

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS LIMITED,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK; AND THE
HONORABLE ELIZABETH
GONZALEZ, DISTRICT JUDGE,
DEPT. XI,

Respondent,

and

KAZUO OKADA, UNIVERSAL
ENTERTAINMENT CORP.
AND ARUZE USA, INC.,

Real Parties in Interest.

Case No.

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**APPENDIX TO PETITION FOR
WRIT OF MANDAMUS OR
ALTERNATIVELY PROHIBITION**

VOLUME XXV OF XLIII

DATED this 20th day of November, 2017.

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1 it's in the concession I would say that that one would be
2 continuing.

3 Q Okay. Well, we know that it's in the Stanley Ho
4 one. Do you need -- you want to refresh your recollection by
5 reviewing it? Would that help you?

6 A Sure.

7 Q Okay. Let me turn you to that document 811.

8 THE COURT: I didn't admit 811.

9 MR. PEEK: I know. I'm just asking to refresh his
10 recollection, Your Honor.

11 THE COURT: Just so we're all clear.

12 MR. PEEK: I know.

13 MR. BICE: I'm sorry. How does reviewing a summary
14 of somebody else's concession to refresh his recollection as
15 to --

16 MR. PEEK: Your Honor, would he just not make
17 speaking objections, please.

18 THE COURT: But the provisions would --

19 Mr. Bice, because the witness just said the language
20 was the same as what was in the Wynn and it would help refresh
21 his recollection. So we're either going to see that it
22 refreshes his recollection or we're not. We're not admitting
23 it.

24 MR. PEEK: No, we're not.

25 And don't show it up on the screen to the Court.

1 Please show it to the witness, and go to page 71.

2 THE COURT: He has his copy.

3 BY MR. PEEK:

4 Q Oh. If you have 811, it's on page 71. It's 811/071
5 is where Article 92 appears.

6 A It refreshes my recollection.

7 Q Okay.

8 THE COURT: Somebody who actually understands.
9 Thank you so much. Now that your recollection has been
10 refreshed he might ask you another question.

11 MR. PEEK: I'm going to.

12 BY MR. PEEK:

13 Q So having had your recollection refreshed do you
14 maintain that any document related to post June 2002 related
15 to anything, regarding the concession, is protected by
16 confidentiality under Article 92? Is that your position?

17 A It's actually what Article 92, Provision 1 says.

18 MR. PEEK: Your Honor, can I ask counsel to not be
19 talking all the time during my examination. I would
20 appreciate it.

21 THE COURT: They're allowed to talk to each other
22 just like your people talk to each other.

23 MR. PEEK: I don't care if they do that. But could
24 they do it a little bit more quietly.

25 MR. BICE: We'll attempt to do so, Your Honor.

1 THE COURT: All right. Everyone, let's try to keep
2 quiet so Mr. Peek is not distracted.

3 MR. PEEK: I'm easily distracted, Your Honor.

4 BY MR. PEEK:

5 Q So, for example, you would consider the discussions
6 with the government about a land concession to be protected?

7 A No.

8 Q No, you would not? Okay. Let me have you take a
9 look at another document and see if you can -- look at this.
10 This is on 699-16 and it is a document with Bates Numbers
11 55323 to 55325.

12 MR. PEEK: Did you find it, Nick? And, Nick, I
13 think it's the -- oh boy.

14 THE COURT: The bottom.

15 MR. PEEK: Bottom, is that where it is, Your Honor?

16 THE COURT: That's what he's pulling up for all of
17 us. 55325 to 55325 maybe?

18 MR. PEEK: You know, I'm on the wrong page, Your
19 Honor. It should be on 16 of the priv log. My apologies. It
20 is actually at the bottom of 699-16.

21 BY MR. PEEK:

22 Q Do you see that one? Are you there with me?

23 A Yes, sir.

24 Q And this is a note from Ian Coughlan, email exchange
25 between Mr. Coughlan, Cindy Mitchum, and Samantha Stewart?

1 A Those are the recipients listed.

2 Q Yeah. Those are the recipients. And there's a
3 carbon copy to Kim Sinatra?

4 A And Linda Chen.

5 Q And Linda Chen. So of course Cindy Mitchum and
6 Samantha Stewart are individuals in the U.S., are they not?

7 A Yes.

8 Q And it actually refers to an email exchange re draft
9 land concession agreement?

10 A Yes.

11 Q Are you familiar with this document at all?

12 A I don't know what this document is.

13 Q You don't know whether or not you were copied on it
14 for example, because we don't -- it says -- it looks like only
15 Kim Sinatra and Linda Chen were. But you don't know whether
16 you were?

17 A Correct.

18 Q Okay. But I think as you just told me, you don't
19 consider correspondence regarding the land concession to be
20 covered by Macau law privilege; correct?

21 A I do not.

22 Q So an email like this, you don't recall it ever
23 being brought to your attention by Pisanelli Bice?

24 A At some point Pisanelli Bice sought my advice on
25 land concession documents, and my answer was those would not

1 be protected and subject to other privileges. You could
2 release them, and in any event the Macau Government had
3 released them all to some media organization and posted them
4 all over the Internet anyway.

5 Q Do you know, as the holder of that confidential
6 right, whether or not Wynn Resorts Limited has released them
7 to -- as a new WRM document without having privilege or
8 confidentiality?

9 A I believe so. My instruction was they're not
10 subject to any privilege and they could be released.

11 Q When did you do that?

12 A I believe late last year, but I can't exactly
13 recall, Mr. Peek.

14 Q Okay. We've looked for those documents, haven't
15 seen them, but maybe somewhere along the way they'll show up.
16 So I'm going to go past ones related to the land concession
17 because we've established that one. And so let me have you
18 take a look at -- this would be on Exhibit 699, page 61. And
19 this one appears in the middle of that page as an entry where
20 Ian Coughlan is the author, and the recipient is the chief
21 executive's office. And it bears big numbers WRMPRIV69258 to
22 69258, so it's a one-page document. Do you see that?

23 A I see it.

24 Q Okay. Is that a document on which you were
25 consulted as to whether or not it should be withheld under one

1 of the so-called Macau law privilege?

2 A I can't tell.

3 Q Okay. You don't know if it's one of those dozen?
4 From the description you can't tell it's one of those dozen
5 that you were shown?

6 A Correct.

7 Q Okay. And this is, again, a letter protected by the
8 16/2001, which is pre bid, pre tender process; correct?

9 A Yes.

10 Q Okay. All right. Here's one where I think you
11 actually might be involved. Take a look at page 63 of Exhibit
12 699. And you're apparently the author of that document? This
13 is WRMPRIV59376 to 59389. So that would be a eight-page
14 document about the lower half of the WRM priv log on 699-63?

15 A I see it.

16 Q You're with that? And I think the -- this is
17 regarding the Cotai land concession, which you said is not a
18 Macau law privilege?

19 A It says, draft agreement regarding the Cotai land
20 concession.

21 Q No. I know what it says. But the claim is the
22 Macau law privilege, correct, isn't it?

23 A Okay.

24 Q Not attorney-client, just Macau law privilege;
25 correct?

1 A Yes.

2 Q And is it your understanding as a lawyer of that
3 draft of an agreement has some protection for land concession
4 under the Macau law privilege?

5 A I don't know what this draft agreement is.

6 Q It just says draft agreement regarding Cotai land
7 concession.

8 A Correct.

9 Q So when you say you into know what it is, you're the
10 author of it, it is too long ago in March 17, 2011, for you to
11 recall that you drafted an agreement or you reviewed an
12 agreement or you had something to do with a draft agreement
13 regarding Cotai land concession?

14 A I recall drafting and being involved in many things
15 related to that agreement. But this could have been an
16 agreement about gaming on Cotai land, I don't know.

17 Q Okay. Again, because you weren't consulted?

18 A I don't believe so.

19 Q But we would at least know from the description that
20 somebody put in there that it's regarding the Cotai land
21 concession, not the Cotai gaming concession; correct?

22 A There is no Cotai gaming concession. So, again, I'm
23 not saying you're right or wrong, I'm saying I don't know what
24 kind of an agreement this is.

25 Q My apologies. I won't use the word "Cotai gaming

1 concession." I'll talk about WRMSA's gaming concession
2 awarded to it in or about February 2002. There's no
3 description there that would even lead one to believe that's
4 regarding a draft agreement for the gaming concession awarded
5 to WRMSA in 2002; correct?

6 A This description says, "Draft agreement regarding
7 Cotai land concession".

8 Q I know. You said, well, it may have something to do
9 with the gaming concession.

10 A I said it could.

11 Q Okay. That's the agreement that was completed in
12 2002; correct?

13 A I said it could have something to do with gaming,
14 but I just don't know, Mr. Peek. This could -- I just don't
15 know.

16 Q Okay. That's fine. Now it says the recipient was
17 the Macau chief executive's office. Does that help refresh
18 your recollection on this document that you authored?

19 THE COURT: Where is that on that line?

20 MR. PEEK: Oh. I'm on the wrong line. I apologize,
21 Your Honor.

22 THE COURT: Mine's blank.

23 MR. PEEK: It just says, "Macau Government Official
24 author".

25 THE COURT: No. Mine's blank.

1 MR. PEEK: Oh. Maybe I'm on the wrong -- let me
2 back up a minute, Your Honor. I may have gotten off on the
3 wrong page on 63? Document 59376, maybe I'm on the wrong one,
4 Your Honor. My apologies. You were right. My notes show
5 that it has a recipient, but that's just my note, Your Honor,
6 so -- but that's my mistake. My apologies.

7 THE COURT: I just want to make sure we're all
8 talking about the same --

9 MR. PEEK: No. No. My notes here show something
10 different than the exhibit, so I -- I made a mistake in my
11 notes.

12 BY MR. PEEK:

13 Q Here, just turn to page 66 there. There's another
14 one where in the middle of the page on 699-66 it has Bate
15 ranges 59929 to 59946, that's an 18-page document on July
16 19th, 2011. Macau Government Official is the author. Do you
17 see that?

18 A Yes.

19 Q And that is identified as a letter re land
20 concession. Were you the recipient of letters from time to
21 time from the Macau Government regarding the land concession?

22 A I would have received them but would never have been
23 a direct recipient from the Government.

24 Q In 2011 -- was when you were -- wasn't it 2011 when
25 you were actively negotiating the land concession contract?

1 A I believe by 2011 we had received drafts of the
2 contract from the Government. So we were working through the
3 process with them, yes.

4 Q Were you the one who had the responsibility for
5 commenting or turning back the draft to the Macau Government?

6 A I would have been involved.

7 Q You would have be involved. So does this
8 description of letter re land concession ring a bell with you
9 as something you may have seen or did see?

10 A I can't tell from this.

11 Q You can't tell. But, again, you would agree with me
12 that because it's the land concession it wouldn't have a
13 confidentiality or a privilege associated with it; correct?

14 A If it was purely related to the land concession, I
15 agree with you.

16 Q Okay. But, of course, you haven't seen the letter
17 before this went on a privilege log; correct?

18 A I didn't see the letter in reference to this
19 privilege log. I have probably seen it in the past in some
20 other context.

21 Q Let me have you take a look at the next page, 67 of
22 Exhibit 699. Middle of that page is a three-page document
23 Bate numbered 60078 to 60080. Does that document of
24 September 2nd, 2011, refresh your recollection as to whether
25 or not you saw a letter -- the recipient's just WRMSA is the

1 recipient, but does it refresh your recollection as to
2 receiving letters regarding information requests related to
3 Cotai land concession contracts?

4 A Not -- not from this.

5 Q Look at now page 70 of 699. And what I'm asking you
6 to look at is 60300, which is the second-to-last entry, and
7 then it goes to 60309, so it's a 10-page document. It says
8 WRMSA employee is the author, and this is legal department.

9 A I see it.

10 Q Were you involved in the drafting of this letter
11 which WRL has claimed is subject to the Macau law privilege?

12 A I can't tell.

13 Q Okay. Were you writing during this period of time
14 back and forth to the Macau Government?

15 A I was participating in correspondence with the Macau
16 Government, yes.

17 Q Then the bottom entry we have neither an author nor
18 a recipient and it's identified as "Corporate documents
19 summarizing Cotai land concession agreement and protected by
20 Macau Special Administrative Region Law and Article 92." Does
21 that refresh your recollection that in September 2011 there
22 were corporate documents summarizing Cotai land concession?

23 A It does not.

24 Q Okay. So did you ever prepare any corporate
25 documents summarizing the Cotai land concession in August of

1 -- or September 2011?

2 A I'm not quite sure what's meant by corporate
3 documents, but I prepared documents summarizing the Cotai land
4 concession in the past, yes.

5 Q Okay. Does it refresh your recollection as to
6 whether or not in these last two documents on page 699-70 were
7 one of the dozen that were shown to you?

8 A It does not.

9 MR. PEEK: Okay. If I may have a moment, Your
10 Honor.

11 THE COURT: Sure. And for your planning purposes,
12 we're going to break at 3:00. I have a meeting, but luckily
13 we're on the floor that my office is, so it should only take
14 about 15 minutes. So that'll be your afternoon break.
15 Everybody can wait till then.

16 (Pause in the proceedings)

17 BY MR. PEEK:

18 Q Were you involved in documents -- I guess would be
19 documents being removed from the WRM privilege log and then
20 produced at some later date? Were you involved in that
21 process at all?

22 A Other than what I recall advising about land
23 concession-related documents, no, I wasn't involved.

24 Q And I think you said that was at the end of last
25 year.

1 A As I recall.

2 Q So let me -- I'll try to do one of these real
3 quickly here. So let's look at 699, page 120. And that's a
4 Priv Log -- WRMPPRIV Log 203573. It's a one-page document.
5 And it says you're a recipient of that document.

6 A It seems I'm both an author and recipient.

7 Q I'm trying to -- did I get it there?

8 A I am a recipient.

9 Q Okay. Looks like you're also an author.

10 A According to this.

11 Q According to that. And let me have you look at
12 Exhibit 777.

13 MR. PEEK: Can you bring that up on my screen,
14 please, Nick. Just 777.

15 I don't think it's in evidence, Your Honor.

16 THE CLERK: It's proposed.

17 MR. PEEK: Your Honor, this is another privilege log
18 of July 7, 2017. The privilege log begins on page -- begins
19 on page 40.

