusion is that 6% is the only licensed par within the 90% confidence interval.

Other curious components of Dr. Schwartz's damages model include the need for a maximum bet (i.e., $4), which unnecessarily increases the damages claim. Notwithstanding the unnecessary number of trials, and the unnecessary maximum wager, this would still be one of the most expensive ways imaginable to legally obtain the GSR's par settings. The methods advanced in Sections 4.2 and 4.3 of this report produce a precise calculation of par, as opposed to Dr. Schwartz's estimate, and at a fraction of the cost (see Section 4.10). Increased precision and decreased cost make for compelling arguments when deciding whether to employ Dr. Schwartz's approach or the ones described in Sections 4.2 and 4.3 of this report.

32

5. Reference Materials

This section lists the materials I referenced and/or relied upon in the process of writing of this report.

Abraham, Christopher. Deposition.

Dunn, W. (2004). Standard deviation: A way to optimize the slot floor. *Slot Manager*, January, 22-24.

Exhibit 6 to depositions. eBay pages related to 2341 key availability.

Exhibit A (Exhibit 4 to depositions). GSR's billboard and marquee ads.

Exhibit B (Exhibit 5 to depositions). GSR's website content related to Buffalo paytables.

Exhibit C (Exhibit 56 to depositions). GSR players' club reward structure.

Exhibit D (Exhibit 7 to depositions). Tors email: Pars from 12/29/11.

Exhibit E (Exhibit 8 to depositions). Tors email: Pars from 6/14/12.

Exhibit F (Exhibit 39 to depositions). Quote to replace slot machine locks at GSR.

GSR Complaint (Aug., 2, 2013).

GSR Website. Accessed on January 30, 2015 from http://www.grandsierraresort. com/casino/casino-floor/slots-and-video-poker.

Higgins, C. (2010). Finally! One longtime Vegas casino owner loosens slots. Retrieved on February 28, 2015 from http://www.examiner.com/article/finally-one-longtime-vegas-casino-owner-loosens-slots

Kilby, J. Fox, J. & Lucas, A.F. (2004). *Casino Operations Management, 2nd ed.* New York: Wiley, p.136.

Klebanow, A. (2006). What players really want. *Indian Gaming, 16*(12), 48-49.

Lucas, A.F., & Brandmeir, K. (2005). Estimating the short-term effects of an increase in par on reel slot performance. *Gaming Research & Review Journal, 9*(2), 1-13.

Lucas, A.F., & Dunn, W.T. (2005). Estimating the effects of micro-location variables and game characteristics on slot machine volume: A performance – potential model. *Journal of Hospitality & Tourism Research, 29*(2), 170-193.

Lucas, A.F., Dunn, W., Roehl, W.S., & Wolcott, G. (2004). Evaluating slot machine performance: A performance-potential model. *International Journal of Hospitality Management, 23*(2), 103-121.

Lucas, A.F. & Kilby, J. (2012). *Introduction to Casino Management.* Okie International: Escondido, California.

Lucas, A.F., & Singh, A.K. (2008). Decreases in a slot machine's coefficient of variation lead to increases in customer play time. *Cornell Hospitality Quarterly, 49*(2), 122-133.

Lucas, A.F. & Singh, A.K. (2011). Estimating the ability of gamblers to detect differences in the payback percentages of reel slot machines: A closer look at the slot player experience. *UNLV Gaming Research & Review Journal, 15*(1), 17-36.

Lucas, A.F., Singh, A.K., & Gewali, L. (2007). Simulating the effect of pay table standard deviation on pulls per losing player at the single-visit level. *UNLV Gaming Research & Review Journal, 11*(1), 41-52.

Nevada Gaming Control Act, Regulations 14.04, Section 2, Clause b. See also: http://gaming.nv.gov/modules/showdocument.aspx?documentid=3238.

Nevada Trade Secrets Statute. NRS 600A.010 – 600A.100.

Rosen, Steven. Deposition.

34

Schwartz, David. Affidavit (Sep. 2014).

Schwartz, David. Deposition.

Stutz, H. (March 14, 2014). Slot machine keys sold online but are they useful. The

Washington Times. Retrieved from http://www.washingtontimes.com/news/

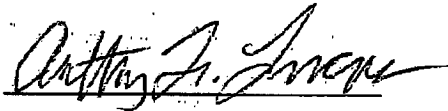2014/mar/14/slot-machine-keys-sold-online-but-are-they-useful/?page=all#!

Taylor, Toby. Deposition.

Tors, Ryan. Deposition.

University Computing Co. v. Lykes-Youngstown Corp., 504 F.2d 518 (1974).

Vavra, Terry. Deposition.

Dated: March 1, 2015

Anthony F. Lucas

35

EXHIBIT 25
Part 1 of 3

AGEM
Association of Gaming Equipment Manufacturers

SLOT MARKET ASSESSMENT

ANALYSIS OF INDUSTRY DATA

APPLIED
ANALYSIS

February 25, 2015

Mr. Marcus Prater
Executive Director
Association of Gaming Equipment Manufacturers
P.O. Box 50049
Henderson, NV 89016-0049

Sent via email (AGEM.org@cox.net)

RE: Slot Market Assessment: Analysis of Industry Data

Dear Mr. Prater:

In accordance with your request, Applied Analysis ("AA") is pleased to submit this *Slot Market Assessment: Analysis of Industry Data* report. AA was retained by the Association of Gaming Equipment Manufacturers (the "Association" or "AGEM") to review and analyze available slot revenue and hold data in 16 jurisdictions to better understand historical market performance trends. This summary report outlines the salient findings and conclusions of our review and analysis as of the date of this report.

This report was designed by AA in response to your request. However, we make no representations as to the adequacy of these procedures for all your purposes. Generally speaking, our findings and estimates are as of December 31, 2014 and utilize the most recent data available. This report is dated as of the last day of our fieldwork. The information provided in this summary, and the conclusions reached herein, are based on the findings of our research and our knowledge of the market as of the date of this report.

Our report contains gaming data and other industry-related information. This information was collected from our internal databases and various third parties, including the Association and other public data providers. The data were assembled by AA. While we have no reason to doubt its accuracy, the information collected was not subjected to any auditing or review procedures by AA and; therefore, we can offer no representations or assurances as to its completeness.

This report is an executive summary. It is intended to provide an overview of the analyses conducted and a summary of our salient findings. AA will retain additional working papers relevant to this study. If you reproduce this report, it must be done so in its entirety. We welcome the opportunity to discuss this report with you at any time. Should you have any questions, please contact Jeremy Aguero or Brian Gordon at (702) 967-3333.

Sincerely,

Applied Analysis

Applied Analysis

RA 02725

Table of Contents

Introduction

The Association of Gaming Equipment Manufacturers (the "Association" or "AGEM") through its members has become increasingly interested in better understanding the concept of "Return to Player" ("RTP") and its overall impact on gaming revenue. Generally speaking, slot revenues within the United States have been trending on a relatively flat to down trajectory. There are two schools of thought with regard to the correlation between RTP (or the share of wagers held by slot operators ("slot hold percentage" or "slot win percentage")) and overall gaming revenues (or "slot win"). Some believe that slot machine operators have been choosing to utilize "tighter" machines in an effort to capture a higher share of revenue from their players. Others believe that this "tightening" of the hold percentages on slot machines has impacted the overall player experience, resulting in lower returns on a net basis for slot operators over the longer-run due to fewer trips and/or shorter time on the device.

Quantifying the impact of hold percentage choices is a difficult task given the evolution of the gaming experience, the ever-changing nature of the economy as a whole, and other external factors. Given the volume of information available in the public domain and the various ways to analyze the information, the Association asked Applied Analysis ("AA") to assemble, analyze and report on available information. This summary report is intended to provide baseline information on historical market performances and shed light on the issue at hand. Additional analyses, including case studies, primary research and other analytical assessments, may be warranted to evaluate the interplay between slot hold percentages and overall gaming revenue.

Defining the Objective and Scope of Work

Overall, the objective of the analysis is to evaluate whether a lower or higher RTP impacts slot revenue. Proponents of a lower RTP argue that they seek efficient usage of assets by increasing the player churn rate. Conversely, proponents of a higher RTP argue that they seek to elevate entertainment levels and therefore player interest and participation. The proposed approach is designed to elicit any meaningful insight and/or trends in this particular regard from available sources of information.

First, AA utilized publicly available data from various gaming control boards and/or commissions to report on long-run historical trends in total slot revenues as well as hold percentages. The timeframe analyzed in each market is dependent on available data, but AA targeted the inception of gaming in each market. AA analyzed the following domestic casino-gaming markets:

- Colorado
- Connecticut
- Delaware
- Florida
- Illinois
- Indiana
- Iowa
- Louisiana

- Mississippi
- Missouri
- Nevada
- New Jersey
- Ohio
- Pennsylvania
- Rhode Island
- South Dakota

RA 02727

United States Gaming Markets Analyzed
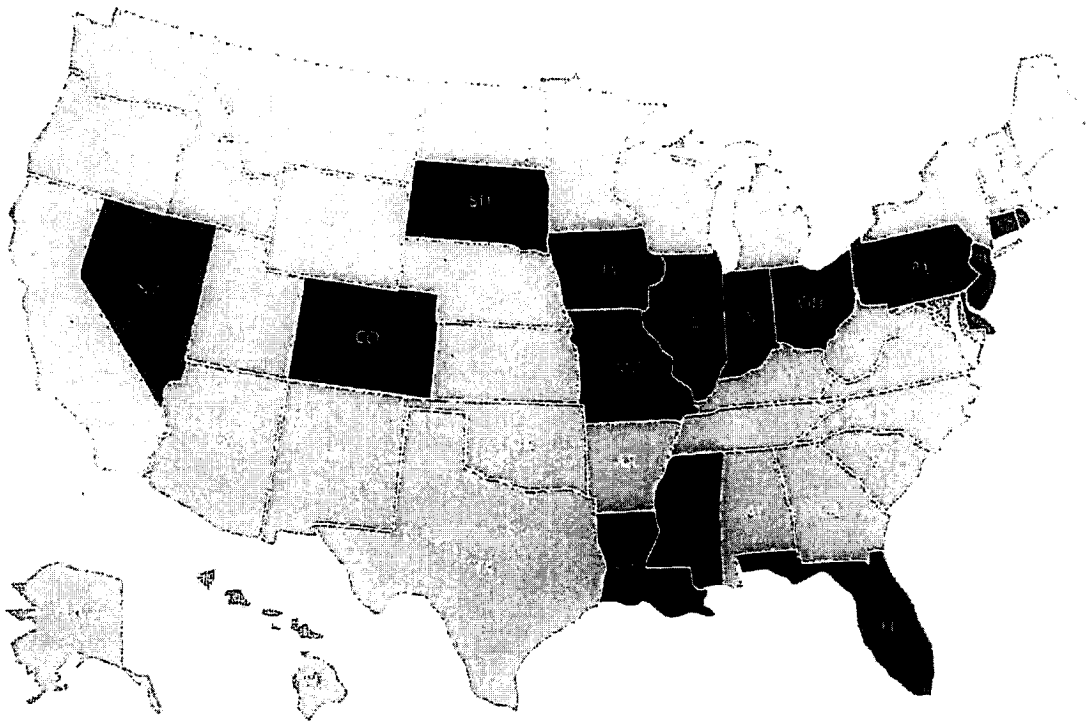
There are a number of external forces impacting overall performances; as such, AA also conducted analyses to determine if there are any identifiable trends and/or correlations. Examples of the types of external forces researched and reported included significant property openings/closings, gaming regulatory changes (e.g., the introduction of VGTs in Illinois), notable weather or natural disaster events (e.g., Hurricane Katrina in Louisiana), and other similar factors of note.

The results of this analysis are expected to be combined with other industry analyses and market information in developing overall conclusions. Contributions from gaming operators, manufacturers and other stakeholders are expected to provide a comprehensive review and analysis of the question presented.

AGEM   APPLIED
        ANALYSIS

Summary of Findings

There is no question that the gaming sector has evolved significantly over the past several decades as a number of states welcomed commercial forms of casino gaming. Two key factors that are certain as a result of the expansion of gaming: (1) more people have been exposed to gaming activities than may have been otherwise (broadening the potential demand pool); and (2) the competitive landscape evolved significantly during the better part of the past 30 years (increasing the supply-side of the equation). The net result is that gaming operators have been required to operate with more efficiency and creativity.

Slot Handle Summary

Slot handle reflects the gross amount of money wagered on slot machines across the jurisdictions analyzed. Since the early 1990s, slot handle continued on a consistent trend line, increasing from approximately $76 billion in 1990 to a peak value of approximately $355 billion in 2007, representing a compound annual growth rate (CAGR) of 9.4 percent. From the peak of the market (2007), total slot handle declined at a CAGR of 2.8 percent to $291 billion in 2014. The following depicts the market's historical performance. See the section titled *State-by-State Gaming Summary* for a review of each individual market.

United States Aggregate Slot Handle for Reported Jurisdictions[1]
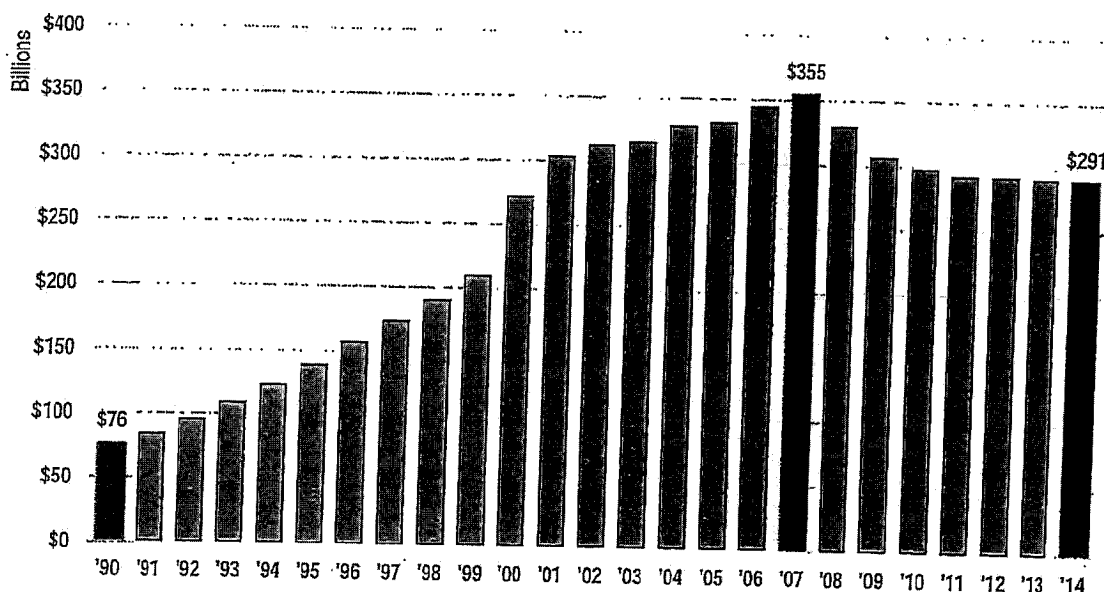
The shift in the total amount wagered is largely attributed to a change in the economic climate following 2007. From December 2007 to June 2009, the United States economy reported the longest recession (18 months), known as the *Great Recession*, since the *Great Depression* spanning from August 1929 to March 1933. The economic downturn played a significant role in the operational performance of gaming operators and overall consumer behavior. A total

---

[1] Aggregate slot handle for the United States reflects reported data from the 15 states noted in the introductory sections of this report; Louisiana does not publicly report slot handle and has been excluded from these figures. Slot metrics includes video lottery terminals (VLTs) and video gaming terminals (VGTs), where data is available.

AGEM   APPLIED ANALYSIS

of 8.7 million jobs were lost during the Great Recession, causing personal income and overall consumer spending to contract during that period. This event likely impacted how the public viewed their spending priorities post-recession as well.

United States Aggregate Slot Handle and Personal Income[2]
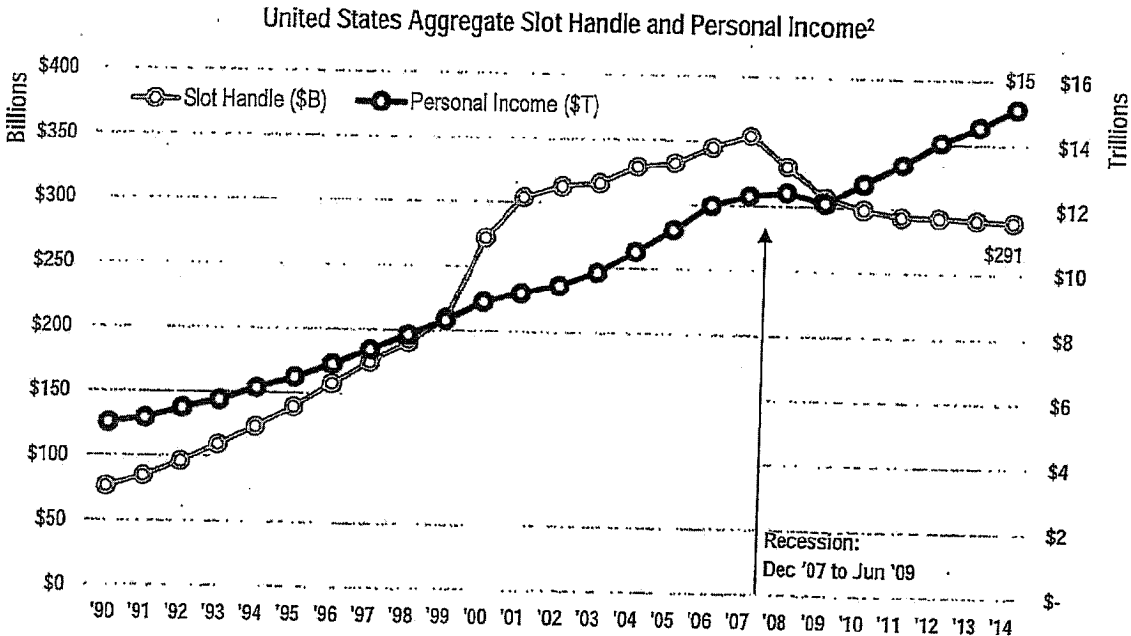
Slot Win Summary

Slot win reflects the amount wagered by slot patrons, less the amount paid out. Total slot win across the country reported similar directional trends as slot handle reported above. In 1990, aggregate slot win totaled approximately $5 billion and increased steadily to approximately $26 billion by 2007, equating to a CAGR of 10.2 percent during that timeframe. Consistent with slot handle, the trend shifted to one of contraction in 2008, and generally continued through 2014 when total win reached $22 billion (-2.0 percent CAGR).

In addition to the trend in gaming win, it is important to understand how slot win has trended relative to personal incomes. Throughout the majority of the 1990s, slot revenue expanded at a faster pace than overall personal incomes suggesting a higher share of consumers' wallets were being dedicated to gaming activities. These trends moderated somewhat through the 2001 to 2007 timeframe as gaming revenue growth more closely approximated gains in personal income. From 2008 forward, there has been a clear and consistent trend that consumers are simply spending less of their earnings on slot activities.

---

[2] Personal income sourced to the Bureau of Economic Analysis (BEA); 2014 personal income growth estimated at 3.9 percent.

United States Aggregate Slot Win for Reported Jurisdictions[3]

Bar chart showing Billions on the y-axis from $0 to $30. Values begin at $5 in '90, rise to a peak of $26 in '07, and decline to $22 by '14.
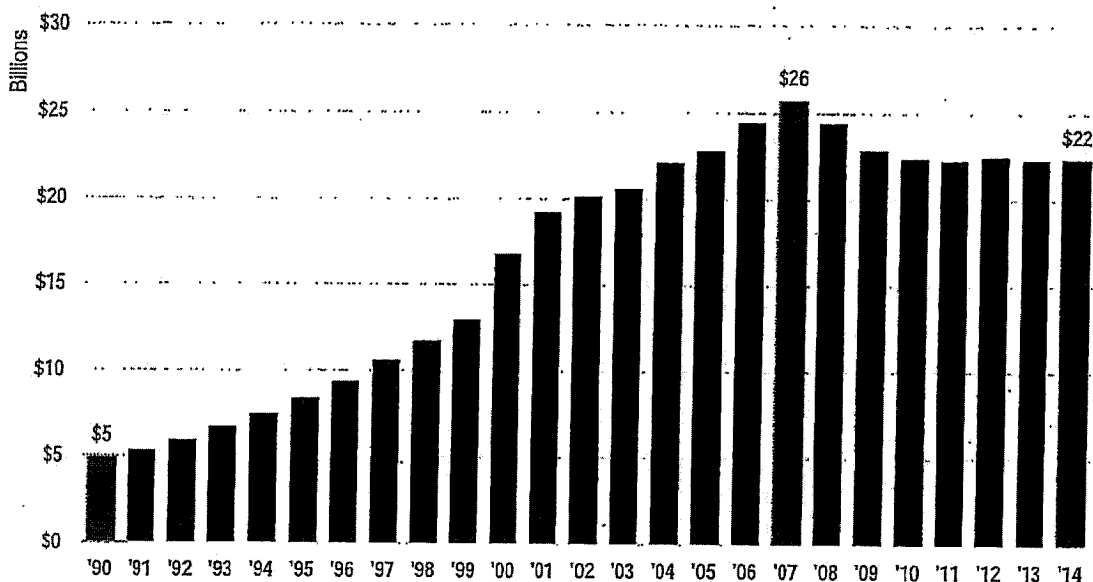
United States Aggregate Slot Win per $1,000 of Personal Income[4]

Bar chart labeled Expansion — Stabilization — Contraction. Values begin at $0.98 in '90, rise to $2.10 in '02, $2.09 in '07, and decline to $1.48 in '14.

---
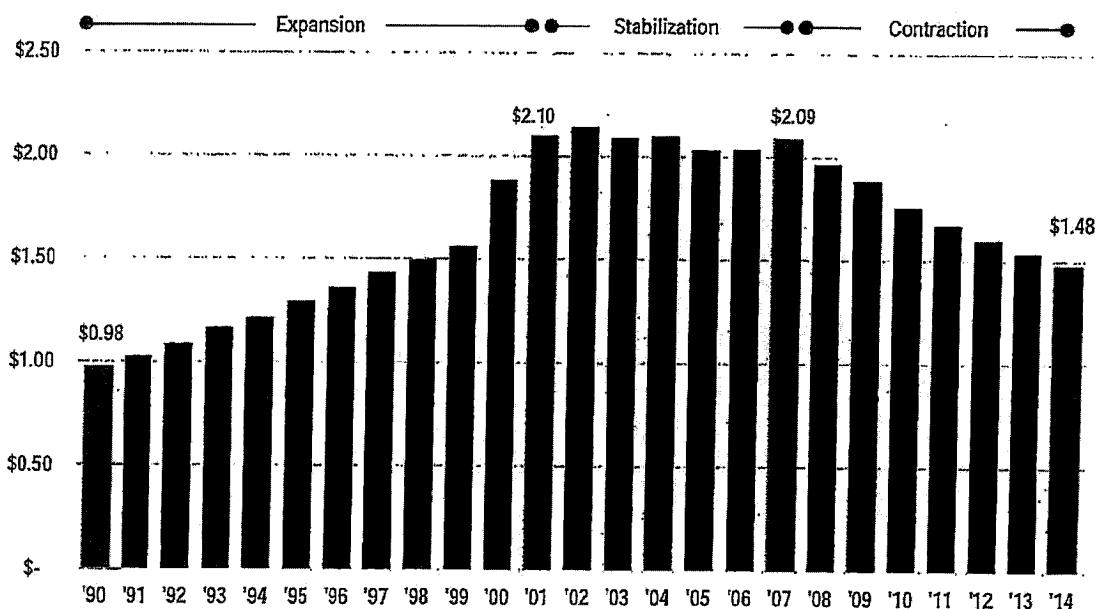
[3] Aggregate slot win for the United States reflects reported data from the 15 states noted in the introductory sections of this report; Louisiana does not publicly report slot win and has been excluded from these figures.

[4] Ratio reflects gaming win for the reported 15 states against United States personal income; the ratio is intended to provide a directional sense of movements despite imperfect alignment of geographic boundaries due to gaming patrons traveling across state lines to participate in gaming activities and other factors; personal income data for 2014 estimated to expand at 3.9 percent.

AGEM   APPLIED ANALYSIS

RA 02731

In addition to reviewing aggregate slot win relative to personal incomes, an analysis of win per capita demonstrates a similar trend. Total win per capita expanded throughout history until the peak of $85.41 in 2007, with contraction in the 2008 to 2014 period. Throughout history, the number of casinos and slot machines continued to expand (adding capacity), and gaming play (slot win) had outpaced the growth in the number of players (population base) or their spending potential (personal income).

United States Aggregate Slot Win per Capita[5]
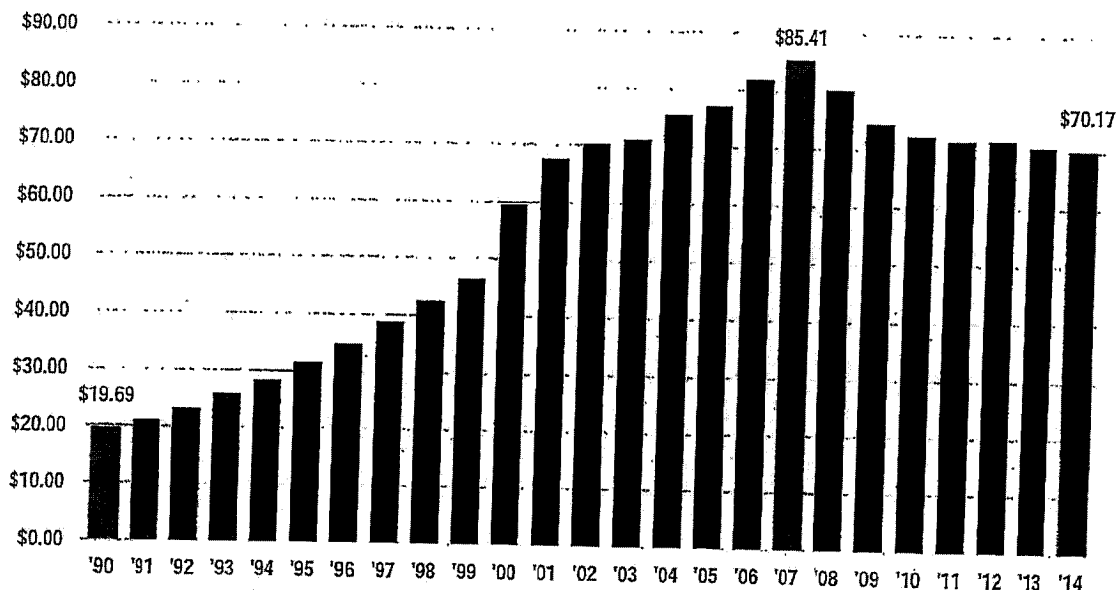
Slot Hold Percentage Summary

The ratio between the amount of slot win and slot handle reflects the slot hold percentage. This ratio is not a figure that is simply randomly determined based on the play of the game. Rather, slot machines are programmed with targeted hold percentages that are designed to be achieved over a long period of play. The actual hold percentage, the inverse of which is referred to as the RTP in the introductory section of this analysis, has reported consistent increases over time. Aggregate slot hold percentage reached a low of 5.96 percent in 1996, and it has posted increases generally throughout the period ending 2014. The following highlights the aggregated slot hold percentage for the 15 publicly reported states. Louisiana, which does report slot hold data (but not handle or win), has reported a consistent directional trend line.

---

[5] Ratio reflects gaming win for the reported 15 states against United States population.

AGEM   APPLIED ANALYSIS

RA 02732

United States Aggregate Slot Hold Percentage
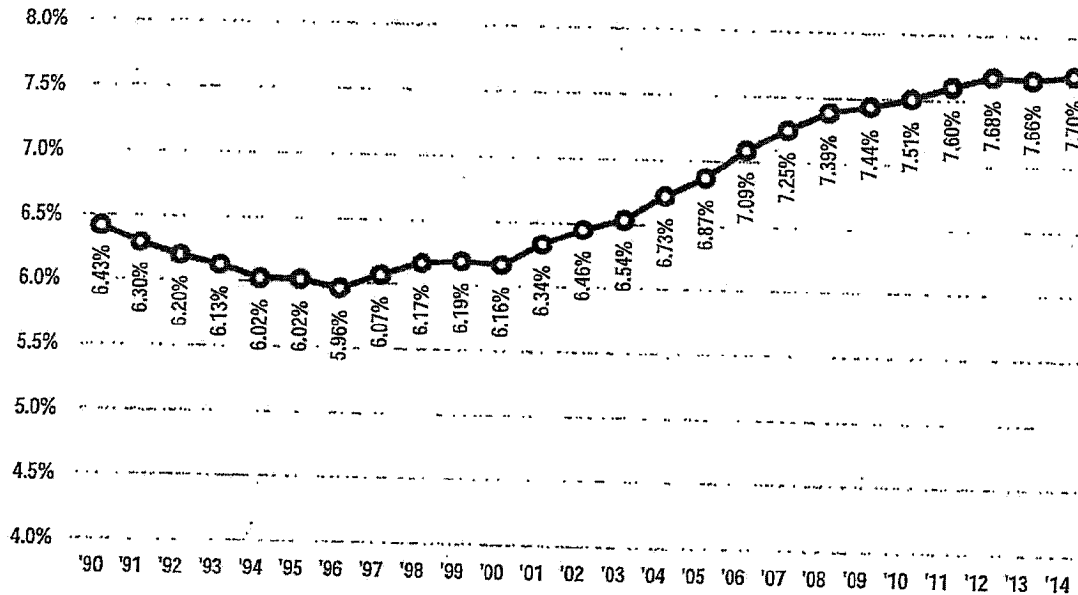
In addition to analyzing the historical trend in hold percentage, a review of the annual change in hold percentage indicates the gains in hold percentage were generally greatest during the 2001 to 2007 timeframe, reporting an average annual increase of 0.16 percentage points. From 2008 to 2014, the average annual gain was nearly one-third of the previous period change at 0.06 percent points. During 2013, the industry reported a decline in aggregate slot hold percentage followed by a year of increase in 2014.

Annual Growth in United States Aggregate Slot Hold Percentage
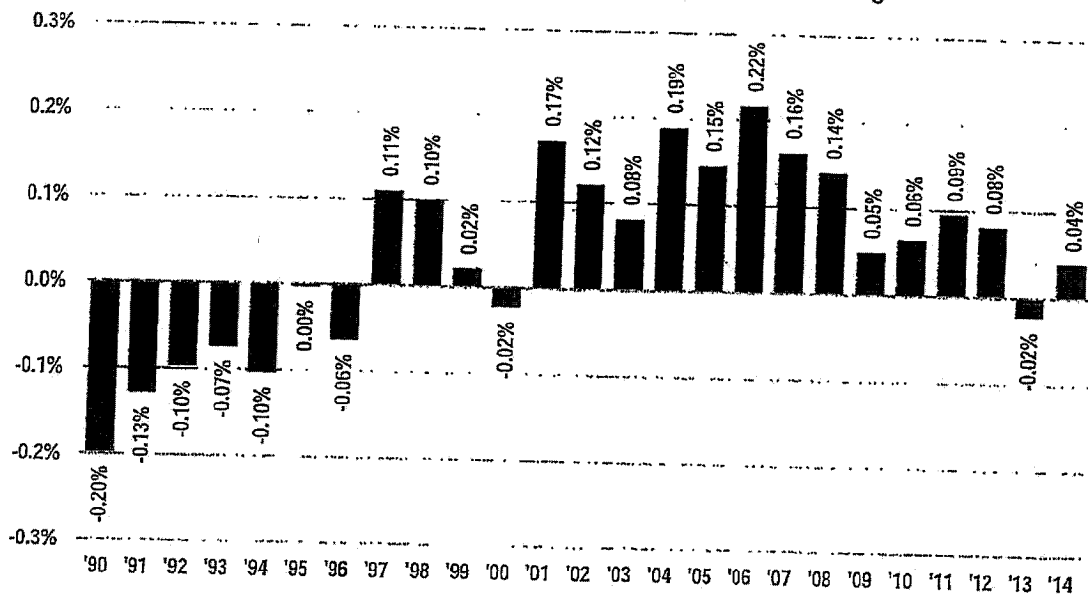
It is worth noting that not all states follow the aggregate market trends shown above. One market that appears to be moving in an opposite direction from the broader market is the emerging Florida gaming market. Since inception (2006), Florida has reported a declining trend in slot hold percentage, while revenues have continued to escalate in the post-recession era; supply-side expansions were also occurring. Rhode Island has also reported continued revenue expansions since slot hold percentage remained relatively flat to down since the 2007 timeframe. Also noteworthy is the fact that slot win both increased and decreased during periods when slot hold percentage was increasing.

Conclusion

Based on our primary research conducted in selected markets (independent from this engagement), review of publicly reported consumer spending data and our understanding of the gaming sector, it appears broader economic conditions have played a meaningful role in the overall performance of the slot industry. During periods of notable economic expansions (mid-2000s), the gaming sector reported similar trends (in handle and win). On the other hand, the point at which the economic climate shifted from expansion to contraction, the slot industry followed suit. More specifically, total slot handle and win contracted for the first time in 2008 (the first full year of the *Great Recession*). This appears to be the inflection point for slot operators overall.

Selected Economic and Slot Metrics by Cycle

Cycle[6] Years	Expansion 1990 to 2001	Stabilization 2002 to 2007	Contraction 2008 to 2014
Economic Metrics			
Population - CAGR	1.2%	0.9%	0.8%
Employment - CAGR	1.7%	0.7%	0.1%
Personal Income - CAGR	5.6%	5.0%	2.9%
Gross Domestic Product - CAGR	5.4%	5.4%	2.8%
Slot Market Metrics			
Slot Handle - CAGR	13.4%	2.6%	-1.8%
Slot Win - CAGR	13.2%	5.0%	-2.0%
Slot Hold - Average	6.2%	6.8%	7.6%
Slot Hold - Low	6.0%	6.5%	7.4%
Slot Hold - High	6.4%	7.3%	7.7%
Slot Hold - Change (Low to High)	0.5%	0.8%	0.3%

While economic conditions appear to be material factors in slot performance trends, there may be other factors impacting the industry's overall performance, specifically following the conclusion of the most recent recession. Consumer spending has improved in most major gaming markets throughout the United States in recent years, while gaming volumes have continued to contract. These divergent trends, along with consumers spending a smaller share of their personal income on gaming activities in the post-recession period (July 2009 to present), suggest other factors may be impacting slot play.

Slot hold percentage has continued to edge up during the same post-recession timeframe, while gaming volumes have continued to edge down. The chart on the following page provides a comparison of aggregate slot handle, slot

---

[6] Cycles noted within the table reflect the periods identified on the chart at the bottom of page 5, which reports on the amount of slot win per $1,000 of personal income.

win and slot hold percentage for the markets identified. All values are indexed to 2007 (end of stabilization period noted in the preceding chart) to provide a relative perspective for each of the key performance metrics. At its essence, slot hold percentage is 106.2 percent of where it stood in 2007 (+6.2 percent), while slot handle and slot win are at 81.9 percent (-18.1 percent) and 87.0 percent (-13.0 percent) of their 2007 levels, respectively.