20 And it ends on 56, Nick? Is that what it is?

21 He's on 45, Your Honor.

22 THE COURT: 777-40 to 45, Mr. Bice. Any additional
23 objections?

24 MR. BICE: Can I have those numbers one more time.
25 My apologies.

1 THE COURT: 777, pages 40 through 45, according to
2 Mr. Peek.

3 MR. BICE: 40 through 45?

4 THE COURT: He says it's a privilege log.

5 MR. PEEK: It's your forty-fourth privilege log.

6 MR. BICE: It's a production log. That's where I
7 was looking here.

8 THE COURT: So it's not a privilege log?

9 MR. BICE: It's not.

10 THE COURT: Okay.

11 MR. BICE: But maybe we're misunderstanding.

12 MR. PEEK: Your Honor, I apologize. I jumped ahead
13 in my outline, so I've got to -- it's easy to correct. It's
14 just a production -- it's another one of those conversion
15 tables.

16 THE COURT: If you say so. It's not in evidence, so
17 I'm not looking at it.

18 MR. PEEK: It's a disclosure, Your Honor, beginning,
19 as I said, on --

20 THE COURT: Sir, did you find it?

21 THE WITNESS: 777-40?

22 MR. PEEK: And ends, as I said, Your Honor, on --
23 the entire disclosure ends on 56.

24 THE COURT: My guess is he's going to ask you if
25 you've seen it before or if you were involved in it.

1 MR. PEEK: And what I'm referencing here, what I'll
2 be referencing, Your Honor, is the Exhibit B conversion table.
3 Remember we -- this is a different conversion table, but it
4 was served on us on July 7th, 2017. So on page -- Your Honor,
5 I'd offer those pages from their disclosure.

6 THE COURT: Mr. Bice.

7 MR. BICE: Your Honor, again, there is no evidence
8 that this witness has any knowledge about this document or had
9 any involvement in it. It is not an appropriate subject
10 matter for this --

11 THE COURT: Can I ask you guys a question. Is this
12 conversion table for previously designated privileged
13 documents of WRM which were being produced?

14 MR. PEEK: Yes.

15 THE COURT: Then I will admit it for the purpose of
16 the witness identifying whether or not he was --

17 MR. BICE: There's both Wynn Resorts and WRM
18 documents.

19 THE COURT: But the WRM ones are on it?

20 MR. PEEK: I'm focusing on the WRM ones, Your Honor.

21 THE COURT: WRM is on it, Mr. Bice?

22 MR. BICE: Yes. It's on page --

23 THE COURT: Then, Mr. Peek, to the extent that you
24 want to ask this witness his involvement in the decision
25 making to convert the documents or remove them from the

1 privilege log and produce them, go at it.

2 MR. PEEK: Thank you, Your Honor.

3 BY MR. PEEK:

4 Q Mr. Schall, you'll see that the Exhibit B there's a
5 date of July 7, 2017, is it not?

6 A Yes. You're on page 51 of 777?

7 Q Yes, I'm on page 51.

8 A Okay.

9 Q But it starts on page 46. You're on page 6 of 7 of
10 that. But it just --

11 THE COURT: I thought we were on page 40 through 45.

12 MR. PEEK: We are, Your Honor. No, Your Honor, it
13 was 40 through 56 is the entire disclosure.

14 THE COURT: 40 through 56. They keep changing.

15 BY MR. PEEK:

16 Q Do you know whether or not this document -- well,
17 fairer question they want me to ask you is were you involved
18 in converting any of the WRMPRIV documents into documents on
19 which no privilege by WRMSA requested?

20 A I was not involved in the conversion process.

21 Q Okay. That was entirely done by WRL converting your
22 documents, WRMSA documents, to -- from a privilege claim to a
23 no privilege claim; correct?

24 A Done by the lawyers for WRL, yes.

25 Q And you said you'd already spoken to them in

1 December of 2016, correct, about the Macau land concession
2 wasn't protected by Macau law privilege?

3 MR. BICE: Objection to form.

4 THE COURT: Overruled.

5 THE WITNESS: That's my recollection.

6 BY MR. PEEK:

7 Q Let me have you -- just a moment. Catch myself up.

8 Let's look at a document that was converted. First
9 of all let's go back to 699-120. Do you still have 699-120 in
10 front of you?

11 A Okay. I have it.

12 Q And there's a document there of 203579 to 203580.
13 Author is Robert Gansmo, Scott Peterson, and it gives
14 recipients. See that?

15 A I see it.

16 Q And if you go back to -- on 77-51 [sic] there's a
17 conversion table.

18 THE COURT: So 777, page 51?

19 BY MR. PEEK:

20 Q Page 51, the conversion of that Document 203579
21 shows it as WRM 19713.

22 A I see that.

23 Q And then if we go to that Exhibit WRM19713, it's
24 Exhibit 538. Can you find Exhibit 538 in those binders behind
25 you. Are you with me on 538?

1 A I'm open to 538, yes.

2 Q So back up to 699120 --

3 MR. PEEK: Is that still on the screen, Nick?

4 BY MR. PEEK:

5 Q Yeah. So that's identified as a June 2009 Robert
6 Gansmo email, isn't it? That's on the privilege log?

7 A Document date June 7th, 2009.

8 Q Yeah. And that's 203579 and it's converted to
9 WRM19713; correct?

10 A Yes.

11 Q And then Exhibit 538, that's WRM19713, isn't it?

12 A Yes.

13 Q Do you recognize this email?

14 A Do I recognize this email?

15 Q Yes.

16 A I don't recall, but I've at least seen emails on
17 this topic in the past.

18 Q Scott Peterson is a WRMSA employee, is he not?

19 A At that time.

20 Q At that time he was the CFO?

21 A Correct.

22 Q Okay. And his email that is 19713 is dated January
23 2009, is it not?

24 A Yes.

25 Q Not June 2009, as shown on the privilege log;

1 correct?

2 A The privilege log says June, the email says January.

3 Q And the description in 699120, Exhibit 699120 says
4 "Robert Gansmo, Scott Peterson as authors to Scott Peterson,
5 Robert Gansmo, Alexandria Carerra da Silva"; correct?

6 A Correct.

7 Q I can see the recipient in January 2009 of Mr. Da
8 Silva Carerra, but I don't see either Mr. Peterson or Mr.
9 Gansmo as recipients, do you? Oh. I see there's Peterson. I
10 apologize. Is there a Gansmo in here, in this January 2009
11 email?

12 A It seems not until Scott Peterson forwarded it to
13 him.

14 Q Ah, that's right, because then he forwarded it to
15 him, and then he became another author along with Scott
16 Peterson; right? So do you know whether or not it's the same
17 document of June 7, '09, identified in the WYNNPRIV log that
18 we know to be January 5th, '09? Do you know whether it is or
19 not the same?

20 A I don't know.

21 Q Okay. That's fair.

22 THE COURT: Mr. Peek, are you done with the WRM
23 Privilege Log Exhibit 699 now?

24 MR. PEEK: I am not, Your Honor, because I have a
25 few others where -- similar examples of conversion tables.

1 THE COURT: Right. But if it's all conversion table
2 issues and this witness has already said he wasn't involved
3 and he's not familiar, that's something you're going to argue
4 to me as a legal issue.

5 MR. PEEK: Oh. I see your point, Your Honor.

6 THE COURT: The question is do you need to ask this
7 witness any more questions about these issues.

8 MR. PEEK: Let me just -- you're right, Your Honor.
9 Maybe he doesn't -- he wasn't involved in the conversion.

10 THE COURT: He said he wasn't.

11 MR. PEEK: But he can certainly identify that the
12 documents are not the same. But I guess you're right, I can
13 do that through argument and briefing, is what you're saying?

14 THE COURT: That's what I'm trying to tell you.

15 MR. PEEK: Yeah, I know. Because you get the point.

16 THE COURT: I got the point about eight hours ago.

17 MR. PEEK: Just a repeat of the same thing, Your
18 Honor. So given the fact that he wasn't involved in the
19 conversion table or the documents that were produced under
20 these new numbers, then you're right, I will move on.

21 THE COURT: I'm not precluding you from arguing it
22 later.

23 MR. PEEK: No, no. I understood that, Your Honor.
24 So, yes, I guess I am done, having gotten the Exhibit 699 into
25 evidence, 777 into evidence.

1 THE COURT: Portions of those documents.

2 MR. PEEK: The only problem I have is getting some
3 of these conversion documents into evidence where he might
4 actually --

5 THE COURT: The conversion documents are marked
6 confidential; right?

7 MR. PEEK: Some are. Some are marked highly. So
8 they vary.

9 THE COURT: So that creates an issue with putting
10 them in evidence; right?

11 MR. PEEK: I don't think it does, Your Honor, but
12 the Court may disagree with me. Because just because -- just
13 because they marked at some time highly confidential, when you
14 have an evidentiary hearing, whether it's a trial or
15 preliminary injunction or anything, you're entitled to have
16 those documents admitted into evidence and they may lose that
17 confidential designation.

18 THE COURT: Sure. If they're relevant to the
19 proceedings.

20 MR. PEEK: Correct, if they're relevant to the
21 proceeding, that's right.

22 THE COURT: That's what I'm trying to say.

23 MR. PEEK: Okay. I'm not trying to get documents
24 that have highly confidential into evidence just for the
25 purpose of getting them into evidence, but I need to be able

1 to show that a document --

2 THE COURT: Can we skip ahead, because I'd like you
3 to finish with this witness before you have to fly to Hong
4 Kong.

5 MR. PEEK: Yes, Your Honor.

6 (Pause in the proceedings)

7 BY MR. PEEK:

8 Q I'm going to move to another topic now. Do you
9 remember in the Court order the Court ordered Wynn Resorts to
10 produce certain documents that were sent to or by a person not
11 located in Macau?

12 A Talking about the order from last November or
13 something?

14 Q Order from last November, yes. You remember that?

15 A Yes.

16 Q And I think you and I already established that you
17 didn't necessarily -- you didn't tell the OPDP in any of your
18 correspondence, whether it was in 2013 all the way up through
19 '16, that some documents that had been requested by the
20 defendants did exist outside of Macau. You didn't tell them
21 that, did you?

22 MR. BICE: Objection to the form.

23 THE COURT: Overruled.

24 THE WITNESS: Your question is did we at any time
25 tell ODP that there were already documents in the United

1 States that might be disclosed? I'm just trying to get your
2 question correct in my mind. Sorry.

3 BY MR. PEEK:

4 Q I understand. And I'm trying to frame it so that
5 you can get it correct in your mind. My question is focused
6 on documents responsive to this litigation.

7 A Okay.

8 Q You were asking OPDP, may I produce documents that
9 might be responsive to this litigation with redactions.

10 A What we asked ODP in summary is can Wynn Resorts
11 Macau SA produce documents to Wynn Resorts Limited for use in
12 this litigation, whether they go into evidence or discovery.
13 It was not my place to concern myself with what documents were
14 in Wynn Resorts Limited's control however they got there. I
15 was only concerned with documents in Macau that belonged to
16 Wynn Macau.

17 Q Right. And I think you told us that in 2013 they
18 allowed you to produce certain documents so long as they
19 contained redactions for personal information; correct?

20 A The ODP allowed us to produce documents that either
21 don't contain personal data, because then they're not
22 relevant, have personal data redacted, or we had a fully
23 consented-to consent allowing the data -- subject data to
24 leave Macau.

25 Q And then there was a Court order in November of 2016

1 with respect to documents that were to/from places outside the
2 United States. Did you -- did you know that there were
3 documents that had been requested by the defendants that
4 existed outside of the United States?

5 THE COURT: Outside the United States?

6 BY MR. PEEK:

7 Q Excuse me. Outside of Macau.

8 MR. PEEK: Thank you, Your Honor. I apologize. I
9 misspoke. Outside of Macau.

10 THE WITNESS: So was I aware that the defendants had
11 requested documents that resided outside of Macau? Yes, I was
12 aware of that. And is there -- is there more to the question?

13 BY MR. PEEK:

14 Q That was just -- I'm just asking if you were.
15 That's number one.

16 A Yes.

17 Q [Inaudible] more of the question.

18 A Yes.

19 Q Please let me do it in my order.

20 A Okay. Sorry.

21 Q I'm slow minded. And then did you tell OPDP that
22 documents that had been requested by the defendants already
23 existed outside of Macau?

24 A No.

25 Q Did you tell OPDP that WRL had documents with

1 personal data that had been sent from Macau?

2 A No.

3 Q Did you tell OPDP that, for example, Allen Zeman
4 lived in Hong Kong, was a member of your board of directors,
5 and regularly received documents containing personal data of
6 individuals in Macau?

7 A No.

8 Q We know you obtained consents from or either had
9 consents that were in existence or obtained consents from many
10 of the WRMSA employees; correct?

11 A Data privacy consents.

12 Q Yes, data privacy consents.

13 A Correct.

14 Q Did you ever make an effort to obtain consents from
15 government officials?

16 A No.

17 Q Did you know that government officials' personal
18 data was contained within your email or electronically stored
19 information?

20 A I'm aware that -- I'm aware of that, yes.

21 Q For example, the Macau Office of the Secretary for
22 Economy and Finance, they were individuals with whom you
23 corresponded from Wynn Macau or WRMSA corresponded from time
24 to time; correct?

25 A That's probably correct.

1 Q Did you seek any consents from those individuals at
2 the Macau Office of the Secretary for Economy and Finance?

3 A No.

4 Q Similarly for the Macau Transport and Public Works,
5 did you seek any consents from those individuals?

6 A No.

7 Q How about from the University of Macau? Did you
8 seek -- you corresponded from time to time with
9 representatives of the University of Macau, did you not?

10 A I don't think I did, but --

11 Q But WRMSA employees did from time to time; correct?

12 A Yes.

13 Q And you knew that documents related to the
14 University of Macau would have been responsive to requests by
15 the defendants; correct?