Indexed Slot Handle, Slot Win and Slot Hold Percentage (2007=100)
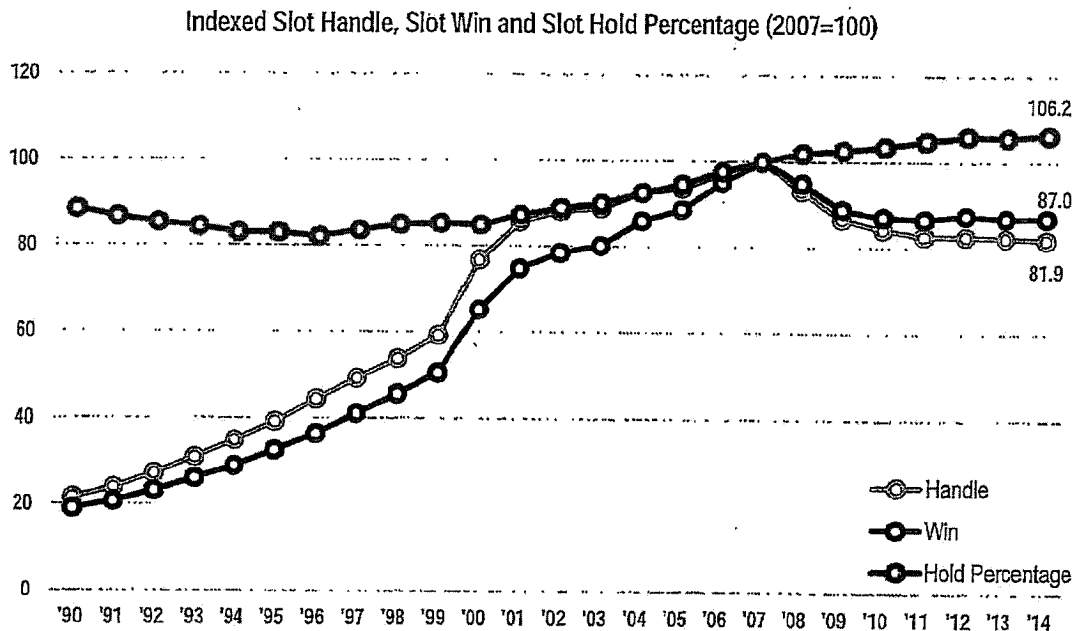
Overall, the data assembled and analyzed suggests consumers' share of income spent on gaming activities began to plateau in the 2000s, which was also the time in which slot hold percentages began to report their most significant rate of increase. By 2008, the onset of the *Great Recession* appeared to be a triggering event that shifted the spend profile of consumers. While it would not be unreasonable for slot win to decline during this timeframe (regardless of slot hold changes), it would have been equally reasonable to believe that slot win would have reported recovery in the 2010 to 2014 timeframe more consistent with broader spending patterns. This recent shift in slot win has also been timed with a period when slot hold percentages have reached their all-time highs. While statistical correlations on a state-by-state basis vary due to any number of factors, the broader, aggregate trends would suggest a rising hold percentage has not translated into incremental gaming revenue for operators during the post-recession era. In fact, they very well may be contributing to its decline.

State-By-State Gaming Summary

The following subsections of the analysis provide a state-by-state summary of factors impacting the gaming market along with key performance trends. Each state analysis includes a brief overview of the gaming market, key events in the state's gaming history, and performance trend data on slot handle, slot win and slot hold percentage. The analysis also includes combined trend data for the three key metrics that are indexed to a common value of 100 to provide an easier review of the three measures in aggregate. The majority of indexed values are set to 100 as of 2004, but for jurisdictions with gaming commencing after this date, a normalized date was selected for presentation purposes.

Colorado

Overview

CO

Modern legalized gaming in Colorado began with a voter-approved constitutional amendment in 1990. The amendment limits gaming to three historic mountain towns, Black Hawk, Central City and Cripple Creek, which are home to 36 casinos. Statewide, roughly 13,600 slot machines generated $659.4 million in revenue in fiscal year 2014. The casinos can also offer a variety of table games, including blackjack, poker and craps. Colorado is also home to two Indian casinos, the Sky Ute Casino in Ignacio and the Ute Mountain Casino in Towaoc.
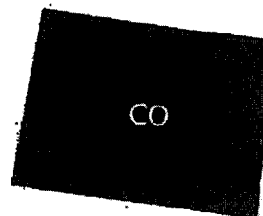
Key Events in History

- November 1990 – Voters statewide approve a constitutional amendment to legalize limited gaming by a 57-43 percent margin. The original law limited games to slots, blackjack and poker, and the maximum bet to $5. Casinos also had to close between 2 a.m. and 8 a.m.

- November 2003 – Voters overwhelmingly rejected a constitutional amendment that would have legalized video lottery terminals at racetracks in the state.

- November 2004 – Central City Parkway opened, giving motorists a direct path to Central City. The town funded the new road to avoid losing business to neighboring Black Hawk, which was the first casino town drivers encountered on the road from the Denver metro area.

- November 2008 – Voters approve another gaming-related constitutional amendment with 58 percent of the vote. This one expanded gaming to allow for 24-hour casino operation, add craps and roulette, and raise the bet limit to $100. Implementation of the new rules required approval by voters in each gaming city. All three jurisdictions adopted the changes within a few months.

- May 2011 – A bill to legalize video lottery terminals at racetracks dies in the Legislature. A similar bill introduced the following year met the same fate.

- September 2013 – Flooding throughout the state could have had potential weather-related effects on gaming revenue.

- November 2014 – A constitutional amendment to allow casino gaming in three of Colorado's metropolitan counties failed overwhelmingly at the polls. The amendment would have legalized gaming at racetracks in Arapahoe (Denver), Mesa (Grand Junction), and Pueblo counties.
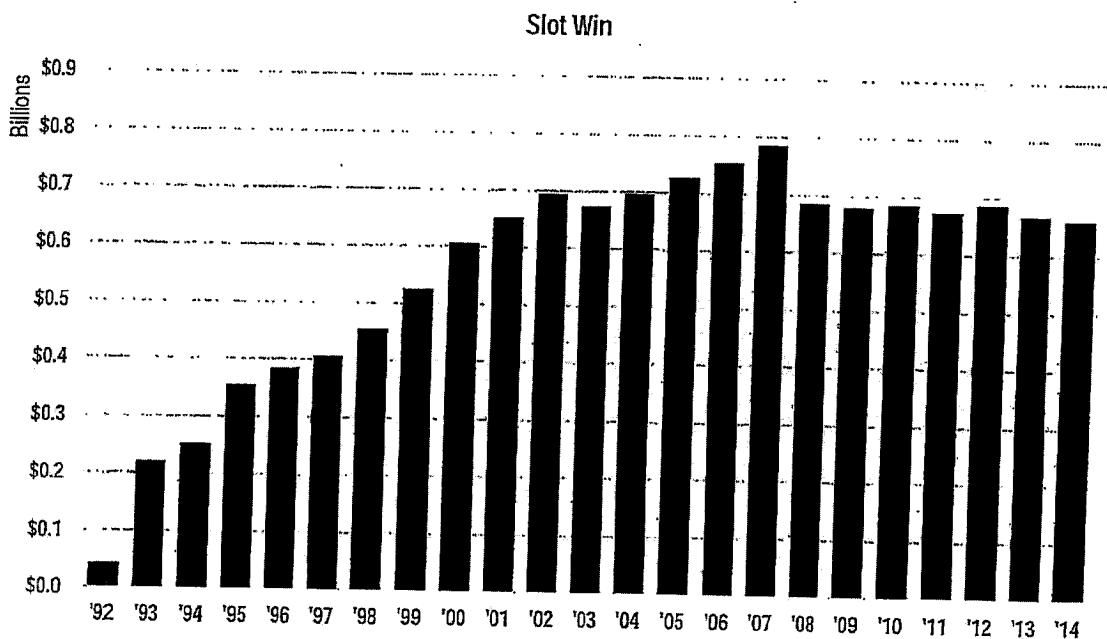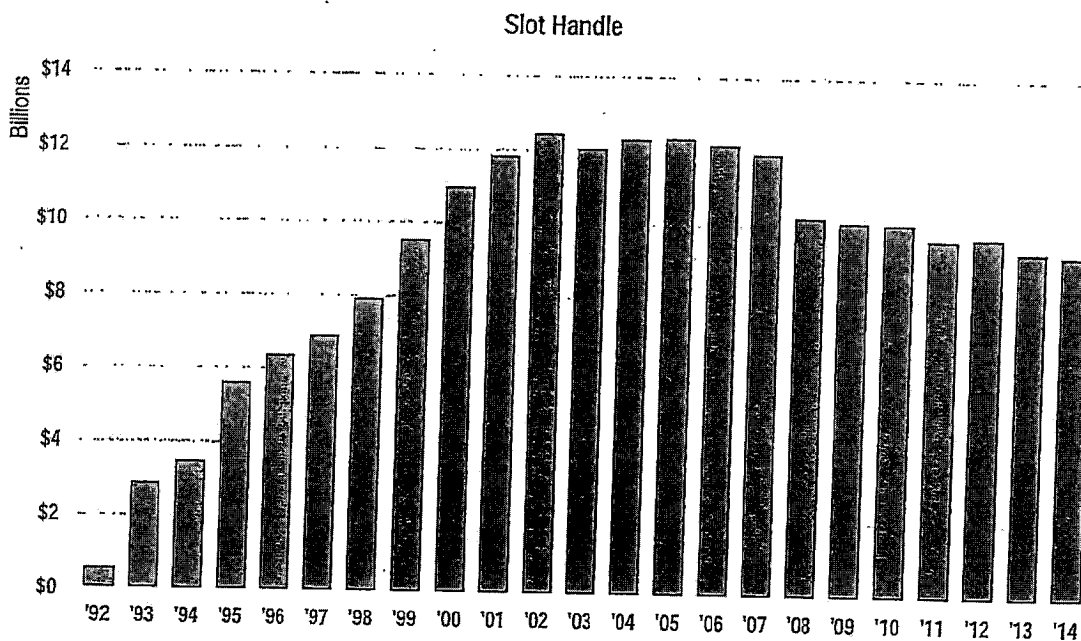
AGEM   APPLIED ANALYSIS

RA 02736

Historical Slot Performance Trends

Slot Handle

Slot Win

Slot Hold Percentage

Year	Hold %
'92	7.35%
'94	7.62%
'95	7.26%
	6.31%
	6.03%
	5.87%
	5.72%
	5.51%
	5.52%
	5.50%
	5.57%
	5.58%
	5.66%
	5.87%
	6.17%
	6.57%
	6.68%
	6.70%
	6.78%
	6.96%
	7.06%
	7.14%
	7.13%

Indexed Slot Handle, Slot Win and Slot Hold Percentage (2004=100)

126.6

94.8

75.2

Handle
Win
Hold Percentage

RA 02738
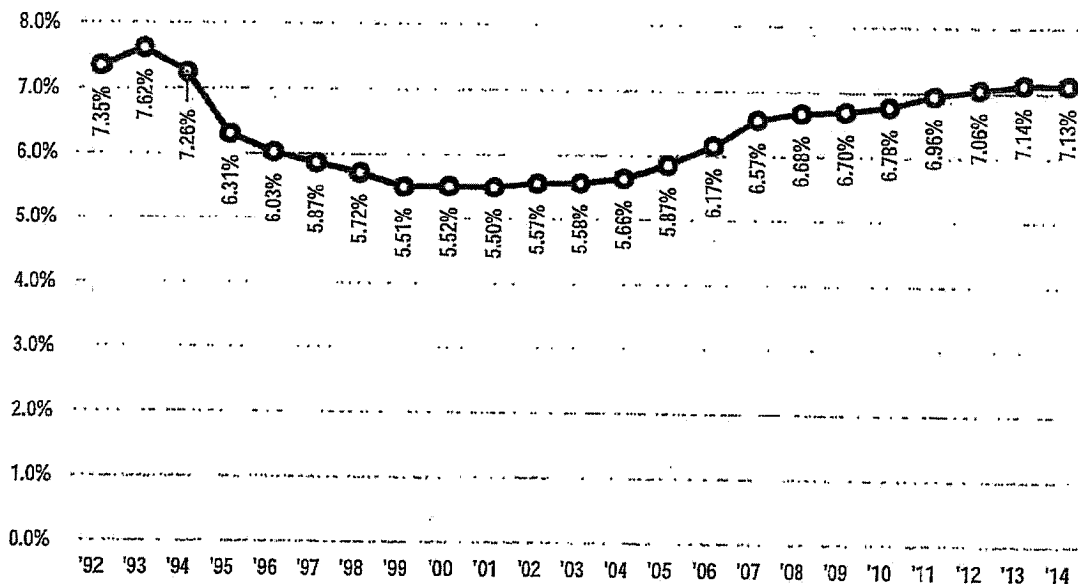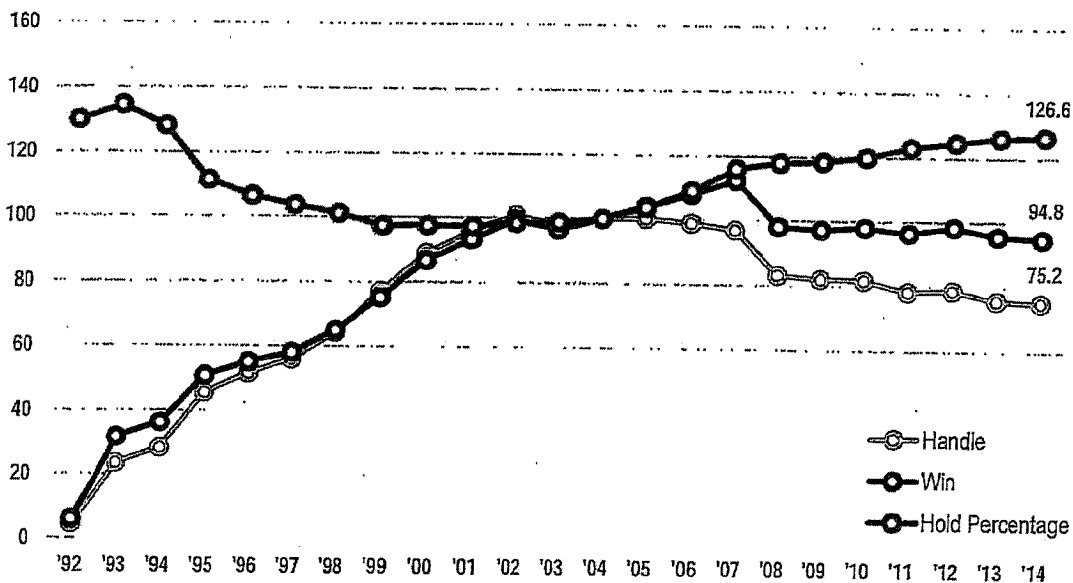
Connecticut

Overview

The Constitution State is home to just two casinos. Both are run by Indian tribes, and both are among the largest casinos in North America. The Foxwoods Resort Casino in Ledyard and Mohegan Sun in Uncasville operate a combined 11,000 slot machines that generated $587.7 million in slot hold in fiscal year 2014. Although they are not regulated by the state, the tribes have an agreement to pay 25 percent of slot hold to the state.

Key Events in History

- July 1986 – The Mashantucket Pequot Tribe opens a high-stakes bingo hall at what will later become the Foxwoods Resort Casino.

- February 1992 – The Foxwoods High Stakes Bingo & Casino opens with casino table games, such as blackjack and roulette. Slot machines, however, are still banned in the state, so they are not allowed in the new casino.

- January 1993 – The Mashantucket Pequot Tribe and Connecticut governor's office reach an agreement to allow slots in the Indian casino. In exchange, the tribe will pay 25 percent of slot revenues to the state.

- October 1996 – The Mohegan Tribe opens the Mohegan Sun.

- May 2008 – Foxwoods Resort Casino opens a $700-million expansion called MGM Grand at Foxwoods. The partnership with MGM Mirage (now MGM Resorts International) that forged the expansion ended in 2013.

- October 2012 – Hurricane Sandy ravages the East Coast. Both casinos remain open, but revenue takes a hit because of the extreme weather.

Historical Slot Performance Trends
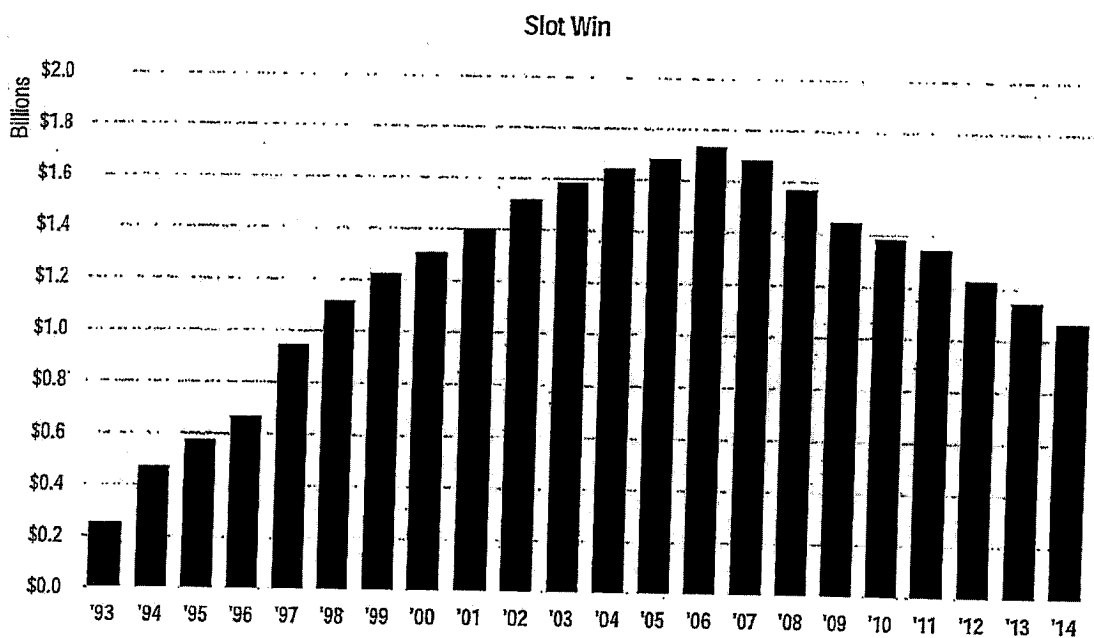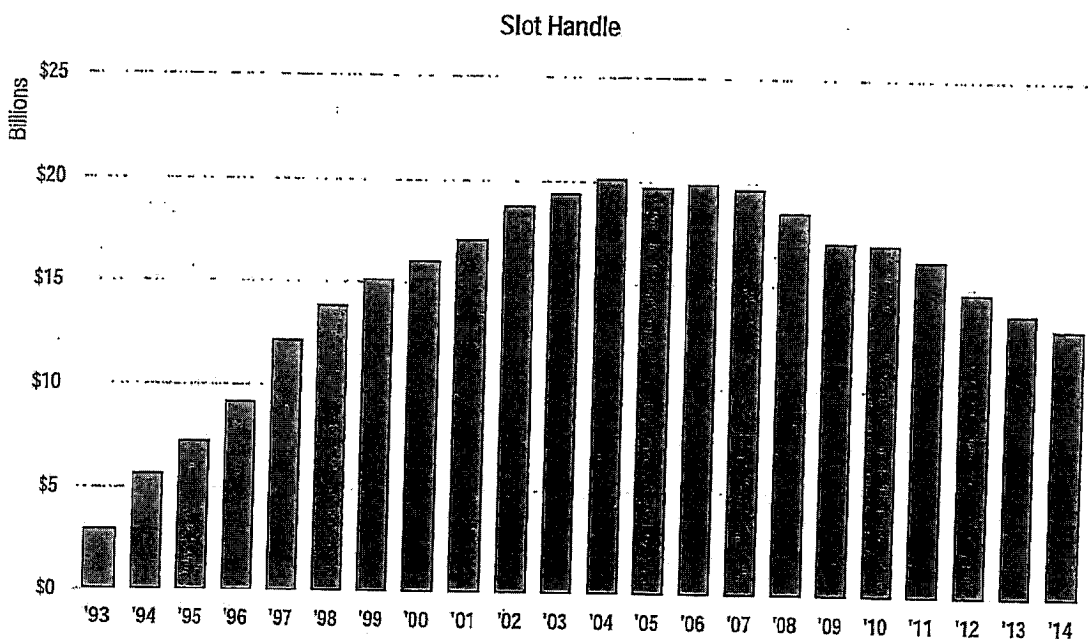
Slot Handle

Slot Win

AGEM   APPLIED ANALYSIS

Slot Hold Percentage

Values shown: 8.48%, 8.27%, 7.93%, 7.24%, 7.73%, 8.02%, 8.07%, 8.14%, 8.17%, 8.07%, 8.16%, 8.15%, 8.53%, 8.70%, 8.55%, 8.44%, 8.44%, 8.12%, 8.26%, 8.32%, 8.31%, 8.17%

Indexed Slot Handle, Slot Win and Slot Hold Percentage (2004=100)

Legend:
- Handle
- Win
- Hold Percentage

End values: 100.2, 64.9, 64.7
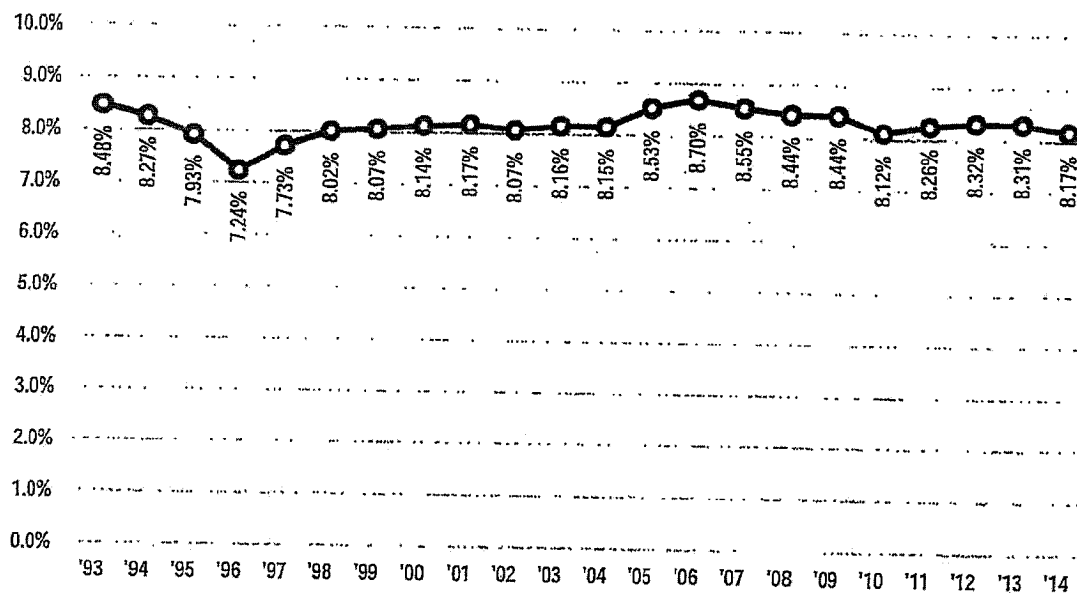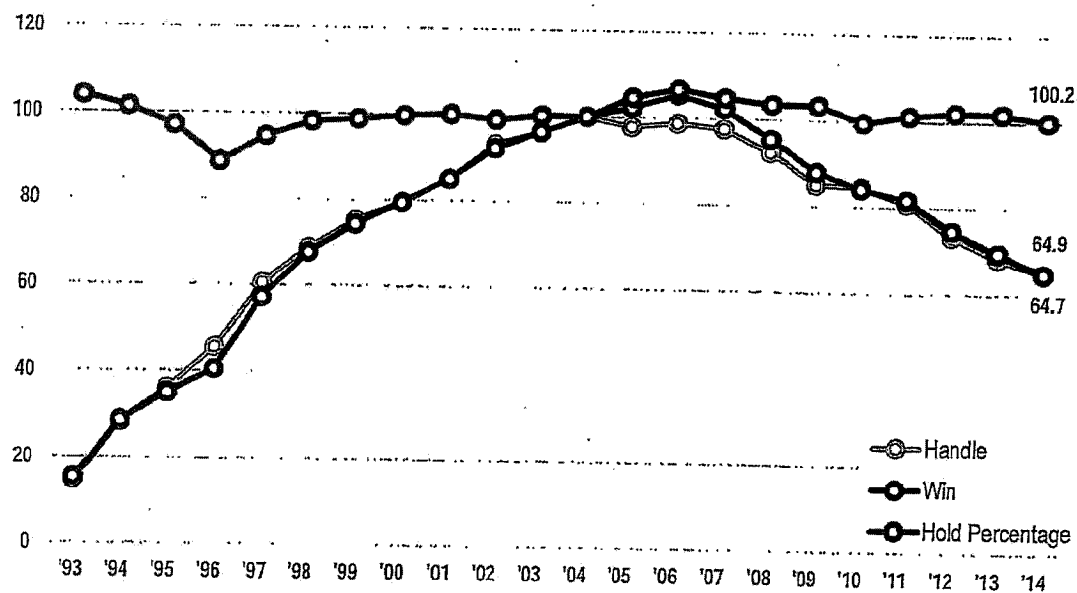
Delaware

Overview

Like many other states, Delaware opened legalized gaming with video lottery terminals. Since then, it has expanded gaming options to include casino table games, sports betting and online gaming, which are all overseen by the Delaware State Lottery. The state's casinos are housed at three horserace tracks, Dover Downs, Delaware Park and Harrington Raceway. In fiscal year 2014, the 6,500 slot machines statewide earned $355.3 million in revenue. That number has fallen significantly in recent years as neighboring states have added and expanded gaming options.

Key Events in History

- June 1994 – The Legislature passes the Delaware Horse Racing Redevelopment Act, which legalizes slot machine at the state's three horse racing tracks. The first machines start operation in December 1995.

- November 2002 – The Delaware Clean Indoor Air Act becomes law, banning smoking inside casinos.

- July 2004 – Nearby Pennsylvania legalizes slot gaming. The first casinos opened in late 2006.

- January 2006 – State law expands the maximum number of slot machines at a casino from 2,500 to 4,000. The amended law also extends casino operating hours to 24 hours for most days. Casinos must still close on Easter, Christmas and from 6 a.m. to noon on Sundays.

- July 2008 – State eliminates mandatory Sunday morning closing hours for casinos, citing competition from neighboring states.

- November 2008 – In neighboring Maryland, voters approve a constitutional amendment to legalize slot gaming.

- May 2009 – Sports betting and table games at casinos legalized under state law. The first table games begin operation in June 2010.

- June 2012 – The Delaware Gaming Competitiveness Act becomes law, making Delaware the first state to legalize online gaming. Money games go online in October 2013.

Historical Slot Performance Trends

Slot Handle
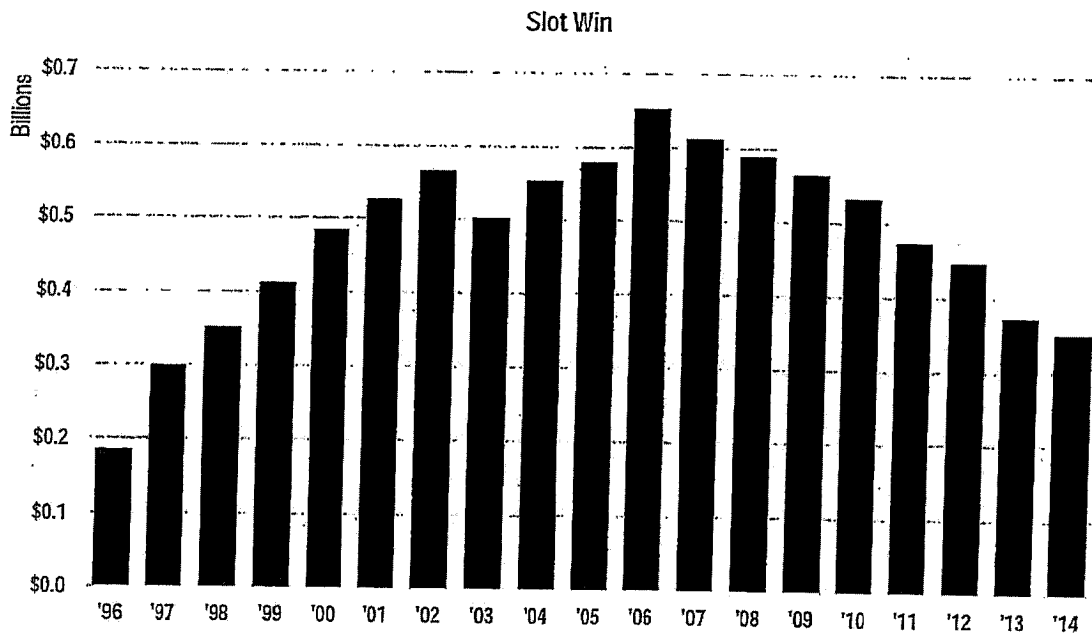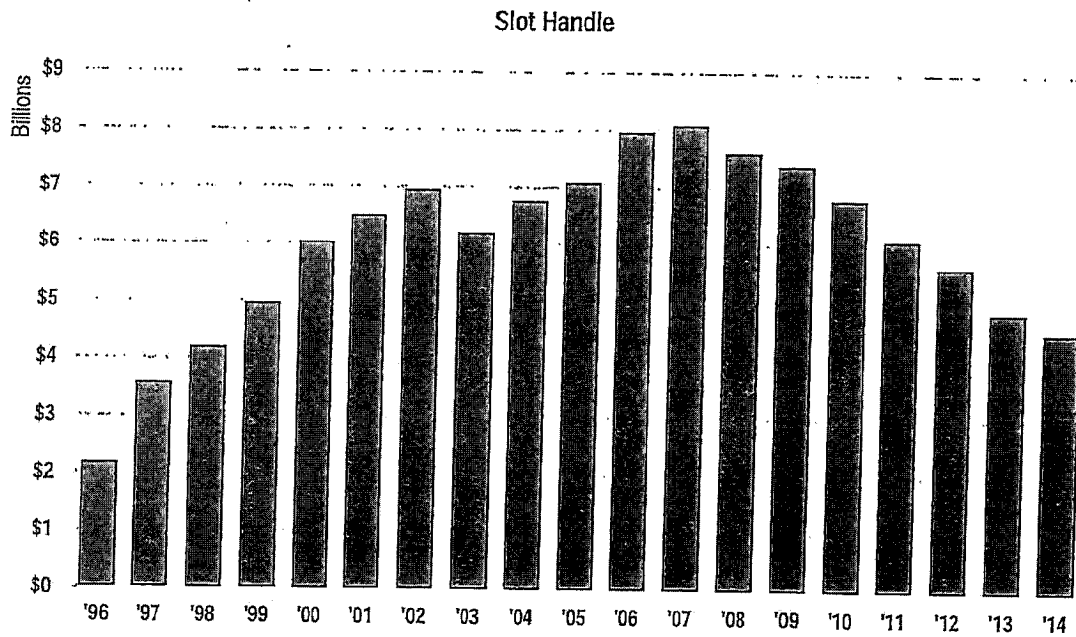
Slot Win

EXHIBIT 25
Part 2 of 3

Slot Hold Percentage

Chart of Slot Hold Percentage from '96 to '14 with values: 8.42%, 8.35%, 8.36%, 8.30%, 8.05%, 8.10%, 8.14%, 8.10%, 8.16%, 8.17%, 8.17%, 7.57%, 7.73%, 7.62%, 7.82%, 7.77%, 7.94%, 7.70%, 7.81%

Indexed Slot Handle, Slot Win and Slot Hold Percentage (2004=100)

Chart from '96 to '14 with end values: 95.7, 66.5, 63.6

Legend:
- Handle
- Win
- Hold Percentage
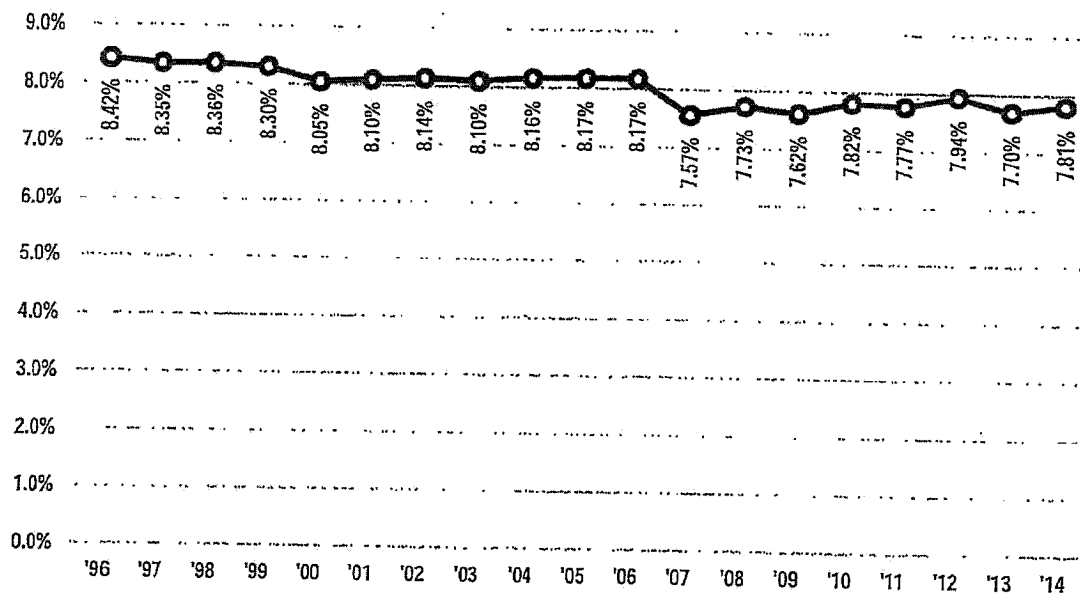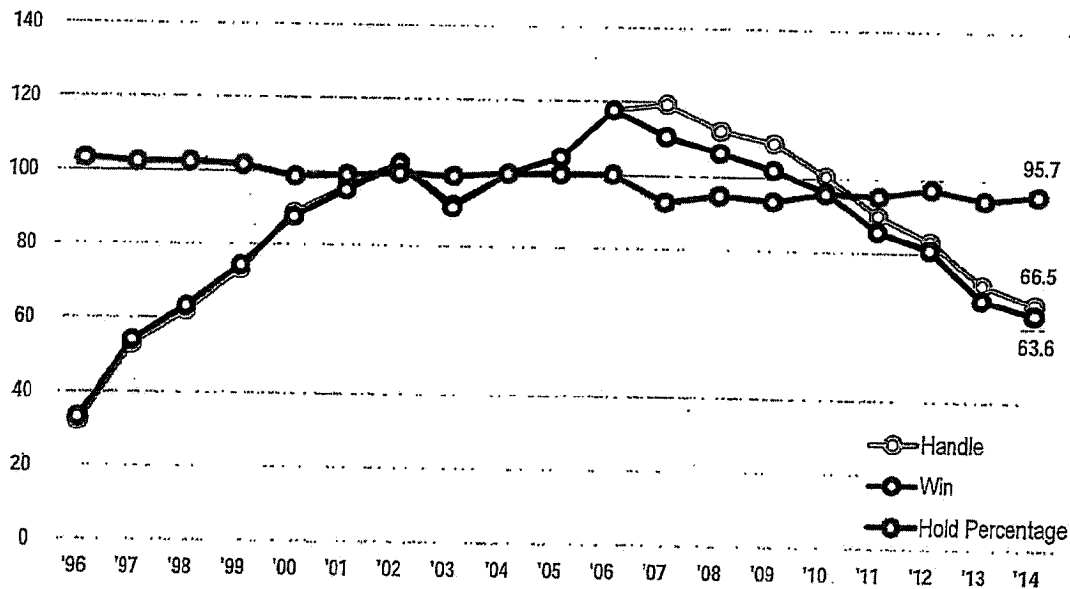
Florida

Overview

The Sunshine State has an eight-decade history with pari-mutuel racetrack betting, but it wasn't until a voter-approved initiative in 2004 that it welcomed slot machines. Now, seven so-called racinos with slot machines operate in the southern part of the state. The 7,500 slot machines at those locations raked in $497.0 million in revenue in fiscal year 2014. The state's approval of slots opened the door for local Indian tribes, especially the Seminoles, to expand their gaming operations. The Seminole tribe, whose legal fight helped pave the way for legalized Indian gaming across the country, operates seven casinos in Florida. The Miccosukee tribe runs a single casino. Those gaming operations also face competition from "cruises to nowhere," which shuttle passengers into international waters, beyond the reach of Florida's gaming regulators.
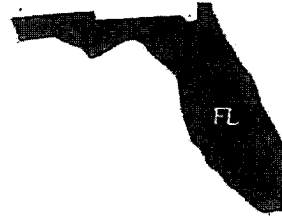
Key Events in History

- October 1988 – With the passage of the Indian Gaming Regulatory Act, Seminole casinos begin running bingo-style gaming machines like those already legalized in Florida.

- November 2004 – Voters narrowly approve a constitutional amendment to legalize slot machines at pari-mutuel betting facilities in Broward and Miami-Dade counties after local approval. Broward County voters approved slots the next year. Miami-Date voters rejected the idea on the first vote.

- November 2006 – The Isle of Capri racino in Broward County begins the first slot machine operation in Florida.

- November 2007 – The Seminole tribe reaches an agreement with the state to offer slot machines and other casino-style games. The pact also gives the tribe exclusive rights to offer blackjack and other table games.

- January 2008 – Seminole casinos start operating slot machines. Later in 2008 they begin offering blackjack.

- January 2008 – Miami-Dade voters again weigh in on allowing slot machines. This time, they pass the measure. The first slot machines go into operation in September 2009.

- April 2013 – Florida bans illegal gambling devices that had proliferated at hundreds of Internet cafes and adult gaming centers throughout the state.

Historical Slot Performance Trends
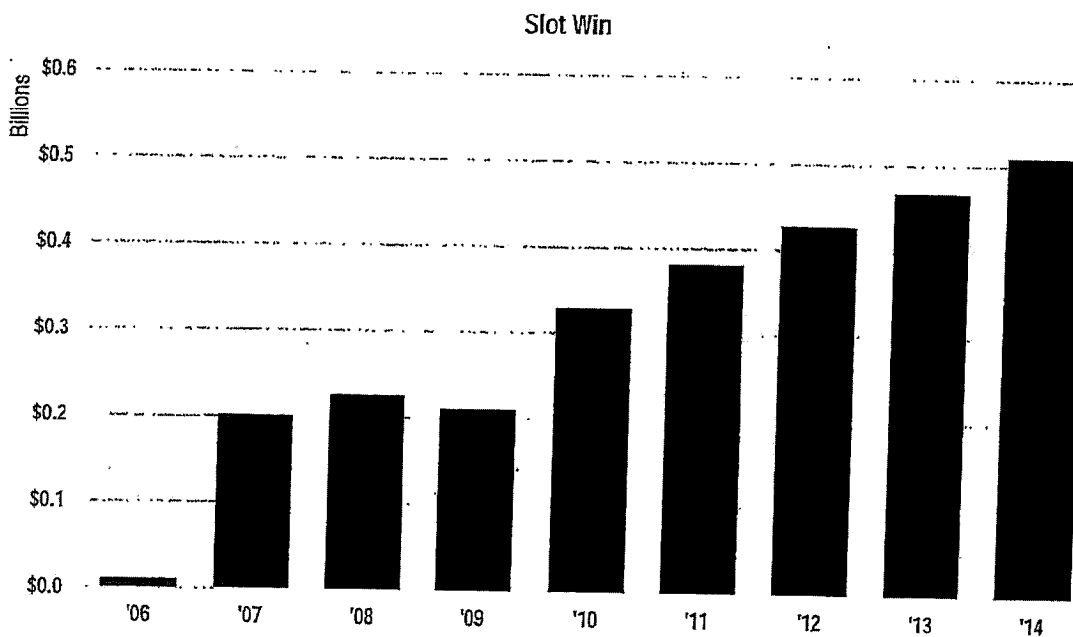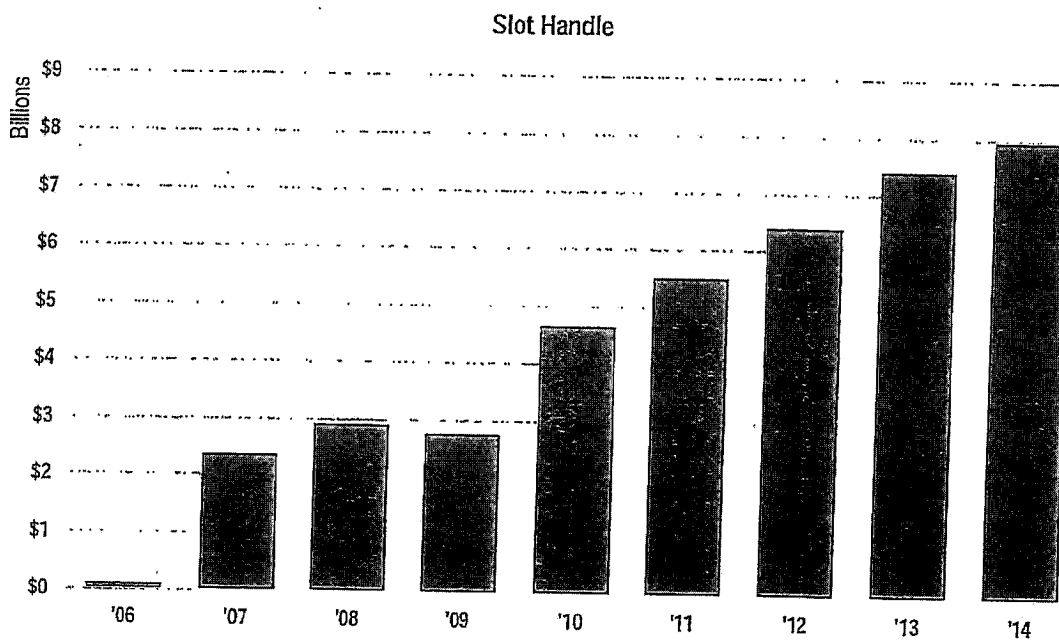
Slot Handle

Slot Win

AGEM   APPLIED ANALYSIS

Slot Hold Percentage

Year	Value
'06	9.50%
'07	8.48%
'08	7.73%
'09	7.64%
'10	7.06%
'11	6.92%
'12	6.67%
'13	6.30%
'14	6.41%

Indexed Slot Handle, Slot Win and Slot Hold Percentage (2010=100)

- Handle — 170.9
- Win — 155.1
- Hold Percentage — 90.8
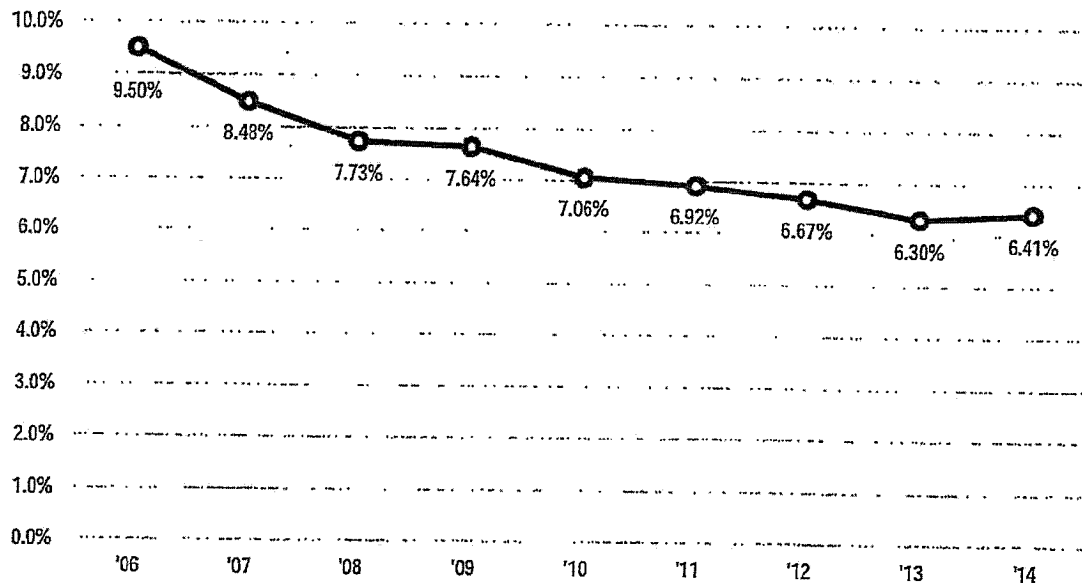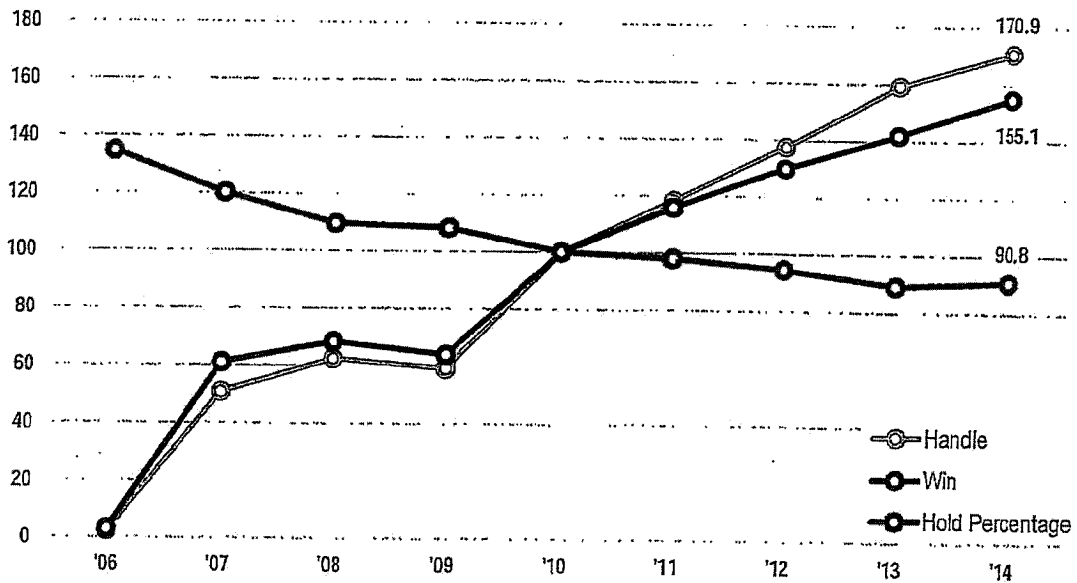
IN THE SUPREME COURT OF THE STATE OF NEVADA

1

2

3

4 MEI-GSR HOLDINGS, LLC, a Nevada
limited liability company, d/b/a GRAND
5 SIERRA RESORT,

6   Appellant,

vs.
7
PEPPERMILL CASINOS, INC., a Nevada
8 corporation, d/b/a/ PEPPERMILL
CASINO;
9
          Respondent.
10 _____/

11

Supreme Court No. 70319

District Ct. Case No. CV13-01704

12 ## RESPONDENT PEPPERMILL CASINOS, INC.'S
13 ## ANSWERING BRIEF

14 ## APPENDIX VOLUME 11

15

16

17   ROBISON, BELAUSTEGUI, SHARP & LOW

18   KENT R. ROBISON, ESQ.
Nevada Bar No. 1167
19   krobison@rbsllaw.com

20   SCOTT L. HERNANDEZ, ESQ.
Nevada Bar No. 13147
21   shernandez@rbsllaw.com

22   THERESE M. SHANKS, ESQ.
Nevada Bar No. 12890
23   tshanks@rbsllaw.com

24   71 Washington Street
Reno, Nevada 89503
25   Telephone: (775) 329-3151
Facsimile: (775) 329-7169
26
          Attorneys for Respondent
27   Peppermill Casinos, Inc., d/b/a Peppermill Casino

28

Robison, Belaustegui,
Sharp & Low
71 Washington St.
Reno, NV 89503
(775) 329-3151

Docket 70319   Document 2017-16229

RESPONDENT PEPPERMILL CASINOS, INC.'S ANSWERING BRIEF

APPENDIX – CHRONOLOGICAL TABLE OF CONTENTS

DOCUMENT	DATE FILED or ADMITTED	VOL. NO.	PAGE NO.
VOLUME 1			
Defendant Peppermill Casinos, Inc.'s Motion to Dismiss Complaint	06/04/14	1	RA 00001 – 00024
Motion for Protective Order on an Order Shortening Time and for Stay of Depositions Pending Hearing on the Matter	06/19/14	1	RA 00025 – 00073
Defendant Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Motion to Dismiss Complaint	06/30/14	1	RA 00074 – 00087
Joinder to Defendant Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Motion to Dismiss Complaint	06/30/14	1	RA 00088 – 00091
Defendant Peppermill Casinos, Inc.'s Brief in Response to Court Order; Opposition to Plaintiff's Motion to Compel Gaming Control Board to Produce Documents; Opposition to Plaintiff's Motion to	07/03/14	1	RA 00092 – 00164

Compel Peppermill's Production of Documents; Opposition to Plaintiff's Motion for Protective Order			
GSR's Reply to Peppermill's Opposition to Motion to Compel Documents Under 16.1; Motion for a Protective Order, and Request for Gaming Records	07/08/14	1	RA 00165 – 00226
Request for Submission	07/15/14	1	RA 00227 – 00229
Peppermill Casinos, Inc.'s Amended Answer to Complaint	07/25/14	1	RA 00230 – 00240
Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery	08/25/14	1	RA 00241 – 00250
VOLUME 2			
Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery (Continued)	08/25/14	2	RA 00251 – 00345
Joinder to Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery	08/28/14	2	RA 00346 – 00348

Errata to Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery	09/03/14	2	RA 00349 – 00379
Plaintiff MEI-GSR Holdings, LLC, d/b/a Grand Sierra Resorts Motion to Strike and Dismiss Defendant Peppermill's Motion for Case Terminating Sanctions	09/09/14	2	RA 00380 – 00500
VOLUME 3			
Plaintiff MEI-GSR Holdings, LLC, d/b/a Grand Sierra Resorts Motion to Strike and Dismiss Defendant Peppermill's Motion for Case Terminating Sanctions (Continued)	09/09/14	3	RA 00501 – 00688
Recommendation for Order	09/19/14	3	RA 00689 – 00702
Recommendation for Order	09/26/14	3	RA 00703 – 00712
Request for Submission	09/26/14	3	RA 00713 – 00715
Defendant Peppermill Casinos, Inc.'s Opposition to Plaintiff's Motion to Strike and Dismiss Defendant Peppermill's Motion for Case Terminating Sanctions	09/26/14	3	RA 00716 – 00745

Confirming Order	10/01/14	3	RA 00746 – 00747
Recommendation for Order	10/02/14	3	RA 00748 – 00750
VOLUME 4			
Recommendation for Order (Continued)	10/02/14	4	RA 00751 – 00762
Objection to Commissioner's Recommendation Denying Plaintiff's Motion for a Protective Order and Request for a Stay of Depositions Pending the Hearing on the Objection	10/10/14	4	RA 00763 – 00770
Peppermill Casinos, Inc.'s Opposition to Plaintiff's Objection to Commissioner's Recommendation Denying Plaintiff's Motion for a Protective Order and Request for a Stay of Depositions Pending the Hearing on the Objection	10/24/14	4	RA 00771 – 00806
Defendant Peppermill Casinos, Inc.'s Motion for Order Compelling GSR to Show Cause Why It Not Be Held in Contempt	10/27/14	4	RA 00807 – 00825

Peppermill Casinos, Inc.'s Ex Parte Emergency Motion for Rule 16 Conference	11/12/14	4	RA 00826 – 00830
Peppermill Casinos Inc.'s Supplemental Motion for Terminating Sanctions Or, In the Alternative, For an Order to Show Cause Why Plaintiff Not Be Held In Contempt and Subjected to Severe Sanctions	11/12/14	4	RA 00831 – 00969
Order	11/13/14	4	RA 00970 – 00974
Opposition to Defendant's Motion for Order Compelling GSR to Show Cause Why It Should Not Be Held In Contempt	11/13/14	4	RA 00975 – 01000
VOLUME 5			
Opposition to Defendant's Motion for Order Compelling GSR to Show Cause Why It Should Not Be Held In Contempt (Continued)	11/13/14	5	RA 01001 – 01250

Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Defendant's Memorandum of Fees and Costs	01/06/15	6	RA 01452 – 01461
Request for Submission	01/06/15	6	RA 01462 – 01464
Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Defendant's Motion For Contempt	01/08/15	6	RA 01465 – 01498
Request for Submission	01/08/15	6	RA 01499 – 01500
VOLUME 7			
Request for Submission (Continued)	01/08/15	7	RA 01501 – 01504
Order	01/20/15	7	RA 01505 - 01508
Notice of Entry of Order	01/21/15	7	RA 01509 – 01515
Ex Parte Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending Hearing on the Matter	01/27/15	7	RA 01516 – 01620

Opposition to Plaintiff's Ex Parte Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending Hearing on the Matter	02/04/15	7	RA 01621 – 01696
GSR's Reply to Peppermill's Opposition to GSR's Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending a Hearing on the Matter	02/05/15	7	RA 01697 – 01750
VOLUME 8			
GSR's Reply to Peppermill's Opposition to GSR's Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending a Hearing on the Matter (Continued)	02/05/15	8	RA 01751 – 01791
Minutes	02/10/15	8	RA 01792 – 01793
Order Granting in Part and Denying in Part Motion for Protective Order	03/04/15	8	RA 01794 – 01796

Defendant Peppermill's Emergency/Ex Parte Motion For a NRCP 16 Pretrial Conference	06/12/15	8	RA 01797 – 01840
Order	06/12/15	8	RA 01841 – 01842
Opposition to Peppermill's Emergency/Ex Parte Motion For a NRCP 16 Pretrial Conference	06/23/15	8	RA 01843 – 01881
Peppermill Casinos, Inc.'s Renewed Motion for Summary Judgment Regarding "Trade Secret"	11/13/15	8	RA 01882 – 02000
VOLUME 9			
Peppermill Casinos, Inc.'s Renewed Motion for Summary Judgment Regarding "Trade Secret" (Continued)	11/13/15	9	RA 02001 – 02250
VOLUME 10			
Peppermill Casinos, Inc.'s Renewed Motion for Summary Judgment Regarding "Trade Secret" (Continued)	11/13/15	10	RA 02251 – 02281

Peppermill Casinos, Inc.'s Renewed Motion for Partial Summary Judgment Regarding Damages	11/18/15	10	RA 02282 – 02500
VOLUME 11			
Peppermill Casinos, Inc.'s Renewed Motion for Partial Summary Judgment Regarding Damages (Continued)	11/18/15	11	RA 02501 – 02750
VOLUME 12			
Peppermill Casinos, Inc.'s Renewed Motion for Partial Summary Judgment Regarding Damages (Continued)	11/18/15	12	RA 02751 – 02785
Peppermill Casinos, Inc.'s Motion for Sanctions	11/20/15	12	RA 02786 – 02880
Peppermill Casinos, Inc.'s Supplement to Renewed Motion for Summary Judgment Regarding "Trade Secret"	11/25/15	12	RA 02881 – 02900
GSR's Opposition to Peppermill Casinos, Inc.'s Motion for Sanctions With Respect to Gregory Gale. Request for Sanctions	12/14/15	12	RA 02901 – 02911

Peppermill's Reply to GSR's Opposition to Peppermill's Motion for Partial Summary Judgment Regarding Damages	12/15/15	12	RA 02912 – 02931
Reply in Opposition to Peppermill's Renewed Motion for Summary Judgment Regarding "Trade Secret" renewed	12/15/15	12	RA 02932 – 02990
Defendant Peppermill Casinos, Inc.'s Reply in Support of Motion for Sanctions	12/23/15	12	RA 02991 – 02995
Request for Submission	12/23/15	12	RA 02996 – 02998
Peppermill Casinos, Inc.'s Trial Statement	01/04/16	12	RA 02999 – 03000
VOLUME 13			
Peppermill Casinos, Inc.'s Trial Statement (Continued)	01/04/16	13	RA 03001 – 03200
Plaintiff, MEI-GSR Holdings, LLC d/b/a Grand Sierra Resort's Trial Statement	01/04/16	13	RA 03201 – 03218

Peppermill Casinos, Inc.'s Response to GSR's Motion to Clarify the Court's Order Filed December 22, 2015 Regarding Peppermill's Motions in Limine	01/04/16	13	RA 03219 – 03250
VOLUME 14			
Peppermill Casinos, Inc.'s Response to GSR's Motion to Clarify the Court's Order Filed December 22, 2015 Regarding Peppermill's Motions in Limine (Continued)	01/04/16	14	RA 03251 – 03257
Minutes	01/07/16	14	RA 03258 – 03259
Trial Exhibit 4 - GSR Billboard Photographs	01/11/16	14	RA 03260 – 03266
Trial Exhibit 5 – GSR Advertisements – "Loosest Buffalo"	01/11/16	14	RA 03267
Trial Exhibit 6 – 2341 Key on EBay	01/11/16	14	RA 03268 – 03280
Trial Exhibit 8 – 8:51 a.m. Tors Email	01/11/16	14	RA 03281 – 03282

Trial Exhibit 10 – Diagnostic Screen	01/11/16	14	RA 03283
Trial Exhibit 38 – "Reno Loosest Slots in the USA" Billboard by PM	01/11/16	14	RA 03284
Trial Exhibit 53 – 11/19/14 GSR Website Slots and Video Poker (Loosest Buffalo)	01/11/16	14	RA 03285
Trial Exhibit 54 – 11/07/14 & 11/17/14 List of games with par settings	01/11/16	14	RA 03286
Trial Exhibit 56 – Chart of GSR Earning Structure	01/11/16	14	RA 03287
Trial Exhibit 127 – GSR Buffalo Billboard	01/11/16	14	RA 03288
Trial Exhibit 154 – Casino Management Fee Information	01/11/16	14	RA 03289 – 03296
Trial Exhibit 166 – Report Entitled, "Slot Market Assessment" by Applied Analysis	01/11/16	14	RA 03297 – 03258
Trial Exhibit 188 – 02/03/15 Photocopy of Plaintiff MEI-GSR Holdings, LLC a Nevada Corporation d/b/a Grand Sierra Resorts Disclosure of Expert Witnesses	01/11/16	14	RA 03259 – 03361

Trial Exhibit 189 – 04/01/15 Grand Sierra Resort's Rebuttal Expert Disclosure	01/11/16	14	RA 03362 – 03365
Trial Exhibit 214 – Parchanges.pdf	01/11/16	14	RA 03366 – 03382
Trial Exhibit 229 – GSR Wells Market Share Monthly Report, Percentage of Player for Peppermill v. GSR 2012 – 2013	01/11/16	14	RA 03383 – 03386
Trial Exhibit 240 – Correspondence from Gaming Control dated 7/31/2013 Re: Investigation of Ryan 01/11/16Tors activities; Peppermill Property Receipts	01/11/16	14	RA 03387 – 03391
Trial Exhibit 340.1 – Buffalo	01/11/16	14	RA 03392 – 03405
Trial Exhibit 340.2 – Cats	01/11/16	14	RA 03406 – 03407
Trial Exhibit 340.2A – Cleopatra	01/11/16	14	RA 03408
Trial Exhibit 340.3 – Ducks in a Row	01/11/16	14	RA 03409
Trial Exhibit 340.4 – Double Diamond 2000	01/11/16	14	RA 03410

Trial Exhibit 340.5 – Enchanted Unicorn	01/11/16	14	RA 03411
Trial Exhibit 340.6 – Horoscope	01/11/16	14	RA 03412
Trial Exhibit 340.7 – Lil Lady	01/11/16	14	RA 03413
Trial Exhibit 340.8 – Money Storm	01/11/16	14	RA 03414
Trial Exhibit 340.9 – Munsters	01/11/16	14	RA 03415
Trial Exhibit 340.10 – Texas Tea	01/11/16	14	RA 03416
Trial Exhibit 340.11 – Wolf Run	01/11/16	14	RA 03417
Trial Exhibit 14A – 07/12/13 Handwritten Key Sheet by Tors (Legible Copy)	01/13/16	14	RA 03418
Trial Exhibit 307 – 12/31/12 State Gaming Control Board Gaming Revenue Report	01/13/16	14	RA 03419 - 03466
Peppermill's Objection to MEI-GSR Holdings, LLC's (1) Proposed Jury Instructions and Verdict Forms, (2) Supplement to Proposed Jury Instructions, and (3) Supplemental Interim Jury Instructions	01/14/16	14	RA 03467 – 03500

VOLUME 15			
Peppermill's Objection to MEI-GSR Holdings, LLC's (1) Proposed Jury Instructions and Verdict Forms, (2) Supplement to Proposed Jury Instructions, and (3) Supplemental Interim Jury Instructions (Continued)	01/14/16	15	RA 03501 – 03596
Trial Exhibit 15 – 07/12/13 Tors Transcript from GSR re: Interview by GCB	01/14/16	15	RA 03597 – 033622
Trial Exhibit 16A – 01/02/13 11:24a.m. Tors email re: New Year's Eve shop	01/14/16	15	RA 03623 – 03624
Trial Exhibit 221B – Emails (with notations) from Tors to various parties with PAR information dated 12/29/2011 – 06/13/2013	01/14/16	15	RA 03625 - 03636
Trial Exhibit 74 – CDC Invoices to GSR	01/15/16	15	RA 03637 – 03645
Trial Exhibit 77 – 06/2014 CDC Report re: Free Play & Comp Rewards	01/15/16	15	RA 03646 – 03650
Trial Exhibit 78 – 07/2014 CDC Report re: Direct Mail	01/15/16	15	RA 03651 – 03700

Trial Exhibit 162 – Atlantis Advertisements	01/15/16	15	RA 03701 – 03704
Trial Exhibit 164 – Advertisement from El Cortez	01/15/16	15	RA 03705 – 03710
Trial Exhibit 82 – 11/2014 CDC Report re: Direct Mail	01/19/16	15	RA 03711 – 03750
VOLUME 16			
Trial Exhibit 82 – 11/2014 CDC Report re: Direct Mail (Continued)	01/19/16	16	RA 03751 – 03757
Trial Exhibit 20 – 09/2014 Affidavit of David Schwartz	01/20/16	16	RA 03758 - 03760
Trial Exhibit 35A – 11/03/14 GSR Answers to 2nd Set of Interrogatories – REDACTED Interrogatory No. 14 and Response Only	01/21/16	16	RA 03761 – 03762
Objection to Peppermill's Proposed Interim Jury Instructions	01/22/16	16	RA 03763 - 03816
Defendant's NRCP 50 (a) Motion for Judgment as A Matter of Law	01/22/16	16	RA 03817 – 03831
Trial Exhibit 50 - GSR Slot Add Worksheet re: machine location and setting (including par) for certain machines	01/22/16	16	RA 03832 – 03850

Trial Exhibit 73 - Custodian of Records Statement	01/22/16	16	RA 03851 – 03852
Trial Exhibit 75 - 05/07/10 CDC Report re: Slot Comp	01/22/16	16	RA 03853 – 03858
Trial Exhibit 76 - 05/12/10 CDC Report re: Direct Mail	01/22/16	16	RA 03859 – 03864
Trial Exhibit 79 - 08/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03865 – 03912
Trial Exhibit 80 - 09/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03913 – 03957
Trial Exhibit 81 - 10/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03958 - 04000
VOLUME 17			
Trial Exhibit 81 - 10/2014 CDC Report re: Direct Mail	01/22/16	17	RA 04001 – 04006
Trial Exhibit 83 - 12/2014 CDC Report re: Direct Mail	01/22/16	17	RA 04007 – 04051
Trial Exhibit 84 - 01/2015 CDC Report re: Direct Mail	01/22/16	17	RA 04052 – 04096
Trial Exhibit 85 - 05/14/14 CDC Contract with GSR (signed by Mimno)	01/22/16	17	RA 04097 – 04099
Trial Exhibit 121 - GSR Slots and Video Poker Website	01/22/16	17	RA 04100

Trial Exhibit 122 - 2010-2014 Penny Video and Reels Net Win, Gross Theo Free-Play Summary	01/22/16	17	RA 04101
Trial Exhibit 123 - 2009-2/2015 NGC Monthly Gross Revenue Reports (Highly Confidential)	01/22/16	17	RA 04102 – 04249
Trial Exhibit 126 - 06/2015 Gaming Abstract Page	01/22/16	17	RA 04250
VOLUME 18			
Trial Exhibit 149 - Friedman Rebuttal Report	01/22/16	18	RA 04251 – 04292
Trial Exhibit 150 - Lucas Rebuttal Report	01/22/16	18	RA 04293 - 04329
Trial Exhibit 151 - Tom Sullivan Player Cards	01/22/16	18	RA 04330
Trial Exhibit 153 - GSR Billboards "Best"	01/22/16	18	RA 04331 – 04336
Trial Exhibit 156 - 06/05/15 Errata to Plaintiff MEI-GSR Holdings, LLC, a Nevada Corporation, d/b/a Grand Sierra Resort's Amended Disclosure of Expert Witness	01/22/16	18	RA 04337 - 04369

Trial Exhibit 157A – 08/28/15 Plaintiff MEI-GSR Holdings, LLC, a Nevada Corporation, d/b/a Grand Sierra Resort's Supplemental Disclosure of Expert Witness – REDACTED	01/22/16	18	RA 04370 – 04405
Trial Exhibit 159 - Nevada Trade Secret Act	01/22/16	18	RA 04406 – 04409
Trial Exhibit 160 - Aguero Charts – No Correlation	01/22/16	18	RA 04410 – 04418
Trial Exhibit 169A - Expert Rebuttal Report, Applied Analysis – REDACTED	01/22/16	18	RA 04419 - 04421
Trial Exhibit 172 - 03/01/15 Expert Witness Report of Professor Anthony Lucas	01/22/16	18	RA 04422 - 04457
Trial Exhibit 186 - 11/03/15 Defendant Peppermills Casino's Supplement to Disclosure of Rebuttal Expert Witnesses	01/22/16	18	RA 04458 – 04487
Trial Exhibit 201 - 09/06/15 Atlantis Newspaper Ad	01/22/16	18	RA 04488
Trial Exhibit 202 - 08/30/15 Atlantis Newspaper Ad	01/22/16	18	RA 04489 – 04490

Trial Exhibit 206 - 10/15/15 Salazar Rebuttal Expert Report	01/22/16	18	RA 04491 – 04500
VOLUME 19			
Trial Exhibit 206 - 10/15/15 Salazar Rebuttal Expert Report (Continued)	01/22/16	19	RA 04501 – 04545
Trial Exhibit 215A - Peppermill Casinos, Inc. Amended Answer to Complaint dated 7/25/2014 – REDACTED	01/22/16	19	RA 04546 – 04556
Trial Exhibit 239 A – Email from Ryan Tors to NB Partners and William Paganetti Dated 06/07/12	01/22/16	19	RA 04557
Trial Exhibit 300 - 2/2015 CDC Report	01/22/16	19	RA 04558 – 04648
Trial Exhibit 301 - 3/2015 CDC Report	01/22/16	19	RA 04649 – 04695
Trial Exhibit 302 - 4/2015 CDC Report	01/22/16	19	RA 04696 – 04741
Trial Exhibit 303 - 5/2015 CDC Report	01/22/16	19	RA 04742 – 04750

VOLUME 20			
Trial Exhibit 303 - 5/2015 CDC Report (Continued)	01/22/16	20	RA 04751 – 04788
Trial Exhibit 304 - 6/2015 CDC Report	01/22/16	20	RA 04789 – 04384
Trial Exhibit 305 - 12/31/10 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04385 – 04882
Trial Exhibit 306 - 12/31/11 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04883 – 04930
Trial Exhibit 308 - 12/31/13 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04931 – 04978
Trial Exhibit 309 - 12/31/14 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04979 - 05000

VOLUME 21			
Trial Exhibit 309 - 12/31/14 State Gaming Control Board Gaming Revenue Report (Continued)	01/22/16	21	RA 05001 - 05026
Trial Exhibit 310 - 08/31/15 State Gaming Control Board Gaming Revenue Report	01/22/16	21	RA 05027 – 05074
Trial Exhibit 311 - 2010 Partial Las Vegas Sands Corp	01/22/16	21	RA 05075 – 05089
Trial Exhibit 312 - 2010 Partial Las Vegas Sands Corp 10K/A	01/22/16	21	RA 05090 – 05101
Trial Exhibit 313 - 2011 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05102 – 05115
Trial Exhibit 314 - 2012 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05116 – 05130
Trial Exhibit 315 - 2013 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05131 – 05146
Trial Exhibit 316 - 2014 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05147 – 05162
Trial Exhibit 317 - 03/31/15 Partial Las Vegas Sands Corp 10Q	01/22/16	21	RA 05163 – 05172
Trial Exhibit 318 - 06/30/15 Partial Las Vegas Sands Corp 10Q	01/22/16	21	RA 05173 – 05189
Trial Exhibit 319 - 2010 Partial Wynn Resorts, Limited 10K	01/22/16	21	RA 05190 – 05203

Trial Exhibit 320 - 2011 Partial Wynn Resorts, Limited 10K	01/22/16	21	RA 05204 – 05216
Trial Exhibit 321 - 2011 Partial Wynn Resorts Limited 10K/A	01/22/16	21	RA 05217 – 05250
VOLUME 22			
Trial Exhibit 321 - 2011 Partial Wynn Resorts Limited 10K/A (Continued)	01/22/16	22	RA 05251 – 05256
Trial Exhibit 322 - 2012 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05257 – 05266
Trial Exhibit 323 - 2013 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05267 – 05280
Trial Exhibit 324 - 2014 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05281 – 05293
Trial Exhibit 325 - 03/31/15 Partial Wynn Resorts, Limited 10Q	01/22/16	22	RA 05294 – 05302
Trial Exhibit 326 - 06/30/15 Partial Wynn Resorts, Limited 10Q	01/22/16	22	RA 05303 – 05315
Trial Exhibit 327 - 2010 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05316 – 05317
Trial Exhibit 328 - 2011 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05318 – 05319