16 A I wouldn't say I was specifically aware of that, but
17 okay.

18 Q Well, you knew that there was an issue raised in the
19 litigation between Aruze, UEC, and Mr. Okada regarding the
20 UMDF donation; correct?

21 A So I guess I would answer your question that
22 documents related to the donation may have been responsive,
23 but there could be other documents that maybe weren't.

24 Q No. I understand that. But you understand there
25 was a dispute between the parties, WRL on one side and the

1 Aruze parties on the other side, over the UMD-- or the
2 donation to the UMDF; correct?

3 A I understand that's in the litigation here.

4 Q And did you seek to obtain any consents from any
5 representatives of the -- either the University of Macau or
6 the UMDF, which is the University of Macau Development
7 Foundation?

8 A No.

9 Q Did you understand that there were documents with
10 the UMDF and the government officials that existed at WRMSA?
11 Strike that. You don't need to answer that. Let me move on.

12 And I think we established at the last hearing with
13 regard to government officials that the letters from the OPDP
14 and the DICJ that you -- were attached to your declaration
15 contained the personal data of the individuals at OPDP and the
16 DICJ; correct?

17 A It had their names, yes.

18 Q And you did so without consent, but said it's
19 because their names exist on the Internet?

20 A I didn't feel their consent was necessary, so we did
21 so without consent, yes.

22 Q Did anybody at OPDP tell you that their consent was
23 not required?

24 A No.

25 Q Did anybody at DICJ tell you that their consent was

1 not necessary?

2 A Nope.

3 Q Were you involved in the efforts by WRL to identify
4 documents that existed outside of Macau having been sent to or
5 from somebody who did not live in Macau? Were you involved in
6 that effort at all?

7 A Okay. I need to get that one straight. Was I
8 involved in Wynn Resorts Limited's efforts to identify
9 documents outside of Macau that were -- what's the origin of
10 the documents?

11 Q Yeah. Maybe I -- yeah. And then I'll ask it a
12 different way. So we both know that from time to time
13 documents did go to individuals who live outside of Macau;
14 correct?

15 A From Macau to outside of Macau, correct.

16 Q And we know that from time to time documents from
17 outside of Macau came into Macau; correct?

18 A Correct.

19 Q Now, those documents that went -- either came in
20 from outside of Macau or went from Macau to an outside source
21 were not produced by WRM without redactions; correct?

22 A That I don't know.

23 Q Okay. You don't know.

24 A I don't know.

25 Q Well, did you -- did you -- when these documents

1 were being processed in 2013 did you know that as part of the
2 collection and processing and production of the documents that
3 WRMSA was not producing documents that had come into Macau
4 from an outside source or had gone from Macau to an outside
5 source without redaction?

6 A Did know that WRMSA was not producing documents that
7 had come in or gone out without redactions?

8 Q Well --

9 A I guess I know that now.

10 Q Yeah.

11 A Okay? I know that now.

12 Q You know that now.

13 A Yes.

14 Q Okay. Did you -- did you as the legal counsel for
15 WRMSA believe that a document which had come in from Macau,
16 come in from outside of Macau, let's say for example Allen
17 Zeman, and was sent to six individuals in Macau and referenced
18 Edmund Ho or Fernando Chu Sai On, government officials,
19 [inaudible], did you believe that that document should be
20 redacted since it came outside of Macau?

21 A Okay. I believe once a document is in the
22 possession of Wynn Resorts Macau I say it should not transmit
23 it back out for use in a proceeding like this unless it is in
24 compliance with the Personal Data Protection Act.

25 Q That's with one coming in. Let's talk about one

1 that goes out. So now you're sending a document outside of
2 Macau or you are sending an internal document to Ian Coughlan
3 -- I don't want to use you as an example, because you're an
4 attorney. Say your CFO sent an internal document to Ian
5 Coughlan and he cc-s individuals in the United States, they're
6 going outside, has a number of names of Macanese individuals
7 who have not given consent. So you know that the personal
8 data has already been transferred, correct, when the cc --

9 A The names of the people who are cc-ed?

10 Q Correct.

11 A Correct.

12 Q So that document has already been transferred out of
13 Macau in the ordinary course of business I guess you would
14 say?

15 A It's your hypothetical, so yes.

16 Q Okay. Well, but you would -- that actually
17 happened. This is not hypothetical. You know that that
18 happened, don't you? You know that from time to time
19 representatives or employees of Wynn Resorts Macau SA carbon
20 copy individuals in the United States on email correspondence.
21 You know that.

22 A Yes.

23 Q That's not a hypothetical. It's actually a fact;
24 correct?

25 A That is a fact.

1 Q Okay. And did you consider that to be a transfer of
2 the personal data at the time that email was carbon copied to
3 somebody in the United States?

4 A It depends.

5 Q Depends on what?

6 A Well, it may be a transfer of personal data, but all
7 of the data subjects may given their consent for us to do so.

8 Q I'll put the hypothetical that nobody -- not
9 everybody gave their consent. For example, it's an email
10 correspondence regarding a meeting with Edmund Ho, a meeting
11 with Fernando Chu Sai On, a meeting with the Public Works
12 director, a meeting with the Secretary of Transport, who did
13 not give consents.

14 A Okay. So I understand. So in your hypothetical
15 what you're saying is someone in Macau emails five cc-s in the
16 United States and in the body of the email there are names of
17 government officials.

18 Q Yes. And it may even be individuals within the "to"
19 line that also did not give consents.

20 A Well, if they're our employees, that would actually
21 not be possible. But --

22 Q I know. But I'm talking about if an author, Ian
23 Coughlan, sends something to a Macau Government official with
24 a carbon copy to somebody in the United States, you have a
25 disclosure of information in the body about the meeting with

1 the government official, you have a government official who is
2 actually identified in the "to" line, that's transferring that
3 individual's personal data as well as others' who may have
4 been involved; correct?

5 A Okay. Assuming your hypothetical is accurate where
6 Ian Coughlan emails something and some of the recipients of
7 the email are Macau Government officials and you have Macau
8 Government official names in the body of the email, what I
9 would say is, yes, personal data has been transferred without
10 consent in the ordinary course of business.

11 Q I would agree with you there. Okay. So why
12 couldn't that document be produced by WRMSA?

13 A That's the question?

14 Q Uh-huh.

15 A The Macau Data Protection Office is a difficult
16 office that enforces a law that is draconian, I would say, and
17 very difficult to live and run your business by. However, the
18 office does understand the realities of business, and they do
19 understand that in the ordinary course of business Wynn
20 Resorts Macau, let's say, and lots of other businesses in
21 Macau are probably transferring unconsented personal data out
22 of Macau which could be a technical violation of the law.

23 Q Uh-huh.

24 A However, the office has drawn in writing to us in
25 our correspondence with them over this matter and in general a

1 distinction between that kind of ordinary course business
2 correspondence -- and that's a fluid concept, right, and you
3 and I might disagree on what's in the ordinary course -- and
4 handing over an email like the one you described to a complete
5 third party for use in U.S. litigation.

6 Q Are you done with the answer?

7 A Yeah.

8 Q -- ask another one. So are you telling me that you
9 actually wrote a letter -- the OPDP actually told you in
10 correspondence that it recognized that you have transferred
11 data and that it happens and you're not supposed to now if
12 that data exists in Macau transfer that again in this
13 litigation?

14 A They have told us in correspondence that the
15 expectation of data subjects should be taken into account when
16 you are determining what to do with their personal data.

17 Q Okay. But you've already told me, Mr. Schall -- and
18 this is where I get confused. You've already told me that you
19 never did tell the OPDP in any written correspondence or even
20 in meetings with him that the hypothetical that I gave you,
21 that the universe of documents like that in Macau that WRMSA
22 had and is it okay to produce those? That data's already been
23 transferred.

24 A That's right.

25 Q So now you maintain that OPDP knew that you were

1 doing that on a regular basis and told you somewhere along the
2 way that, okay, we know you do this on a regular basis but in
3 a context of requests for documents, which you didn't disclose
4 to them, they would [inaudible] it?

5 A I don't believe that's what I said.

6 Q Okay. Well, that's what I'm -- I'm trying to be --
7 I guess I'm confused. You didn't tell them of this regular
8 transfer that existed in the documents that were being
9 requested; correct?

10 A We weren't specific about the documents being
11 requested other than to say, we have documents in Macau with
12 personal data for which we do not have consents, can we please
13 give it in this process.

14 Q Correct. Why didn't you tell them that the personal
15 data of many of the -- or that had already been transferred
16 when documents were sent out of Macau through email to Hong
17 Kong and to the U.S.?

18 A Sir, are you asking me why didn't I draw an analogy
19 to things that happened in the ordinary course of my business
20 with respect to unconsented-to personal data being transmitted
21 out of Macau to try to persuade them to allow me to give
22 specific documents with unconsented-to personal data over in
23 this proceeding?

24 Q Yeah. I'll go with your -- with the way you want to
25 frame my question. Yeah, why didn't you tell them that you

1 already transferred this data outside of Macau and the names
2 of the individuals that were being transferred -- or the
3 personal data had been transferred?

4 A Well, you're talking about "this data" like it's
5 specific. So --

6 Q Okay. Let me -- let's just pick a document. You
7 know that there are documents that existed where it was --
8 recipients were not only Macanese, but also U.S. You know
9 that those exist; correct?

10 A Correct.

11 Q And you know that within the body of those emails
12 that the names of individuals are within the body and that
13 those names are of individuals who have not consented to the
14 release of their names. You know that, don't you?

15 A Yes.

16 Q Okay. So that's really what I'm trying to
17 understand. Why didn't you present a document like that to
18 the OPDP and say, look, we've already done this, it's already
19 existing in the United States, why can't we allow it to be
20 transferred?

21 A Okay. Maybe we're still not on the same page. But
22 when we -- when we went to ODP late last year we knew the
23 exact universe of the documents with the personal data that
24 had not been given to Wynn Resorts, the exact universe. And
25 that is what we asked ODP permission for. We did not, I will

1 admit, draw the analogy that in the course of everyday
2 business over the last decade unconsented-to personal data
3 does go out. They're very aware of that. They fined us over
4 the Freeh report.

5 Q Right. But they don't fine you on a regular basis
6 of emails that contain the personal data of Macanese
7 transferred to the U.S. through carbon copy or through direct
8 correspondence; right?

9 A I believe they draw a distinction between emails
10 that I send within my own corporate organization and emails
11 that would go to a third party. And they've drawn that
12 distinction in parts of the correspondence you've had in this
13 case. But I take your point, Mr. Peek. We did not do what
14 you said.

15 Q So are you telling me, then, that you draw a
16 distinction between what might be considered internal email
17 correspondence within the WRMSA and the WRL family and
18 something to let's say a vendor in San Francisco that may
19 contain personal data?

20 A I draw a distinction when I'm sending an email as to
21 whether the email is going to someone in the Wynn organization
22 or to let's say a vendor in San Francisco as to what I put in
23 the email, yes, I would.

24 Q You do.

25 A I do.

1 Q So, if I understand correctly, you said that in
2 December of 2016 you did not have a discussion with the OPDP
3 about the fact that there were documents that existed outside
4 of the United States that had been transferred let's say in
5 the ordinary course through carbon copies, through direct
6 correspondence to U.S. residents or a Hong Kong resident like
7 Mr. Zeman or -- it's Dr. Zeman, isn't it?

8 A Dr. Zeman, yeah. I think it was in November, so
9 late 2016 the latest round with ODP, correct. We did not draw
10 their attention to the fact that unconsented personal data
11 goes out of Macau every day in the ordinary course of
12 business.

13 Q Were you asked by Wynn Resorts Limited to produce
14 documents that existed in Macau on your server, for example,
15 electronically stored information that had been -- that had
16 transferred data through carbon copies or through direct sent
17 to or received into -- did they ask you to look for those
18 kinds of documents?

19 A I'm not trying to be difficult. I don't understand.

20 Q No, that's all right. [Inaudible] the question.

21 So Wynn Resorts came to you and asked you about the
22 order --

23 A Yes.

24 Q -- of the Court. And that order had three orders by
25 the Court. You remember those three things that apply here,

1 the Macau law privilege, consent, and the documents sent to or
2 from individuals outside of Macau.

3 A Yes.

4 Q Okay. So it's really that third one that I'm
5 focused on. Did Wynn Resorts ask you to look for these
6 documents that had been sent to -- sent into Macau from
7 outside of Macau or sent from Macau outside of Macau?

8 MR. BICE: Objection, Your Honor. Attorney-client
9 to the extent he's asking for Mr. Schall's communications with
10 legal counsel.

11 MR. PEEK: That's not --

12 MR. BICE: To the extent he's not, then we obviously
13 wouldn't object.

14 MR. PEEK: It's not seeking legal advice, Your
15 Honor. I was just asking --

16 THE COURT: Mr. Bice, this whole discussion we've
17 been having with this gentleman is about communications he had
18 with Wynn Resorts Limited's counsel about the privilege log,
19 the conversion log. So I'm going to overrule your objection.
20 But I understand your position. If we're going to substantive
21 information, we need to be more careful.

22 So you can answer.

23 THE WITNESS: Okay. Okay. What I recall, Mr. Peek,
24 is that I was told by Pisanelli Bice that --

25 MR. BICE: Objection.

1 BY MR. PEEK:

2 Q Yeah. I just -- I don't want to hear -- yeah. I
3 mean --

4 THE COURT: We don't want to know what they told
5 you.

6 BY MR. PEEK:

7 Q Yeah. I'm not looking for what they told you.

8 A Okay.

9 Q What I'm trying to ascertain is that we know there
10 are three parts to that order. You got sent a draft of it in
11 September or October of 2016, correct, before the Court had
12 actually entered the order?

13 A Yes.

14 Q Okay. Now, I haven't compared them side by side as
15 to whether or not the one that you received is the one that
16 the Court signed, but we know that at least those three topics
17 were in the draft order that you had; correct?

18 A Correct.

19 Q So what I'm really asking you is whether or not in
20 that third bucket of documents is whether you were asked to
21 produce any documents that may exist in Macau that had been
22 sent outside of Macau, didn't contain personal data, or had
23 been sent into Macau that also contained personal data.