Trial Exhibit 329 - 2012 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05320 – 05321
Trial Exhibit 330 - 2013 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05322 – 05323
Trial Exhibit 339 - Machine Performance Statistics	01/22/16	22	RA 05324
Opposition to Defendant's NRCP 50 (a) Motion for Judgment as A Matter of Law	01/24/16	22	RA 05325 – 05337
Defendant's Reply Brief in Support of NRCP 50(A) Motion for Judgment as A Matter of Law	01/25/16	22	RA 05338 - 05348
Trial Exhibit 220A – (PM part three.pdf) Emails from Ryan Tors to Other Parties Re: PAR Information Dated 03/28/2010 – 11/2010 – REDACTED	01/25/16	22	RA 05349 – 05350
Trial Exhibit 170 - Expert Rebuttal Report, Applied Analysis (with numbered paragraphs)		22	RA 05351 – 05353

Trial Exhibit 220 - (PM part three.pdf) Emails from Ryan Tors to other parties Re: PAR information dated 3/28/2010-11/2010		22	RA 05354 – 05360
Trial Exhibit 232 - Aristocrat "NOTICE OF CONFIDENTIALITY OF PAR SHEETS"		22	RA 05361
Trial Exhibit 241A - Emails dated 3/28/2010 – 11/2010 from Ryan Tors to other parties Re: PAR information (PM13272-13278) (PM13277, email between Tors and Scott Bean Re: Rail City comp reinvestment) - REDACTED		22	RA 05362 – 05368
Trial Exhibit 358 - Portions of the Deposition Transcript of Craig Robinson		22	RA 05369 – 05375
Trial Exhibit 359 - Portions of the Deposition Transcript of Terry Vavra		22	RA 05376 – 05384
Trial Exhibit 360 - Portions of the Deposition Transcript of Ralph Burdick		22	RA 05385 – 05398

Trial Exhibit 361 - Portions of the Deposition Transcript of Toby Taylor		22	RA 05399 – 05406
Trial Exhibit 362 - Portions of the Deposition Transcript of Toby Taylor		22	RA 05407 – 05413
Trial Exhibit 363 - Portions of the Deposition Transcript of Michael Draeger		22	RA 05414 – 05421
Trial Exhibit 364 - Portions of the Deposition Transcript of David Schwartz		22	RA 05422 – 05443
Portions of the Deposition of Tracy Mimno		22	RA 05444 - 05450

RESPONDENT PEPPERMILL CASINOS, INC.'S ANSWERING BRIEF

APPENDIX – ALPHABETICAL TABLE OF CONTENTS

Defendant Peppermill Casinos, Inc.'s Motion to Dismiss Complaint	06/04/14	1	RA 00001 – 00024
Defendant Peppermill Casinos, Inc.'s Opposition to Plaintiff's Motion to Strike and Dismiss Defendant Peppermill's Motion for Case Terminating Sanctions	09/26/14	3	RA 00716 – 00745
Defendant Peppermill Casinos, Inc.'s Reply in Support of Motion for Sanctions	12/23/15	12	RA 02991 – 02995
Defendant Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Motion to Dismiss Complaint	06/30/14	1	RA 00074 – 00087
Defendant Peppermill's Emergency/Ex Parte Motion For a NRCP 16 Pretrial Conference	06/12/15	8	RA 01797 – 01840
Defendant's NRCP 50 (a) Motion for Judgment as A Matter of Law	01/22/16	16	RA 03817 – 03831
Defendant's Reply Brief in Support of NRCP 50(A) Motion for Judgment as A Matter of Law	01/25/16	22	RA 05338 - 05348

Errata to Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery	09/03/14	2	RA 00349 – 00379
Ex Parte Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending Hearing on the Matter	01/27/15	7	RA 01516 – 01620
GSR's Opposition to Peppermill Casinos, Inc.'s Motion for Sanctions With Respect to Gregory Gale. Request for Sanctions	12/14/15	12	RA 02901 – 02911
GSR's Reply to Peppermill's Opposition to GSR's Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending a Hearing on the Matter	02/05/15	7	RA 01697 – 01750
GSR's Reply to Peppermill's Opposition to GSR's Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending a Hearing on the Matter (Continued)	02/05/15	8	RA 01751 – 01791

GSR's Reply to Peppermill's Opposition to Motion to Compel Documents Under 16.1; Motion for a Protective Order, and Request for Gaming Records	07/08/14	1	RA 00165 – 00226
Joinder to Defendant Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Motion to Dismiss Complaint	06/30/14	1	RA 00088 – 00091
Joinder to Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery	08/28/14	2	RA 00346 – 00348
Minutes	02/10/15	8	RA 01792 – 01793
Minutes	01/07/16	14	RA 03258 – 03259
Motion for Protective Order on an Order Shortening Time and for Stay of Depositions Pending Hearing on the Matter	06/19/14	1	RA 00025 – 00073
Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery	08/25/14	1	RA 00241 – 00250

Motion for Terminating Sanctions, Or, In the Alternative, Motion to Compel Discovery (Continued)	08/25/14	2	RA 00251 – 00345
Notice of Entry of Order	12/2/14	6	RA 01331 – 01344
Notice of Entry of Order	01/21/15	7	RA 01509 – 01515
Objection to Commissioner's Recommendation Denying Plaintiff's Motion for a Protective Order and Request for a Stay of Depositions Pending the Hearing on the Objection	10/10/14	4	RA 00763 – 00770
Objection to Peppermill's Proposed Interim Jury Instructions	01/22/16	16	RA 03763 - 03816
Opposition to Defendant's Motion for Order Compelling GSR to Show Cause Why It Should Not Be Held In Contempt	11/13/14	4	RA 00975 – 01000
Opposition to Defendant's Motion for Order Compelling GSR to Show Cause Why It Should Not Be Held In Contempt (Continued)	11/13/14	5	RA 01001 – 01250

Opposition to Defendant's Motion for Order Compelling GSR to Show Cause Why It Should Not Be Held In Contempt (Continued)	11/13/14	6	RA 01251 – 01316
Opposition to Defendant's NRCP 50 (a) Motion for Judgment as A Matter of Law	01/24/16	22	RA 05325 – 05337
Opposition to Peppermill's Emergency/Ex Parte Motion For a NRCP 16 Pretrial Conference	06/23/15	8	RA 01843 – 01881
Opposition to Plaintiff's Ex Parte Motion for Protective Order on an Order Shortening Time and For Stay of Depositions Pending Hearing on the Matter	02/04/15	7	RA 01621 – 01696
Order	11/13/14	4	RA 00970 – 00974
Order	11/26/14	6	RA 01320 – 01330
Order	01/20/15	7	RA 01505 - 01508

Order	06/12/15	8	RA 01841 – 01842
Order Granting in Part and Denying in Part Motion for Protective Order	03/04/15	8	RA 01794 – 01796
Peppermill Casinos Inc.'s Supplemental Motion for Terminating Sanctions Or, In the Alternative, For an Order to Show Cause Why Plaintiff Not Be Held In Contempt and Subjected to Severe Sanctions	11/12/14	4	RA 00831 – 00969
Peppermill Casinos, Inc.'s Amended Answer to Complaint	07/25/14	1	RA 00230 – 00240
Peppermill Casinos, Inc.'s Ex Parte Emergency Motion for Rule 16 Conference	11/12/14	4	RA 00826 – 00830
Peppermill Casinos, Inc.'s Motion for Order Requiring GSR to Show Cause Why It Not be Held In Contempt, Sanctioned and Ordered to Produce Documents	12/17/14	6	RA 01380 – 01417
Peppermill Casinos, Inc.'s Motion for Sanctions	11/20/15	12	RA 02786 – 02880

Peppermill Casinos, Inc.'s Opposition to Plaintiff's Objection to Commissioner's Recommendation Denying Plaintiff's Motion for a Protective Order and Request for a Stay of Depositions Pending the Hearing on the Objection	10/24/14	4	RA 00771 – 00806
Peppermill Casinos, Inc.'s Renewed Motion for Partial Summary Judgment Regarding Damages	11/18/15	10	RA 02282 – 02500
Peppermill Casinos, Inc.'s Renewed Motion for Partial Summary Judgment Regarding Damages (Continued)	11/18/15	11	RA 02501 – 02750
Peppermill Casinos, Inc.'s Renewed Motion for Partial Summary Judgment Regarding Damages (Continued)	11/18/15	12	RA 02751 – 02785
Peppermill Casinos, Inc.'s Renewed Motion for Summary Judgment Regarding "Trade Secret"	11/13/15	8	RA 01882 – 02000
Peppermill Casinos, Inc.'s Renewed Motion for Summary Judgment Regarding "Trade Secret" (Continued)	11/13/15	9	RA 02001 – 02250

8

Peppermill Casinos, Inc.'s Renewed Motion for Summary Judgment Regarding "Trade Secret" (Continued)	11/13/15	10	RA 02251 – 02281
Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Defendant's Memorandum of Fees and Costs	01/06/15	6	RA 01452 – 01461
Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Defendant's Motion For Contempt	01/08/15	6	RA 01465 – 01498
Peppermill Casinos, Inc.'s Response to GSR's Motion to Clarify the Court's Order Filed December 22, 2015 Regarding Peppermill's Motions in Limine	01/04/16	13	RA 03219 – 03250
Peppermill Casinos, Inc.'s Response to GSR's Motion to Clarify the Court's Order Filed December 22, 2015 Regarding Peppermill's Motions in Limine (Continued)	01/04/16	14	RA 03251 – 03257

Peppermill Casinos, Inc.'s Supplement to Renewed Motion for Summary Judgment Regarding "Trade Secret"	11/25/15	12	RA 02881 – 02900
Peppermill Casinos, Inc.'s Trial Statement	01/04/16	12	RA 02999 – 03000
Peppermill Casinos, Inc.'s Trial Statement (Continued)	01/04/16	13	RA 03001 – 03200
Peppermill's Objection to MEI-GSR Holdings, LLC's (1) Proposed Jury Instructions and Verdict Forms, (2) Supplement to Proposed Jury Instructions, and (3) Supplemental Interim Jury Instructions	01/14/16	14	RA 03467 – 03500
Peppermill's Objection to MEI-GSR Holdings, LLC's (1) Proposed Jury Instructions and Verdict Forms, (2) Supplement to Proposed Jury Instructions, and (3) Supplemental Interim Jury Instructions (Continued)	01/14/16	15	RA 03501 – 03596

Peppermill's Reply to GSR's Opposition to Peppermill's Motion for Partial Summary Judgment Regarding Damages	12/15/15	12	RA 02912 – 02931
Plaintiff MEI-GSR Holdings, LLC, d/b/a Grand Sierra Resorts Motion to Strike and Dismiss Defendant Peppermill's Motion for Case Terminating Sanctions	09/09/14	2	RA 00380 – 00500
Plaintiff MEI-GSR Holdings, LLC, d/b/a Grand Sierra Resorts Motion to Strike and Dismiss Defendant Peppermill's Motion for Case Terminating Sanctions (Continued)	09/09/14	3	RA 00501 – 00688
Plaintiff, MEI-GSR Holdings, LLC d/b/a Grand Sierra Resort's Trial Statement	01/04/16	13	RA 03201 – 03218
Plaintiff's Opposition to Defendant's Motion for Contempt	01/02/15	6	RA 01418 - 01451
Portions of the Deposition of Tracy Mimno		22	RA 05444 - 05450
Recommendation for Order	09/19/14	3	RA 00689 – 00702

Recommendation for Order	09/26/14	3	RA 00703 – 00712
Recommendation for Order	10/02/14	3	RA 00748 – 00750
Recommendation for Order (Continued)	10/02/14	4	RA 00751 – 00762
Reply in Opposition to Peppermill's Renewed Motion for Summary Judgment Regarding "Trade Secret" renewed	12/15/15	12	RA 02932 – 02990
Request for Submission	07/15/14	1	RA 00227 – 00229
Request for Submission	09/26/14	3	RA 00713 – 00715
Request for Submission	11/24/14	6	RA 01317 – 01319
Request for Submission	01/06/15	6	RA 01462 – 01464
Request for Submission	01/08/15	6	RA 01499 – 01500
Request for Submission (Continued)	01/08/15	7	RA 01501 – 01504
Request for Submission	12/23/15	12	RA 02996 – 02998

Trial Exhibit 10 – Diagnostic Screen	01/11/16	14	RA 03283
Trial Exhibit 121 - GSR Slots and Video Poker Website	01/22/16	17	RA 04100
Trial Exhibit 122 - 2010-2014 Penny Video and Reels Net Win, Gross Theo Free-Play Summary	01/22/16	17	RA 04101
Trial Exhibit 123 - 2009-2/2015 NGC Monthly Gross Revenue Reports (Highly Confidential)	01/22/16	17	RA 04102 – 04249
Trial Exhibit 126 - 06/2015 Gaming Abstract Page	01/22/16	17	RA 04250
Trial Exhibit 127 – GSR Buffalo Billboard	01/11/16	14	RA 03288
Trial Exhibit 149 - Friedman Rebuttal Report	01/22/16	18	RA 04251 – 04292
Trial Exhibit 14A – 07/12/13 Handwritten Key Sheet by Tors (Legible Copy)	01/13/16	14	RA 03418
Trial Exhibit 15 – 07/12/13 Tors Transcript from GSR re: Interview by GCB	01/14/16	15	RA 03597 – 033622

Trial Exhibit 150 - Lucas Rebuttal Report	01/22/16	18	RA 04293 - 04329
Trial Exhibit 151 - Tom Sullivan Player Cards	01/22/16	18	RA 04330
Trial Exhibit 153 - GSR Billboards "Best"	01/22/16	18	RA 04331 – 04336
Trial Exhibit 154 – Casino Management Fee Information	01/11/16	14	RA 03289 – 03296
Trial Exhibit 156 - 06/05/15 Errata to Plaintiff MEI-GSR Holdings, LLC, a Nevada Corporation, d/b/a Grand Sierra Resort's Amended Disclosure of Expert Witness	01/22/16	18	RA 04337 - 04369
Trial Exhibit 157A – 08/28/15 Plaintiff MEI-GSR Holdings, LLC, a Nevada Corporation, d/b/a Grand Sierra Resort's Supplemental Disclosure of Expert Witness – REDACTED	01/22/16	18	RA 04370 – 04405
Trial Exhibit 159 - Nevada Trade Secret Act	01/22/16	18	RA 04406 – 04409
Trial Exhibit 160 - Aguero Charts – No Correlation	01/22/16	18	RA 04410 – 04418
Trial Exhibit 162 – Atlantis Advertisements	01/15/16	15	RA 03701 – 03704

Trial Exhibit 164 – Advertisement from El Cortez	01/15/16	15	RA 03705 – 03710
Trial Exhibit 166 – Report Entitled, "Slot Market Assessment" by Applied Analysis	01/11/16	14	RA 03297 – 03258
Trial Exhibit 169A - Expert Rebuttal Report, Applied Analysis – REDACTED	01/22/16	18	RA 04419 - 04421
Trial Exhibit 16A – 01/02/13 11:24a.m. Tors email re: New Year's Eve shop	01/14/16	15	RA 03623 – 03624
Trial Exhibit 170 - Expert Rebuttal Report, Applied Analysis (with numbered paragraphs)		22	RA 05351 – 05353
Trial Exhibit 172 - 03/01/15 Expert Witness Report of Professor Anthony Lucas	01/22/16	18	RA 04422 - 04457
Trial Exhibit 186 - 11/03/15 Defendant Peppermills Casino's Supplement to Disclosure of Rebuttal Expert Witnesses	01/22/16	18	RA 04458 – 04487

Trial Exhibit 188 – 02/03/15 Photocopy of Plaintiff MEI-GSR Holdings, LLC a Nevada Corporation d/b/a Grand Sierra Resorts Disclosure of Expert Witnesses	01/11/16	14	RA 03259 – 03361
Trial Exhibit 189 – 04/01/15 Grand Sierra Resort's Rebuttal Expert Disclosure	01/11/16	14	RA 03362 – 03365
Trial Exhibit 20 – 09/2014 Affidavit of David Schwartz	01/20/16	16	RA 03758 - 03760
Trial Exhibit 201 - 09/06/15 Atlantis Newspaper Ad	01/22/16	18	RA 04488
Trial Exhibit 202 - 08/30/15 Atlantis Newspaper Ad	01/22/16	18	RA 04489 – 04490
Trial Exhibit 206 - 10/15/15 Salazar Rebuttal Expert Report	01/22/16	18	RA 04491 – 04500
Trial Exhibit 206 - 10/15/15 Salazar Rebuttal Expert Report (Continued)	01/22/16	19	RA 04501 – 04545
Trial Exhibit 214 – Parchanges.pdf	01/11/16	14	RA 03366 – 03382
Trial Exhibit 215A - Peppermill Casinos, Inc. Amended Answer to Complaint dated 7/25/2014 – REDACTED	01/22/16	19	RA 04546 – 04556

Trial Exhibit 220 - (PM part three.pdf) Emails from Ryan Tors to other parties Re: PAR information dated 3/28/2010-11/2010		22	RA 05354 – 05360
Trial Exhibit 220A – (PM part three.pdf) Emails from Ryan Tors to Other Parties Re: PAR Information Dated 03/28/2010 – 11/2010 – REDACTED	01/25/16	22	RA 05349 – 05350
Trial Exhibit 221B – Emails (with notations) from Tors to various parties with PAR information dated 12/29/2011 – 06/13/2013	01/14/16	15	RA 03625 - 03636
Trial Exhibit 229 – GSR Wells Market Share Monthly Report, Percentage of Player for Peppermill v. GSR 2012 – 2013	01/11/16	14	RA 03383 – 03386
Trial Exhibit 232 - Aristocrat "NOTICE OF CONFIDENTIALITY OF PAR SHEETS"		22	RA 05361
Trial Exhibit 239 A – Email from Ryan Tors to NB Partners and William Paganetti Dated 06/07/12	01/22/16	19	RA 04557

Trial Exhibit 240 – Correspondence from Gaming Control dated 7/31/2013 Re: Investigation of Ryan 01/11/16Tors activities; Peppermill Property Receipts	01/11/16	14	RA 03387 – 03391
Trial Exhibit 241A - Emails dated 3/28/2010 – 11/2010 from Ryan Tors to other parties Re: PAR information (PM13272-13278) (PM13277, email between Tors and Scott Bean Re: Rail City comp reinvestment) - REDACTED		22	RA 05362 – 05368
Trial Exhibit 300 - 2/2015 CDC Report	01/22/16	19	RA 04558 – 04648
Trial Exhibit 301 - 3/2015 CDC Report	01/22/16	19	RA 04649 – 04695
Trial Exhibit 302 - 4/2015 CDC Report	01/22/16	19	RA 04696 – 04741
Trial Exhibit 303 - 5/2015 CDC Report	01/22/16	19	RA 04742 – 04750
Trial Exhibit 303 - 5/2015 CDC Report (Continued)	01/22/16	20	RA 04751 – 04788

Trial Exhibit 304 - 6/2015 CDC Report	01/22/16	20	RA 04789 – 04384
Trial Exhibit 305 - 12/31/10 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04385 – 04882
Trial Exhibit 306 - 12/31/11 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04883 – 04930
Trial Exhibit 307 – 12/31/12 State Gaming Control Board Gaming Revenue Report	01/13/16	14	RA 03419 - 03466
Trial Exhibit 308 - 12/31/13 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04931 – 04978
Trial Exhibit 309 - 12/31/14 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04979 - 05000
Trial Exhibit 309 - 12/31/14 State Gaming Control Board Gaming Revenue Report (Continued)	01/22/16	21	RA 05001 - 05026

Trial Exhibit 310 - 08/31/15 State Gaming Control Board Gaming Revenue Report	01/22/16	21	RA 05027 – 05074
Trial Exhibit 311 - 2010 Partial Las Vegas Sands Corp	01/22/16	21	RA 05075 – 05089
Trial Exhibit 312 - 2010 Partial Las Vegas Sands Corp 10K/A	01/22/16	21	RA 05090 – 05101
Trial Exhibit 313 - 2011 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05102 – 05115
Trial Exhibit 314 - 2012 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05116 – 05130
Trial Exhibit 315 - 2013 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05131 – 05146
Trial Exhibit 316 - 2014 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05147 – 05162
Trial Exhibit 317 - 03/31/15 Partial Las Vegas Sands Corp 10Q	01/22/16	21	RA 05163 – 05172
Trial Exhibit 318 - 06/30/15 Partial Las Vegas Sands Corp 10Q	01/22/16	21	RA 05173 – 05189
Trial Exhibit 319 - 2010 Partial Wynn Resorts, Limited 10K	01/22/16	21	RA 05190 – 05203
Trial Exhibit 320 - 2011 Partial Wynn Resorts, Limited 10K	01/22/16	21	RA 05204 – 05216
Trial Exhibit 321 - 2011 Partial Wynn Resorts Limited 10K/A	01/22/16	21	RA 05217 – 05250

Trial Exhibit 321 - 2011 Partial Wynn Resorts Limited 10K/A (Continued)	01/22/16	22	RA 05251 – 05256
Trial Exhibit 322 - 2012 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05257 – 05266
Trial Exhibit 323 - 2013 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05267 – 05280
Trial Exhibit 324 - 2014 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05281 – 05293
Trial Exhibit 325 - 03/31/15 Partial Wynn Resorts, Limited 10Q	01/22/16	22	RA 05294 – 05302
Trial Exhibit 326 - 06/30/15 Partial Wynn Resorts, Limited 10Q	01/22/16	22	RA 05303 – 05315
Trial Exhibit 327 - 2010 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05316 – 05317
Trial Exhibit 328 - 2011 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05318 – 05319
Trial Exhibit 329 - 2012 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05320 – 05321
Trial Exhibit 330 - 2013 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05322 – 05323

Trial Exhibit 339 - Machine Performance Statistics	01/22/16	22	RA 05324
Trial Exhibit 340.1 – Buffalo	01/11/16	14	RA 03392 – 03405
Trial Exhibit 340.10 – Texas Tea	01/11/16	14	RA 03416
Trial Exhibit 340.11 – Wolf Run	01/11/16	14	RA 03417
Trial Exhibit 340.2 – Cats	01/11/16	14	RA 03406 – 03407
Trial Exhibit 340.2A – Cleopatra	01/11/16	14	RA 03408
Trial Exhibit 340.3 – Ducks in a Row	01/11/16	14	RA 03409
Trial Exhibit 340.4 – Double Diamond 2000	01/11/16	14	RA 03410
Trial Exhibit 340.5 – Enchanted Unicorn	01/11/16	14	RA 03411
Trial Exhibit 340.6 – Horoscope	01/11/16	14	RA 03412
Trial Exhibit 340.7 – Lil Lady	01/11/16	14	RA 03413
Trial Exhibit 340.8 – Money Storm	01/11/16	14	RA 03414
Trial Exhibit 340.9 – Munsters	01/11/16	14	RA 03415

Trial Exhibit 358 - Portions of the Deposition Transcript of Craig Robinson		22	RA 05369 – 05375
Trial Exhibit 359 - Portions of the Deposition Transcript of Terry Vavra		22	RA 05376 – 05384
Trial Exhibit 35A – 11/03/14 GSR Answers to 2nd Set of Interrogatories – REDACTED Interrogatory No. 14 and Response Only	01/21/16	16	RA 03761 – 03762
Trial Exhibit 360 - Portions of the Deposition Transcript of Ralph Burdick		22	RA 05385 – 05398
Trial Exhibit 361 - Portions of the Deposition Transcript of Toby Taylor		22	RA 05399 – 05406
Trial Exhibit 362 - Portions of the Deposition Transcript of Toby Taylor		22	RA 05407 – 05413
Trial Exhibit 363 - Portions of the Deposition Transcript of Michael Draeger		22	RA 05414 – 05421
Trial Exhibit 364 - Portions of the Deposition Transcript of David Schwartz		22	RA 05422 – 05443

Trial Exhibit 38 – "Reno Loosest Slots in the USA" Billboard by PM	01/11/16	14	RA 03284
Trial Exhibit 4 - GSR Billboard Photographs	01/11/16	14	RA 03260 – 03266
Trial Exhibit 5 – GSR Advertisements – "Loosest Buffalo"	01/11/16	14	RA 03267
Trial Exhibit 50 - GSR Slot Add Worksheet re: machine location and setting (including par) for certain machines	01/22/16	16	RA 03832 – 03850
Trial Exhibit 53 – 11/19/14 GSR Website Slots and Video Poker (Loosest Buffalo)	01/11/16	14	RA 03285
Trial Exhibit 54 – 11/07/14 & 11/17/14 List of games with par settings	01/11/16	14	RA 03286
Trial Exhibit 56 – Chart of GSR Earning Structure	01/11/16	14	RA 03287
Trial Exhibit 6 – 2341 Key on EBay	01/11/16	14	RA 03268 – 03280
Trial Exhibit 73 - Custodian of Records Statement	01/22/16	16	RA 03851 – 03852
Trial Exhibit 74 – CDC Invoices to GSR	01/15/16	15	RA 03637 – 03645

Trial Exhibit 75 - 05/07/10 CDC Report re: Slot Comp	01/22/16	16	RA 03853 – 03858
Trial Exhibit 76 - 05/12/10 CDC Report re: Direct Mail	01/22/16	16	RA 03859 – 03864
Trial Exhibit 77 – 06/2014 CDC Report re: Free Play & Comp Rewards	01/15/16	15	RA 03646 – 03650
Trial Exhibit 78 – 07/2014 CDC Report re: Direct Mail	01/15/16	15	RA 03651 – 03700
Trial Exhibit 79 - 08/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03865 – 03912
Trial Exhibit 8 – 8:51 a.m. Tors Email	01/11/16	14	RA 03281 – 03282
Trial Exhibit 80 - 09/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03913 – 03957
Trial Exhibit 81 - 10/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03958 - 04000
Trial Exhibit 81 - 10/2014 CDC Report re: Direct Mail	01/22/16	17	RA 04001 – 04006
Trial Exhibit 82 – 11/2014 CDC Report re: Direct Mail	01/19/16	15	RA 03711 – 03750

Trial Exhibit 82 – 11/2014 CDC Report re: Direct Mail (Continued)	01/19/16	16	RA 03751 – 03757
Trial Exhibit 83 - 12/2014 CDC Report re: Direct Mail	01/22/16	17	RA 04007 – 04051
Trial Exhibit 84 - 01/2015 CDC Report re: Direct Mail	01/22/16	17	RA 04052 – 04096
Trial Exhibit 85 - 05/14/14 CDC Contract with GSR (signed by Mimno)	01/22/16	17	RA 04097 – 04099

1   Q   You don't think so? Okay.

2   Has that always been how you've determined

3   where to set pars over the years?

4   A   I don't know how far back we go, but

5   certainly in recent memory, yes.

6   Q   Okay. All right. I'll hand you what we've

7   had marked as Exhibit 113.

8   This is an affidavit that was attached to a

9   motion that your counsel filed early on in the case.

10   Are you familiar with that document?

11   A   No.

12   Q   Why don't you --

13   MR. ROBISON: I'm going to ask you to read

14   it carefully, Mr. Paganetti.

15   THE WITNESS: Okay.

16   BY MR. JOHNSON:

17   Q   Okay. Before I ask you about that, I was

18   also going to ask you: You listed a number of factors

19   that are considered where you might set the pars.

20   Is one of the factors where your

21   competitors have set their pars? Is that one of the

22   factors that you might consider?

23   A   No.

24   Q   And why is that?

25   A   A competitor's par by itself would have no

1   value to us because if you don't know the rest of the

2   recipe, it would have no value to us.

3   Q   Okay. Would, though, knowing the par

4   settings help you understand how they put together

5   their recipe?

6   A   No. Not unless you had all the other

7   components.

8   Q   Okay.

9   MR. ROBISON: Excuse me.

10   BY MR. JOHNSON:

11   Q   Some of the other components, though, you

12   could ascertain from observing what the competitors

13   were doing as far as things like special events and

14   mailing programs and those types of things; is that

15   true?

16   A   No.

17   Q   You can't ascertain what the competition is

18   doing by observing what they're doing?

19   A   I never get involved with what the

20   competition is doing on their special events or some

21   of the things that I have listed. I'm only concerned

22   on those areas about my operation. And I may read

23   them off a financial statement, what the costs are,

24   whether it be here, Wendover, Sparks.

25   Q   Okay. Do you know if your marketing team

        1   does what's called in the industry "shopping"?

        2   A   I'm sure they do.

        3   Q   Okay.

        4   A   Well, I have no idea. I mean, I would

        5   assume they do.

        6   Q   Okay. When I use the term "shopping" in

        7   the gaming industry, what does that mean to you?

        8   A   Walking through other casinos, looking at

        9   their pay tables possibly on the poker machine,

       10   looking if they have any new machines, any

       11   refurbishing, that sort of thing.

       12   Q   Okay. And do you ever receive reports from

       13   your marketing team about shopping that they have done

       14   with the competitors?

       15   A   In regards to -- I'm not sure.

       16   Q   You don't recall receiving reports from

       17   your marketing team regarding the competition?

       18   A   Not from the marketing team.

       19   Q   Do you receive those reports from somewhere

       20   else?

       21   A   There was a time that a slot director, Dave

       22   McHugh, would walk five or six casinos, look at their

       23   business or the volume of their business, excuse me,

       24   any new machines, something to that effect.

       25   Q   Okay. And he would give you a report on

1   that?

2   A   My recollection -- and that's been a few

3   years ago -- there would be Baldini's this, and

4   then -- as a comment, I don't think -- I'm just

5   thinking now -- I don't think he ever shopped GSR.

6   I'm not certain.

7   Q   Okay. You've had some time to read the

8   affidavit. Correct?

9   A   Yes.

10   Q   Do you believe everything in there is true

11   and accurate?

12   A   Yes.

13   Q   Okay. Let me direct your attention to

14   paragraph 4.

15   MR. ROBISON: You. I got this. You got

16   that.

17   I'm sorry. I distracted you.

18   BY MR. JOHNSON:

19   Q   Paragraph 4.

20   A   Just give me -- let me get caught up here.

21   Okay.

22   Q   Paragraph 4 says that "the Peppermill has

23   established its pars from a detailed and confidential

24   analysis of player activity at our related casinos."

25   Would you agree with that?

1   A   Yes.

2   Q   And you would agree that this analysis is

3 confidential?

4   MR. ROBISON: Of the player activity.

5   MR. JOHNSON: Of the detailed and

6 confidential analysis, this analysis.

7   MR. ROBISON: Of player activity.

8   MR. JOHNSON: Of player activity.

9   MR. ROBISON: Thank you.

10 BY MR. JOHNSON:

11   Q   You would agree that that's confidential?

12   A   You know, I can't really -- really can't

13 answer that.

14   Q   Well, would you agree that --

15   A   Confidential -- I'm sorry.

16   Q   Would you agree that, as set forth in the

17 affidavit, the analysis is considered confidential?

18   A   As it says here (indicating), yes.

19   Q   Okay. And since -- and since this is used

20 in setting the pars, this confidential analysis is

21 used in setting the pars, do you believe the pars are

22 confidential?

23   A   I don't see how it would be possible to

24 have it confidential. Players -- I mean, slot techs,

25 general managers, slot directors move from casino to

1   casino. I don't know, people that receive these

2   reports, who they have shared them with. So to say

3   absolutely confidential on that aspect of my

4   explanation, I can't agree to that.

5   MR. ROBISON: I also want to note my

6   objection to the misstatement of the evidence. Pars

7   are not declared as confidential in this paragraph.

8   The analysis of player activity is what is

9   characterized as confidential. So note my objection.

10   That was a misstatement of the affidavit.

11   Please proceed.

12   THE WITNESS: Okay.

13   BY MR. JOHNSON:

14   Q   Why do you believe that the analysis of

15   player activity is confidential?

16   A   I don't see, as I read it before, how it

17   could be confidential when a lot of employees know --

18   would know this and they move to other casinos and

19   maybe share it with players or pars with players.

20   So I know that's a hard way to explain, but

21   I've just got to tell you how I feel.

22   Q   Okay. But what I was asking about is

23   what's referred to here in the affidavit as the

24   confidential analysis of player activity. Why do you

25   consider that confidential?

CAPTIONS UNLIMITED OF NEVADA, INC. (775) 746-3534

1   A   I don't see how it's possible to keep that

2 confidential when you have the same things with hosts

3 moving to other properties and they have the

4 confidential information.

5   Q   And you're talking about player activity?

6   A   Yes.

7   Q   Okay. So you don't believe player activity

8 is confidential?

9   MR. ROBISON: It's the analysis, Counsel,

10 that's stated as confidential. You're not being fair.

11 I object.

12 BY MR. JOHNSON:

13   Q   You can go ahead and answer the question.

14   A   I don't see how it could be -- remain

15 confidential when the people that are analyzing this

16 in this industry move from property to property.

17   Q   Okay.

18   A   I just -- I just can't. I'm sorry, but I

19 just can't --

20   Q   And I'm not trying to be confusing, but

21 when you say "this," are you referring to player

22 activity?

23   A   Yes.

24   Q   Okay. When employees are hired at the

25 Peppermill, do they sign confidentiality agreements?

1   A   Some do. I am not sure to the extent or

2   the percentage of the people.

3   Q   Okay. Do you believe that most of the

4   management or all of the management have signed

5   confidentiality agreements?

6   A   I can't answer that.

7   Q   Do you believe that there are -- there is

8   information that is gathered by a casino in regards to

9   financial and player activity and gaming activity that

10 is confidential?

11   A   It should be confidential, but I can't

12 imagine that it is.

13   Q   Okay. Does the Peppermill maintain certain

14 security and safeguards so that its financial

15 information is protected?

16   A   I don't know that.

17   Q   Okay. Would you agree that financial

18 information and business information of the Peppermill

19 is restricted to certain individuals?

20   A   Yes.

21   Q   Okay. For example, a dealer could not

22 access the financial information of the Peppermill to

23 know what -- to know what the profit and things of

24 that nature are of the Peppermill; is that accurate?

25   A   To my knowledge, no.

1   Q   Did you seek any legal advice on that

2   subject?

3   A   No.

4   Q   Did you talk with any of your fellow

5   managers at the Peppermill?

6   A   No.

7   Q   Did you -- did you seek any advice from the

8   Gaming Control Board?

9   A   No.

10   Q   Is there anything you did at that time to

11   determine whether that would violate any Gaming

12   regulations or state statutes?

13   A   No.

14   Q   And, again, other than what you've already

15   testified to, was there any other reason why you did

16   not do that?

17   A   No.

18   Q   What was the reason that you instructed the

19   keying to be done by Mr. Tors?

20   A   Just stupid curiosity.

21   Q   Okay. In regards to curiosity, how would

22   you -- how would you define what you mean by

23   "curiosity"?

24   A   I viewed it no different than looking at

25   someone's menu or room prices or concert ticket

1   prices.