24 MR. BICE: My objection, Your Honor, is asked by
25 whom.

1 THE COURT: Overruled. Sir, it's a yes or no.
2 THE WITNESS: No.
3 THE COURT: So we'll be in recess until 3:15.
4 Sir, this is not a requested recess. You may now
5 speak with your counsel as much as you want.
6 THE WITNESS: Thank you.
7 (Court recessed at 2:59 p.m., until 3:27 p.m.)
8 THE COURT: Sorry. It took longer than I thought.
9 Mr. Schall, if you'd come on back up. Let's try and
10 get you out of here.
11 Mr. Peek, how far are we behind?
12 MR. PEEK: I think we're way ahead, Your Honor --
13 THE COURT: Okay.
14 MR. PEEK: -- since you have --
15 THE COURT: Helped reframe your --
16 MR. PEEK: -- helped me -- although I don't
17 necessarily agree with the Court, I am certainly bound by the
18 Court's ruling. But I appreciate -- as long as I can show
19 these by --
20 THE COURT: Absolutely.
21 MR. PEEK: -- by some other means, I will do so.
22 THE COURT: But having the witness say, I don't
23 know, a lot of times just isn't helpful for all of us. But I
24 understand.
25 MR. PEEK: I appreciate that, Your Honor.

1 THE COURT: Okay. Let's keep going.

2 BY MR. PEEK:

3 Q Mr. Schall, from -- can you give me some of the
4 names of the individuals from whom you did seek consents,
5 whether it be before 2013 or during the course of producing
6 documents.

7 THE COURT: Mr. Peek, don't lean on the mike.

8 THE WITNESS: Okay. So --

9 THE COURT: Who did you ask consents for?

10 BY MR. PEEK:

11 Q Whom did you ask -- from whom did you ask consents?

12 A In the initial phase we got -- asked for and
13 received consents from all of the custodians in Macau, so
14 myself, Ian Coughlan, Linda Chen, the CFO Robert Gansmo.
15 After what I'll call the discovery process in Macau and we had
16 identified more people who we need to seek consents I can't
17 name any of them individually for you, but they would have
18 been kind of mid-level and lower employees in our active
19 employ who turned up and we needed their consents. But I
20 couldn't give you specific names.

21 Q Those individuals, were they all WRMSA --

22 THE COURT: Mr. Peek, you can't sit over there.

23 MR. PEEK: You're right, I can't. I can't

24 [unintelligible] the microphone, Your Honor.

25 //

1 BY MR. PEEK:

2 Q Were they all WRMSA employees?

3 A To the best of my knowledge, yes.

4 Q Were there any individuals who were not WRMSA
5 employees from whom you sought consents?

6 A I'm not sure, Mr. Peek.

7 Q So when you say they were -- the initial consents
8 were from the more senior people like yourself, Ian Coughlan,
9 Robert Gansmo; correct?

10 A Correct.

11 Q And then as you began to identify documents in the
12 collection you identified that there were more employees or
13 WRMSA individuals whose names appeared; correct?

14 A Correct.

15 Q And did you then from that -- from at least those
16 documents that were collected where you saw the names, is that
17 where you sort of began to identify a universe of individuals
18 within the company from whom you would need to have consents?

19 A I personally didn't, but that is what occurred, yes.

20 Q That is what occurred. And were each and every one
21 of those individuals whom you -- who had been identified
22 within the universe of the ESI collection, did they all give
23 consents?

24 A No.

25 Q Who were some of those who were -- did not give

1 consents?

2 A I don't know specifically, but I do know that there
3 was a group from whom consents were requested, group of
4 employees, and they either did not consent or did not reply,
5 which would be taken as --

6 Q Would it be a violation of the MPDPA to give us the
7 names of those who did not give consents?

8 A Yes.

9 Q In what way?

10 A We would be taking the personal data, the name, and
11 associating that they had said no to this process and sending
12 it out of Macau.

13 Q To just be giving name, that's all?

14 A In the situation you've described, correct.

15 Q So when I ask you a question about an individual in
16 Macau who hasn't given consent are you okay to testify to
17 that?

18 A Yes.

19 Q Okay. So you can testify to the names of
20 individuals who did not give consent, but you can't disclose
21 them in writing to me?

22 A Well, I don't know the names of the people who
23 didn't give their consent.

24 Q I didn't ask you that.

25 A Oh.

1 Q That's not my question. My question is just
2 specific that you can't testify to the names of individuals
3 who have not given consent, but you can't give me those names
4 in writing. Is that your testimony?

5 A No. So --

6 Q Okay.

7 A -- with specific reference to people who do not
8 consent to something, doesn't have to be this case, if you
9 were to ask me name by name, did this person give consent or
10 not, I believe I could not tell you the ones who did not give
11 consent. If you and I are having a discussion, you're asking
12 me questions and somehow someone's name who didn't give
13 consent comes up in a completely other context, I think I'd be
14 okay to say it. However, you're talking about an area that's
15 very -- it's untested to some extent. However, what I know is
16 if I sat here and I knew the names of the people who didn't
17 give consent and say I knew them and I listed them all off
18 verbally to you and it got back to Macau and they all went and
19 complained to the Data Protection Office, I would be in
20 trouble.

21 Q Okay.

22 A As would the company.

23 Q Of course, I couldn't ask you about those names of
24 individuals who did not give consent, because their names
25 would be redacted in your documents; correct?

1 A Correct.

2 Q Yeah. Okay. So the only way that I would know of a
3 name from whom you did not receive consent would be if you
4 actually gave it to me. And you're saying you can't; correct?

5 A I can't because I don't know, and I can't because I
6 believe I would be in trouble for doing that.

7 Q Well, were you the one who was -- were you involved
8 in the requests for consents?

9 A Involved? I was aware it was going on, but --

10 Q Who did that?

11 A I don't exactly recall.

12 Q Was it a WRMSA employee?

13 A I believe Ana Chavez would have been involved, yes,
14 who's a WRMSA employee.

15 Q Was Pisanelli Bice involved in that process at all?

16 A I suspect they were, but I wasn't that involved in
17 the process.

18 Q When you say you suspect they were, they were
19 involved in the requests of the individual to give consent?

20 A They seemed to be our primary liaison with the --
21 Wynn Resorts Macau SA's liaison with the U.S. litigation, so I
22 expect that they were involved in every aspect of what went on
23 in Macau. To what extent I don't know.

24 Q And that would be -- that would include, ask Sally
25 or Fred to give consent; correct?

1 A I don't know.

2 Q You believe, however, that they were involved
3 because they were involved in every aspect of consents, were
4 they not?

5 A It'd be hard for me to tell you that PB wasn't
6 involved with some aspect of this litigation as it touched
7 Macau.

8 Q Now, you've already told me that you didn't ask for
9 the consents of individuals like Edmund Ho; correct?

10 A Correct.

11 Q Why not?

12 A A few reasons. Mainly it's a bit impractical. And
13 government officials are regulators, whether directly or
14 indirectly our regulator. We would not want to put them in a
15 position of asking them for their consents in a procedure like
16 this with respect to their official capacity. And in my
17 opinion I do not believe government officials could give
18 consent with respect to personal data being released when it
19 relates to their governmental capacity.

20 Q Sorry. I'm scratching my head because I'm a little
21 bit confused, because we've already agreed that DICJ and the
22 OPD people gave -- didn't give consent when you released their
23 names. So what am I missing? You say they can't do it in
24 their official capacity, but yet you did release names of OPD
25 and DICJ?

1 A My recollection is those were letters that they sent
2 us. So I view it differently. A letter that they send us
3 officially in their capacity, we didn't get their consent,
4 maybe I'll find out later that was wrong. A email which
5 contains the names of government officials acting in their
6 official capacity which let's say Ian Coughlan wrote, for
7 example, that in my opinion requires consent, and that is what
8 we did not ask for.

9 Q Because you thought it inappropriate to ask for
10 consent?

11 A They're our regulator, and we would not put them in
12 that position.

13 Q Now, as with the OPD, who you said their names are
14 all over the Website for the OPDP, the names of the government
15 officials are all over the government Website, are they not?

16 A I agree with you. But the examples where we spoke
17 about the Internet were letters written by ODP. I recall ODP.
18 I don't recall DICJ. But letters written by ODP officials to
19 us in their official capacity, we did not seek consent to
20 release those letters when we were leaving the official's name
21 in there. An email that contains the names of government
22 officials and what they may or may not be doing in some type
23 of process we're involved in I view differently.

24 Q I'm sorry. I don't quite understand the difference.
25 If you're corresponding with them just like you're

1 corresponding with OPDP?

2 A So if I ask ODP for something and they send me back
3 a letter giving me an answer, I feel comfortable letting that
4 letter outside of Macau, depending on the circumstances, in
5 this case this case, with their name on it. If, forgetting
6 attorney-client privilege, I type an email to Ian and within
7 the email I say, I met with government officials A, B, and C,
8 and they said X, Y, and Z, I do not feel comfortable --

9 Q That's not what I asked. The question was if you
10 have written correspondence with a Macau Government official,
11 not email correspondence, direct, old-fashioned letter
12 correspondence. Edmund Ho, write a letter to Edmund Ho.

13 A So --

14 Q Would you produce that document without redaction?

15 A It depends if it was protected by other privileges.

16 Q Okay. What other -- there's no attorney-client
17 privilege, is there?

18 A There's the Macau law privilege that we talked
19 about.

20 Q I don't want to go back into that, and you don't,
21 either, do you, Mr. Schall?

22 A No.

23 Q Okay. So let's just -- I'll just ask you to bear
24 with me on my hypothetical. It's dealing with the land
25 concession, which you said did not -- was not covered by Macau

1 law privilege, would that letter be redacted of Edmund Ho's
2 name if he signed it or it was -- he was the addressee?

3 A So the land concession at this time I do not believe
4 is protected by the Macau law privilege, namely in part
5 because the Macau Government itself released our entire Cotai
6 land file to a gadfly organization that has nothing to do with
7 this case who then published it on the Internet. At certain
8 points in this case, namely before that occurred and before
9 we'd have a chance to think about it I would have said that
10 Macau law privileges protected certain, if not all, land-
11 related documents. However, as I sit here today I do not
12 believe the Macau law privilege applies to land documents at
13 all, and I wouldn't redact names from them if they're official
14 correspondence going back and forth.

15 Q What about email correspondence over the same
16 subject matter with Macau Government officials?

17 A To the extent that exists -- look, I'd have to see
18 the email, but I would generally classify an email with the
19 Macau Government officials as official correspondence, so
20 therefore I would give you the same answer, that it could be
21 released unredacted.

22 Q Were you ever asked to review as you describe it
23 official correspondence, whether it be electronic, email, or
24 old-fashioned letter --

25 A I'm sorry, Mr. Peek, I can't recall.

1 Q -- before production? Did you ever -- were you ever
2 asked to review that?

3 A I can't recall. Oh. But however, so I do recall
4 when we were heading towards this hearing reviewing some
5 documents that were related to the land specifically and
6 okaying them for release that were held here in the United
7 States.

8 Q So would a letter from Alexandria Carerra da Silva
9 to a Macau Government official be one of those official
10 letters?

11 A I believe this related to documents in the United
12 States already. So if that document were in the United States
13 and related to -- again, I'd have to see it --

14 Q I'm not asking if it's in the United States. You
15 said that you thought that documents with Macau Government
16 officials didn't necessarily come to the U.S., but at least
17 just documents between a Macau Government official and a WRMSA
18 person, official, Government official, should be produced
19 without redaction.

20 A Right. And then you asked me if I'd reviewed any,
21 and I said I reviewed some leading up to this hearing or my
22 deposition, I don't remember which, when it was, but sometime
23 this year that resided in the United States that related to
24 the land that I said should be released.

25 Q Okay. That's not what I'm focused on. My focus

1 really is whether or not a document from a Macau -- Mr. da
2 Silva, who's a Macau Government official, which is an official
3 government official, should or should not have redactions of
4 the government official to whom it is sent.

5 A Related to the land?

6 Q Right, related to the land concession.

7 A I'd have to see the document. But if it was purely
8 land related, at this time now I would agree that it could be
9 released.

10 Q Okay. I was beyond whether it exists in the United
11 States.

12 A Okay.

13 Q So we'll deal with that subject. Did any of those
14 documents with respect to the Wynn Resorts -- WRMSA land
15 concession that were given to, as you say, this gadfly, did
16 they contain any redactions, to your knowledge?

17 A You're talking about the documents the Macau
18 Government actually --

19 Q The ones that the Macau Government actually gave to
20 -- what was the name of the organization?

21 A I can't remember. I remember the principal involved
22 with the organization, I don't remember --

23 Q Who's that? What's the name of the principal?

24 A Jeffrey Fiedler.

25 Q I'm sorry, what?

1 A Jeffrey Fiedler.

2 Q Okay. Did those documents that were released to
3 Jeffrey Fiedler contain any redactions at all, to your
4 knowledge?

5 A I'm not aware.

6 Q Did it include the names of WRMSA Macanese
7 individuals?

8 A I recall there being some Macau Government
9 correspondence that would have had a sender's name on it, but
10 I don't remember who the senders from the government were or
11 the recipients.

12 Q Okay. So -- but really my question was focused on
13 did any of that -- any of those documents include the name of
14 a WRMS employee?

15 A That I don't know.

16 Q Okay. Did it include the names of a WRMSA employee
17 who may have signed the land concession?

18 A Who may have signed the land concession?

19 Q Right. You executed a land concession with the
20 Macau Government, did you not?

21 A I don't know if that correspondence did, but the
22 signature would be in the Official Gazette of who signed for
23 the company.

24 Q By the way, was Palo Real Estate the one that was
25 awarded the concession, or was it WRMSA who was awarded the

1 concession?

2 A Both.

3 Q Both. Same parcel?

4 A Same parcel.

5 Q Palo Real Estate is an affiliate of WRMSA?

6 A Subsidiary, yes.

7 Q Subsidiary of WRMSA. Were there documents that were
8 produced as gadfly regarding Tien Chao?

9 A I'm not -- I'm no longer familiar with exactly what
10 the government gave over. I just remember it was voluminous.
11 I did review it at one time, I'm not saying I didn't. I just
12 can't recall exactly what was in there. But it was --

13 Q When you say you reviewed it, you reviewed it --
14 where did you -- in what media did you review it? Did you
15 have a hard copy, did you have an Internet site? What'd you
16 have?

17 A I believe I went on one of Fiedler's Internet sites
18 and scrolled through them.

19 Q So I want to sort of get back to the documents that
20 would exist or should -- would exist outside of the United
21 States either because it was sent to or sent from -- sent --
22 either sent into Macau or sent from Macau.

23 THE COURT: Documents that exist outside Macau?

24 BY MR. PEEK:

25 Q Outside. Right. Outside Macau. Documents outside

1 Macau. I want to focus on those. Let me have you take a look
2 at Exhibit 588.

3 THE COURT: That's a proposed exhibit.

4 BY MR. PEEK:

5 Q Proposed Exhibit 588. You know, of course, Mr.
6 Gansmo.

7 A Yes.

8 MR. BICE: Your Honor, we have an objection, because
9 this is --

10 THE COURT: He hasn't offered it yet.

11 MR. BICE: Well, I understand that. But I object to
12 this whole line, because this is yet another one of the
13 redacted documents not identified in response to the discovery
14 request, no witness identified it at the depositions as a
15 document for which they claimed any form of privilege -- or
16 prejudice.

17 THE COURT: Proposed Exhibit 588 is a redacted
18 document that was not included in their response to requests
19 for production?

20 MR. BICE: That is correct.

21 THE COURT: Mr. Peek.

22 MR. PEEK: Your Honor, I find it interesting that I
23 get a continuing objection to documents that they're ordered
24 to produce and did not produce that they know that exist
25 outside of the United States because they actually --

1 THE COURT: You mean outside Macau.

2 MR. PEEK: We know that they exist outside of Macau.
3 We -- you know, we violated a Court order, but you didn't tell
4 me what the documents were on which I violated the Court
5 order.

6 THE COURT: So, Mr. Peek, that's why I ordered
7 discovery before this hearing, gave everybody an opportunity
8 to identify those documents. If we hadn't had discovery, we
9 might have a different discussion.

10 MR. PEEK: And I --

11 THE COURT: But in this case we had discovery.

12 MR. PEEK: And I said, Your Honor, in the response
13 to both the interrogatory and in the RFP that it's all the
14 documents that were redacted. Now, I understand that may be
15 too much for them, but given the nature of the productions --
16 you know, I just -- I'm sorry. It's not lost on me that it's
17 okay for them to violate a Court order --

18 THE COURT: No, Mr. Peek, it is not okay for them to
19 violate a Court order, and at some point in time we're going
20 to have a discussion about whether it was wilful or not and
21 whether there's been prejudice or not and, if so, what the
22 appropriate sanction is.

23 MR. PEEK: But I --

24 THE COURT: But I'm not quite there yet.

25 MR. PEEK: I know. But without being able to show,

1 Your Honor, for example this -- some documents, and I'm loathe
2 to mention it, but this document contains redactions, and it
3 says, we are in Macau -- or, excuse me, my apologies. It
4 says, we are in Hong Kong. That's what the email says, we are
5 in Hong Kong. So obviously that document was sent from Hong
6 Kong into Macau by Mr. Gansmo using whatever device -- or to
7 Mr. Gansmo. I don't know who sent it to Mr. Gansmo --

8 THE COURT: Mr. Peek, I understand your position.
9 I've ruled. I said if it wasn't one of the specific documents
10 you identified in the scope of your request for production
11 we're not going to talk about that specific document, although
12 I will let you talk about privilege log entries, because there
13 is a difference of opinion on the discovery requests as to
14 whether it included that.

15 MR. PEEK: But I'm being sanctioned, Your Honor.

16 THE COURT: No, Mr. Peek. You're being limited.

17 MR. PEEK: Yes, I am. I am being --

18 THE COURT: Not sanctioned, limited.

19 MR. PEEK: Yes, I am, Your Honor. I am being
20 sanctioned by not being allowed to show a document that exists
21 outside of Macau that was redacted by them, but I'm not really
22 showing Your Honor the document for redactions, I'm showing
23 the document for -- existing outside of the United States.
24 It's not a document that has a redaction --

25 THE COURT: So, Mr. Peek --

1 MR. PEEK: -- related to outside of Macau. It's a
2 document that they're obligated to produce.

3 THE COURT: Mr. Peek, that should have been --

4 MR. PEEK: The request was for redacted documents.

5 THE COURT: That should have been identified in
6 response to the request for production. I understand your
7 position. Would you like to proceed on something else?

8 MR. PEEK: I'm going to proceed with each one of
9 these, Your Honor. The ruling's going to be the same.

10 THE COURT: Okay.

11 MR. PEEK: I appreciate that the ruling's going to
12 be the same.

13 THE COURT: You want to give me a list so we can
14 just go through it that way, or do you want to go through this
15 process on each one? Because if we're not done with this
16 witness by Wednesday afternoon, we're coming back on Friday.

17 MR. PEEK: You're punishing me for that, too.

18 THE COURT: No, I'm not punishing you. I'm saying
19 we're going to get done.

20 MR. PEEK: Yeah, you are, Your Honor. You're
21 punishing me by not allowing me to go into this for their
22 violation of the order of November 1st because I -- because I
23 read a document that said "redacted documents." So the bucket
24 number 3, Your Honor, in the Court's order is not related to
25 redacted documents. It's documents that exist outside of the

1 United States they're obligated to produce. So they asked me
2 for redacted documents in 13.

3 THE COURT: Not Wynn -- this gentleman is from WRM.
4 I did not order WRM to produce documents that were outside of
5 Macau that had left Macau.

6 MR. PEEK: I know.

7 THE COURT: I ordered the people sitting behind you
8 to produce those documents.

9 MR. PEEK: I know that, Your Honor. But in order to
10 establish that they exist outside of Macau I wanted to show
11 this witness documents that are -- say it's a WRMSA document
12 that says, Hi, Robert, we are in Hong Kong. It obviously was
13 sent to Macau from Hong Kong. And, yes, I can give you that
14 list of those documents.

15 THE COURT: Let's make sure you preserve your record
16 by doing that.

17 MR. PEEK: Yeah. Then I just --

18 THE COURT: Do you need a minute to get it together?

19 MR. PEEK: I just find it, you know, very --

20 THE COURT: Because I'd be happy to ask the witness
21 some questions that are important to me while you do that.
22 Because issues that you're raising are very important to me,
23 but I have some others that are important to me that are on a
24 slightly different subject, and I'd like to approach the tack
25 differently, because I'm trying to identify the issues.

1 MR. PEEK: Go ahead, Your Honor.

2 THE COURT: All right. Thank you.

3 Sir, when the Freeh team came to do the
4 investigation --

5 THE WITNESS: Yes.

6 THE COURT: -- were you involved in identifying the
7 particular information they were going to review?

8 THE WITNESS: No.

9 THE COURT: So they came and decided what they were
10 going to review.

11 THE WITNESS: I was involved with helping them
12 identify people to speak to. What information they requested
13 out of those people I believe Freeh and his group determined.

14 THE COURT: So we recognize that Freeh's purpose was
15 coming to do an investigation because they had concerns about
16 Mr. Okada.

17 THE WITNESS: Correct.

18 THE COURT: So he was looking for information to
19 assist with his investigation.

20 THE WITNESS: Correct.

21 THE COURT: And WRMSA at the time assisted in that
22 investigation?

23 THE WITNESS: Correct.

24 THE COURT: You did not do anything with the Office
25 of Data Privacy at that time about his review of that

1 information?

2 THE WITNESS: Correct.

3 THE COURT: And when did you learn he was taking
4 information from Macau?

5 THE WITNESS: After he'd left.

6 THE COURT: Okay. So you didn't have an opportunity
7 to do anything before he left?

8 THE WITNESS: Correct.

9 THE COURT: So I'm going to use two words that we
10 use in criminal cases but they're not really -- they sort of
11 apply here. Would it be fair to say that Mr. Freeh was
12 looking for information that was inculpatory or would support
13 his investigation while he was there?

14 THE WITNESS: Correct.

15 THE COURT: He was not looking for information that
16 exculpatory or would help Mr. Okada in defending against the
17 investigation?

18 MR. BICE: Your Honor, I know that you don't like it
19 when I object to your questions --

20 THE COURT: You can object to my questions.

21 MR. BICE: -- but I am -- my apologies.

22 MR. PEEK: I like your questions, Your Honor.

23 MR. BICE: I'm going to object to the -- I'm going
24 to object to the question as it calls for this witness to
25 speculate.

1 THE COURT: Overruled.

2 THE WITNESS: As I recall, he was looking for all
3 information related to stays and usage of our facility by
4 Okada and his parties. I can't tell you whether he was
5 purposefully excluding exculpatory information or not. All I
6 know is he was looking for everything.

7 THE COURT: And he was spending time and making
8 decisions on how he was going to do the investigation himself?

9 THE WITNESS: It was an independent investigation,
10 and he ran it, yes.

11 THE COURT: Okay. So when he left how long after he
12 left did you learn he had taken information?

13 THE WITNESS: I would say -- it's a while ago, but
14 quite, quite quickly. Within maybe 10 days.

15 THE COURT: Okay. How long after you learned that
16 do you believe the policy of the ODP changed and the way they
17 were enforcing the MDPA?

18 THE WITNESS: How long after I learned that he took
19 the information?

20 THE COURT: Yes.

21 THE WITNESS: I believe the ODP didn't really shift
22 until the Freeh report came out and the OPD investigated the
23 circumstances behind the Freeh report.

24 THE COURT: So about six months?

25 THE WITNESS: I don't recall, Your Honor, but --

1 MR. PEEK: Your Honor, I would object. The Freeh
2 investigation didn't start until October, and the report came
3 out in February.

4 THE COURT: That's six months.

5 MR. PEEK: He was retained in late October.

6 THE COURT: October, November, December, January,
7 February. That's five months.

8 MR. PEEK: I cap it as the -- it started in
9 November, December, January, mid February.

10 THE COURT: Okay. So --

11 MR. PEEK: I'm glad people find that amusing.

12 THE COURT: -- after the ODP changed their theory on
13 how information leaving the country should be handled was
14 there an opportunity for anyone to investigate what I would
15 call exculpatory information that may be in the possession of
16 Wynn Macau?

17 MR. PEEK: I'm going to object, Your Honor. Assumes
18 facts not in evidence that the ODP had changed its theory.

19 THE COURT: Overruled.

20 THE WITNESS: So you're asking me would there have
21 been an opportunity for people to come and try find
22 exculpatory evidence?

23 THE COURT: Yes.

24 THE WITNESS: Sure, there would have been.

25 THE COURT: Tell me what that opportunity was.

1 THE WITNESS: Oh, I'm not -- no one took it, but
2 there would have been.

3 THE COURT: Well, but tell me the circumstances you
4 believe that would exist.

5 THE WITNESS: If -- I believe Okada had an
6 independent investigation commissioned by another former
7 federal law enforcement type, Chertoff, maybe. If he had made
8 an official request to come to Wynn Macau, and I'm not aware
9 if he did or didn't, we would have tried within the parameters
10 of Data Protection to allow him to come. But as far as I'm
11 aware, that request was never made.

12 THE COURT: Okay. So my next question has to do
13 with some of the transfer of information in the ordinary
14 course of business ordinary course of business. Do you
15 consider that the transfer of information in the ordinary
16 course of business includes Wynn Resorts Limited being able to
17 report information from Macau to Nevada Gaming Control Board?

18 THE WITNESS: It can, yes.

19 THE COURT: Why?

20 THE WITNESS: There's certain information that we're
21 required to report here and that DICJ is aware that gets
22 reported by the concessions, or at least by Wynn, because DICJ
23 and the NGCB have a relationship. But we did after the ODP
24 came down change the substance of some information that we do
25 give to the GCB --

1 THE COURT: Okay.

2 THE WITNESS: -- to remove personal data.

3 THE COURT: All right. So let me go to the next
4 area. There are some consolidated financials that are
5 presented that involve Wynn Macau and Wynn Resorts Limited
6 reporting with the SEC. Can you tell me how that information
7 is provided and why you believe it does not violate the MDPD,
8 Macau Data Privacy Act?

9 THE WITNESS: I'm not an accountant, Your Honor, but
10 it'd be very unusual for financial statements to contain any
11 personal data, only --

12 THE COURT: So when you have very large markers out
13 by customers those aren't transmitted for purposes --

14 THE WITNESS: Never.

15 THE COURT: Okay. Hold on. I think I have one
16 more.

17 Have there been public reports of criminal
18 prosecutions for violations of the MPDPA?

19 THE WITNESS: There was one about a guy who ran a
20 collection Website, WonderfulWorld or something. There was
21 public reports on his criminal prosecution. He may have had
22 to -- that's the only public report of a criminal prosecution
23 I'm aware of.

24 THE COURT: All right. Thank you. Hold on. I
25 think I had one more for you. Nope. Those are all.

1 Mr. Peek, did you want to give me the list?

2 MR. PEEK: I think what I'd like to do is -- I think
3 yes, Your Honor. But what I'd like to do with the assurance
4 that I'll have to come back on Friday, but I want to finish on
5 Wednesday, that I will most likely give the Court a list. But
6 I'm not going to represent that that's -- in fact, I'd like to
7 consult with my colleagues. I'd like to consult with Mr.
8 Krakoff.

9 THE COURT: So you want to ask some other questions
10 and maybe come back to that?

11 MR. PEEK: Your Honor, I can ask a few other
12 questions, but a lot of this you've already preempted me and
13 said, I want a list. So I would like to have the opportunity
14 this evening to consult with my colleagues Mr. Kunimoto, Mr.
15 Cassity, Mr. Krakoff, Mr. Miller, about how if we're going to
16 present this in the form of a, quote, unquote, "list," show in
17 the process when that occurs. Because I don't want to close
18 this evidence, but I do want to let this witness finish before
19 Wednesday.