2   Q   Okay. Once you got, though, the -- the

3   information from Mr. Tors the first time, didn't that

4   satisfy your curiosity?

5   A   I can't answer that.

6   Q   Okay. But you continued to instruct

7   Mr. Tors to provide -- or to obtain this information

8   even after the first time you received the

9   information; is that correct?

10   A   Yes.

11   Q   So isn't there a point where curiosity

12   changes to usage?

13   A   No.

14   Q   Not in your mind?

15   A   Absolutely not.

16   Q   So it was always curiosity?

17   A   That's correct.

18   Q   Is curiosity a -- a desire to know

19   information, though?

20   A   No different than the things I stated two

21   minutes ago.

22   Q   Okay. Let's see.

23   MR. ROBISON: Would you tell me when you're

24   going to have a convenient time for a break,
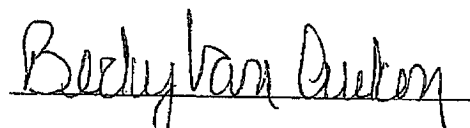
25   Mr. Johnson?

STATE OF NEVADA   )   '
)   ss.
COUNTY OF WASHOE   )

     I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

     That on Friday, April 3, 2015, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of WILLIAM ALFRED PAGANETTI, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

     That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

     Dated at Reno, Nevada, this 9th day of April, 2015.

                          Becky Van Auken
                        BECKY VAN AUKEN, CCR #418

EXHIBIT 14

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

**CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014**

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

EXHIBIT 14

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada)
Corporation, d/b/a GRAND SIERRA RESORT,)
)
               Plaintiff,)
)

-vs-   )
)

PEPPERMILL CASINOS, INC., a Nevada)
Corporation, d/b/a PEPPERMILL CASINO;)
RYAN TORS, an individual; JOHN DOES I-X,)
and JANE DOES I-X and CORPORATIONS I-X,)
)
            Defendant(s).)
_____)

DEPOSITION OF ALEX MERUELO

(CONFIDENTIAL PAGES 14 - 24)

(HIGHLY CONFIDENTIAL PAGES 25 - 109)

called for examination by counsel for Defendant Peppermill

Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at

the offices of Robison, Belaustegui, Sharp & Low, 71

Washington Street, Reno, Nevada, at 1:41 p.m., Friday,

January 16, 2015, before Becky Van Auken, a Certified Court

Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1   LLC. I take it that you are a member of that entity.

2   A   Yes.

3   Q   What is your ownership interest, sir?

4   A   What do you mean by that? What percent?

5   Q   Yes.

6   A   About 80 -- I don't know. Probably about

7   80 percent.

8   Q   Are there other -- who are the other

9   members or member?

10   A   There's only one other one, which is my

11   cousin, Luis Armona.

12   Q   And his ownership interest in percentage

13   terms is what?

14   A   Probably low twenties. I don't know the

15   exact number.

16   Q   When was this entity formed, sir?

17   A   A couple years ago before we purchased -- I

18   believe before we purchased the property, the GSR

19   property.

20   Q   Okay. When I took your cousin's deposition

21   this morning, we tried to lay some ground rules on

22   these labels.

23   When I use the term "GSR," I'm referring in

24   that question to the property and casino.

25   A   Correct.

1   what it is.

2   A   I don't --

3   Q   It's a very simple question.

4   A   I just told you, I don't know everything he

5   took.

6   Q   Do you know of anything he took?

7   A   I just told you what he took.

8   Q   You described what he took. You didn't

9   tell me what it was that he took that you considered

10   private and confidential. So tell me what he took.

11   A   There are cameras there that will show you

12   everything you want to see.

13   Q   I'm asking you, the owner.

14   A   I just answered it.

15   Q   Can you say "I don't know" if you don't

16   know?

17   A   I don't know what information -- I just

18   said I don't know what information he took.

19   Q   Okay. Thanks.

20   A   What part don't you understand? I just

21   said that.

22   Q   Okay. Thanks.

23   All right. So the allegations in this case

24   that your company is making against my client, has

25   that caused you to lose $10,000 or more?

1   A   I don't know what it caused me to lose.

2   Q   Do you have any idea what your damages are?

3   A   No. That's what an expert witness or

4   expert witnesses will tell us when we go to a jury.

5   Q   Well, you've already designated an expert.

6   His name is David Schwartz.

7   A   Correct.

8   Q   Are you familiar with what he said your

9   damages are?

10   A   No.

11   Q   Are you going to rely on his opinion of

12   damages?

13   A   Yes. And, of course, of counsel.

14   Q   All right. So right now you have no idea

15   what your damages are?

16   A   No.

17   Q   You sued in August of 2013, about 18 months

18   ago, and after 18 months of litigation you're telling

19   me, as the owner of the GSR, you don't know what your

20   damages are?

21   A   I've answered five times. What do you want

22   me to tell you?

23   Q   As a result of 13 months of litigation, do

24   you know today what your damages are?

25   A   This is the sixth time you've asked me the

1   same question.

2   Q   Answer my question.

3   A   I just did.

4   Q   You don't, do you?

5   A   No, I don't. But that's why I have expert

6   witnesses and I have my counsel, and there will be a

7   trial, and the jury will decide how much these damages

8   are. And compensatory and punitive. They'll decide

9   that.

10   Q   Will you just try to answer my question.

11   A   I just did.

12   Q   We know there's going to be a trial.

13   A   That's right. Correct.

14   Q   Mr. Meruelo, do you have any evidence that

15   Mr. Tors received any money for his activities?

16   A   No.

17   Q   How did the Peppermill damage you?

18   A   How did they damage me?

19   Q   Yeah.

20   A   By taking extremely valuable information.

21   Q   And by "valuable information," I need you

22   to tell me what your understanding is of the

23   information that has value. What information was

24   taken that has value?

25   A   The information he took from our slot

1   machines.

2   Q   You don't know what that was?

3   A   I just told you.

4   Q   You don't know what that was, so how can

5   you say it has value?

6   A   Because it has a lot of value to it. It

7   has proprietary information on how much our machines

8   hold and what we make off our machines. That's

9   private information, proprietary information.

10   Q   I'm going to accept for the moment that

11   it's private information. I'm trying to understand

12   your testimony that that information has value.

13   A   It has a tremendous amount of value.

14   Q   I want to focus right on that area of your

15   testimony. Do you understand that? Do you understand

16   that?

17   A   Understand what?

18   Q   That I want to focus on your testimony that

19   the information taken has value. You got it? You

20   understand that?

21   A   I've answered that question 10 times.

22   MR. COHEN: Counsel, you're being

23   argumentative.

24   MR. ROBISON: No, I just want --

25   THE WITNESS: Yes, he is. I'm getting

_H I G H L Y   C O N F I D E N T I A L_

1   Q   All right. We'll resume in 10 minutes.

2   (A recess was taken.)

3   BY MR. ROBISON:

4   Q   We're back on the record. Are you ready to

5   proceed?

6   A   Yes.

7   Q   What would you pay for a par?

8   A   I don't know.

9   Q   If I offered you the par setting for a

10   Ducks in a Row sitting on the Silver Legacy floor

11   right now, do you know what you'd pay for it?

12   A   No.

13   Q   Any other machines that you might want to

14   put a specific value on having the par?

15   A   Repeat that question.

16   Q   Yeah. I mean, I used the example of Ducks

17   in a Row. If I changed it to Cleopatra or if I

18   changed it to Munsters, would your answer be

19   different?

20   A   No.

21   Q   Do you know what you'd pay for six pars on

22   six different machines?

23   A   No.

24   Q   Nine?

25   A   No.

HIGHLY CONFIDENTIAL

1   Q   80?

2   A   No.

3   Q   A hundred percent of the par settings on a

4   given floor; do you know what you'd pay for that?

5   A   No.

6   Q   Do you know if it has value in the market?

7   A   Does our information that your customers

8   stole from us have value? Yes.

9   Q   I don't think that was my question, and so

10   we'll move to strike that.

11   Mr. Meruelo, my question is whether or not

12   you have any way of estimating the value of knowing

13   all of the pars on a competitor's floor.

14   A   Do I know? Do I know the value? No, I

15   don't know the value.

16   Q   Do you know of any way to calculate the

17   value?

18   A   That's for the expert witness and the trial

19   to determine.

20   Q   Okay. Is your answer no, you don't?

21   A   I don't know.

22   Q   Thank you.

23   Are you aware that one of your slot

24   officers has taken the position that pars have no

25   value and they're not secret?

H I G H L Y   C O N F I D E N T I A L
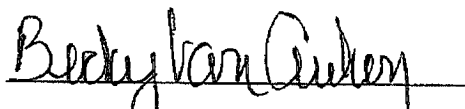
STATE OF NEVADA   )
) ss.
COUNTY OF WASHOE   )

        I, BECKY VAN AUKEN, a Certified Court

Reporter in and for the County of Washoe, State of

Nevada, do hereby certify:

        That on Friday, January 16, 2015, at the

offices of Robison, Belaustegui, Sharp & Low, 71

Washington Street, Reno, Nevada, I was present and

took verbatim stenotype notes of the deposition of

ALEX MERUELO, who personally appeared and was duly

sworn by me and was deposed in the matter entitled

herein; and thereafter transcribed the same into

typewriting as herein appears;

        That the foregoing transcript is a full,

true and correct transcription of my stenotype notes

of said deposition.

        Dated at Reno, Nevada, this 22nd day of

January, 2015.

                        Becky Van Auken
                        BECKY VAN AUKEN, CCR #418

EXHIBIT 15

<u>DESIGNATED</u>
<u>HIGHLY CONFIDENTIAL INFORMATION</u>

CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014

To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees

EXHIBIT 15

Case No.   CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada   )
Corporation, d/b/a GRAND SIERRA RESORT,)
)
                Plaintiff,   )
)
-vs-   )
)
PEPPERMILL CASINOS, INC., a Nevada   )
Corporation, d/b/a PEPPERMILL CASINO,)
)
                Defendant(s).   )
_____)

VIDEOTAPED DEPOSITION OF TRACY MIMNO

(Pages 1-27)

HIGHLY CONFIDENTIAL - VIDEOTAPED DEPOSITION OF TRACY MIMNO

(Pages 28-292)

called for examination by counsel for Defendant Peppermill

Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at

the offices of Robison, Belaustegui, Sharp & Low, 71

Washington Street, Reno, Nevada, at 9:12 a.m., Wednesday,

November 4, 2015, before Becky Van Auken, a Certified Court

Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1   A   I myself -- and hope that the person in

2 charge -- would not give the same number to more than

3 one machine.

4   Q   Same with the Peppermill when you worked

5 there?

6   A   Yes.

7   Q   Same with the GSR?

8   A   Correct.

9   Q   Okay. That's why we're using 15 in some of

10 these letters and 13 in others, because we think

11 there's double-dipping on Exhibit 7. Mr. Tors has so

12 testified. I just wanted to tell you why 13 shows up

13 as sometimes 15. Okay?

14   A   All right.

15   Q   Okay. So, again, do you dispute the

16 expressions of Mr. Gardner in this letter?

17   A   I believe they are his opinion.

18   Q   And he says that these 13 pars have

19 absolutely no value to a competitor of the GSR. Do

20 you agree with that?

21   A   I believe that is his opinion and not my

22 opinion, as previously noted on the other letters.

23   Q   Okay. "The par settings have no individual

24 value." Do you disagree with that?

25   A   I agree that I'm not in a position to place

1   a value on the pars.

2   Q   Okay. And you certainly haven't been asked

3   to do so?

4   MR. COHEN: Asked and answered.

5   BY MR. ROBISON:

6   Q   Suppose I wrote down six par settings of

7   six IGT machines on the floor at the Peppermill right

8   now. Do you want to buy them?

9   A   No, thank you. I'm not -- I don't know

10   what they would mean. Whose are they and what are

11   they? I wouldn't be buying proprietary --

12   Q   Six IGT machines. The par settings on

13   these six IGT machines on the floor of the Peppermill

14   are accurately stated on this hypothetical piece of

15   paper.

16   A   Okay.

17   Q   Tell me what you'll buy them for.

18   A   I've not -- that's my whole point. I don't

19   have a value on them. I would not buy someone else's

20   pars.

21   Q   Even if I offered them to you --

22   A   No.

23   Q   -- for sale?

24   A   No.

25   Q   You wouldn't buy them?

1   A   No.

2   Q   It would be foolish to buy them, wouldn't

3 it, spend money for that?

4   A   I'm going to say it's foolish. I'm saying

5 I don't have a value to place on them.

6   Q   You said you wouldn't buy them.

7   A   And I wouldn't buy them. I don't have a

8 value.

9   Q   Okay. Would you hire somebody to go

10 appraise them or would you just not buy them?

11   A   I would probably just not buy them.

12 There's not a value to me. I would not buy -- buy

13 them.

14   Q   Right. So if I gave them to you and here's

15 six pars on six IGT machines right now on the GSR --

16 on the Peppermill floor, who's to say they wouldn't

17 change tomorrow? Right?

18   A   Who's to say?

19   Q   Who's to say they weren't changed from

20 yesterday? In other words, it's a transient notion

21 that changes frequently which would even impede it

22 from having value because of constant changes in these

23 par settings. Correct?

24   A   I would say that pars can change when the
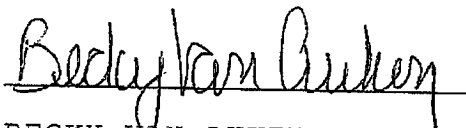
25 operator changes them.

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

    I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

    That on Wednesday, November 4, 2015, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the videotaped deposition of TRACY MIMNO, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

    That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

    Dated at Reno, Nevada, this 12th day of November, 2015.

            Becky Van Auken
            BECKY VAN AUKEN, CCR #418

EXHIBIT 16

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014

To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees

EXHIBIT 16

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada)
Corporation, d/b/a GRAND SIERRA RESORT,)
)
                    Plaintiff,)
)
-vs-)
)
PEPPERMILL CASINOS, INC., a Nevada)
Corporation, d/b/a PEPPERMILL CASINO;)
RYAN TORS, an individual; JOHN DOES I-X,)
and JANE DOES I-X and CORPORATIONS I-X,)
)
                    Defendant(s).)
_____)

DEPOSITION OF TERRY VAVRA

(HIGHLY CONFIDENTIAL PAGES 186 - 225)

called for examination by counsel for Defendant Peppermill

Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at

the offices of Robison, Belaustegui, Sharp & Low, 71

Washington Street, Reno, Nevada, at 9:30 a.m., Wednesday,

December 3, 2014, before Becky Van Auken, a Certified Court

Reporter.

APPEARANCES: (See separate page)

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1   or the win per unit of your floor, yes.

2   Q   So keying one machine doesn't tell you what

3   the weighted average is going to be, does it?

4   A   One machine, no.

5   Q   Six out of 1100?

6   A   Probably not.

7   Q   I want to turn your attention, sir, to

8   Interrogatory No. 4. The question is: Has the GSR

9   conducted any investigations since July of 2011

10   concerning Peppermill's comp strategies, reinvestment

11   strategies or efforts to determine Peppermill's par

12   settings, player theoretical holds or other

13   information pertinent to the Peppermill's gaming

14   strategies for slot machines?

15   The answer, after not waiving objections,

16   is that GSR has never conducted any investigation.

17   Why do you say that?

18   A   Any investigation which would be deemed

19   illegal or improper.

20   Q   Okay. How about what investigations has

21   the GSR done that are legal and proper?

22   A   Simply -- our shoppers simply would walk

23   through the properties and observe volumes and

24   business and -- purely observational.

25   Q   We know that Compton & Dancer has shopped

STATE OF NEVADA   )
) ss.
COUNTY OF WASHOE   )

      I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

      That on Wednesday, December 3, 2014, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of TERRY VAVRA, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein, and thereafter transcribed the same into typewriting as herein appears;

      That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

      Dated at Reno, Nevada, this 8th day of December, 2014.

_____
BECKY VAN AUKEN, CCR #418

EXHIBIT 17

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

**CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014**

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

EXHIBIT 17

FILED
Electronically
2015-11-03 04:30:27 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5218277 : ccovingt

1   **1610**
KENT R. ROBISON, ESQ. - NSB #1167
2   krobison@rbsllaw.com
SCOTT L. HERNANDEZ, ESQ. – NSB #13147
3   sherenandez@rbsllaw.com
THERESE M. SHANKS, ESQ. – NSB #12890
4   tshanks@rbsllaw.com
Robison, Belaustegui, Sharp & Low
5   A Professional Corporation
71 Washington Street
6   Reno, Nevada 89503
Telephone: (775) 329-3151
7   Facsimile: (775) 329-7169

8   *Attorneys for Defendant Peppermill Casinos,*
Inc., d/b/a Peppermill Casino

9

IN THE SECOND JUDICIAL DISTRICT FOR THE STATE OF NEVADA
10
IN AND FOR THE COUNTY OF WASHOE
11

12   MEI-GSR HOLDINGS, LLC, a Nevada   **CASE NO.:   CV13-01704**
Corporation, d/b/a/ GRAND SIERRA RESORT,
13   **DEPT. NO.:   B7**
Plaintiff,
14   vs.   **BUSINESS COURT DOCKET**

15   PEPPERMILL CASINOS, INC., a Nevada
Corporation, d/b/a/ PEPPERMILL CASINO,
16   Defendant.
17   _____/

18   **DEFENDANT PEPPERMILL CASINOS, INC.'S SUPPLEMENT TO**
DISCLOSURE OF REBUTTAL EXPERT WITNESSES
19
       Pursuant to NRCP 26 and NRCP 16.1, Defendant Peppermill Casinos, Inc. ("Peppermill")
20
supplements its Disclosure of Rebuttal Expert Witnesses filed and served herein on October 15,
21
2015, as follows:
22
       Peppermill's named rebuttal expert witnesses, Anthony Lucas, Ph.D., Stacy Friedman,
23
Michelle Salazar, CPV/ABV, CVA, CFE, and Tom Sullivan supplement their reports to reflect
24
consideration of and reliance upon the contents of the attached (**Exhibit 1**).
25   **AFFIRMATION**

26   **Pursuant to NRS 239B.030**

27   The undersigned does hereby affirm that this document does not contain the social security

28   / / /

RA 02533

number of any person.

DATED this 3rd day of November, 2015.

ROBISON, BELAUSTEGUI, SHARP & LOW
A Professional Corporation
71 Washington Street
Reno, Nevada 89503

_____
KENT R. ROBISON
SCOTT L. HERNANDEZ
THERESE M. SHANKS
Attorneys for Defendant
Peppermill Casinos, Inc., d/b/a Peppermill Casino

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, BELAUSTEGUI, SHARP & LOW, and that on this date I caused to be served a true copy of the **DEFENDANT PEPPERMILL'S SUPPLEMENT TO DISCLOSURE OF REBUTTAL EXPERT WITNESSES** on all parties to this action by the method(s) indicated below:

___ **by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:**
H. STAN JOHNSON, ESQ.
TERRY KINNALLY, ESQ.
CHRIS DAVIS, ESQ.
KAY BURNINGHAM, ESQ.
Cohen-Johnson, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, NV 89119
Email: sjohnson@cohenjohnson.com
tkinnally@cohenjohnson.com
cdavis@cohenjohnson.com
kburningham@cohenjohnson.com
Attorneys for Plaintiff

MARK WRAY, ESQ.
608 Lander Street
Reno, NV 89509
Email: mwray@markwray.law.com
Attorneys for Plaintiff

_X_ **by using the Court's CM/ECF Electronic Notification System addressed to:**
H. STAN JOHNSON, ESQ.
TERRY KINNALLY, ESQ.
CHRIS DAVIS, ESQ.
KAY BURNINGHAM, ESQ.
Cohen-Johnson, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, NV 89119
Email: sjohnson@cohenjohnson.com
tkinnally@cohenjohnson.com
cdavis@cohenjohnson.com
kburningham@cohenjohnson.com
Attorneys for Plaintiff

MARK WRAY, ESQ.
608 Lander Street
Reno, NV 89509
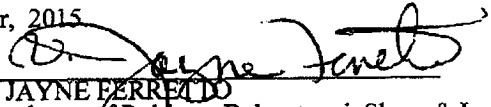Email: mwray@markwray.law.com
Attorneys for Plaintiff

_X_ **by electronic email addressed to the above.**
___ **by personal delivery/hand delivery addressed to:**
MARK WRAY, ESQ.
608 Lander Street
Reno, NV 89509
Email: mwray@markwray.law.com
Attorneys for Plaintiff
___ **by facsimile (fax) addressed to:**
___ **by Federal Express/UPS or other overnight delivery addressed to:**

DATED: This 3rd day of November, 2015.

V. JAYNE FERRETTO
Employee of Robison, Belaustegui, Sharp & Low

Robison, Belaustegui,
Sharp & Low
71 Washington Street
Reno, Nevada 89503
(775) 329-3151

RA 02535

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

26

27

28

Robison, Belaustegui,
Sharp & Low
71 Washington St.
Reno, NV 89503
(775) 329-3151

EXHIBIT LIST

Exhibit No.	Description	Pages
1	10/13/15 letter from David Ensign to Kent Robison; 10/06/15 letter to Salazar, Friedman, Lucas and Sullivan from John J. Ascuaga; 10/13/15 Declaration of John Farahi; 10/20/15 letter to Friedman, Lucas and Salazar from Russ Sheltra and Ryan Sheltra; 10/26/15 letter from Gary Carano to Salazar, Friedman, Lucas and Sullivan; 10/30/15 letter from Jeffery L. Siri to Kent Robison; and 10/30/15 letter from Mitch Gardner to Bill Paganetti **(Highly Confidential)**	25 pages

EXHIBIT 1

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

CONFIDENTIAL-SUBJECT TO STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER FILED JULY 17, 2014

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

EXHIBIT 1

RA 02537

October 13, 2015

Kent Robison
Robison, Belaustegui, Sharp & Low
71 Washington St
Reno, Nv 89503

Dear Mr. Robison,

I have been asked to inform you of my opinions concerning these issues.

1. Do the 7 or 9 pars (theoretical hold percentages) reflected on the attached two schedules have any independent economic value? They do not. The par settings of individual machines located at a competitor's casino do not have any value, independent or otherwise.

2. Would I pay money to know the par settings on a handful (say 15) of penny video reel slot machines of a competitor? I would not. The information has no value.

3. If I were to be involved in negotiations with a competitor where I was asked to pay for the "knowledge" that I could raise my floor par by 1% point and still be lower than my competitor, I would refuse to pay any money for that "knowledge". That "knowledge" is readily ascertainable without having to pay for it.

4. Paying money for the par settings on video reel penny slot machines of my competitors would be foolish and in my opinion that would never happen in the real world. Too many factors and influences are involved in gaming practices, slot strategies and casino operations for par settings to have any independent economic value.

5. If I negotiated for 18 months of complete and unfettered access to another casinos par settings, I would offer no money for that access. Without knowing much more about the other casino's operation, paying for access to pars alone would be foolish.
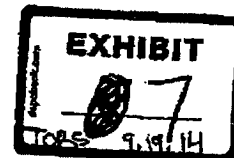
Sincerely,

David Ensign

From:	Ryan Tors
3nt:	Thursday, December 28, 2011 8:59 AM
fo:	NBPartners; Rob Erwin; John C Hanson (Reno GM)
Subject:	Grand Sierra

Grand Sierra
pars.xls

Thanks-
Ryan Tors
Peppermill Casinos
775 689 7489

EXHIBIT
7
Cross 9.19.14

1

PM 0079

Grand Sierra   12/292011

1	04-15-08	440	91.83	8.17	Buffalo
2	04-15-07	21016	91.83	8.17	Buffalo
	Aristocrat	65722	average	8.17	
1	04-15-08	440	93.99	8.01	Ducks in a Row —
2	04-15-07	21016	94.03	5.97	Cleopatra
3	04-15-05	671	94.03	5.97	Money Strom
4	05-25-02	60060	93.98	6.02	Texas Tea
5	05-25-03		94.98	5.02	Munsters
6	06-25-01		94.00	6.25	Dbl Dia 2000
7	03-25-04	358	93.97	6.03	Lil Lady
	IGT		average	5.90	
		overall average		6.40	

*all machines that I can key quickly were flagged as having been loosened, some
had the dangler pulled off

om: Ryan Tors
ınt: Friday, June 15, 2012 8:51 AM
To: NBPartners; John C Hanson (Reno GM); Billy Paganetti; David McHugh
Subject: Grand Sierra pars

Grand Sierra
pars1.xls

Thanks-
Ryan Tors
Peppermill Casinos
775 689 7499

HIGHLY CONFIDENTIAL

1

6/14/2012

Grand Sierra
1	04-07	20376	93.99	6.01	Ducks in a Row
2	04-18	1011	91.82	8.18	Buffalo
3	04-10	20050	94.06	5.94	Enchanted Unicorn
4	01-07	127	94.01	5.99	Cats
5	10-47	246	93.99	6.01	Horoscope
6	05-26	837	92.51	7.49	Wolf Run
			average	6.60	

HIGHLY CONFIDENTIAL

October 6, 2015

Via Email: michelle@lvcreno.com

Michelle Salazar, CPA/ABV, CVA, CFE

Litigation and Valuation Consultants

1575 Delucchi Lane, Suite 217

Reno, NV 89502

Via Email: stacy@olympiangaming.com

Stacy Friedman

Olympian Gaming

13915 S.W. Otter Lane

Beaverton, OR 97008

Via Email: tony.lucas22@gmail.com

Anthony Lucas, Ph.D.

2562 Deer Season Street

Henderson, NV 89052

Via Email: tsullivannnv@yahoo.com

Tom Sullivan

5525 Tannerwood Drive

Reno, NV 89511

Re: Grand Sierra Resort v. Peppermill Casinos Inc. re: Par Settings

Through Peppermill's counsel, Kent Robison, I have been asked for my opinion on the discussion regarding par settings (theoretical hold percentages) of video reel slot machines in Northern Nevada and if I consider them to be secret and or confidential. They are not. It is known throughout the industry that par settings are ascertainable through a variety of proper means. In fact most casinos in Northern Nevada are fully aware of and have knowledge about the par settings of their competitors.

My career in gaming started in the early 50's with a gentleman from Boise, Idaho named Dick Graves who owned a number of restaurants throughout Idaho. I had met Dick while working my way through college. Dick was much more than a restaurateur. He was a great idea man. So when Idaho outlawed slot machines in restaurants, Mr. Graves packed up and headed to the Reno/Sparks area in 1953 and I joined him fresh out of school.

In 1955, Graves opened Dick Graves' Nugget in Sparks, Nevada. By 1960, I agreed to purchase the 60 seat coffee shop with a row of slot machines with a handshake deal. Over 5 decades John Ascuaga's Nugget grew from that coffee shop on B Street in Sparks, Nevada to a full season destination resort that included 1600 rooms, 9 award winning restaurants, over 110,000 square feet of convention space, big name entertainment, and a full service casino floor with numerous table games and over 1,500 slot machines at one time.

As a Northern Nevada casino operator for over 55 years, I became very familiar with the gaming and marketing strategies needed to run a successful operation. I am well aware of the shopping activities that occur amongst the Northern Nevada casinos. Shopping is an accepted industry practice by which competitors attempt to learn more about each other through inspections, visits, and other analytical tools. The Nevada Gaming Control Board Reports also reflect the net par settings for Northern Nevada casinos, including the six largest performing casinos. While

individual properties are not identified in the gaming reports, the net par for the various markets are published.

To be competitive it is far more valuable to ascertain a specific market's par from public records than it is to know individual par settings on individual machines of individual competitors.

For many reasons, pars change frequently. Pars mean nothing without additional information such as free play, theoretical win, frequency, variability, comp reinvestment percentage and much more. Pars alone, without information about the machine, the floor par, the other slot settings and free play have no value in and of themselves. Each operator knows their coin in slot revenue and the net par for that specific market. Therefore, any casino operator could determine whether to raise or lower pars based upon their own net win percentage compared to the net pars of the market in Northern Nevada published by gaming. Par levels are not a secret. In fact we have ascertained pars of competitors through the various methods previously listed.

Because so much information is available concerning the par settings of the Northern Nevada casinos, it is my firm belief that pars have no independent economic value. I have also considered the issue of whether any reasonable and thoughtful casino operator and owner would pay any money for a license agreement to have access to the par setting of other casinos. The notion is absurd. No reasonably prudent casino operator would pay money to have access to another casino's pars.

I hope the foregoing helps you with your assignments to formulate expert opinions in the above-referenced matter. Thank you for your courtesy and cooperation.

Sincerely,

John J. Ascuaga

DECLARATION OF JOHN FARAHI

John Farahi, being first duly sworn, deposes and states under penalty of perjury as follows:

1.   I am Co-Chairman of the Board of Directors of Monarch Casino and Resort, Inc. I am also Chief Executive Officer of Monarch Casino and Resort, Inc. and have served in that capacity since 1993.

2.   I have also served as Chief Executive Officer of Golden Road Motor Inn, Inc. since 1993. I have been responsible for the major and important operational decisions concerning the operations of the Atlantis Casino Resort.

3.   I have been asked to express my opinion concerning the issue of whether par settings on slot machines have independent economic value. I have extensive familiarity with the Northern Nevada casino market. I am familiar with and have substantial experience in decisions, strategies and operations of slot machine strategies and marketing programs.

4.   I have over 30 years' experience regarding slot machine operations, strategies and marketing programs.

5.   I have been provided a copy of and I am familiar with the Plaintiff MEI-GSR Holdings, LLC, d/b/a/ Grand Sierra Resort's Supplemental Disclosure of Expert Witness to which Jeremy Aguero's August 28, 2015 Amended Expert Report is attached.

6.   In my opinion, Mr. Aguero's Amended Expert Report is flawed, incorrect and unreliable.

7.   Every casino could engage in the same process as did Mr. Aguero in his August 27, 2015 Amended Report. Each casino property in Northern Nevada can readily ascertain its own "slot machine operating metrics" and can easily ascertain its own total coin in for any given year, its own total slot revenue for any given year and its
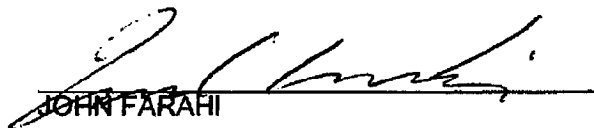
1

own "net hold" percentage (net win) for any given year. A casino operator could then easily and properly compare its own slot machine operating metrics to the information revealed by Nevada Gaming Control Board revenue reports to ascertain whether the casino's net floor par is below or above the market as reflected in the gaming revenue reports and could adjust its par settings accordingly.

8.   One of the mistakes Mr. Aguero has made is to suggest that higher pars mean increased revenue. The higher the par setting, the less time on device by the customer. Reduced time on device reduces the entertainment value to the customer. Raising pars alone does not increase coin in.

9.   I have been made aware of the fact that Ryan Tors was a former employee of the Peppermill and that he utilized a "reset key" (2341 key) to obtain hold percentages from various slot machines from various gaming casinos, including the Atlantis, in the Reno/Sparks area.

10.   Attached hereto is what I have been informed are Exhibits 7 and 8 to the depositions taken in the above-captioned matter. Assuming that the par and payback percentage information reflected in these exhibits is accurate, it is my opinion that the information set forth and contained in Exhibits 7 and 8 attached hereto is too limited to have value to a reasonably prudent casino operator or owner. As the Chief Executive Officer of the company that owns and operates the Atlantis Casino Resort Spa, I would not pay any money whatsoever for a license to know or use the par and payback percentages set forth in the attached exhibits.

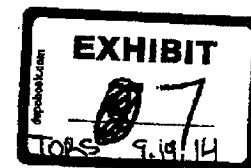DATED this __/3__ day of __Oct.__, 2015.

_____
JOHN FARAHI

2

From: Ryan Tors
ant: Thursday, December 29, 2011 8:59 AM
To: NBPartners; Rob Erwin; John C Hanson (Reno GM)
Subject: Grand Sierra

Grand Sierra
pars.xls

Thanks-
Ryan Tors
Peppermill Casinos
775 689 7499

HIGHLY CONFIDENTIAL

1

Grand Sierra   12/292011

1	04-15-08	440	91.83	8.17	Buffalo
2	04-15-07	21016	91.83	8.17	Buffalo
	Aristocrat	55722	average	8.17	
1	04-15-08	440	93.99	6.01	Ducks in a Row —
2	04-15-07	21016	94.03	5.97	Cleopatra
3	04-15-05	571	94.03	5.97	Money Strom
4	05-25-02	50060	93.98	6.02	Texas Tea
5	05-25-03		94.98	5.02	Munsters
6	05-25-01		94.00	6.26	Dbl Dia 2000
7	03-25-04	358	93.97	6.03	Lil Lady
	IGT		average	5.90	

	overall average		6.40

*all machines that I can key quickly were flagged as having been loosened, some
had the dangler pulled off

From: Ryan Tors
Sent: Friday, June 15, 2012 8:51 AM
To: NBPartners; John C Hanson (Reno GM); Billy Paganetti; David McHugh
Subject: Grand Sierra pars

Grand Sierra
pars1.xls

Thanks-
Ryan Tors
Peppermill Casinos
775 689 7499

HIGHLY CONFIDENTIAL

1

PM 0081

RA 02550

6/14/2012

Grand Sierra

#					
1	04-07	20375	93.99	6.01	Ducks in a Row
2	04-18	1011	91.82	8.18	Buffalo
3	04-10	20050	94.06	5.94	Enchanted Unicorn
4	01-07	127	94.01	5.99	Cats
5	10-47	246	93.99	6.01	Horoscope
6	05-26	937	92.51	7.49	Wolf Run
			average	6.60	

HIGHLY CONFIDENTIAL

October 20, 2015

Via Email: stacy@olympiangaming.com
Stacy Friedman
Olympian Gaming
13915 S.W. Otter Ln
Beaverton OR 97008

Via Email: tony.lucas22@gmail.com
Anthony Lucas, Ph.D.
2562 Deer Season St
Henderson NV 89502

Via Email: michelle@lvreno.com
Michelle Salazar, CPA/ABc, CVA, CFE
Litigation and Valuation Consultants
1575 Delucchi Ln, Ste 217
Reno NV 89502

RE: Grand Sierra Resort v. Peppermill Casinos Inc. re: Par Settings

Dear Mr. Friedman, Mr. Lucas and Ms. Salazar:

I have been asked to give you my thoughts about whether a small number of par settings (6-15) obtained from a competitor's casino by utilization of a master key (2341) would have any value. I strongly believe that getting 6-15 pars (or playback percentages) from one of our competitors would have no value at all. We would not pay for them. We would be foolish to use them in any way. I would not bargain for them without substantially more par information and without all other information about the competitor's free play, frequency, variability, overall marketing strategy, overall slot strategies; a knowing of a few pars from a competitor's floor is knowledge that is worthless. Movement (up or down) or the decision to not change our floor par is dependent on our operations, not a few par settings from one of our competitor's.

Should you want to discuss these strongly held opinions, please feel free to call.