20 THE COURT: So just for the record, I have not told
21 you you can't present the evidence related to the privilege
22 logs. I've told you we may have other sources of information
23 related to that as well as the, what were they, the conversion
24 charts. I just said this probably wasn't the most appropriate
25 witness to deal with that.

1 MR. PEEK: No, I understand. And I -- you know, I
2 -- frankly, I don't want to call the only person who would
3 know, because I think I can do this through the documents that
4 have been produced and reference them, as opposed to calling a
5 live person. So I think I can do that. I think the Court has
6 at least seen from what I've shown it already the various
7 iterations of the claims that have been made by Wynn Resorts
8 and the changes that have occurred over time by them. Court
9 will draw whatever inference it will. Mr. Bice will argue
10 that, it's just mistakes on my part, innocent mistakes. The
11 Court will make its own decision. But I think I can do that.

12 THE COURT: Okay.

13 MR. PEEK: With respect to --

14 THE COURT: I found my last question for Mr. Schall.
15 Can I ask it.

16 Sir, have you heard anything more about Mr. Okada'
17 Macau litigation since you were gone from here, since the last
18 time you were here?

19 THE WITNESS: No. The courts are still closed, Your
20 Honor.

21 THE COURT: They're still closed? The whole month
22 of August?

23 THE WITNESS: Whole month.

24 THE COURT: See, the Nevada Supreme Court here
25 doesn't issue any opinions in August.

1 MR. PEEK: It's the same thing in Japan, Your Honor.
2 They close the whole month of August.

3 THE COURT: The Nevada Supreme Court doesn't issue
4 opinions in August because of allegedly the law clerk
5 turnover, but other people speculate they're gone.

6 Okay. Mr. Peek, you're up.

7 MR. PEEK: Your Honor, I want to --

8 THE COURT: Unless you're telling me you're over.

9 MR. PEEK: The topics that I had addressed the
10 specific three orders; Macau law privilege, which I've
11 addressed in part through the testimony and I will address, as
12 well, in briefing; the consent, I'll finish a little bit more
13 on the consents because I have some other questions about
14 consents, because I have at least some names here. And then
15 the third topic, which is documents to -- that went -- exist
16 outside of Macau which was a part of the order. That's where
17 I was going. The Court has said that because I didn't
18 identify those documents within the RFP I think it was
19 Number 7 or in Interrogatory 13, it is not going to allow me
20 to introduce those documents into evidence or even talk about
21 those documents.

22 THE COURT: Those particular documents.

23 MR. PEEK: Those particular documents that exist
24 outside. I disagree with the Court --

25 THE COURT: Okay.

1 MR. PEEK: -- as you know, because, you know, you're
2 doing -- it's okay for them to violate a Court order. I don't
3 have any Court order on the discovery, and you're sanctioning
4 me by not allowing me to prove my case. But it's okay for
5 them to not produce --

6 THE COURT: I'm limiting you to your discovery
7 responses.

8 MR. PEEK: -- not honor the obligation of the Court.
9 So I don't know how else to prove the fact that they haven't
10 produced the documents that exist outside of Macau if the
11 Court isn't going to allow me to do that. Because there are a
12 number of documents that should exist here that when they gave
13 you -- remember they gave you the match-no match back a year
14 and a half ago approximately -- no, not quite a year and a
15 half ago, but they gave you the match-no match.

16 THE COURT: Yeah. And they weren't perfect matches.

17 MR. PEEK: Yeah. But we have identified a number of
18 documents that we know exist outside of Macau, and that wasn't
19 the request for production.

20 THE COURT: Okay. Anything else?

21 MR. PEEK: You disagree with me. So if you're not
22 going to allow me to do that, I'll make an offer perhaps in
23 writing --

24 THE COURT: That's a lovely way to do it.

25 MR. PEEK: -- and show you in writing why that

1 exists.

2 THE COURT: That's a lovely way.

3 MR. PEEK: Because otherwise I would be asking this
4 document, because they are WRM documents that I would be
5 discussing with him that we know should exist outside of the
6 United States -- or, excuse me, should exist outside of
7 outside of Macau. But if the Court's not going to allow me to
8 do that, I'll just -- I'll make my offer and make my points to
9 the Court at the time. But I'm going to go back to some
10 issues. One is the issue that you raised.

11 DIRECT EXAMINATION (Resumed)

12 BY MR. PEEK:

13 Q Is it my understanding -- is it your testimony that
14 had a representative of UEC asked to conduct an investigation
15 at WRMSA to find evidence that would support Mr. Okada that
16 you would have allowed that?

17 A I would have supported it.

18 Q That's not what I asked you. Would you have allowed
19 it?

20 A If it were solely up to me, yes.

21 Q No. You think Mr. Wynn would have allowed it?

22 A I have no idea. Ask him.

23 Q Okay. But you don't know whether or not the company
24 -- the company that asked for the investigation was WRL, was
25 it not?

1 A Yes.

2 Q And that's the company that directed you to
3 cooperate with Mr. Freeh and give him access to employees, as
4 well as documents; correct?

5 A Yes.

6 Q And that was at the direction of Mr. Wynn; correct?

7 A I believe Kim talked -- Sinatra told --

8 Q But you knew it really came down from Mr. Wynn,
9 though, didn't it?

10 MR. BICE: Objection. Objection. Speculation.

11 THE COURT: Sustained.

12 MR. PEEK: I don't know if he's speculating or not,
13 Your Honor.

14 THE COURT: He said came down from Kim.

15 BY MR. PEEK:

16 Q Do you know how Ms. Sinatra got the direction?

17 A No.

18 Q Good answer. Going back to consents for a moment --

19 Oh. By the way, have you ever heard the name Mike
20 Chertoff?

21 A I think I just mentioned it, yeah.

22 Q I'm sorry. You what?

23 A I believe I just mentioned his name. So, yes, I've
24 heard of him.

25 THE COURT: In response to my question.

1 MR. PEEK: No, I -- okay. I didn't hear that, Your
2 Honor.

3 BY MR. PEEK:

4 Q Did anybody ask you if Mr. Chertoff could come and
5 look?

6 A No one asked me.

7 Q Do you know whether he asked Wynn Resorts?

8 A I don't.

9 Q Do you know whether Wynn -- whether Mr. Okada's
10 counsel asked for additional time to present evidence?

11 A When?

12 Q Right after he was interviewed by Louis Freeh. Do
13 you know whether or not his counsel asked for additional time
14 to submit evidence?

15 A I don't know anything --

16 Q You're not aware of that?

17 A No.

18 Q Have you read the Freeh report?

19 A Yes.

20 Q Do you know that it's in fact mentioned in the body
21 of the Freeh report that he was asked to -- that his counsel
22 asked to present additional evidence?

23 A I won't dispute that. But I have read it; I don't
24 recall that.

25 Q And that additional evidence was not allowed before

1 Louis Freeh completed his report, was it?

2 A I have no -- I have no idea. I'm sorry.

3 Q Okay. So let me ask you about consents again. Did
4 -- did you -- did you identify in the body of electronically
5 stored information or hard copies individuals who were
6 employees of either Aruze USA or Universal Entertainment
7 Corporation?

8 A I have seen discovery materials that had Aruze
9 Universal employees' names in them, yes.

10 Q In the WRM documents?

11 A Well, I've seen that they've been redacted and it
12 says Aruze employee or something like that. So I'm aware that
13 in the discovery there are Aruze and Universal people's names.

14 Q Okay. Now, you would certainly know, because you
15 can look at those documents, the actual names of those people;
16 correct?

17 A Actually, I would have known in kind of preparing
18 for this or speaking with Pisanelli Bice, because, while in
19 theory I guess I could look at the documents because they're
20 in my safe in Macau, I actually wouldn't know how to take the
21 hard drive and make it show me anything.

22 Q Well, and Pisanelli Bice can't look at those
23 documents, either, and those names, can they?

24 A They can't look at anything in an unredacted form
25 here that Macau held in a redacted form, correct, as far as

1 I'm aware.

2 Q Okay. Did you ever compile a list of Universal
3 employees from whom consents would be sought?

4 A I didn't, no.

5 Q Now you know that Mr. Okada was asked to give
6 consent?

7 A I am aware of that, yes.

8 Q You're aware of that. But were -- so but you're not
9 aware whether any other employees of Universal or Aruze USA
10 were asked to give consents; correct?

11 A Correct.

12 Q The only person who could know those names would be
13 somebody at WRMSA; correct?

14 MR. BICE: Objection. Calls for speculation.

15 THE COURT: Overruled. You can answer if you can.

16 THE WITNESS: I don't know who would know those
17 names, Mr. Peek. But --

18 BY MR. PEEK:

19 Q Yeah. Really I'm not -- what I'm looking for is
20 that those names wouldn't exist in the U.S., because you would
21 have redacted them; correct?

22 A If the document only resides in Macau and was
23 subject to redactions when it came over here, then yes.

24 Q Okay. And the only people who could look at those
25 documents would be -- would have been WRMSA employees;

1 correct?

2 A At this point?

3 Q No. In 2013, 2014.

4 A Well, I don't know the answer to that question,
5 because I don't know how the discovery review worked from a
6 technical process. I don't know how redactions came about.
7 If they're manually put in or some computer did it I don't
8 know.

9 Q So you weren't involved in how WRL was handling your
10 documents?

11 A No. I wasn't involved in the technical aspects of
12 how documents ended up in the form that your side received
13 them.

14 Q They'd have to give WRL control over that process;
15 correct?

16 A No. It was controlled in Macau by I think FTI and
17 PB.

18 Q And FTI was hired by WRL?

19 A You've asked me this before. I don't know who hired
20 them, but I think --

21 Q You know it wasn't -- you know it wasn't you.

22 A Yes.

23 Q So let me ask you some other names here about
24 employees. Lau Si Lo, government official?

25 A I know him.

1 Q Did you ask for consent?

2 A Nope.

3 Q Wei Zhao?

4 A Wei Zhao. Familiar. I think University of Macau
5 affiliated, I think.

6 Q Did you ask for his consent? He's not a government
7 official.

8 A Nope.

9 Q Did you ask for his consent?

10 A Nope.

11 Q Why not?

12 A We didn't feel it practical, and we didn't think
13 that we needed to.

14 Q Why didn't you think you needed to?

15 A Well, probably because the documents were already in
16 the United States, so they went over.

17 Q Oh. So all of the UMDF documents -- or all the
18 documents related to the UMDF are in the U.S.?

19 A Well, I don't know. But if you're telling me his
20 name, I would imagine that's so.

21 Q Well, I certainly know his name. But that's not
22 what I asked.

23 A What'd you ask?

24 Q I'm asking you if you asked for his consent.

25 A No.

1 Q Okay. And why not? That's really what I'm trying
2 to understand. You said it wasn't practical. Why wasn't it
3 practical to ask for his name?

4 THE COURT: You mean his consent?

5 MR. PEEK: Pardon?

6 THE COURT: His consent?

7 MR. PEEK: His consent. Thank you.

8 BY MR. PEEK:

9 Q Why wasn't it practical to ask for his consent to
10 allow his data to be transferred?

11 A We weren't going to ask government officials for
12 their consent. It was just the tack that we took. I'm not
13 trying to be trite, but occasionally the best answer to why is
14 because. That is simply the answer in this case.

15 Q Okay. I'm sorry. I didn't think that the UMDF --
16 is he a UMDF person, or a University of Macau person?

17 A I said I believe he's somehow affiliated with the
18 university, but I don't know who he works for.

19 Q But you would agree with me that UMDF is not a
20 government entity; correct? Or do you believe it to be?

21 A I don't know. That one I don't know. I've heard
22 that it's not, I've heard that it is. To tell you the truth,
23 I never really looked at it for myself. I view it as at least
24 a quasi governmental institution.

25 Q Oh. Okay. So the donation to the UMDF is a

1 donation to the Macau Government.

2 MR. BICE: Objection, Your Honor.

3 THE COURT: Overruled. You can answer.

4 THE WITNESS: The donation to the UMDF, as I recall,
5 was a donation to the UMDF for use by the University of Macau
6 at their new campus in Hengqin Islands.

7 BY MR. PEEK:

8 Q But it's a donation to a government entity; correct?

9 MR. BICE: Same objection, Your Honor.

10 THE COURT: Overruled. You can answer.

11 BY MR. PEEK:

12 Q The foundation which you said is a government
13 entity.

14 THE COURT: Mr. Peek, do you want him to answer?

15 MR. PEEK: Yeah.

16 THE WITNESS: The university is a government entity.

17 BY MR. PEEK:

18 Q University of Macau Development Foundation, the
19 UMDF.

20 MR. BICE: Your Honor, can the witness be allowed to
21 finish his answer?

22 THE COURT: Sure. Sir, can you finish, please.

23 THE WITNESS: So we made our donation to the UMDF.
24 As I stated, I'm not sure if that's a government institution,
25 a private institution, but I consider it a quasi government

1 institution because its job is to raise money for the
2 University of Macau, which is a government institution. So
3 therefore the answer to your question is did we give the money
4 to a government institution, yes, we did.

5 BY MR. PEEK:

6 Q Okay. That's fine. And that's why you didn't ask
7 for consents from those individuals who were on the -- were
8 part of the UMDF or the foundation because they were a quasi
9 government or government institution?

10 A Well, in what context am I now asking for consents?
11 You were on the donation piece and who I gave the money to.

12 Q I'm just trying to understand why you didn't ask for
13 consents. And you said because you treated them as a
14 government entity --

15 A Oh. I --

16 Q -- and you didn't think it was a practical thing to
17 do to ask for consents from --

18 A I'm sorry.

19 Q I'm just trying to establish that that's the reason
20 and the only reason, as opposed to the trite response of
21 because.

22 A So we --

23 MR. BICE: Objection. Objection to form.

24 THE COURT: Overruled. You can answer.

25 THE WITNESS: We took the view with respect to all

1 government or quasi government officials, if we're going to
2 call the UMDf people that, that we would not ask them for
3 consents because they're our regulators, indirectly or
4 directly. It would put them in a bad position. It was
5 inconvenient, and we simply did not ask any of them.

6 BY MR. PEEK:

7 Q I'm sorry, inconvenient?

8 A We would inconvenience them by asking them for their
9 consent. That was the view we took.

10 Q Okay. John Crawford, did you ask for his consent?

11 A Who?

12 Q John Crawford. Do you know John Crawford?

13 A I know John Crawford.

14 Q Did you ask for his and -- ask and receive his
15 consent?

16 A No. As far as I'm aware, we did not.

17 Q John is an outside auditor of WRMSA or WML?

18 A That's a difficult question. He is a financial
19 supervisor under Macau law, so he's not an outside auditor,
20 but he's not our employee. So I'm not trying to split hairs,
21 but he falls somewhere between those two things. He's not in
22 Ernst & Young, and he is not in my finance department, but he
23 oversees our annual financial statements. He did. He's
24 retired now or something, but --

25 Q He did.

1 A Yeah.

2 Q And he's also -- was also involved in the technical
3 institute next door to the Wynn Palace; correct?

4 A I believe it's the international school, yes. Next
5 to -- near Wynn Palace, yes.

6 Q Not right next door?

7 A It's not quite right next door, but very close.

8 Q And donations were provided to that international
9 institution with which he's affiliated?

10 A We absolutely support the International School of
11 Macau.

12 Q Is he a government official?

13 A I don't believe so.

14 Q He did some audit work, correct, for -- of WRMSA or
15 WML or both?

16 A So he's down at the Macau level, WRMSA. Was.

17 Q Okay.

18 A But I can't call it an audit. It's sort of an
19 annual review of the financial statements that get published
20 in the newspaper. So he holds this special position that's in
21 the gaming law that you need to have this person doing this.
22 Each concession has one, and he was ours for some time.

23 Q Why didn't you ask him for a consent?

24 A That's a good question. I would have asked him for
25 his consent if I would have known he wasn't being asked.

1 Q So you'll ask him -- will you ask him now, then?

2 A Is there any point to?

3 Q Yeah. Yes, there is.

4 A Maybe he was asked and he didn't reply. I don't
5 know.

6 Q He's also an auditor of Palo Real Estate, isn't he?

7 A Well, I don't know. Only the gaming concessions
8 need this special financial supervisor board chairman
9 position. Whether he was for Palo or not I don't know, Mr.
10 Peek. It's possible.

11 Q What's your relationship with Palo Real Estate, your
12 individual -- you individually?

13 MR. BICE: Objection, Your Honor.

14 THE COURT: Sustained. What does this have to do
15 with my sanctions hearing?

16 MR. BICE: Nothing.

17 MR. PEEK: Because it has the land concession, Your
18 Honor, and a lot of these go to the land concession.

19 MR. BICE: And you --

20 MR. PEEK: These issues go to the land concession.

21 MR. BICE: And you already sustained our objection
22 to the land concession. And the Court will recall it informed
23 Mr. Peek that the land concession nor the University of Macau
24 were nowhere in any of their discovery responses to us. And
25 the Court has already sustained that objection.

1 THE COURT: Mr. Peek, I don't think Palo Real Estate
2 has anything to do with my sanctions hearing.

3 MR. PEEK: Okay. I would disagree. And if you want
4 me to articulate the --

5 THE COURT: Sure.

6 MR. PEEK: -- the relationship --

7 THE COURT: He's already told me it's a subsidiary.

8 MR. PEEK: Right. And John Crawford is doing
9 audits, John Crawford's doing audits -- he has a regular
10 relationship with a subsidiary of WRMSA. His consent should
11 have been sought.

12 THE COURT: I understand what you said. But the
13 Palo Real Estate is not relevant to my proceeding. I
14 understand your issue related to whether the consent should or
15 should not have been sought from him, which is a different
16 issue.

17 MR. PEEK: It is related -- because Palo Real Estate
18 is related to our overall case, Your Honor, the inability to
19 get information about Palo Real Estate during the course of
20 our discovery requests where there have been claims related
21 under Macau law privilege, which we now know don't exist with
22 respect to the land concession or with respect to actual
23 gazetting of the land concession.

24 THE COURT: Palo Real Estate is not part of my
25 sanctions hearing. I'm not saying that you may not have

1 issues with discovery responses related to Palo Real Estate,
2 but Palo Real Estate is nowhere in this brief. This is the
3 brief from our original hearing on the motion for sanctions
4 that Mr. Cassity signed on March 31st.

5 MR. PEEK: The one that has the attachments that
6 identifies all of the documents in the prior proceedings that
7 -- where we'd asked for documents. For example, Exhibit O,
8 which identifies a lot of the documents where we claim should
9 be produced. But, yes, that is --

10 THE COURT: I don't have the exhibits with me. They
11 may be huge, but I didn't bring them with me.

12 MR. PEEK: You know, this whole proceeding started
13 early. But I'll move on, Your Honor.

14 THE COURT: Thank you.

15 MR. PEEK: The Court's ruled.

16 THE COURT: And by the way, they're an appendix, not
17 exhibits. So they're in a separate document.

18 MR. PEEK: Well, there are a series of motions, Your
19 Honor, not just the one of March 31. There are a series of
20 motions --

21 THE COURT: Believe me, I'm aware of that.

22 MR. PEEK: -- that started this process way back in
23 2015 and '16.

24 THE COURT: And O --

25 MR. PEEK: But we'll deal with that in our briefing.

1 THE COURT: O is an email from someone named A.
2 Schaefer dated March 15th, 2017.

3 MR. PEEK: Your Honor, I'm talking about the prior
4 2016 motion regarding production of documents.

5 THE COURT: Okay.

6 MR. PEEK: Motion to compel.

7 BY MR. PEEK:

8 Q Ho Ho. Do you know who Ho Ho is?

9 A Yes.

10 Q Did you seek consent from him?

11 A Nope.

12 Q Why not?

13 A I don't know where he is.

14 Q Ho Hoi?

15 A I know him, too.

16 Q And did you seek consents from him?

17 A Same answer. Don't know where he is.

18 Q These are individuals that were affiliated with Tien
19 Chao?

20 A Yes.

21 Q And Wynn gave them \$50 million and you don't know
22 where they are?

23 MR. BICE: Objection, Your Honor.

24 THE COURT: Overruled. You can answer.

25 THE WITNESS: We paid them \$50 million to relinquish

1 their rights to the Cotai land, correct. Public record.

2 BY MR. PEEK:

3 Q And you don't know where they are today?

4 A Am I supposed to keep track of them?

5 Q I didn't ask you that. I just -- my question is you
6 don't know where they are today.

7 THE COURT: The objection of argumentative is
8 sustained.

9 MR. BICE: Thank you.

10 THE COURT: Can we move on.

11 MR. PEEK: I will.

12 BY MR. PEEK:

13 Q Cliff Cheung?

14 A I know who that is, but I do not know him.

15 Q Did you seek his consent?

16 A No.

17 Q Stanley Ho, did you seek his consent?

18 A No.

19 Q Justin Ho Man-King? Did you seek his consent?

20 A No.

21 Q Peter Lam Kam Seng?

22 A No. And all of these noes are to the best of my
23 knowledge we didn't seek their consent, by the way. But no,
24 we didn't seek --

25 Q Why not?

1 A Inconvenient, impractical, put them in a bad
2 position, and just decided not to seek consents.

3 Q So inconvenient to WRMSA?

4 A To the person receiving the request for the consent.

5 Q Wong Chong Fat. Did you seek consent from him?

6 A Wong Chong -- what's -- can you spell the last name?

7 Q F-A-T is what was written for me.

8 A Chong Fat Wong, I don't know who that is, so I can't
9 answer.

10 Q Okay. And Tsi Chi Wai? That's T-S-I. I may not be
11 pronouncing it correctly.

12 A Tsi Chi Wai. I don't know who that is, either.

13 Q Okay. Vitor Ng?

14 A Victor [sic]. I don't know who that is. Sorry.

15 Q I don't, either, but --

16 A Okay.

17 Q Cheong Kuoc Va?

18 A I know who that is.

19 Q Did you seek consent from Cheong Kuoc Va?

20 A No.

21 Q Because it was inconvenient?

22 A I'm surprised that we would have needed to seek his
23 consent, because I didn't think we'd ever interact with him in
24 any meaningful way. But it's certainly possible. But, no, we
25 didn't seek it of --

1 Q Well, you don't know because you never looked or had
2 anybody compile a list of individuals whose names were on the
3 WRMSA ESI or hard copy documents; correct?

4 A That's accurate.

5 Q Yeah. You wouldn't know from whom to seek consents
6 without looking at the ESI or the hard copy; correct?

7 A Well, in preparing for this and looking at some
8 documents that have been redacted I could have had a good idea
9 of some people, but certainly not all. I agree with you, Mr.
10 Peek.

11 Q Thank you. Fatima Cho?

12 A Spell the last name.

13 Q C-H-O.

14 A I don't know her.

15 Q Okay. Vasco Fong Man Chong, Fong Man Chong?

16 A I don't know who that is.

17 Q Okay. Fong Kong Leong?

18 A Say it one more time.

19 Q Fong Kong Leong.

20 A Is it K-O-N-G, or K-E-O-N-G -- K-E-U-N-G?

21 Q K-O-N-G.

22 A I don't know him.

23 THE COURT: I'm watching Mr. Bice's face.

24 THE WITNESS: Long Kong Leong.

25 MR. PEEK: The list goes on, Your Honor. I'm not

1 going to read them all.

2 THE WITNESS: You sure?

3 THE COURT: Can we have Bryce read them, though? At
4 least he won't --

5 MR. PEEK: If Bryce wants to read them, he's welcome
6 to read them, Your Honor. But I --

7 Do you want me to read the rest of the names?
8 Somebody's asking me.

9 I'm told to keep going, Your Honor.

10 BY MR. PEEK:

11 Q Liong Ni?

12 THE COURT: Can Bryce read them? Because he can
13 actually pronounce them.

14 MR. PEEK: Just because he's Japanese you think he
15 can read Chinese, Your Honor?

16 THE COURT: No. But he has -

17 MR. PEEK: Oh. Okay. I just wanted to make sure --

18 THE COURT: He can pronounce.

19 MR. PEEK: -- that we weren't --

20 THE COURT: You haven't seen how his face is
21 screwing up with your lack of pronunciation.

22 MR. PEEK: Oh, Your Honor. You're right. I can't
23 see. Go ahead.

24 THE COURT: You don't have eyes in the back of your
25 head, Mr. Peek, so --

1 Okay, Mr. Kunimoto. You're up. See if we can read
2 these better.

3 MR. PEEK: You'd better read them right. I finished
4 the first page, Bryce?

5 MR. KUNIMOTO: Finished?

6 MR. PEEK: Yes. You better read them right, though.

7 BY MR. KUNIMOTO:

8 Q Lionel Ni.

9 A Spell Ni for me.

10 Q N-I.

11 A Don't know him.

12 Q Rui Martins, R-U-I.

13 A Rui Martins. I think I know who that is, and we
14 didn't ask for consent.

15 Q And who is Mr. Martins?

16 A If I recall correctly, he was -- I know the name,
17 but I can't recall why I know it. But I know Rui Martins, and
18 I think he actually has a third name when I hear it. But I
19 don't recall what he was associated with.

20 Q Okay. Dr. Kou Mei, K-O-U M-E-I.

21 A I don't know.

22 Q So Yuk Chow, S-O Y-U-K, Chow, C-H-O-W.

23 A Don't know.

24 Q Chen Chun Lung, C-H-E-N C-H-U-N L-U-N-G.

25 A Don't know.

1 Q Lei Pui Lam, L-E-I P-U-I L-A-M.
2 A Don't know.
3 Q Okay. For the court reporter and for the record,
4 these are three separate names, so I didn't want to make it
5 sound like it's just one name.
6 A I understand. It's hard, though, because that last
7 name the first and third names are both surnames, so I don't
8 know which order it's in. But in either direction I don't
9 know who it is.
10 Q And sometimes I get confused if the first name is
11 the last name or the last name is the first name or if there's
12 three names where the first name starts.
13 A You and me both.
14 Q Okay. Lau Veng Lin?
15 A Lau Veng Lin. Don't now.
16 Q Anabella Fatima Xavier Sales Ritchie.
17 A That one -- I'd remember that name. I don't know.
18 Q Okay. Tong Chi Kin, T-O-N-G C-H-I K-I-N.
19 A Don't know.
20 Q Ma Chi Ngai Frederico, M-A C-H-I N-G-A-I,
21 Frederico, F-R-E-D-E-R-I-C-O.
22 A I don't believe so.
23 Q Cou Kam Fai, C-O-U K-A-M F-A-I.
24 A C-O-U? I know --
25 Q I'm sorry. I'm sorry. K-O-U.

1 A K-O-U. I know a Chow Kam Fai, but I don't know a
2 Kou Kam Fai.

3 Q Okay. Au Chong Kit, A-U C-H-O-N-G K-I-T.

4 A Don't know.

5 Q Leona Heng Teng. Leona, L-E-O-N-A, Heng, H-E-N-G
6 T-E-N-G.

7 A Don't know.

8 Q Ho Iat Seng, H-O I-A-T S-E-N-G.

9 A I know who that is.

10 Q And who is that?

11 A I believe he's the president of the legislative
12 assembly. Ho Iat Seng.

13 Q Any other -- do you have any other knowledge as to
14 other organizations he may be involved in?

15 A No. Just that one.

16 Q Vong Hin Fai, V-O-N-G H-I-N, Fai, F-A-I.

17 A No.

18 Q Eric Yeung Tsun Man. Eric, E-R-I-C, Yeung,
19 Y-E-U-N-G, Tsun, T-S-U-N, M-A-N.

20 A I don't know.

21 Q Cho Koon Shun -- no. Cho Koon Shum,
22 C-H-O K-O-O-N S-H-U-M.

23 A S-H-U-M.

24 Q Yes.

25 A Don't know them.

1 Q Patrick Huen Wing Ming, Patrick Huen, H-U-E-N, Wing,
2 W-I-N-G M-I-N-G.

3 A No.

4 Q Leong Lai, L-E-O-N-G L-A-I.

5 A Don't know.

6 Q Sou Chio Fai, S-O-U C-H-I-O F-A-I.

7 A I don't think I know who that is.

8 Q Leung Kai -- sorry, Your Honor, I can't read my own
9 handwriting. So it's either one of two letters. So it's
10 either Leung Kai Chun or Leung Kai Chua, C-H-U-A.