Sincerely,

Russ Sheltra
Owner Bonanza Casino

Ryan Sheltra
General Manager

ELDORADO
R E S O R T S

October 26, 2015

Via Email: michelle@lvcreno.com
Michelle Salazar, CPA/ABV, CVA, CFE
Litigation and Valuation Consultants
1575 Delucchi Lane, Suite 217
Reno, NV 89502

Via Email: stacy@olympiangaming.com
Stacy Friedman
Olympian Gaming
13915 S.W. Otter Lane
Beaverton, OR 97008

Via Email: tony.lucas22@gmail.com
Anthony Lucas, Ph.D.
2562 Deer Season Street
Henderson, NV 89052

Via Email: tsullivannv@yahoo.com
Tom Sullivan
5525 Tannerwood Drive
Reno, NV 89511

    Re: GSR v. Peppermill

Gentlemen and Ms. Salazar:

    I have been informed that you are serving as expert witnesses for the Peppermill in the above-referenced matter. Please be advised that I am Chairman of the Board of Directors and Chief Executive Officer of Eldorado Resorts, Inc. ("ERI"), a publicly traded corporation formed through the merger of Eldorado Resorts and MTR Gaming Group, Inc. ERI operates the Eldorado Hotel Casino in Reno and casinos located in Shreveport Louisiana, Columbus Ohio, Erie Pennsylvania, and Cumberland, West Virginia. ERI has also owned a 50% interest in the Silver Legacy Resort Casino in Reno since its opening in 1995. ERI will be closing on the acquisition of the remaining 50% interest in the Silver Legacy Resort and the acquisition of the Circus Circus Reno Hotel Casino before the end of this year. I have worked in the casino industry continuously since 1973 in a variety of positions, starting with jobs on casino floor. Prior to the merger of Eldorado Resorts, LLC with MTR Gaming Group in 2014, I served in multiple positions as an executive in the Eldorado Hotel Casino and its affiliated entities, and served as the General Manager and Chief Executive Officer of the Silver Legacy Resort commencing upon its opening in 1995. I own significant interests in ERI, as well as in Bodine's Casino in Carson City, the Carson Valley Inn in Minden, and Sharkey's Casino in Gardnerville. I have extensive knowledge and experience in gaming

Michelle Salazar, CPA/ABV, CVA, CFE
Stacy Friedman
Anthony Lucas, Ph.D.
Tom Sullivan
October 26, 2015
Page 2

operations, slot strategies, and marketing strategies for gaming establishments generally and, particularly, for those operated within the Northern Nevada area.

I am aware of the fact that a representative of the Peppermill was caught utilizing a master key to access video reel slot machines in various casinos in the Reno-Sparks area. When the media disclosed the Peppermill's involvement in this activity, I was

concerned about the unethical conduct displayed by the Peppermill in using this form of "shopping". I am also aware of the Gaming Control Board's investigation and I feel it is appropriate that the Peppermill was properly sanctioned in having to pay a $1,000,000 fine. Having paid the $1,000,000 fine, the Peppermill has, in my opinion, been adequately and appropriately sanctioned for their conduct.

I have reviewed the two emails and attachments that are attached to this letter. I am aware that these two attachments are, in part, the basis for GSR's lawsuit against the Peppermill. I am also aware of the fact that obtaining 6 to 15 par settings from a competitor is of no value. The 6 to 15 pars reflected on the attached documents have absolutely no independent economic value. If I were involved on behalf of the Eldorado, Silver Legacy or Circus Circus in negotiations to purchase the par information reflected on the attached documents, I would pay nothing for the par information. The par information reflected on the attached documents is severely limited to par settings on a small number of machines. Because there are so few par settings reflected on these documents and because these documents do not reflect other crucial slot strategies that are more influential in gaming operations, I would pay no money in actual negotiations concerning the potential purchase of this information.

Should you have any questions, I am available at your convenience.

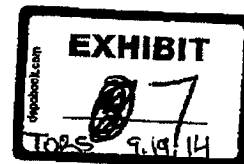Yours very truly,

GARY CARANO

Attachments

Grand Sierra
pars.xls

Thanks-
Ryan Tors
Peppermill Casinos
775 689 7499

HIGHLY CONFIDENTIAL

1

Grand Sierra   12/292011

1	04-15-08	440	91.83	8.17	Buffalo
2	04-15-07	21016	91.83	8.17	Buffalo
	Aristocrat	55722	average	8.17	
1	04-15-08	440	93.99	6.01	Ducks in a Row —
2	04-15-07	21016	94.03	5.97	Cleopatra
3	04-15-05	571	94.03	5.97	Money Strom
4	05-25-02	50060	93.98	6.02	Texas Tea
5	05-25-03		94.98	5.02	Munsters
6	05-25-01		94.00	6.26	Dbl Dia 2000
7	03-25-04	358	93.97	6.03	Lil Lady
	IGT		average	5.90	
	overall average			6.40	

*all machines that I can key quickly were flagged as having been loosened, some
had the dangler pulled off

From:	Ryan Tors
Sent:	Friday, June 15, 2012 8:51 AM
To:	NBPartners; John C Hanson (Reno GM); Billy Paganetti; David McHugh
Subject:	Grand Sierra pars

Grand Sierra
pars1.xls

Thanks-
Ryan Tors
Peppermill Casinos
775 689 7499

HIGHLY CONFIDENTIAL

1

PM 0081

RA 02557

6/14/2012

Grand Sierra

1	04-07	20375	93.99	6.01	Ducks in a Row
2	04-18	1011	91.82	8.18	Buffalo
3	04-10	20050	94.06	5.94	Enchanted Unicorn
4	01-07	127	94.01	5.99	Cats
5	10-47	246	93.99	6.01	Horoscope
6	05-26	937	92.51	7.49	Wolf Run
			average	6.60	

HIGHLY CONFIDENTIAL

☾al Neva
HOTEL CASINO

October 30, 2015

Mr. Kent R. Robinson, Esq.
Robinson, Belaustegui, Sharp & Low
71 Washington Streets
Reno, NV 89503

Re: Grand Sierra Lawsuit Against Peppermill

Dear Mr. Robinson:

I met with your client Bill Paganetti on October 30, 2015, to discuss the issues involved in the lawsuit filed against the Peppermill by the Grand Sierra Resort. Mr. Paganetti asked be to give you my opinion concerning the value of knowing the slot machine par settings of slots machines from other casinos.

Prior to expressing my opinion of knowing the slot machine par settings of other casinos, I would like to give you some background of my experience in the gaming industry. I have been in the gaming business since November 1, 1981, when I started at the Club Cal Neva's finance department. In 2001, I became the Chief Executive Officer of the Club Cal Neva. In 2012 I became the sole shareholder of Club Cal Neva. Additionally, in 2014, I opened Siri's Casino in downtown Reno. As part of my experience I have been and continue to be closely involved in the setting of slot machine par percentages at the Club Cal Neva and Siri's Casino.

Mr. Paganetti informed me that the Peppermill is being sued because one of its employees obtained 6 to 15 par settings from the Grand Sierra Resort over a period of six months. He further asked me to indicate the value of knowing a competitor's hold percentage on slot machines.

Prior to giving my opinion of the value of the knowledge, some information to consider:

1. All casinos have video poker slot machines, and the pay table on video poker machines are displayed on the screen of these machines. Based on the pay table of a video poker machine anyone can find out the par percentage of a video poker machine in any casino. Additionally there are web sites, e.g. www.wizardofodds.com, that have the hold information readily available for anyone to view.

2. Casinos such as the Peppermill and Grand Sierra Resort have large gaming floors with large number and varied mix of slot machines, slot machine denominations, and slot machine locations. Many casinos vary slot machine hold percentages based on various factors such as (i) the location of a slot machine on the gaming floor (ii) if the location is more likely to attract a local or tourist, (iii) if the machine is close to an exit, in the middle of the casino, in a hard to find location, (iv) the hold percentage of an adjacent machine, e.g. placing a higher hold machine next to a lower hold machine, (v) etc.

3. Slot machine hold percentages can also vary based on the internal casino offers such as the amount of free play that a customer can earn, the amount awarded to customers for complimentary privileges, the amount awarded to customers for other promotions such a drawings, car giveaways, and special events (dinners shows, entertainment, etc.).

4. Casino can change par settings at any time. Machines are developed to allow the casino to adjust the par settings by simply changing the programming of the machine. A casino does not have to purchase a new machine or even a new operating program to adjust a par setting.

5. I have known Bill Paganetti for over 20 years, and he has always been very involved in slot operations of the Peppermill properties. Bill has always expressed his philosophy concerning slot machines and hold percentages, and his philosophy has never changed. Mr. Paganetti would not, in my opinion, change a slot machine par based on information of slot par settings from another casino.

With this information in taken into account, to suggest that Bill Paganetti gained valuable information from knowing the slot machine par settings from 6 to 15 machines at the Grand Sierra Resort is absolutely ridiculous. There are such a large number of variables that have to be taken into account when setting slot machine hold percentages that knowledge of another casino par settings would be of little or no benefit. This is further confirmed by the fact that only 6 to 15 machine par settings were obtained over a six month period. This sample is much too small and, since it was done over a significant period of time, could not have yielded inside information that would have created a competitive advantage to the Peppermill. I do not know of any casino operator that would rely on just knowing a par setting of another casino to adjust their par settings.

The simple conclusion is that if I were asked to pay someone to provide me with par settings for 6 to 15 slot machines at the Grand Sierra Resort or for any other casino in my competitive market I would refuse to pay anything; this knowledge is without value and would provide me with no benefit.

A final note, knowledge of the par settings for 6 to 15 slot machines at the Grand Sierra Resort would most certainly not have caused any other damages to the Grand Sierra Resort. A location such as the Grand Sierra Resort or Peppermill have many other factors that should be considered, such a quality and number hotel rooms, dining, entertainment, promotional activities, convention sales, amenities, atmosphere, etc. Knowledge of par settings on small sample of slot machines would not have given the Peppermill a competitive advantage that would have shifted customers from the Grand Sierra Resort to the Peppermill.
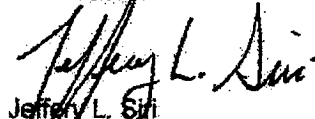
If you have any questions concerning the information contained in this letter, or if you would like to further discuss this matter, please do not hesitate to contact me.

Sincerely,
Club Cal Neva and
Siri's Casino

Jeffery L. Siri
President, Chief Executive Officer,
and Sole Shareholder

/JLS

October 30, 2015

Bill Paganetti
Peppermill Hotel Resort
2707 South Virginia Street
Reno, Nevada 89502

Re: Par Settings

Dear Bill:

You asked me to give you my comments, opinions and understanding about the value of the limited number of par settings obtained by the Peppermill from the GSR. My understanding is that there is some dispute about whether your former employee, Ryan Tors, actually "keyed" video reel slot machines at the GSR. This letter is based upon the assumption that Mr. Tors obtained seven par settings from GSR slot machines from December 29, 2011. You have also asked me to consider the assumption that Mr. Tors obtained six par settings from the GSR in June of 2012. You informed me that the machines from which these par settings were obtained were IGT and Aristocrat video reel machines located on the floor of GSR.

There is absolutely no value to a competitor of GSR to have these par settings. The par settings have no individual value. The seven par settings presumably obtained in December 2011 have no value to another casino operation. The total of 13 pars theoretically obtained by Mr. Tors over a six month period have no value whatsoever. If GSR attempted to sell me the par information that Mr. Tors presumably obtained, I would refuse to buy them because they simply have no value whatsoever. The statements I make in this letter to you are based upon my extensive experience as a casino operator and my extensive experience with slot strategies, marketing strategies and casino operation strategies. Par settings are changed frequently. Par settings are dependent on many other operational factors which, if not fully known and understood, make 13 par settings of a casino that has over 1,000 slot machines on its floor irrelevant, immaterial and valueless.

I enjoyed our discussion. Good luck.

Sincerely,

Mitch Gardner
Vice President
Bordertown Casino RV Resort

EXHIBIT 18

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

**CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014**

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

EXHIBIT 18

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada)
Corporation, d/b/a GRAND SIERRA RESORT,)
)
          Plaintiff,)
)
-vs-)
)
PEPPERMILL CASINOS, INC., a Nevada)
Corporation, d/b/a PEPPERMILL CASINO;)
RYAN TORS, an individual; JOHN DOES I-X,)
and JANE DOES I-X and CORPORATIONS I-X,)
)
          Defendant(s).)
)

DEPOSITION OF TOBY TAYLOR

(HIGHLY CONFIDENTIAL PAGES 18 - 73)

called for examination by counsel for Defendant Peppermill

Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at

the offices of Robison, Belaustegui, Sharp & Low, 71

Washington Street, Reno, Nevada, at 2:15 p.m., Monday,

November 3, 2014, before Becky Van Auken, a Certified Court

Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

CAPTIONS UNLIMITED OF NEVADA, INC. (775) 746-3534

1   Q   Are all the machines relocked?

2   A   No.

3   Q   You're still relocking?

4   A   Yes.

5   Q   Why is it taking so long?

6   A   Well, we got to a point in June where new

7   games -- May and June -- where new games were

8   arriving, so we had to get new games on the floor.

9   And then I've lost some resources, and so I had some

10 techs that were gone.

11   Q   So there's machines on the floor right now

12 with 2341 locks?

13   A   Yes. And then all the wide-area; we won't

14 rekey those.

15   Q   All the what?

16   A   The wide-area progressives.

17   Q   That's the vendor's responsibility,

18 correct?

19   A   Yeah. And I don't think that they will do

20 that.

21   Q   So all of the wide-area progressives will

22 still have 2341 locks on the GSR floor?

23   A   Yes.

24   Q   What are you doing to protect those?

25   A   They have a key lock in them.

1   Q   A 2341 lock?

2   A   Yes.

3   Q   And you have 2341 keys. Correct?

4   A   Yes.

5   Q   And you're aware that the 2341 keys can be

6 purchased on Ebay?

7   MR. WRAY: Which topic are you talking

8 about, Counsel?

9   Before you answer the question, I might

10 object to -- you may be answering questions about

11 whether or not a key can be purchased on Ebay as

12 opposed to the topics that you are asked to talk

13 about.

14   THE WITNESS: Okay.

15   MR. WRAY: So which topic are we on,

16 please?

17   MR. ROBISON: We're still on No. 1.

18   MR. WRAY: Okay. I object to the question.

19 It's outside the scope of No. 1.

20   MR. ROBISON: Okay.

21 BY MR. ROBISON:

22   Q   How many machines still have 2341 keys?

23   MR. WRAY: Same objection.

24   In fact, don't answer it.

25   THE WITNESS: Okay.

1   MR. ROBISON: Go get me a subpoena for

2   another deposition. Give me 15 days out and subpoena

3   him on this, okay, Jim? Thank you.

4   BY MR. ROBISON:

5   Q   Of the 1136 machines that were on the floor

6   on November 14th, how many of those still had -- or

7   had new locks and keys?

8   A   Currently we have 618 games that have been

9   rekeyed.

10   Q   As of today's date?

11   A   As of -- yes.

12   November, that would have been the same too

13   because, again, I've had resources that were...

14   Q   All right. So from November 2014 to March

15   of 2015 there have been no machines rekeyed -- or

16   relocked?

17   A   Correct.

18   Q   So it's still -- 618 have received VSR

19   locks, and the balance still have 2341 locks?

20   A   Correct.

21   Q   You say you lost resources. Is that just

22   manpower?

23   A   Yes.

24   Q   Have there been cutbacks?

25   A   No.

1   So the ones that didn't have to be -- we still have

2   some that have to be soldered in, which is a little

3   more time-consuming for us. So it was just based on

4   what we could get the most of the quickest.

5   Q   Was there any kind of strategy or formula

6   as to which machines would receive locks prior to

7   others?

8   A   I believe I told you it was the ones that

9   we could get the most of the quickest.

10   Q   But I'm talking about theme or vendor-type

11   strategy.

12   A   What we could get the most of the quickest.

13   Q   And is that specific to location, like on

14   the floor as opposed to the raised area?

15   A   No. It was just which locks are easier to

16   replace.

17   Q   And what determines what locks are easier

18   to replace? They're all 2341 locks, aren't they?

19   A   Yeah, but they're different -- they're

20   installed in different places in the machine. Just

21   some are easier than others. It's just like working

22   on a car. Some things are easier to do on one car

23   than another car.

24   Q   So 518 of the machines are still vulnerable

25   to 2341 keys. Correct?

1   A   Correct.

2   Q   And, again, the date of these

3   installations -- that would be topic No. 2 --

4   A   Okay.

5   Q   -- what do you know about that?

6   A   I don't have exact dates. I have the time

7   when most of it happened, which was -- I believe we

8   did it in May and June of 2014 was when the majority

9   of the work took place.

10   Q   Is Exhibit 39 -- is that the date that

11   these keys and locks were ordered, sir?

12   A   Yeah, that's the date of the invoice.

13   Q   But just so I know and the jury knows what

14   "invoice" signifies in this case, that's the order for

15   the locks?

16   A   This is the quote.

17   Q   The quote?

18   A   Yes. I ordered them shortly after I got

19   this quote.

20   Q   When did you order them?

21   A   Again, shortly -- within two weeks of this

22   quote.

23   Q   What document exists that verifies the date

24   of your order?

25   A   There's probably a P.O. that I would have.

1   A   I don't believe we've been able to get back

2 to that project, no.

3   Q   Why?

4   A   Again, resources. I haven't...

5   Q   Is that manpower?

6   A   Yes.

7   Q   The typical wage for the person who changes

8 these out is what?

9   A   Probably about 15 an hour average.

10   Q   So about $5 a machine for labor? You say

11 20 minutes, 15 --

12   A   Yeah. Sounds adequate, yeah.

13   Q   Has anybody done that calculation?

14   A   I believe we looked at -- we put something

15 together.

16   Q   Mr. Taylor, it's my understanding that this

17 is a damage figure that GSR is seeking to recover from

18 the Peppermill. Have you been involved in trying to

19 specify this amount of labor and charges?

20   A   Yes.

21   Q   And what is it?

22   A   Like we said, 20 minutes a machine.

23   Q   Total. For labor.

24   A   I don't have the total yet. The project is

25 not completely done yet.

1   Q   So how would we categorize or label this

2   particular schedule, the one that shows man hours

3   and -- whatever you sent to Mr. Cohen.

4   A   It would be lock expense. I believe I sent

5   it to Steve. I mean, it was an estimate on the total

6   replacement for the locks. So what it costs per

7   machine, how many machines we had to do, and the

8   approximate -- the estimate of --

9   Q   Of man hours?

10   A   -- man hours, times, about the approximate

11 wage my guys receive.

12   Q   But as of today the actual manpower would

13 be a fraction, which is 618 over 1136 of that

14 estimate?

15   A   It would be about 206 man hours. Correct?

16   Q   I don't know. I'm just doing the formula.

17   You've done 618 of 1136. So it would be

18 that fraction times the --

19   A   So a little more than half, yeah --

20   Q   -- five bucks per machine. Right?

21   A   I guess. You're saying five bucks for

22 labor. There's still the lock cost that's involved.

23   Q   Well, the lock cost -- I'm just asking

24 about labor costs.

25   A   Okay.

1   Q   Because that hasn't been provided to us.
2 And that's really why you're here?

3   A   Okay.

4   Q   So Exhibit 68 you'll produce as the lock
5 expense schedule. Correct?

6   A   I believe it's already done, but --

7   THE WITNESS: 68, Mark.

8   MR. WRAY: Okay.

9   (Exhibit 68 was subsequently marked.)

10 BY MR. ROBISON:

11   Q   We're going to need this deposition anyway.

12   Let's move to item No. 3. You are the
13 person most knowledgeable about the number of new slot
14 machines put on the floor after July 13, 2013;
15 correct, sir?

16   A   Yes.

17   Q   Do you have a number for that?

18   A   There's been 344 new games since then.

19   Q   Is that in addition to what was there or is
20 that kind of a replacement process?

21   A   There's a cycle. There's a replacement
22 process. There's additional. There's all sorts of
23 things that happen.

24   Q   And have any of these 314 new machines --

25   A   44.

1   anyway?

2   A   Yes.

3   Q   Okay. Item No. 5, Mr. Taylor, goes on to

4   say: The Person Most Knowledgeable about the specific

5   number of man hours utilized to change each lock on

6   the GSR machines and/or records and documents.

7   And this area of my inquiry is pertaining

8   to records and documents which would show who changed

9   the locks on which dates and on which machines.

10   What records or documents does the GSR have

11   to validate these certain machines were subject to

12   having their locks changed?

13   A   Again, I'll produce that schedule which has

14   them done. I don't have a specific who did which

15   lock. I just don't have that because it was a project

16   that my team attacked.

17   Q   All right. So let's talk about the

18   documents.

19   What you've identified as having that

20   hasn't been produced is a lock expense schedule that

21   would show an estimate, total estimate, of the an

22   hours that might be required to change the locks on

23   1138 machines?

24   A   Correct.

25   Q   And that's already been produced to

1 counsel?

2   A   I believe so. I mean, it's been a while,

3 so I can't -- I'd have to --

4   Q   How long has it been since you produced

5 that document to counsel?

6   A   Well, I don't remember --

7   MR. WRAY: Excuse me. Don't answer any

8 questions like "When did you communicate with counsel

9 about this." Okay?

10   THE WITNESS: Okay.

11 BY MR. ROBISON:

12   Q   I'm not asking for a communication. I'm

13 asking about when you sent a document to counsel.

14   A   I don't remember.

15   MR. ROBISON: Are you claiming that

16 document is privileged?

17   MR. WRAY: Yes.

18   MR. ROBISON: Okay. Is it going to be

19 produced?

20   MR. WRAY: I don't even know what it says,

21 Mr. Robison, so how --

22   MR. ROBISON: It's the lock expense

23 schedule.

24   MR. WRAY: It's a communication from a

25 client to his attorney. Please understand that, as

1   far as I'm concerned, that's an attorney-client

2   communication. Now, until I know more, yes, I

3   consider it an attorney-client communication.

4   BY MR. ROBISON:

5   Q   You prepared this to reflect your estimate

6   of man hours that will be required to change the locks

7   on 1138 machines, correct, sir?

8   A   Yes.

9   Q   Why did you do that?

10   A   Because I was asked to put together an

11   estimate of how long it would take to rekey the floor.

12   Q   Okay. By counsel?

13   A   I don't remember by who.

14   Q   Was that request in writing?

15   A   I don't believe so.

16   Q   Was it a management person at GSR?

17   A   I believe Ralph said put together an

18   estimate of how long it's going to take.

19   Q   When did he do that?

20   A   I don't remember.

21   Q   Is that in writing?

22   A   I don't believe so.

23   Q   Is there any other document that you're

24   aware of, Mr. Taylor, that would show the man hours

25   expended or to be expended for changing the locks on
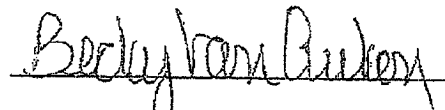
STATE OF NEVADA   )
)   ss.
COUNTY OF WASHOE   )

        I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

        That on Monday, November 3, 2014, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of TOBY TAYLOR, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

        That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

        Dated at Reno, Nevada, this 10th date day of November, 2014.
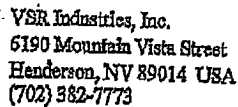
BECKY VAN AUKEN, CCR #418

EXHIBIT 19

EXHIBIT 19

VSR Industries, Inc.
6190 Mountain Vista Street
Henderson, NV 89014 USA
(702) 382-7773

Quote

Quote Number: **58660**

── Submitted To ──

Toby Taylor

Salesperson: jspain
Customer: 12464

Sold To

Grand Sierra Resort & Casino
Accounts Payable
2500 East Second Street
Reno, NV 89595 USA

Ship To

Grand Sierra Resort & Casino
2500 East Second Street
Reno, NV 89595 USA

VSR DIMPLE HIGH SECURITY SWITCH LOCKS (ROTURE SET)

Quote	Expiration	Ship Via	F.O.B	Terms
3/21/2014	4/21/2014			Due Net 30 Days

Part Number	Description	Ordered	Unit Price	Disc Amt	Unit Net	Amount
LCK000115000010	LOCK VSR9000 2 POSITION MOMENTARY VSR DIMPLE RESTRICTED LOCKS KEYED TO A NEW CODE (GSRR) FOR STANDARD MACHINE RESET ON IGT, BALLY, WMS, SPIELO & INTERBLOCK GAMES INCLUDES (5) SPARES	835	17.50	2.0000	15.50	12,942.50
ZZZ000500000018	NON INVENTORY FINISHED GOODS VSR DIMPLE RESTRICTED LOCKS 3 POSITION MAINTAINED - OFF MAINTAINED KEYED TO THE NEW KEY CODE (GSRR) FOR AINSWORTH, ARISTOCRAT & KONAMI INCLUDES (2) SPARES NOTE: THESE WILL NOT BE AVAILABLE FOR AT LEAST ANOTHER 60 DAYS	144	17.50	2.0000	15.50	2,232.00
ZZZ000500000018	NON INVENTORY FINISHED GOODS VSR DIMPLE RESTRICTED LOCKS 3 POSITION MAINTAINED - OFF MOMENTARY KEYED TO THE NEW KEY CODE (GSRR) FOR ARUZE GAMES INCLUDES (2) SPARES NOTE: THESE WILL NOT BE AVAILABLE FOR AT LEAST ANOTHER 60 DAYS	43	17.50	2.0000	15.50	666.50
LKY000306000100	KEY DIMPLE SWITCH LOCK TO THE NEW KEY CODE (GSRR)	30	7.00	7.0000	0.00	0.00
LKY000306000100	KEY DIMPLE SWITCH LOCK TO THE NEW KEY CODE (GSRR)	70	7.00	1.5000	5.50	385.00

Quote Amount:	18,485.00
Discount	-2,359.00
Freight	0.00
Sales Tax:	1,253.46
Total USD	**17,479.46**

This proposal may be withdrawn by VSR Industries, Inc. if not accepted within 30 days.

APPROVED BY:

EXHIBIT
__39__

Phone: (775) 789-2218
Fax: (775) 789-1654

GSR GRAND
SIERRA RESORT AND CASINO

Vendor	VSR INDUSTRIES, INC. P.O. BOX 94135 LAS VEGAS, NV 89193	Ship To	RECEIVING-DOCK 2500 E. SECOND STREET RENO NV 89595

Capital Project No.		Ship Via UPS	F.O.B. SHIPPING POINT	Terms NET 30 DAYS %	P.O. Date 04/09/2014
Charge Division	CAPEX GENERAL				
Charge Department	CAPEX NON CONSTRUCTION				

Comments

FOR: CHANGE THE RESET LOCK IN THE CURRENT
MACHINES TO A PROPRIETARY KEY RESET SYSTEM
PER TOBY TAYLOR.
PRE-APPROVED CAPITAL - 17011

1	9020200003	PART #LCK000115000010 LOCK VSR9000 2 POSITION MOMENTARY VSR DIMPLE RESTRICTED LOCKS KEYED TO A NEW CODE "GSRR" FOR STANDARD MACHINE RESET ON IGT, BALLY, WMS, SPIELO & INTERBLOCK GAMES INCLUDES (5) SPARES	835	EACH	15.50	12942.50
2	TAX 9020200003	103/001 NV TAX 7.725% PART #ZZZ000500000018 NON INVENTORY FINISHED GOODS VSR DIMPLE RESTRICTED LOCKS 3 POSITION MAINTAINE D - OFF -MAINTAINED KEYED TO THE NEW KEY CODE *GSRR* FOR AINSWORTH, ARISTOCRAT & KONAMI INCLUDES (2) SPARES NOTE NOT AVAILABLE FOR ANOTHER 60 DAYS.	7.725 144	%NET EACH	999.81 15.50	2232.00
3	TAX 9020200003	103/001 NV TAX 7.725% PART #ZZZ000500000018 NON INVENTORY FINISHED GOODS VSR DIMPLE RESTRICTED LOCKS 3 POSITION MAINTAINED -OFF- MOMENTARY KEYED TO THE NEW KEY CODE *GSRR*FOR ARUZE GAMES INCLUDES (2) SPARES. NO AVAILABLE FOR AT LEAST ANOTHER 60 DAYS	7.725 43	%NET EACH	172.42 15.50	666.50
4	TAX 9020200003	103/001 NV TAX 7.725% PART #LKY000306000100	7.725 30	%NET EACH	51.49 0.00	.00

Total Lines	Gross Amount	Freight & Misc	Tax	Discount	Pay/r	
5	16226.00	.00	1253.46	.00		PURCARONL

The purchase order is subject to all terms and conditions contained in the master purchase agreement and hereby included by reference herein.
The purchase order number must appear on all invoices, statements, shipping cartons, correspondence, packing slips and shipping papers. Additional terms and conditions apply, furnished upon request.

Grand Sierra Resort & Casino is an equal opportunity employer. All federal EEO and affirmative action requirements in race, gender, religion, national origin, individuals with disabilities, veteran status or disabled veteran status as found in 41 CFR 60-250.5, 60-300.5, and 60-741.5 are herein incorporated by reference. The provision of 29 CFR 470 are herein incorporated by reference.

Please add sales tax where applicable

GSR GRAND
SIERRA RESORT AND CASINO

Vendor	VSR INDUSTRIES, INC. P.O. BOX 94135 LAS VEGAS, NV 89193	Ship To	RECEIVING-DOCK 2500 E. SECOND STREET RENO NV 89595

Capital Project No.		Ship Via UPS	F.O.B. SHIPPING POINT	Terms NET 30 DAYS %	P.O. Date 04/09/2014
Charge Division	CAPEX GENERAL				
Charge Department	CAPEX NON CONSTRUCTION				

KEY DIMPLE SWITCH LOCK TO THE NEW KEY CODE
GSRR

5	5020200003	PART #LKT000306000100 KEY DIMPLE SWITCH LOCK TO THE NEW KEY CODE *GSRR*	70	EACH	5.50	385.00
	TAX	103/001 NV TAX 7.725%	7.725	%NET	29.74	

Total Lines	Gross Amount	Freight & Misc	Tax	Discount	Buyer	
5	16226.00	.00	1253.46	.00	PURCARONI	

The purchase order is subject to all terms and conditions contained in the master purchase agreement and hereby included by reference herein.
The purchase order number must appear on all invoices, statements, shipping cartons, correspondence, packing slips and shipping papers. Additional terms and conditions apply, furnished upon request.

Please add sales tax where applicable

GSR00102

EXHIBIT 20

EXHIBIT 20

Merriam-Webster

Dictionary   Thesaurus   Medical   Scrabble   Spanish Central   Browse Dictionary
Browse Thesaurus

disclose   🔍   SEARCH >

Dictionary

'disclose 🔊

SAVE   POPULARITY

verb : dis·close | \dis-'klōz\

🔖 Cite! 🅕 Share G+1 🐦 Tweet

: to make (something) known to the public

Improve your SCRABBLE® game with our
official Word Finder Tool Word Finder Tool »

Full Definition of DISCLOSE

transitive verb

1 *obsolete* : to open up

2 a : to expose to view

  b *archaic* : HATCH

  c : to make known or public <demands that politicians *disclose* the sources of their income>

    — dis·clos·er | *noun*

See disclose defined for English-language learners »

See disclose defined for kids »

EXHIBIT 21

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

**CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014**

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

EXHIBIT 21

INDEMNIFICATION AGREEMENT

For valuable consideration, the sufficiency and receipt of which is acknowledged, the Peppermill Casinos, Inc., does hereby agree to indemnify Ryan Tors pursuant to the Respondeat Superior Doctrine from any and all adverse judgments that may be entered against Ryan Tors in connection with his keying activities alleged in the Complaint filed by MEI-GSR Holdings, LLC, dba Grand Sierra Resort, on August 2, 2013, in Case No. CV13-01704.

This indemnification commitment is conditioned upon Ryan Tors providing truthful testimony and providing truthful responses in all discovery exchanges.

READ, APPROVED and ACCEPTED this ___10ᵗʰ___ day of _December_, 2014.

PEPPERMILL CASINOS, INC.

BY: _____

ITS: _Executive Vice President_

_____
RYAN TORS

EXHIBIT 22

EXHIBIT 22

RSPN
COHEN-JOHNSON, LLC
H. STAN JOHNSON
Nevada Bar No. 00265
sjohnson@cohenjohnson.com
TERRY KINNALLY, ESQ.
Nevada Bar No. 6379
tkinnally@cohenjohnson.com
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
Telephone: (702) 823-3500
Facsimile: (702) 823-3400
*Attorneys for the MEI-GSR Holdings, LLC .
d/b/a Grand Sierra Resort*

IN THE SECOND JUDICIAL DISTRICT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MEI-GSR HOLDINGS,LLC, a Nevada Corporation, d/b/a/ GRAND SIERRA RESORT, Plaintiffs, vs. PEPPERMILL CASINO, INC., a Nevada Corporation, d/b/a/ PEPPERMILL CASINO;RYAN TORS, an individual; JOHN DOES I-X AND CORPORATIONS I-X, DEFENDANT(S).	Case No.: CV13-01704 Dept. No.: B7 **BUSINESS COURT DOCKET**

PLAINTIFF MEI-GSR HOLDINGS LLC RESPONSES TO DEFENDANT

PEPPERMILL CASINO INC.'S SECOND SET OF INTERROGATORIES

GENERAL OBJECTIONS

The following general objections are incorporated into each of Plaintiff's Responses to

Defendant's Interrogatories

Wherever Plaintiff objects to an Interrogatory on the grounds that said Request is unduly

burdensome and oppressive, Defendant's attention is directed to the following cases: *Riss &*

Co. v. Association of American Railroads, 23 F.R.D. 211 (D.D.C. 1959); *United States v.*

RA 02586

Loew's, Inc., 23 F.R.D. 178 (S.D.N.Y. 1959); *Green v. Raymond*, 41 F.R.D. 11 (D. Colo. 1966); and *Flour Mills of America, Inc. v. Pace*, 75 F.R.D. 676 (D. Okla. 1977).

Further, wherever Plaintiff objects to an Interrogatory on the grounds of vagueness and over breadth, Defendant's attention is directed to the following cases: *Jewish Hospital Ass'n of Louisville v. Struck Construction Co.*, 77 F.R.D. 59 (C.D. Ky. 1978); *Flour Mills of America, Inc. v. Pace*, 75

F.R.D. 676 (D. Okla. 1977); and *Stovall v. Gulf & So. Am. S.S. Co.*, 30 F.R.D. 152 (D. Tex. 1961).

Further, wherever Plaintiff objects to an Interrogatory on the grounds that the Request is irrelevant and not calculated to lead to admissible evidence, Defendant's attention is directed to the following cases: *Green v. Raymond*, 41 F.R.D. 11 (D. Colo. 1966); and *Burroughs v. Warner Bros. Pictures*, 14 F.R.D. 165, 166 (D. Mass. 1963).

Further, wherever Plaintiff objects to an Interrogatory regarding trial preparation materials on the ground that the propounding party has failed to show "good cause" under FRCP 26(b)(3), Defendant's attention is directed to the following cases: *United States v. Chatham City Corp.*, 72 F.R.D. 640 at 642-643 (S.D. Ga. 1976); and *First Wisconsin Mtg. v. First Wisconsin Corp.*, 86 F.D.R. 160 at 165, 167 (E.D. Wisc. 1980).

Finally, wherever Plaintiff objects to an Interrogatory on the ground of attorney-client privilege, Defendant's attention is directed to the following cases: *Sperry Rand Corp. v. IBM*, 45 F.R.D. 287 (D. Del. 1968); and *Jewish Hospital Ass'n of Louisville v. Struck Construction Co.*, 77 F.R.D. 59 (C.D. Ky. 1978).

The following Responses to Requests for Interrogatories are based upon information and documents presently available to and known by Plaintiff and disclose only those contentions that are presently asserted, based upon presently available and known facts. It is anticipated that further discovery investigation, legal research and analysis will reveal additional facts, add meaning to known facts, and establish entirely new factual conclusions or legal contentions, all of which may lead to additions to, changes in and variations from these contentions and Responses.

1   All Responses are subject to these continuing objections.

2 **DEFINITIONS OF SPECIFIC OBJECTIONS**

3   As used in the specific responses below, the following terms include objections based

4 upon their respective definitions:

5   A.   "Vague and Ambiguous" is defined to mean: Plaintiff objects on the basis that

6 the Request is vague, uncertain, and ambiguous.

7   B.   "Overbroad" is defined to mean: Plaintiff objects on the basis that the Request is

8 overbroad and calls for an expansive potential breadth of information that is unreasonable in

9 scope and parameter.

10   C.   "Irrelevant" is defined to mean: Plaintiff objects on the basis that the Request

11 requests information irrelevant to the subject matter of this action and not reasonably calculated

12 to lead to the discovery of admissible evidence.

13   D.   "Burdensome" is defined to mean: Plaintiff objects on the basis that the Request

14 is so broad and uncertain that it creates an unreasonable and undue burden. "Burdensome" is

15 also defined to mean that Plaintiff objects to the Request because the information sought is

16 more readily available through some other, more convenient, less burdensome, and less

17 expensive source or discovery procedure. See NRCP 26(b)(1).

18   E.   "Privileged" is defined to mean: Plaintiff objects on the basis that the Request

19 calls for information that is (1) protected by the work product doctrine; (2) protected by the

20 attorney-client privilege; (3) protected because it consists, in whole or in part, of trial

21 preparation materials and/or documents containing mental impressions, conclusions, opinions,

22 or legal theories of counsel; (4) otherwise protected under NRCP 26(b); or (5) protected under

23 any other valid privilege.

24   F.   "Repetitious" is defined to mean: Plaintiff objects on the basis that the Response

25 to the Request has already been given after similar documents were produced in response to a

26 previous Request or another format through this proceeding.

27 . . .

28 . . .

COHEN-JOHNSON, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
(702) 823-3500 FAX: (702) 823-3400

1   G.   The phrase "Without waiving the foregoing objections", or words having similar

2 effect, is defined to mean: While Plaintiff will produce the requested documents in response to

3 the Request, the documents sought by the Request that are covered by either a specific or

4 general objection will not be produced.

5 **RESPONSES TO SECOND SET OF INTERROGATORIES**

6 **INTERROGATOY NO. 1:**

7   Since July 2011, has the Grand Sierra Resort ("GSR") utilized the services of a

8 "shopper" to examine and investigate other casino properties in Washoe County? If your answer

9 is in the affirmative, please identify the shopper by name and address.

10 **RESPONSE NO. 1:**

11   Yes

12   1.   Compton Dancer (CDC Consulting) 7107 S. Durango Dr. #215, Las Vegas NV.

13 89113

14   2.   David G. Schwartz Phd. 4605 Maryland Parkway, Box 457010, Las Vegas NV

15 89154-7010.

16 **INTERROGATORY NO. 2:**

17   Since July 2011, has the GSR ever utilized the services of CDC Consulting (also known

18 as Compton Dancer) to conduct any consulting services or shopping of other casinos in Washoe

19 County?

20 **RESPONSE NO. 2:**

21   Yes.

22 **INTERROGATORY NO. 3:**

23   Has the GSR, since July 2011, conducted any research, shopping or other marketing

24 investigation concerning the Peppermill Hotel Casino?

25 **RESPONSE NO. 3:**

26   Yes

27   See CDC documents previously produced as GSR 18,009 through GSR

28 18,293

2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 4:

Has the GSR conducted any investigations since July 2011 concerning the Peppermill's comp strategies, reinvestment strategies or efforts to determine Peppermill's par settings, player theoretical holds or other information pertinent to the Peppermill's gaming strategies for slot machines?

RESPONSE NO. 4:

GSR has not conducted any investigations as to Peppermill's par settings, on specific slot machines but hired Compton Dancer to provide reports which include theoretical hold percentages, comp and reinvestment strategies. See documents previously produced as GSR 18,009 through GSR 18,293

Also see the report by David G. Schwartz Phd. entitled Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 5:

Have you received any reports, summaries, explanation or written material from any shopper, consulting firm or consulting individual, that in any way provides an analysis of your competitors' gaming strategies, marketing strategies and/or promotional activities?

RESPONSE NO. 5:

Yes See CDC documents previously produced as GSR 18,009 through GSR 18,293

Also see the report by David G. Schwartz Phd. entitled Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 6:

Have you utilizes the services of any consultants to compare GSR's player rewards strategies with GSR's competitors in Washoe County?

RESPONSE NO. 6:

Yes See CDC documents previously produced as GSR 18,009 through GSR 18,293 and Also see the report by David G. Schwartz Phd. entitled Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 7:

Have you used consultants or employees to make visits to other casino properties in Washoe County for the purposes of comparing players' activities and propensities and club card procedures and operations?

RESPONSE NO. 7:

Yes See CDC documents previously produced as GSR 18,009 through GSR 18,293 . Also see the report by David G. Schwartz Phd. entitled Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 8:

Have you received from any consultants or entities or persons who have attempted to compare your player reward strategy to other strategy to other casinos? Have you hired anyone for services resulting in a player club assessment report?

RESPONSE NO. 8:

Yes See CDC documents previously produced as GSR 18,009 through GSR 18,293. Also see the report by David G. Schwartz Phd. entitled Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 9:

Have you received any reports, written documents or graphs that analyze the players' club of other casinos, club booth operations reward programs and/or overall players club rating scores of other casino properties in the Reno/Sparks area since July 2011?

. . .

. . .

. . .

RA 02591

RESPONSE NO. 9:

Yes See CDC documents previously produced as GSR 18,009 through GSR 18,293 Also see the report by David G. Schwartz Phd. entitled Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 10:

Have you made attempts to have consultants, employees or other entities or individuals analyze the cashback and visible comp reinvestment percentages of reel slots for other gaming properties in the Reno/Sparks area? If so, please explain in detail.

RESPONSE NO. 10:

Yes See CDC documents previously produced as GSR 18,009 through GSR 18,293. Also see the report by David G. Schwartz Phd. entitled Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 11:

If your answer is in the affirmative to any of the foregoing Interrogatories, please identify with specificity and particularity the name, address, and if possible, telephone number for each individual involved in the analysis, investigation and reporting mention in the above Interrogatories.

RESPONSE NO. 11:

See the response to Interrogatory No. 1 above.

INTERROGATORY NO. 12:

Please identify with specificity and particularity each and every report, analysis, examination or documents that pertain in any way to the GSR's analysis of the Peppermill'

    (a) Cash back and visible comp reinvestment percentage for reel slots:

    (b) Cash back program reinvestment strategies;

    (c) Visible comp program reinvestment;

    (d) Reinvestment analysis of Peppermill's players clubs employees' attitude, training and ability to solve problems;

    (e) Peppermill's staffing levels:

(f) Booth location and design;

(g) Focus on guess [t] [spelling error] service through use of technology;

(h) Printed information and collateral available:

(i) Quantity and value of benefits;

(j) Quality of benefits;

(k) Benefits ease of use;

(l) Players club ratings score;

(m) Players club effectiveness;

(n) Cash back strategies; and

(o) Comparing strategies or programs.

RESPONSE NO. 12:

The "shopping" done by CDC consulting was on the following topics.

(a) Cash back and visible comp reinvestment percentage for reel slots:

    1.   CDC:

    May 2014 GSR 18,006 – GSR 18,293

    October 2014 GSR 18,006 – GSR 18,293

    September 2014 GSR 18,006 – GSR 18,293

    November 2014 – GSR 18,299 – GSR 18,345

    December 2014 – GSR 18,346– GSR18,390;

    January 2015 – GSR 18,391 – GSR 18,435;

    February 2015 – GSR 18,436 – GSR 18,481

    2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier

Structure and Tier Credit Design in November 2012 which has been previously

produced.

(b) Cash back program reinvestment strategies;

    1.   CDC:

    May 2014 GSR 18,006 – GSR 18,293

    October 2014 GSR 18,006 – GSR 18,293

COHEN-JOHNSON, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
(702) 823-3500 FAX: (702) 823-3400

September 2014 GSR 18,006 – GSR 18,293

November 2014 – GSR 18,299 – GSR 18,345

December 2014 – GSR 18,346– GSR18,390;

January 2015 – GSR 18,391 – GSR 18,435;

February 2015 – GSR 18,436 – GSR 18,481

2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

(c) Visible comp program reinvestment;

    1.   CDC:

May 2014 GSR 18,006 – GSR 18,293

October 2014 GSR 18,006 – GSR 18,293

September 2014 GSR 18,006 – GSR 18,293

November 2014 – GSR 18,299 – GSR 18,345

December 2014 – GSR 18,346– GSR18,390;

January 2015 – GSR 18,391 – GSR 18,435;

February 2015 – GSR 18,436 – GSR 18,481

2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

(d) Reinvestment analysis of Peppermill's players clubs employees' attitude, training and ability to solve problems;

    No

(e) Peppermill's staffing levels:

    No

(f) Booth location and design;

    No

(g) Focus on guess [t] [spelling error] service through use of technology;

    No

COHEN-JOHNSON, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
(702) 823-3500 FAX: (702) 823-3400

1   (h) Printed information and collateral available:

2   No

3   (i) Quantity and value of benefits;

4   1.   CDC:

5   May 2014 GSR 18,006 – GSR 18,293

6   October 2014 GSR 18,006 – GSR 18,293

7   September 2014 GSR 18,006 – GSR 18,293

8   November 2014 – GSR 18,299 – GSR 18,345

9   December 2014 – GSR 18,346– GSR18,390;

10   January 2015 – GSR 18,391 – GSR 18,435;

11   February 2015 – GSR 18,436 – GSR 18,481

12   2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier

13 Structure and Tier Credit Design in November 2012 which has been previously

14 produced.

15

16   (j) Quality of benefits;

17   1.   CDC:

18   May 2014 GSR 18,006 – GSR 18,293

19   October 2014 GSR 18,006 – GSR 18,293

20   September 2014 GSR 18,006 – GSR 18,293

21   November 2014 – GSR 18,299 – GSR 18,345

22   December 2014 – GSR 18,346– GSR18,390;

23   January 2015 – GSR 18,391 – GSR 18,435;

24   February 2015 – GSR 18,436 – GSR 18,481

25   2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier

26 Structure and Tier Credit Design in November 2012 which has been previously

27 produced.

28

(k) Benefits ease of use;

    1.   CDC:

    May 2014 GSR 18,006 – GSR 18,293

    October 2014 GSR 18,006 – GSR 18,293

    September 2014 GSR 18,006 – GSR 18,293

    November 2014 – GSR 18,299 – GSR 18,345

    December 2014 – GSR 18,346– GSR18,390;

    January 2015 – GSR 18,391 – GSR 18,435;

    February 2015 – GSR 18,436 – GSR 18,481

    2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

(l) Players club ratings score;

    1.   CDC:

    May 2014 GSR 18,006 – GSR 18,293

    October 2014 GSR 18,006 – GSR 18,293

    September 2014 GSR 18,006 – GSR 18,293

    November 2014 – GSR 18,299 – GSR 18,345

    December 2014 – GSR 18,346– GSR18,390;

    January 2015 – GSR 18,391 – GSR 18,435;

    February 2015 – GSR 18,436 – GSR 18,481

    2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

(m) Players club effectiveness;

    1.CDC:

May 2014 GSR 18,006 – GSR 18,293

October 2014 GSR 18,006 – GSR 18,293

September 2014 GSR 18,006 – GSR 18,293

November 2014 – GSR 18,299 – GSR 18,345

December 2014 – GSR 18,346– GSR18,390;

January 2015 – GSR 18,391 – GSR 18,435;

February 2015 – GSR 18,436 – GSR 18,481

    2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

(n) Cash back strategies; and

    1. CDC

    May 2014 GSR 18,006 – GSR 18,293

    October 2014 GSR 18,006 – GSR 18,293

    September 2014 GSR 18,006 – GSR 18,293

    November 2014 – GSR 18,299 – GSR 18,345

    December 2014 – GSR 18,346– GSR18,390;

    January 2015 – GSR 18,391 – GSR 18,435;

    February 2015 – GSR 18,436 – GSR 18,481

    2.   David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

(o) Comparing strategies or programs.

    1.   CDC:

    May 2014 GSR 18,006 – GSR 18,293

    October 2014 GSR 18,006 – GSR 18,293

September 2014 GSR 18,006 – GSR 18,293

November 2014 – GSR 18,299 – GSR 18,345

December 2014 – GSR 18,346– GSR18,390;

January 2015 – GSR 18,391 – GSR 18,435;

February 2015 – GSR 18,436 – GSR 18,481

Copies of these reports have been previously produced as GSR 18,009 through GSR 18,293.

2. David G. Schwartz prepared an Initial Comparative Analysis of Tier Structure and Tier Credit Design in November 2012 which has been previously produced.

INTERROGATORY NO. 13:

Please identify with particularity and specificity the documents which you contend are in the Peppermill's possession which would be in any way relevant to your contention that the Peppermill was unjustly enriched by its possession and/or knowledge of GSR's par settings on the slot machines allegedly by Ryan Tors.

RESPONSE NO. 13:

See Tors supplemental disclosure statement TOR 001 and TOR 70-TOR71 and TOR 87 through TOR0096. These documents are also in the Peppermill's possession and demonstrate the method by which Peppermill combined information improperly acquired from multiple casinos including the GSR and used said information to gain an unfair economic advantage over its competitors including GSR which led to Peppermill's unjust enrichment.

INTERROGATORY NO. 14:

Please state with specificity and particularity how the GSR has, or intends to, determine what an appropriate royalty is as and for its alleged damages.

RESPONSE NO. 14:

GSR is relying on the holding in *University Computing Co. v. Lyke-Youngstown Corp 504 F.2d 518 (GA 1974)* where the court determined that:

COHEN-JOHNSON, LLC
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
(702) 823-3500 FAX: (702) 823-3400

In some instances courts have attempted to measure the loss suffered by the Plaintiff. While as a conceptual matter this seems to be a proper approach, in most cases the defendant has utilized the secret to his advantage with no obvious effect on the plaintiff save for the relative differences in their subsequesnt competitive position. Largely as a result of this practical dilemma, normally the value of the secret to the plaintiff is an appropriate measure of damags only when the defendant has in some way destroyed the value of the secret. The most obvious way this is done is through publication, so that no secret remains. **Where the Plaintiff retains the use of the secret as here and where there has been no effective disclosure of the secret through publication the total value of the secret to the plaintiff is an inappropriate measure.**

Further unless some specific injury to the plaintiff can be established —such as lost sales—the loss to the plaintiff is not a particularly helpful approach in assessing damages.

The second approach is to measure the value of the secret to the defendant. This is usually the accepted approach where the secret has not been destroyed and where the plaintiff is unable to prove specific injury. In the case before us then the "appropriate measure of damages by analogy ot patent infringement is not what plaintiff lost but rather the benefits, profits, or advantages gained by the defendant in the use of the trade secret. Id p. 535-536. (emphasis added)

The royalty sought by GSR is based on the information improperly acquired by Peppermill and the uses to which said information was put. For each use of the information, either alone or in combination with information improperly obtained from other casinos. GSR is asking the court to set a reasonable royalty based on the number of uses, and the value obtained by Peppermill through an economic advantage or in savings based on the cost of acquiring the information through proper and legal means. GSR's expert Jeremy Aguerro will testify as to this issue at trial.

INTERROGATORY NO. 15:

Please state with particularity and specificity the value that the GSR attributes to the par settings on the following slot machines on the date specified:

	Machine	Number	Location	As of Date
A	Buffalo	440		12/19/2011
B	Buffalo	21016		12/19/2011
C	Ducks in a Row	440		12/29/2011
D	Cleopatra	21016		12/29/2011
E	Money Storm	571		12/29/2011
F	Texas Tea	50060		12/29/2011
G	Munsters			12/29/2011
H	Double Diamond 2000			12/29/2011

I	Lil Lady	358		12/29/2011
J	Ducks in a Row	20375		06/14/2012
K	Buffalo	1011		06/14/2012
L	Enchanted Unicorn	20050		06/14/2012
M	Cats	127		06/14/2012
N	Horoscope	246		06/14/2012
O	Wolf Run	937		06/14/2012
P	Sun & Moon	951	061109	07/12/2013
Q	Ducks in a Row	440	040403	07/12/2013
R	Buffalo	885	104604	07/12/2013
S	Wings Over Olympus	485	104603	07/12/2013
T	Miss Red	1646	101607	07/12/2013
U	Hex Breaker	20042	102201	07/12/2013
V	Ducks in a Row	20375	091007	07/12/2013
W	Enchanted Unicorn	20050	1033304	07/12/2013
X	Cats	127	011802	07/12/2013

RESPONSE NO. 15:

The value of GSR's misappropriated trade secrets pars are not based on the specific par of a particular machine on a particular date but the fact that by taking a random sample of machines on multiple dates Peppermill was able to use that information to discern the marketing strategies of the various casinos from whom the pars were improperly obtained. Using this information and compiling it on spreadsheets as Ryan Tors did, Peppermill was able to evaluate whether or not a casino, including GSR was planning to increase or decrease its hold generally and gain an unfair advantage over its competitors.

INTERROGATORY NO. 16:

Please describe in detail with specificity and particularity the method by which the values of the par setting for the machines listed in the above Interrogatory for the specific dates were determined.

RESPONSE NO. 16:

The value of GSR's misappropriated trade secrets are not based on the specific par of a particular machine on a particular date but the fact that by taking a random sample of machines on multiple dates Peppermill was able to use that information to discern the marketing strategies of the various casinos from whom the pars were improperly obtained. Using this information and compiling it on spreadsheets as Ryan Tors did, Peppermill was able to evaluate

1 whether or not a casino, including GSR was planning to increase or decrease its hold generally

2 and gain an unfair advantage over its competitors.

3 Plaintiff's expert Jeremy Aguerro will address this issue once he has received the

4 records which Peppermill has refused to produce and will set forth his methodology in his

5 written report.

6

7 **INTERROGATORY NO. 17:**

8 Please state with specificity and particularity how the Peppermill used the par information

9 allegedly obtained by Ryan Tors from the following machines:

	Machine	Number	Location	As of Date
A	Buffalo	440		12/19/2011
B	Buffalo	21016		12/19/2011
C	Ducks in a Row	440		12/29/2011
D	Cleopatra	21016		12/29/2011
E	Money Storm	571		12/29/2011
F	Texas Tea	50060		12/29/2011
G	Munsters			12/29/2011
H	Double Diamond 2000			12/29/2011
I	Lil Lady	358		12/29/2011
J	Ducks in a Row	20375		06/14/2012
K	Buffalo	1011		06/14/2012
L	Enchanted Unicorn	20050		06/14/2012
M	Cats	127		06/14/2012
N	Horoscope	246		06/14/2012
O	Wolf Run	937		06/14/2012
P	Sun & Moon	951	061109	07/12/2013
Q	Ducks in a Row	440	040403	07/12/2013
R	Buffalo	885	104604	07/12/2013
S	Wings Over Olympus	485	104603	07/12/2013
T	Miss Red	1646	101607	07/12/2013
U	Hex Breaker	20042	102201	07/12/2013
V	Ducks in a Row	20375	091007	07/12/2013
W	Enchanted Unicorn	20050	1033304	07/12/2013
X	Cats	127	011802	07/12/2013

RESPONSE NO. 17:

Peppermill used this information in combination with pars improperly obtained from

other casinos to adjust its own pars, and or marketing strategies, gaming strategies, comp

reinvestment strategies, among other uses to gain a competitive advantage over GSR and other

casinos in competition with Peppermill. Plaintiff's expert Jeremy Aguerro will address this

issue once he has received the records which Peppermill has refused to produce and will set

forth his analysis in his written report

INTERROGATORY NO. 18:

Please state with specificity and particularity what the value to which the pars allegedly

obtained by Ryan Tors was to the Peppermill and the methodology used to determine that value.

RESPONSE NO. 18:

The value of GSR's misappropriated trade secrets are not based on the specific par of a

particular machine on a particular date but the fact that by taking a random sample of machines

on multiple dates Peppermill was able to use that information to discern the marketing

strategies of the various casinos from whom the pars were improperly obtained. Using this

information and compiling it on spreadsheets as Ryan Tors did, Peppermill was able to evaluate

whether or not a casino, including GSR was planning to increase or decrease its hold generally

and gain an unfair advantage over its competitors.

INTERROGATORY NO. 19:

Please state the amount of money the GSR would charge a competing casino for the par

settings on the following machines on the specific date:

	Machine	Number	Location	As of Date
A	Buffalo	440		12/19/2011
B	Buffalo	21016		12/19/2011
C	Ducks in a Row	440		12/29/2011
D	Cleopatra	21016		12/29/2011
E	Money Storm	571		12/29/2011
F	Texas Tea	50060		12/29/2011
G	Munsters			12/29/2011
H	Double Diamond 2000			12/29/2011
I	Lil Lady	358		12/29/2011
J	Ducks in a Row	20375		06/14/2012
K	Buffalo	1011		06/14/2012
L	Enchanted Unicorn	20050		06/14/2012
M	Cats	127		06/14/2012
N	Horoscope	246		06/14/2012
O	Wolf Run	937		06/14/2012
P	Sun & Moon	951	061109	07/12/2013
Q	Ducks in a Row	440	040403	07/12/2013
R	Buffalo	885	104604	07/12/2013
S	Wings Over Olympus	485	104603	07/12/2013
T	Miss Red	1646	101607	07/12/2013
U	Hex Breaker	20042	102201	07/12/2013

V	Ducks in a Row	20375	091007	07/12/2013
W	Enchanted Unicorn	20050	1033304	07/12/2013
X	Cats	127	011802	07/12/2013

RESPONSE NO. 19:

Objection is made to this Interrogatory in that it requests information which is irrelevant to the subject matter of the pending litigation and which is not reasonably calculated to lead to the discovery of admissible evidence, thus rendering this request outside the scope of permissible discovery as prescribed by NRCP 26 et seq. Further objection is made in that this interrogatory assumes that GSR would sell its pars to a competing casino and therefore assumes facts not in evidence and calls for a hypothetical response based on speculation. Without waiving the foregoing objections GSR would not sell its par information to any competing casino and therefore there is no basis for making such an evaluation.

INTERROGATORY NO. 20:

Concerning your answer to the above Interrogatory, please state with detail, specificity and particularity all components and considerations that were used to determine the "charge" for the par settings for the machines listed in the above Interrogatory for the specific dates.

RESPONSE NO. 20:

Objection is made to this Interrogatory in that it requests information which is irrelevant to the subject matter of the pending litigation and which is not reasonably calculated to lead to the discovery of admissible evidence, thus rendering this request outside the scope of permissible discovery as prescribed by NRCP 26 et seq. Further objection is made in that this interrogatory assumes that GSR would sell its pars to a competing casino and therefore assumes facts not in evidence and calls for a hypothetical response based on speculation. Without waiving the foregoing objections GSR would not sell its par information to any competing casino and therefore there is no basis for making such an evaluation. GSR would not sell its par information to any competing casino and therefore there is no basis for making such an evaluation.

1

INTERROGATORY NO. 21:

2   Please state with particularity and specificity the "development costs" that were involved in

3   establishing the par settings for the following slot machines on the specified dates:

4

	Machine	Number	Location	As of Date
A	Buffalo	440		12/19/2011
B	Buffalo	21016		12/19/2011
C	Ducks in a Row	440		12/29/2011
D	Cleopatra	21016		12/29/2011
E	Money Storm	571		12/29/2011
F	Texas Tea	50060		12/29/2011
G	Munsters			12/29/2011
H	Double Diamond 2000			12/29/2011
I	Lil Lady	358		12/29/2011
J	Ducks in a Row	20375		06/14/2012
K	Buffalo	1011		06/14/2012
L	Enchanted Unicorn	20050		06/14/2012
M	Cats	127		06/14/2012
N	Horoscope	246		06/14/2012
O	Wolf Run	937		06/14/2012
P	Sun & Moon	951	061109	07/12/2013
Q	Ducks in a Row	440	040403	07/12/2013
R	Buffalo	885	104604	07/12/2013
S	Wings Over Olympus	485	104603	07/12/2013
T	Miss Red	1646	101607	07/12/2013
U	Hex Breaker	20042	102201	07/12/2013
V	Ducks in a Row	20375	091007	07/12/2013
W	Enchanted Unicorn	20050	1033304	07/12/2013
X	Cats	127	011802	07/12/2013

18

RESPONSE NO. 21:

19   Any development costs were incurred by the designer and manufacturer of the slot

20   machine who sold the use of its proprietary and confidential trade secrets to GSR with the

21   understanding that said trade secrets would not be used improperly. The value of GSR's pars are

22   not based on the specific par of a particular machine on a particular date but the fact that by

23   taking a random sample of machines on multiple dates Peppermill was able to use that

24   information to discern the marketing strategies of the various casinos from whom the pars were

25   improperly obtained. Using this information and compiling it on spreadsheets as Ryan Tors did,

26   Peppermill was able to evaluate whether or not a casino, including GSR was planning to increase

27   or decrease its hold generally and gain an unfair advantage over its competitors.

28

1 | **INTERROGATORY NO. 22:**

2   Please state in complete detail and with specificity and particularity the amount of money a

3 competing casino would pay to have knowledge of and/or access to the par settings for the slot

4 machines identified in the Interrogatory Nos. 15,17,19, and 21 as of December 29, 2011, for the

5 first nine machines listed as of June 14, 2012, for the next six machines listed, and as of July 12,

6 2013, for the last nine machines listed.

7 | **RESPONSE NO. 22:**

8   Objection is made to this Interrogatory in that it requests information which is irrelevant

9 to the subject matter of the pending litigation and which is not reasonably calculated to lead to

10 the discovery of admissible evidence, thus rendering this request outside the scope of permissible

11 discovery as prescribed by NRCP 26 et seq. Further objection is made in that this interrogatory

12 assumes that a competing casino would pay GSR to obtain its par settings and GSR is unaware

13 of any offers by any casinos to do so and therefore assumes facts not in evidence and calls for a

14 hypothetical response based on speculation. Without waiving the foregoing objections GSR

15 would not sell its par information to any competing casino and therefore there is no basis for

16 making such an evaluation nor has any competing casino offered to pay for pars so there is no

17 basis for determining what any particular casino might be willing to offer for such information.

18 Without waiving the foregoing objections, on information and belief Peppermill believes said

19 information to be of great financial value as evidence by its theft of said information from GSR

20 and other casinos.

21 | **INTERROGATORY NO. 23:**   With respect to the above Interrogatory and you answered

22 hereto, please state in detail and with particularity and specificity the exact formula, equation

23 and all facts and circumstances taken into consideration in establishing your opinion of what a

24 competing casino would pay for the pars for the machines listed in the above Interrogatory.

25 | . .

26 | . . .

27 | . . .

28 | . . .

RESPONSE NO. 23:

Objection is made to this Interrogatory in that it requests information which is irrelevant to the subject matter of the pending litigation and which is not reasonably calculated to lead to the discovery of admissible evidence, thus rendering this request outside the scope of permissible discovery as prescribed by NRCP 26 et seq. Further objection is made in that this interrogatory assumes that a competing casino would pay GSR to obtain its par settings and GSR is unaware of any offers by any casinos to do so and therefore assumes facts not in evidence and calls for a hypothetical response based on speculation. Without waiving the foregoing objections GSR would not sell its par information to any competing casino and therefore there is no basis for making such an evaluation nor has any competing casino offered to pay for pars so there is no basis for determining what any particular casino might be willing to offer for such information. Without waiving the foregoing objections, on information and belief Peppermill believes said information to be of great financial value as evidence by its theft of said information from GSR and other casinos. Upon the receipt of discovery from Peppermill and Tors as to what Peppermill paid Tors and others to improperly steal such information and other costs and expenses related to these thefts, including the cost of analyzing said information, a base value may be determined as to what Peppermill was willing to pay to improperly acquire this information and may provide a baseline as to what Peppermill would be willing to pay to obtain this information

Dated this 19th day of May 2015

COHEN|JOHNSON

By: _____
H. Stan Johnson, Esq.
Nevada Bar No. 00265
Terry Kinnally, Esq.
Nevada Bar No.: 06379
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
*Attorney for the PlaintiffsMEI-GSR
Holdings, LLC d/b/a Grand Sierra Resort*

RA 02606

CERTIFICATE OF MAILING
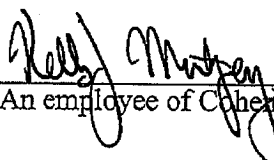
Pursuant to NRCP 5(b), I certify that I am an employee of COHEN|JOHNSON, LLC., and that on this date I caused to be served a true and correct copy of the **MEI-GSR HOLDINGS, LLC.'S SUPPLEMENTAL RESPONSES TO DEFENDANT PEPPERMILL'S SECOND SET OF INTERROGATORIES** on all the parties to this action by the method(s) indicated below:

___x_____ by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States Mail, Las Vegas, Nevada and addressed to:

ROBISON, BELAUSTEGUI, SHARP & LOW
C/o Kent R. Robison, Esq.
71 Washington Street
Reno, Nevada 89503
Attorney for the Defendant Peppermill

_____ by using the Court's E-Flex Electronic Notification System addressed to:
___x_____ by electronic email addressed to the above:
_____ by personal or hand/delivery addressed to:
_____ by facsimile(fax) addresses to:
_____ by Federal Express/UPS or other overnight delivery addressed to:

DATED the 19day of May 2015.

An employee of Cohen-Johnson, LLC

RA 02607
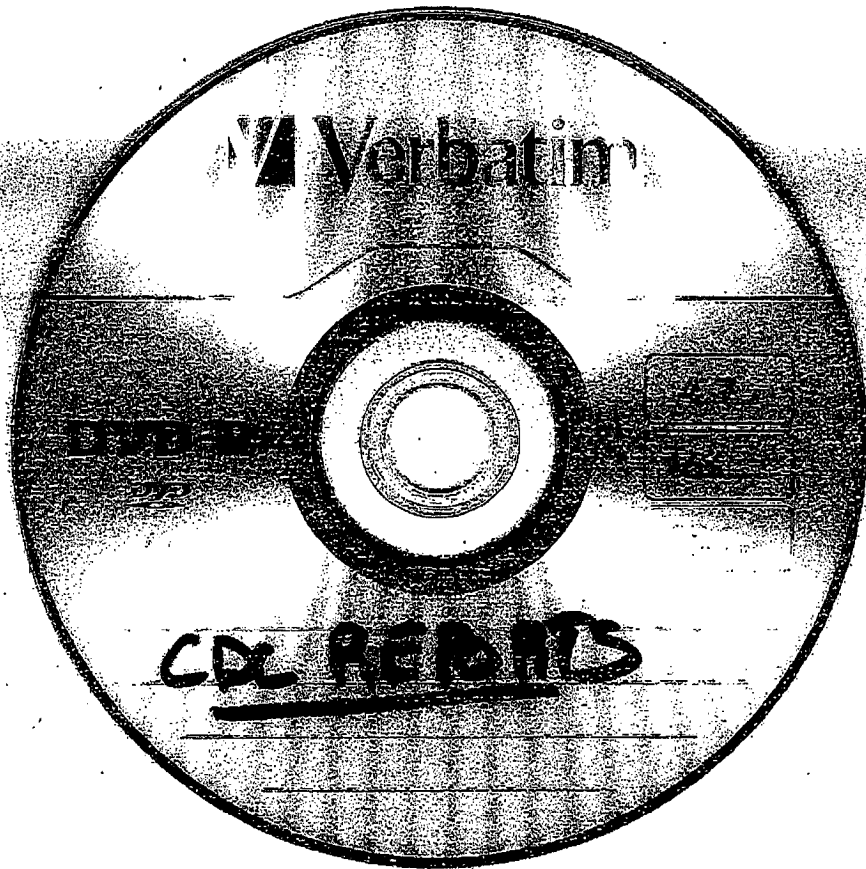
EXHIBIT 23
Part 1 of 3

DESIGNATED
HIGHLY CONFIDENTIAL INFORMATION

**CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014**

**To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees**

IN THE SECOND JUDICIAL DISTRICT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MEI-GSR HOLDINGS, LLC, a Nevada
Corporation, d/b/a GRAND SIERRA
RESORT,

           Plaintiffs,

vs.

PEPPERMILL CASINOS, INC., a Nevada
Corporation, d/b/a PEPPERMILL CASINO;
RYAN TORS, an individual; JOHN DOES
I-X AND CORPORATIONS I-X,

           Defendants.

Case No.: CV13-01704

Dept. No.: B7

BUSINESS COURT DOCKET

EXPERT REPORT OF STACY FRIEDMAN

I, Stacy Friedman, hereby provide the following as my Expert Witness report:

1. I am submitting this report to Kent Robison on behalf of Defendant Peppermill Casinos, Inc. ("Peppermill") in the litigation identified above brought by Plaintiff MEI-GSR Holdings, LLC ("GSR").

2. I understand that GSR has accused Peppermill of violating Nevada's Trade Secret Act, NRS 600A.035, as a result of a series of events involving the unauthorized access of slot machines at GSR by Ryan Tors, who was an employee of the Peppermill at the time. The GSR alleges that (a) the payback percentage information obtained from machines at the GSR by Ryan Tors via unauthorized use of a 2341 key in a slot machine (hereinafter the "Information") is a "trade secret" as defined in NRS 600A.030, and further alleges that (b) damages are owed to it under

several theories pursuant to NRS 600A.050. Attached to this report are **Exhibit A,** the Information obtained by Mr. Tors on December 29, 2011; **Exhibit B,** the Information obtained by Mr. Tors on June 14, 2012; and **Exhibit C,** a copy of NRS 600A.

    3.   I have been asked to consider the following matters:

    a. The likelihood that Ryan Tors actually obtained the Information he is alleged to have obtained;

    b. Whether pars (hold percentages) are "secret" in the Reno/Sparks gaming community;

    c. Whether (assuming they are secret), GSR adequately protected what GSR alleges as being secret;

    d. Whether it is possible for GSR's competitors obtain information from the GSR equivalent to the Information obtained by Ryan Tors using other legitimate and ethical methods, and if so, what would be the fair market cost for doing so; and

    e. Whether the Information Tors received would have any benefit to any of GSR's competitors.

    f. Whether, and to what extent, the Peppermill (a) could have derived any benefit or revenue and (b) did in fact derive any benefit or revenue, from possession of the Information obtained by Ryan Tors;

    g. Whether, and to what extent, the Peppermill (a) could have derived any benefit or revenue and (b) did in fact derive any benefit or revenue, from use of the Information obtained by Ryan Tors;

EXPERT REPORT OF STACY FRIEDMAN

h. Is the Information Tors obtained statistically significant in relation to determining the "floor par" of the GSR;

i. Do 6 to 15 known pars of a known competitor have any value in the gaming industry in the Reno/Sparks gaming market;

j. To evaluate the opinions of David Schwartz and provide rebuttal opinions and testimony concerning his findings and opinions.

k. If needed, to evaluate and analyze the opinions and reports of any other GSR expert and to provide rebuttal testimony concerning those reports and opinions.

4. This report summarizes my opinions regarding those matters.

QUALIFICATIONS

5. As a professional casino game designer and mathematician, I am intimately familiar with the issues and technology relating to wagering games. As shown below, I have personally designed, implemented, tested, and analyzed many games, including dozens of single- and multi-player wagering games for both Internet and land-based casinos. I am qualified by my background and experience to provide expert testimony on matters involving gaming systems, technologies, and methods.

6. I am the President of Olympian Gaming, LLC in Beaverton, Oregon, a position that I have held since 2001. In that capacity, I have consulted in the gaming industry regarding, among other things, game design and development, slot machine and table game mathematics, gaming software development, and gaming patent infringement and validity. I have over fifteen years of professional

RA 02612

experience in developing regulated casino games, gaming mathematics, and professional software design expertise.

7. In 1996, I earned my Bachelor of Arts Degree in Computer Science, *magna cum laude*, from Harvard College, Harvard University, Cambridge, Massachusetts.

8. From 1998 to 2000, I designed casino wagering games, worked on gameplay, and performed mathematical analyses for new slot machines at the pioneering video slot developer Silicon Gaming, Inc., Palo Alto, California, before it was acquired by International Game Technology ("IGT"). Silicon Gaming designed and developed interactive slot machines. Its products were used in casinos and other gaming establishments, and combined advanced multimedia platforms with software-based games. Silicon Gaming's product line included networked multimedia gaming platforms, hardware, and software. While there, I worked on the designs of video slot games, video keno games, and video poker games; helped produce dozens of innovative new games for the Odyssey™ platform; and engaged regulatory agencies to achieve regulatory approval for the mathematics used in the games. Especially relevant to the present matter, I have developed many par sheets for slot machine games.

9. In 2001, I started an independent casino game design and analysis consultancy, Olympian Gaming. Based on my experience designing, developing, and placing dozens of games in Las Vegas, Reno, and Atlantic City casinos, I advise Internet casino software vendors, new game inventors, and casino game manufacturers in the fields of wagering gameplay design, mathematical analysis, and statistical verification. I have also served as a subject matter expert in many

EXPERT REPORT OF STACY FRIEDMAN

matters related to casino games or gaming systems, including over 10 cases involving gaming-related intellectual property.

10.   In 2011, I was engaged by Double Down Interactive, a social (Internet) casino game developer whose products are available via Facebook and mobile platforms, to improve its casino game designs. These designs included multi-player blackjack and roulette games, as well as slot machines and slot machine tournaments. I consulted with Double Down for approximately one year until it was acquired by IGT in early 2012. IGT is the largest U.S. slot machine manufacturer. IGT retained my services as a Strategy Specialist for Double Down in March of 2012 through mid-2013. I am currently engaged as a game design and mathematical consultant to several Internet-based social gaming companies whose products include online table game, slot machine game, and bingo game implementations.

11.   I have invented and applied for patents on over two dozen gaming methods and systems and, together with my patent attorney and frequent co-inventor, control a patent portfolio of approximately fifty issued and/or pending patents across several categories of the gaming industry. These innovations include novel table games, electronic wagering games such as slot machine and video poker games, and casino management systems.

12.   More information about my qualifications and background (including a list of my publications and previous testimony) is set forth in my curriculum vitae, attached to this report as **Exhibit D.**

13.   Based on my experience, training and qualifications, I consider myself to be an expert in the gaming field, and in particular in the field of electronic wagering games.

14. The fee I am charging for my services as an expert witness in this case, for calendar year 2015, is $450 per hour plus expenses. None of my compensation depends on the outcome of the case.

MATERIALS RELIED UPON

15. I relied upon the materials listed in **Exhibit E** in preparing the opinions set forth in this report. I also relied on my own training and experience as an expert in the field of electronic wagering games. Unless I specifically state otherwise, I assume the veracity of the materials I considered.

LEGAL PRINCIPLES

16. I have been informed by counsel of the legal principles involved in GSR's complaint.

17. NRS 600A.030(5) defines a "trade secret" as:

> *information, including, without limitation, a formula, pattern, compilation, program, device, method, technique, product, system, process, design, prototype, procedure, computer programming instruction or code that:*
> *(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other persons who can obtain commercial or economic value from its disclosure or use; and*
> *(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.*

18. NRS 600A.050(1) sets out the damages for trade secret misappropriation as:

> *1. Except to the extent that a material and prejudicial change of position before acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation. Damages include both loss caused by misappropriation and unjust enrichment caused by misappropriation that is not taken into account in computing the loss. In lieu of damages measured by any*

EXPERT REPORT OF STACY FRIEDMAN

other methods, damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

BACKGROUND

19.   Slot machines are the most prevalent form of gambling in Nevada. Most modern slot machines share several basic behaviors. Slot machines commonly involve three or more spinning reels, where each reel contains images of different graphical symbols. The reels are set in motion (either physically, or in the case of a video slot machine, using computer animation) and when they come to rest, the visible symbols are compared against a predetermined list of winning combinations called a "paytable". If a winning combination is achieved by the player, a corresponding award is paid. The motion of the reels is determined not by physics, as it was in historical slot machines, but by a computerized "random number generator" (or "RNG") that uses a mathematical function to produce a sequence of highly unpredictable numbers. The numeric output of the RNG is converted into a number that represents a position on that reel, and the symbol(s) at and near that position will be displayed. The frequency and distribution of the symbols on the reels, as well as the winning combinations and awards in the paytable, are developed and calculated by "game designers" (mathematicians) like myself into what is known as a "game model," which is sometimes a spreadsheet with the appropriate calculations. The mathematical details for a particular slot machine game model is provided by game designers in a document known as a "par sheet." In most regulated jurisdictions, par sheets are submitted to regulators for approval. Par sheets are also made available to casino operators so they can understand the mathematical features of the games they operate (or are considering operating).

EXPERT REPORT OF STACY FRIEDMAN

20.   The format for par sheets varies from one gaming vendor to another, but most par sheets include at least the following information about a slot machine game:

    a.   The "payback percentage," a theoretical value representing the fraction of total dollars wagered that should be "paid back" to the player. Also known as "RTP" or "return-to-player". Most slot machine games pay back between 90% and 96% of money wagered.

    b.   In lieu of, or in addition to "payback percentage," some par sheets list "theoretical hold," also known as "hold percentage," "par," or in the table games world, "house edge." Payback percentage and hold percentage always sum to 100%, and as a result, one can always be computed from the other. Put another way,

$$100\% - \text{hold percentage} = \text{payback percentage}$$

and

$$100\% - \text{payback percentage} = \text{hold percentage}.$$

    c.   Details about the paytable, including each winning combination, the amount paid, the frequency of obtaining that combination, and the percentage contributed to total payback percentage.

    d.   Details about the frequency of the symbols on each reel, as well as the specific order of the symbols on each reel. The latter is known as a "reel strip."

    e.   Details about any bonus features, how such features are triggered, and their contributions to the total payback.

EXPERT REPORT OF STACY FRIEDMAN

RA 02617

21.   The payback percentage and hold percentage are alternate descriptions for what is known more generally as the "mathematical expectation" or "expected value." A "random variable" is a mathematical concept reflecting that a process (including a chance-based game) may have random probabilities of different outcomes, each having a different value. The expected value of a random variable is calculated as the probability of each possible outcome multiplied by that outcome's value, summed over all possible outcomes. For example, if a casino offered a fair coin-flip game for $1 per play, and heads returned $2 while tails returned $0 (a loss), the expected payback would be

$$p(heads) * \$2 + p(tails) * 0 = 50\% * \$2 + 50\% * 0 = \$1.$$

22.   As a percentage of the cost to play, the payback of $1 is 100%, so the house has no edge. If the coin were biased to 55% tails and therefore 45% heads, the expected payback would be

$$45\% * \$2 + 55\% * 0 = \$0.90.$$

23.   As a percentage of the $1 cost, 90 cents represents a payback percent of 90% and a hold or house edge of 10%.

24.   Frequently, slot machine games are offered with several available payback percentages from which an operator can choose. This enables an operator to select, for example, a 92% version, a 94% version, or a 96% version, or in terms of hold, an 8%, 6%, or 4% configuration — and subsequently tune the overall average hold of all slot machines in the casino, a quantity known as "floor par."

EXPERT REPORT OF STACY FRIEDMAN

RA 02618

25.   The outward appearance of such game variations is commonly kept identical: the paytable will be the same from one version to the next, as will the audiovisual elements and game theme. The difference between a particular slot machine game's 92% version and its 96% version lies in the probabilities of each award.[1] For example, a game designer may increase the frequency of a high-value symbol on a reel, making a higher-paying combination more likely and a lower-paying combination less likely, and this can increase the overall payback (that is, reduce the hold). There may be only a small number of differences in the reel strips for two different versions of the same game, but those differences may be enough to result in a 2% or 4% difference in payback.

26.   Many slot machines have at least two keyholes in the cabinet housing the game. One allows access to the interior of the machine via a door, and the other is a keyed switch that activates a series of diagnostic screens that may be used to view (but not change) accounting information about the game. The accounting information may include (a) the "coin-in" or total amount wagered, irrespective of wins or losses, (b) the "coin-out" or total awards paid, (c) the configured theoretical hold percentage and/or payback percentage, (d) the actual (not theoretical) "win" from play (sometimes known as "actual hold") which is coin-in minus coin-out, and (e) the actual hold percentage (or win percentage) which is win divided by coin-in. Such statistics allow an operator to understand how a game is configured and how it is performing in both an absolute (dollars and cents) manner and relative to the

---

[1] The expectation of a game equals the probabilities of each game outcome times its value; if the values (in the paytable) remain constant, the probabilities of the outcomes need to change in order to change the overall expectation for the game.

theoretical hold percentage. In Nevada, these statistics are also periodically reported to the Nevada Gaming Control Board which compiles them into monthly reports and uses them to assess gaming taxes.

27. The vast majority of casino slot machine manufacturers use the same keyed switch to access the diagnostic screens. The key is known as a "2341" key and the 2341-keyed switch is a common part in the electronics industry. Jameco Electronics, for example, sells 2341-keyed switches in quantities greater than 500 at a time.[2] I have been informed that many slot machine games come from the manufacturer with at least two 2341 keys and, as a result, there are hundreds of 2341 keys in the gaming community.[3] 2341 keys are also widely available to the public (via eBay, for example, or simply from buying them from direct manufacturers like Jameco).

28. Mr. Tors was an employee of the Peppermill from November 2005 until July 2013. On July 12, 2013 Mr. Tors was detained by casino security at the GSR after using a 2341 key to access the diagnostic screens of several gaming machines. I am informed that he was suspended with pay on July 13, 2013 and was subsequently dismissed at a later date. A subsequent investigation resulted in suggestions that Mr. Tors had used a 2341 key on slot machines (that is, he "keyed games") at the GSR on two prior occasions, had recorded Information (hold and/or payback details from the games), and had emailed that information to

---

[2] Jameco Electronics 2341-keyed key lock switch, http://www.jameco.com/webapp/wcs/stores/servlet/Product_10001_10001_196649_-1. Also see http://www.jameco.com/Jameco/Products/ProdDS/196649.pdf and http://www.jameco.com/Jameco/catalogs/c151/P69.pdf

[3] Deposition of Ryan Tors, September 19, 2014 (hereinafter "Tors dep."), p. 276, ll. 1-3.

EXPERT REPORT OF STACY FRIEDMAN

representatives at the Peppermill. The hold and payback notes he collected from the GSR on July 12, 2013 were confiscated and were therefore not provided (until discovery in this case) to the Peppermill, so I do not include it in "Information."

29.   The scope of the Information, therefore, is the hold and payback values for nine (9) machines accessed on December 29, 2011 and hold and payback values for six (6) machines accessed on June 14, 2012.

30.   Further, I am informed that Mr. Tors accessed the Information in an attempt to discern the "floor par" for the GSR, that is, to derive the weighted average theoretical hold settings for all the slot machines at the GSR. For example, if a casino has 100 slot machines, and 20 are set to 5% hold and 80 are set to 12% hold, the floor par for that casino would be

$$\frac{(20*5\%)+(80*12\%)}{(20+80)} = 10.6\%.$$

31.   Gaming operations in the Reno market are highly competitive with each other and casinos often vie for the same players. Casino loyalty programs use magnetic-stripe cards to track players' gaming activities and reward those activities with "comps" or complimentaries, such as cash back, gifts, free play on gaming machines, or special offers via mail. Loyalty programs are often tiered, and players who play enough during a given time frame reach higher tiers and are thereby eligible for more comps than a lower-tier player.

32.   The rate at which players earn comps (including cash and free play) is an important part of casino operations, as is the floor par, since both impact the bottom line. A casino may choose to offer generous payback percentages ("loose games") and offer little in the way of free play, or a casino may choose to offer lower

EXPERT REPORT OF STACY FRIEDMAN

payback percentages ("tight games") but compensate with greater free play or other comps. The rate at which players earn comps is also known as "reinvestment percentage" because it represents the percentage of the player's theoretical loss to the casino that is "reinvested" into the player to keep them coming back.

33.   An important and unusual fact regarding most casinos in the Reno/Sparks area, including both the GSR and the Peppermill, is that the loyalty programs at those casinos is based on awarding comps at a rate proportional to the player's theoretical loss (in dollars),[4] also known as "theo". In other words, if I play $100 in a game with a 4% hold, the casino expects to earn $4 from me (my theo is $4). If the casino's comp rate is 25% of theo, I will receive $1 in complimentaries. If I play $100 in a different game with an 8% hold, my theoretical loss and therefore comp earnings will double, to $8 and $2, respectively. This is unusual relative to other locations in Nevada. Most casinos elsewhere in Nevada, especially in Las Vegas, award comps based on the player's coin-in. In Las Vegas, playing $100 in either a 4% game or an 8% game would typically earn the same amount in comps.

34.   As a practical matter, a player using a loyalty card in a slot machine can observe the comp points he or she is earning in several ways. Some casinos provide a meter on each slot machine that reports the number of points the player has earned. Others provide kiosks where the player can swipe the loyalty card and check point balances. Still others provide websites where the player can enter their loyalty club number and check current balances and outstanding offers. And the

---

[4] I confirmed that the Peppermill's loyalty program is based on the player's theoretical loss by speaking with Aaron Robyns and via empirical results of play at the Peppermill. I confirmed that the GSR's loyalty program is based on the player's theoretical loss by speaking with a loyalty club representative, speaking with a VIP representative, and via empirical results of play at the GSR.

EXPERT REPORT OF STACY FRIEDMAN

attendees at the loyalty club desk will discuss player comp balances with players. (Many casinos offer more than one of these options.)

35. At the GSR, a player can insert their loyalty club card into a machine, play a sufficient amount to earn at least one comp point, remove their loyalty card,[5] and visit either the loyalty club desk, a kiosk, or the GSR's rewards club website to view updated loyalty balances. The URL for the GSR's rewards club website is https://rewards.grandsierraresort.com/.

36. In many casinos, including the GSR, there is a "Very Important Persons" (VIP) room or desk as part of the loyalty program. Casino representatives at the VIP desk have ready access to player information including loyalty club balances, amounts wagered, and the player's theoretical loss (theo).

OPINIONS

37. Based on the aforementioned background and the above legal principles, I turn to my opinions.

I. Mr. Tors' activities

38. It is alleged that Mr. Tors both accessed Information and provided it to Peppermill representatives on two separate occasions, December 29, 2011[6] and June 14, 2012[7]. Mr. Tors was caught accessing Information on July 12, 2013, but that Information was confiscated and was therefore not provided to the Peppermill until discovery in this case.

---

[5] In many player-tracking systems, removing the card from the loyalty club cardreader ends the tracking session and updates the system that stores the loyalty points.

[6] Exhibit A

[7] Exhibit B

39.   In my opinion, Mr. Tors did in fact access Information on June 14, 2012 and further provide it to the Peppermill. I base this opinion on a review of the payback settings reported by Mr. Tors and a review of the available payback settings for the gaming machines in question. On all six (6) of the machines allegedly accessed by Mr. Tors on June 14, 2012, the hold settings he reports,[8] to the reported precision, exactly match available hold settings as listed (or appropriately rounded) in the par sheets for the respective machines. For example, line 6, game 937, "Wolf Run" is reported as a payback of 92.51 and hold of 7.49. The manufacturer's documentation for Wolf Run does list an available payback percentage of 92.51.[9] I have reviewed no evidence that would call into question the veracity of this data or the fact that Mr. Tors obtained it via use of a 2341 key.

40.   However, it is also my opinion that the data reported by Mr. Tors from December 29, 2011 was falsified. I base this opinion on an equivalent review of the payback settings reported by Mr. Tors and available payback settings from the manufacturers. Unlike the June 2012 data, much of the December 2011 data on nine (9) games does not match available payback settings. Further, Mr. Tors reports that Machine ID 440 and 21016 are each two different games by two different manufacturers.[10] This is an impossible scenario and such has been confirmed by the GSR.[11] Finally, when asked about the December 29, 2011 Information, Mr. Tors

---

[8] *Id.*

[9] Wolf Run GK002062 paytable cover sheet

[10] Exhibit A

[11] GSR's Response to Peppermill Request for Admissions, December 10, 2014, p. 5, nos. 16-19.

EXPERT REPORT OF STACY FRIEDMAN

stated that he didn't "remember this at all"[12] and further admitted that he "definitely fabricated things"[13] and turned in reports to the Peppermill "that were fake"[14].

41.   Even if I were to ignore Mr. Tors' testimony that he fabricated things and accept that this information is accurate except where obviously flawed, I can still discount the data from machines with duplicated IDs -- I don't know which is accurate, but they can't both be. If I am to give Mr. Tors' reporting the benefit of the doubt, there may be up to seven (7) accurate entries in his report of 12/29/2011.

42.   Thus, it is my opinion that only on one occasion, on June 14, 2012, did Mr. Tors obtain accurate Information via the use of a 2341 key and subsequently deliver it to the Peppermill. That Information comprises hold settings for six games. If, contrary to my opinion and contrary to Mr. Tors' testimony, the December 2011 data is also to be considered, that includes another seven games (discounting the clearly-incorrect duplicate entries). Thus, the number of games in the Information Mr. Tors accessed at the GSR is between six (6) and thirteen (13).

II.   The Information is not a trade secret

43.   The allegations raised by the GSR all rely on the assertion that the Information is, in fact, a trade secret. I am informed by counsel, and as reflected in Nevada's Trade Secret law, that in order to be a trade secret under NRS 600A.030(5), the Information obtained by Mr. Tors must have all of the following properties:

---

[12] Tors dep., p. 134
[13] *Id.*, p. 140
[14] *Id.*, p. 136

EXPERT REPORT OF STACY FRIEDMAN

a. It must be "information" (I assume a hold percentage setting would qualify),

b. It must "derive actual or potential independent economic value from not being generally known to ... the public or any other persons who can obtain commercial or economic value from its disclosure or use",

c. It must "not be[] readily ascertainable by proper means by the public or any other persons who can obtain commercial or economic value from its disclosure or use", and

d. It must be "the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

A. **The Information does not have independent economic value to members of the Reno/Sparks gambling public**

44. I note that in this case, the Information was not obtained by nor disclosed to the general public in the Reno/Sparks area. The evidence I have reviewed indicates that the Information was only disclosed by Mr. Tors to others within the Peppermill. In any case, I do not believe that settings individual game's hold setting, by itself, has independent economic value to the public. If one considers the hold percentage of a slot machine to be the price for playing, then there is ample evidence that most slot machine players (in fact, most gamblers in general) are not price-sensitive. As a general point this is obviously true: any game with a payback percentage of less than 100% represents a negative financial return to the player. In other words, if someone's only concern is a maximal rate of return on investment, the wisest thing to do is not gamble at all.

EXPERT REPORT OF STACY FRIEDMAN

45.   More specifically, once a slot machine player has decided to visit a casino to gamble, the behaviors of slot machine players in general still do not demonstrate price-sensitivity. It is widely-known that video poker games have theoretical hold percentages that are readily-ascertainable via websites, books, and commercially-available calculators, and the information presented by a video poker game is sufficient to perform a complete mathematical analysis and derive the hold percentage by inspection. For video poker games, the hold percentage is typically much, much lower than the average hold percentage for a penny-denominated slot machine game. The video poker game known as "9/6 Jacks or Better," which is reasonably common in the Reno/Sparks gaming community, has an optimal payback of 99.54% and therefore a hold percentage of only 0.46%. Even considering suboptimal play (because in video poker, the player can make strategic mistakes with a calculable theoretical cost), video poker games rarely hold more than 2% to 3%. In contrast, the hold of many penny games is in the 5% to 8% range, a number that is published by the Gaming Control Board. Yet oftentimes a slot machine player will play a penny slot instead of video poker simply because they want to, higher hold notwithstanding. I am unaware of any study or other evidence suggesting that a typical gambler would derive any value from knowing the hold percentage of a slot machine game. Certainly the non-gambling member of the general public would have no use for such information.

46.   There is one category of gambler who may have interest in hold percentage numbers, players known as "advantage players" who seek either to maximize the value of complimentaries received relative to their theoretical loss, or who seek to eliminate their theoretical loss altogether by playing only player-

EXPERT REPORT OF STACY FRIEDMAN

advantageous games[15] where the payback percentage is in excess of 100%. However, due to the nature of the Reno market, such a savvy player in Reno would already be able to independently ascertain the payback percentage of any slot machine they play using methods I describe below.

B. **The Information does not have independent economic value to competitors of the GSR in the Reno/Sparks gambling market, including the Peppermill.**

47. While it may satisfy some measure of curiosity for a casino operator to know the value of an individual game's hold percentage at a competing property, I do not believe any truthful casino operator would suggest that knowing the hold percentage of a single competitor's machine, or even six to thirteen machines, would be of "independent economic value." I base my opinion in this regard on several factors. First, casino operators may change the hold percentage on their games almost any time they want. There is no guarantee that a hold setting obtained from a slot machine on one day will be the same on that machine the next day – or even that the machine will be in the casino the next day. Casinos frequently move their gaming machines, bringing new games in and old games out. The fluid environment in which slot machines operate does not lend credence to the theory that payback information is meaningfully persistent. In other words, knowing that the payback percentage on a single slot machine was 92% three weeks ago is not indicative of what that percentage would be today (or, again, whether that machine is even still in operation). In this context, is worth remembering that the

---

[15] Several casino games may be played such that the house has a *dis*advantage, but that topic is beyond the scope of this report.

1   Information obtained by Mr. Tors in December 2011, if not altogether fraudulent,

2   was nearly *six months old* when he obtained the Information in June 2012.

3   48.   Mr. Tors apparently was attempting to discern the overall floor par for

4   the GSR when he accessed the Information, but such was a fool's errand. One slot

5   machine may represent less than one one-thousandth of the games in operation for a

6   large casino, and six to thirteen machines' information would typically represent

7   less than two percent. The Peppermill, for example, has over 1500 slot machines,

8   and the GSR has over 1100. Making a conclusion about such a casino's floor par

9   strategy based on hold information from only one game, or even thirteen, would be

10   entirely unreliable because that is a statistically insignificant sample size.

11   49.   For example, collecting data on two percent of the games in the 100-

12   game example in paragraph 30 above would be only two games, and averaging that

13   data would yield a result of either 5%, 12%, or 8.5%. None of those results are

14   meaningfully close to the actual floor par of 10.6%.[16] The sample size is simply far

15   too small to render a statistically-valid conclusion as to an overall average for floor

16   par. 13 machines out of 1100 is an even smaller fraction, less than 1.2% of the

17   floor. Therefore, attempting to extrapolate the GSR's floor par from 6 to 13

18   machines' hold settings would also fail due to a too-small sample size.

19   50.   Several GSR representatives also hold the opinion that 6 to 13 machines'

20   hold settings are worthless for the purpose of estimating a competitor's floor par.

21   They have indicated that understanding a casino's hold percentage strategy would

22

_____

23   [16] An example of the movement of floor par at the Peppermill may be seen in Chart 1 below. The Weekly Gross Par for All Slots (the overall floor par) rarely changes by a few tenths of a percentage point from one week to the next, so an estimate that is off by more than an entire percentage point

24   would be a useless statistic.

EXPERT REPORT OF STACY FRIEDMAN

RA 02629

require knowing hold settings on close to 40% of the machines and that using only 2% of the machines would come with a high degree of risk.[17] According to GSR's vice president of development, examining only six out of 1100 machines is probably not going to provide any information on the weighted average of hold percentage,[18] a conclusion with which I agree.

51.   Moreover, even if Ryan Tors had broken into the slot director's office at the GSR and copied the floor par data in its entirety, that information would not be sufficient to make a well-considered strategic decision without relying upon the dozens of other important factors that go into determining a casino's operating strategy. I agree with Mr. Vavra that the factors that should be considered in establishing the par of a machine or of the whole floor are unique to each casino property,[19] that is, all casinos are different businesses with different customers. Casino operations is a complex dynamic system with many interrelated factors. These factors include, at a minimum, the interplay between floor par and loyalty program reinvestment rates including the rates at which comp points and free play are earned. They would also include the slot floor mix and volatility of the games, which impacts time-on-device. The demographic mix between local and non-local players is also a factor. These factors are recognized by many casino operators, including the GSR. By itself, floor par is only a small piece of the overall operating picture.

---

[17] Deposition of David G. Schwartz, October 21, 2014 (hereinafter "Schwartz dep."), p. 117, ll. 11-22.

[18] Deposition of Terry Vavra, December 3, 2014 (hereinafter "Vavra dep."), p. 96, ll. 2-6.

[19] *Id.*, p. 155, ll. 11-14

52. Thus, it is my opinion that the Information is not a trade secret because it has no independent economic value either to the public or to competitors of the GSR, and therefore cannot derive such value from not being generally known.

C. The Information is readily ascertainable by proper means both by the public and by competitors to the GSR.

53. In the Reno/Sparks gaming community, hold percentage settings for slot machine games are readily ascertainable by members of the public using several techniques. Hold percentage settings for slot machine games are readily ascertainable by GSR's competitors using several additional techniques. Below, I describe many of these techniques and relate how I used them to determine the par settings for many machines at the GSR, without using a 2341 key or any other questionably-ethical methods. But first I will address the contrary testimony of Dr. Schwartz and Mr. Vavra.

1. Obtaining par information: Dr. Schwartz and Mr. Vavra

54. I understand that the GSR seeks damages "based on the cost of legally and legitimately obtaining the same information."[20] These costs were addressed by GSR's expert, Dr. David G. Schwartz. In an affidavit, Dr. Schwartz testified that

> *accurately determining par through simple observation ... would entail in most penny machines a cost of $4.00 per play for a minimum of 20,000 hours of continuous play at 500 spins per had [sic: hour] for an estimate cost of $600,000 per machine, exclusive of labor costs.*[21]

---

[20] Plaintiff's Fifth Supplemental Disclosure Pursuant to NRCP 16.1, p. 6.
[21] Affidavit of David G. Schwartz, September 9, 2014 (hereinafter "Schwartz aff"), par. 7.

55. Dr. Schwartz further considers that a reasonable rate for such labor would be $9 per hour, which over 20,000 hours results in an additional cost of $180,000, for a total of $780,000 to "determin[e] par through simple observation."

56. However, he then immediately suggests this is a speculative figure because

> *playing the machine so intensively and for such a long period would trigger several flags, making it impossible to collect the information legally.*[22]

57. When questioned in deposition as to this contradiction, as well as the assumptions underpinning his calculations, Dr. Schwartz admitted that the calculations were incorrect.[23] He further confirmed that it would be impossible to actually play a game nonstop for 20,000 hours.[24]

58. More importantly, he also admits that this technique – playing a single game for 20,000 hours – is his best (and only) understanding of how to get the par information from a slot machine without using a slot key. He admits his technique is impossible, and further believes there is no other proper way to obtain the hold percentage on a slot machine:

> *Q. Your testimony to the jury in this case, it is impossible to get the hold percentage on a competitor's slot machine without using a 2341 reset key; correct?*
> *A. To an extent. You could also ask them and they could tell you.*
> *Q. Well, that happens all the time. We know that.*
> *A. I would say that if you just have a machine, let's say we just have a machine in a room and you want*

---

[22] *Id.*

[23] Schwartz dep., p. 105, ll. 9-13.

[24] *Id.*, p. 101, ll. 4-13.

*to know the hold percentage, you either have the key or
you would have to do an incredibly time and labor
intensive series of play in that machine to get it, and I
don't think that it would be possible to do the latter.*[25]

59. Similarly, Terry Vavra, Vice President of Business Development at GSR, is not aware of any simpler methods for determining the par of a machine without using a key (or without playing it for an unreasonably long period of time):

> *Q Are you aware of the fact that if you get
> one par on one machine you can easily ascertain the
> par on all the other machines by simply playing and
> going to the kiosk and determining the points and comp
> ratios?*
> *A You cannot --*
> *MR. WRAY: Objection. Compound.
> You already answered.*
> *THE WITNESS: You cannot --*
> *MR. ROBISON: It's not compound.*
> *THE WITNESS: And you can't.*
> *BY MR. ROBISON:*
> *Q How do you know?*
> *A Statistically, you cannot.*
> *Q What makes you say that?*
> *A How would you know?*
> *Q How would I know what?*
> *A The par on a machine.*
> *Q You don't know how to do that, then?*
> *A You can't.*[26]

60. However, both Dr. Schwartz and Mr. Vavra are mistaken: in fact, there are many techniques for discovering the hold percentage on a slot machine that do not involve a key or an incredibly time and labor intensive series of play. I will shortly describe nine of them.

61. Unfortunately, Dr. Schwartz answered the wrong question, essentially "what would it cost for a member of the general public to learn the hold percentage

---

[25] *Id.*, p. 85, ll. 7-18.
[26] Vavra dep., p. 125, ll. 21-25 – p. 126, ll. 1-15.

EXPERT REPORT OF STACY FRIEDMAN

EXHIBIT 23
Part 2 of 3

<u>DESIGNATED</u>
<u>HIGHLY CONFIDENTIAL INFORMATION</u>

CONFIDENTIAL-SUBJECT TO STIPULATED
CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER FILED JULY 17, 2014

To be Opened Only Upon Further Order of This Court
Or for the Sole Use of the Court and its Employees

EXHIBIT 23
Part 2 of 3

1   on an arbitrary slot machine". There are only a few ways to answer that question

2   that are generally correct. However, that's not the relevant question in this matter,

3   because the Peppermill is not a member of the general public and the GSR does not

4   operate arbitrary slot machines.

5   62.   The right question is "what would it cost for the Peppermill to learn the

6   hold on a GSR slot machine". This question can be answered much more readily

7   due to two important facts. One is that the Peppermill, as a competitor of the GSR

8   in the same market, has access to the par sheets for the same slot machines that are

9   in operation at the GSR. Two is that the GSR and the Peppermill are in Reno, and

10   virtually all casinos in Reno (including both the Peppermill and the GSR) use the

11   relatively uncommon practice of awarding complimentaries to players based on

12   their theoretical win rather than their total wagering handle (i.e., coin-in), which is a

13   far more common behavior for loyalty programs. GSR has conceded that they do,

14   in fact, award complimentaries based on theoretical win and do so at a constant

15   rate.[27]

16   **2.**   **Nine ways for the Peppermill to identify the hold of a GSR slot**

17   **game**

18   63.   Like Dr. Schwartz, I was asked to determine the cost of obtaining the

19   hold percentage on slot machines, but I constrained my analysis to machines at the

20   GSR and the Peppermill, and I relied upon the fact (once confirmed) that the

21   Peppermill and GSR both provide comps based on the theoretical loss of a player to

22

23

---

24 [27] Vavra dep., p. 186, ll. 14-17.

the casino ("theo").[28] During the course of my investigation, I made reference to various par sheets obtained from the Peppermill, and I visited the GSR several times and played their games.

64. I relied upon, and in many cases developed, the following methods to obtain the hold settings of a slot machine at the GSR:

Method name	Relies upon constant GSR loyalty rate	Relies upon known GSR loyalty rate	Relies upon par sheet details	Description
Known Payback	No	No	No	Some games have payback percentages that are publicly-known
Advertising	No	No	Yes	The GSR has, on several occasions, advertised games as "loosest settings"
Theo request	Yes	No	No	Playing a known handle, then asking the VIP desk for theo
Ratio analysis	Yes	No	No	Assuming a constant comp rate and an estimated hold for one game, estimate the hold for a second game.
Ratio elimination	Yes	No	Yes	With available pars for multiple games and their respective rates of loyalty point gains, examine ratios of possible pars to find the only valid combination
Blind bin analysis	Yes	Yes	Yes	Play a small amount of handle and estimate the payback with the point rate, then review possible par settings and find the closest.
Minimal bin analysis	Yes	Yes	Yes	Derive the minimum handle required, for any possible hold setting, to observe a different number of earned loyalty points.
Video deconstruction	No	No	No	Reverse-engineer the game model based on the paytable and a statistical sampling from video footage.
Fingerprinting, or reel strip elimination	No	No	Yes	Observe one or more game outcomes and eliminate impossible hold candidates based on reel strips.

Table 1

---

[28] See footnote 4.

EXPERT REPORT OF STACY FRIEDMAN

65. Before discussing these methods, I preface this section with some factual disclosure. During three trips to the GSR in October and November of 2014, I obtained a player loyalty card, spoke with several members of the GSR staff, and played many gaming devices. I will relate my own observations during this section as appropriate. When I discuss observing the number of comp points I earned from playing at the GSR, I primarily tracked my point balance using the GSR's loyalty club website. **Exhibit F** is a slide presentation containing a timeline of my play at the GSR on November 7, 2014 and November 17, 2014, including photographs of machines I played and website screenshots indicating my loyalty point balance. I tracked my handle on each game by counting the number of max-bet spins I made and multiplying by the value of a max-bet spin.

a.   **Known Payback**

66. Some gaming machines have publicly-known payback. In large part this is due to the regulatory requirement set forth in NGC Regulation 14.040.2(b), which states:

> *For gaming devices that are representative of live gambling games, the mathematical probability of a symbol or other element appearing in a game outcome must be equal to the mathematical probability of that symbol or element occurring in the live gambling game.*

67. In other words, if an electronic gaming machine is playing video roulette, the math on video roulette has to be the same as the math on live roulette. The same is true for video craps, card games such as video poker or video blackjack, video keno, etc. The virtual dice, cards, and keno balls in those games must behave as their real-world counterparts would behave.

EXPERT REPORT OF STACY FRIEDMAN

RA 02637