11 A Either way I don't know.

12 Q Okay. If I threw Chris at the beginning, would that
13 change anything?

14 A No.

15 Q All right. Kot Man Kam, K-O-T M-A-N K-A-M.

16 A Nope.

17 Q Iu Vai Pan, I-U V-A-I P-A-N.

18 A No.

19 Q Lam Iok Fong, L-A-M I-O-K F-O-N-G.

20 A No.

21 Q Kot Man Kam, K-O-T M-A-N K-A-M.

22 A No.

23 MR. BICE: Your Honor --

24 MR. KUNIMOTO: I have only two more -- or three
25 more.

1 MR. BICE: Did we really bring Mr. Schall from Macau
2 how many times now just --

3 MR. PEEK: Your Honor, this is a speaking objection.

4 MR. BICE: Is this what we brought him here for?

5 THE COURT: No, Mr. Bice, it's not.

6 So two more names, Mr. Kunitomo.

7 BY MR. KUNITOMO:

8 Q What about Zeng Lu Chan?

9 A Yeah, I know who that is.

10 Q And who is Zeng Lu Chan?

11 A He was affiliated with the Tien Chao Cotai land
12 transaction.

13 Q Any other affiliations, to your knowledge?

14 A Not that I recall, but the would be the primary one
15 that we would be concerned with, we being Wynn.

16 THE COURT: And the same with the other guys from
17 that organization, you didn't ask for a consent because you
18 didn't think you needed it?

19 THE WITNESS: Well, I couldn't find them. And even
20 if I could, I probably wouldn't have asked, because I wouldn't
21 have thought I needed it.

22 THE COURT: Okay.

23 BY MR. KUNITOMO:

24 Q And earlier Steve mentioned Justin Ho Man-King. If
25 I rearranged the names and said Justin Man-King Ho, who I

1 believe is the son of Edmund Ho, would that --

2 A I know who that is.

3 Q And who --

4 A Ho Man-King Justin, I know him.

5 Q Okay. And --

6 A He's Edmund Ho's son.

7 Q And did you seek a consent from him?

8 A No.

9 Q Any other affiliations with Mr. Justin Ho that
10 you're aware of?

11 A No.

12 MR. KUNIMOTO: Thank you, Your Honor.

13 THE COURT: Thank you, Mr. Kunimoto for not
14 torturing the names as badly as Mr. Peek did.

15 Mr. Peek, you're back up.

16 MR. PEEK: Thank you, Your Honor. I would like to
17 respond. Yes, we brought Mr. Schall all the way over here to
18 answer about consents because it would be WRMSA to be giving
19 the -- getting the consents. So, yes, we did bring him over
20 here for that reason, to ask him about these names of
21 individuals whose names would appear, because he's the only
22 one that can see them.

23 THE COURT: Okay. Can we keep going?

24 MR. PEEK: Yes.

25 //

1 BY MR. PEEK:

2 Q Did you ask any people from PAGCOR for consents?

3 A No.

4 MR. PEEK: Your Honor, that wraps it up for
5 consents, so the other topic has to do with the WYNPRIV.
6 We've already addressed that. The other topic has to do with
7 the documents that exist outside of Macau and whether or not
8 the match-no match is an accurate representation to this
9 Court. I'm going to address that with my colleagues about how
10 that can be presented in a written form. The Court may or may
11 not allow that to happen. So I would like to be able to come
12 back Wednesday morning and tell the Court my -- because I want
13 to be able to have Friday as a -- I will finish Mr. Schall in
14 the morning.

15 THE COURT: On Wednesday.

16 MR. PEEK: On Wednesday.

17 THE COURT: Okay. So are you suspending your
18 questioning at this point pending that --

19 MR. PEEK: I'm suspending my questioning, but I'm
20 not completing my questioning.

21 THE COURT: And you will answer the additional
22 questions Wednesday morning when you come?

23 MR. PEEK: I will, Your Honor.

24 THE COURT: Okay.

25 MR. PEEK: Because I want to talk to Mr. Krakoff,

1 Mr. Kunitomo, Mr. Cassity, and Mr. --

2 THE COURT: I don't need you to explain. I don't
3 need you to explain.

4 Mr. Bice, do you want to start asking questions?
5 You said you had several hours of direct when I last heard.

6 MR. BICE: Yes, I do. But I do object, Your Honor,
7 to -- if they have an offer of proof, they should --

8 THE COURT: And, Mr. Bice, what I'm going to do,
9 then, is I'm going to recess right now to allow him to have
10 that consultation. And that means you may lose the time that
11 we have here that you could otherwise use in doing your direct
12 examination.

13 MR. BICE: Well, Your Honor, my point is the answers
14 to interrogatories were due I don't remember how long ago, and
15 it sounds like what's really going to be offered is we're
16 going to now offer a written answer however long ago that they
17 were actually due. So if that's what the Court's going to
18 allow them to do, then I'll just have to address that at the
19 time that they do it. If he says he has an offer of proof,
20 here are the exhibits that he intended to cover with Mr.
21 Schall, and give us the numbers. I don't know why that takes
22 tonight to try and figure out what those would have been,
23 since he says that the examination was going to occur on those
24 today.

25 THE COURT: Tonight and tomorrow, because we're not

1 coming back till Wednesday.

2 So the question is do you want me to end the
3 examination for today, or do you want to utilize the time that
4 is otherwise available to you?

5 MR. BICE: I want to utilize as much time as I can.

6 THE COURT: Right. That would be lovely.

7 MR. BICE: But I do note my objection to the attempt
8 to supplement after the fact.

9 THE COURT: Okay.

10 MR. PEEK: But I'm only, Your Honor, suspending. I
11 am not completing my examination.

12 THE COURT: I'm aware of that --

13 MR. PEEK: As long as we understand that.

14 THE COURT: -- Mr. Peek.

15 MR. PEEK: Okay.

16 MR. BICE: I'm sorry, what does that mean, I'm not
17 completing my examination?

18 THE COURT: He doesn't want to complete his --

19 MR. PEEK: I think --

20 THE COURT: I can tell you what it means.

21 MR. PEEK: Thank you.

22 THE COURT: He doesn't want to complete his
23 examination till he has the opportunity to give me the offer
24 of proof and decide if I'm going to take it. Because I may
25 not take it.

1 MR. BICE: So his -- so his examination will be
2 limited to just that topic?

3 MR. PEEK: Your Honor, I'm not going to limit my
4 examination.

5 MR. BICE: Well, then, in other words -- so, in
6 other words, he really isn't done, he just wants to stop for
7 the day.

8 THE COURT: Okay. We're going to take a break. If
9 you guys want to get in a fist fight while I'm gone, have fun.

10 MR. PEEK: I don't, Your Honor. I'm done.

11 MR. BICE: I know. I would just like --

12 THE COURT: You can have a quick break if you want.

13 (Court recessed at 4:37 p.m., until 4:39 p.m.)

14 THE COURT: How late do you want to go today?

15 MR. BICE: I don't know. We can go for a half an
16 hour or so.

17 THE COURT: Okay. Great. Because some of us feel
18 like our brains need to be drilled out.

19 MR. BICE: I understand. I'll stop whenever the
20 Court tells me to, but I'd like to --

21 THE COURT: Jill's trying to get back on the JAVS
22 system because she's have a memory issue.

23 MR. BICE: But let's at least start so we can --
24 Jay, Mr. Schall.

25 MR. PEEK: We can't start until Jill has a --

1 THE COURT: Jill's ready. I lost the witness. I
2 let the witness go to the restroom, and he's gone, he's not
3 coming back.

4 Mr. Bice, you're up --

5 MR. BICE: Thank you.

6 THE COURT: -- understanding that Mr. Peek may on
7 Wednesday morning tell us something different. I appreciate
8 your willingness to start your examination so we don't waste
9 Mr. Schall's very valuable time.

10 MR. BICE: Thank you, Your Honor.

11 THE COURT: Valuable, valuable time.

12 CROSS-EXAMINATION

13 BY MR. BICE:

14 Q Mr. Schall, you knew that the MPDPA existed in 2012,
15 did you not? Or at the end -- let's deal with the end of
16 2011, all right. Did you know that the law existed at the end
17 of 2011?

18 A I did.

19 Q All right. But had it been a focal point of the
20 government at that point in time?

21 MR. PEEK: Objection. Leading, Your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: No, it had not.

24 BY MR. BICE:

25 Q All right. Well, did you know that there was a data

1 of office protection in 2011 or before?

2 A I knew there was an Office of Data Protection.

3 Q What was your impression of the staffing of the
4 Office of Data Protection in 2011?

5 A That it was --

6 MR. BICE: Objection. Relevance and foundation,
7 Your Honor.

8 THE COURT: Overruled.

9 THE WITNESS: It was very lightly staffed and not
10 active.

11 BY MR. BICE:

12 Q Right. Well, had you prior to -- again, up to the
13 end of 2011 had you had any interaction with the Office of
14 Data Protection up to that point in time?

15 A None.

16 Q Had there been from your impression any enforcement
17 efforts by the Office of Data Protection by the end of 2011?

18 A To my recollection, no.

19 Q Had you even heard of any enforcement actions by
20 OPDP as of the end of 2011?

21 A No.

22 Q Let's jump forward now to today. What is your
23 impression of the staffing level of the Office of Data
24 Protection today?

25 MR. BICE: Objection. Impression, Your Honor. Lack

1 of foundation.

2 THE COURT: Overruled. You can answer.

3 THE WITNESS: A fully staffed government office.

4 BY MR. BICE:

5 Q Well, when you say fully staffed governmental office
6 can you be more specific? What is your understanding of the
7 number of personnel that it has today?

8 A I would estimate it to be in the neighborhood of
9 100 persons.

10 Q All right. What is the -- has the Office of Data
11 Protection's position changed in the hierarchy of governmental
12 agencies?

13 A If you looked at an org chart, they would still be
14 sitting in the same place that they were in 2005. But in
15 terms of their importance and relevance within the government
16 and in the business community it's elevated substantially.

17 Q All right. Was there in fact an effort to make the
18 Office of Data Protection a ministry-level position?

19 MR. PEEK: Objection. Foundation.

20 THE COURT: Overruled.

21 THE WITNESS: There was an effort for the office to
22 go from a cabinet up to a directorate, I believe they call it,
23 yes.

24 BY MR. BICE:

25 Q Okay. When did you first become aware that the

1 government of Macau was changing its position concerning the
2 MPDPA?

3 A When the Office of Data Protection contacted us
4 after the Freeh report had been made public.

5 Q Okay. Prior to that, prior to that contact by OPDP
6 about the Freeh report had there been any suggestion by the
7 Macau Government that transfers between your Macau casinos and
8 American affiliates was in any way restricted?

9 A No.

10 Q Okay. Did this catch you by surprise when they
11 contacted you about the Freeh report?

12 A It did. I wasn't aware that the Office even did
13 anything, so I was very surprised.

14 Q Okay. Well, had there been any changes in --
15 technical changes in the law, the MPDPA itself?

16 A No.

17 Q Well, were there -- but were there any practical
18 changes in the law?

19 A Yeah. Sometime after -- right before and after we
20 were contacted the government decided to give the Data
21 Protection Office a higher profile and sort of set them loose
22 on the community, I would say.

23 Q Okay. Now, your role is also in compliance,
24 generally speaking; correct?

25 A Correct.

1 Q Compliance being compliance with laws, regulations;
2 is that right?

3 A Correct.

4 Q Okay. Have you encountered other instances even
5 outside of Macau, other governmental agencies that have
6 escalated their enforcement of certain laws even if the law
7 technically wasn't changed?

8 MR. PEEK: Objection. Leading.

9 THE COURT: Overruled.

10 THE WITNESS: Within Macau, similar to the United
11 States, there was a renewed or a new focus on anti-money
12 laundering and know your client type of compliance procedures
13 which were -- have been ramped up over the years by DICJ and
14 law enforcement, similar to the United States' focus on this.
15 So that's the notable one that comes to mind. In Macau there
16 have been other examples.

17 BY MR. BICE:

18 Q Well, in Macau do governmental agencies like DICJ
19 and the Office of Data Protection, do they have to issue
20 regulations in order to give new interpretations to laws?

21 A In Macau agencies such as DICJ and ODP, they can
22 issue written instructions which are relatively simple process
23 for them to do versus changing the law. But they often simply
24 issue verbal instructions which have the force of those
25 written instructions when they want something to happen.

1 Q Okay. And do -- have you been the recipient or has
2 Wynn Macau been the recipient of those types of oral
3 instructions from the Macau Government?

4 A Yes.

5 Q Okay. Have you been given any of those oral
6 instructions by the Macau Government that have the effect of
7 law concerning the MPDPA?

8 A Well, notably the one from the director of DICJ from
9 the minister of finance which said, don't mess up under the
10 Data Protection Act again.

11 Q And did you take that seriously, that instruction?

12 A Very seriously.

13 Q And when did you receive that instruction?

14 A Late 2012.

15 Q Okay. This was sometime after you had been -- or
16 the company had been fined?

17 A Correct.

18 Q And the fine was issued approximately in October of
19 2012?

20 A That sounds accurate.

21 Q Did you ever find out what was the cause of the
22 stepped-up enforcement by the Office of Data Protection in --
23 sometime after 2012?

24 MR. PEEK: Objection. Foundation. Hearsay.

25 MR. BICE: I'll rephrase, Your Honor.

1 THE COURT: Thank you.

2 BY MR. BICE:

3 Q When did you recognize stepped-up enforcement by the
4 Office of Data Protection about the MPDPA?

5 A When they contacted us about the Freeh report.

6 Q And do you recall approximately when that was,
7 sometime in the summer of 2012?

8 A I think earlier. I think late spring, maybe April,
9 March. Very quickly.

10 Q Okay. And then that investigation ensued and you
11 were ultimately fined in October?

12 A Yes.

13 Q Okay. Do you know what was the cause of stepped-up
14 enforcement by OPDP?

15 A I don't know.

16 Q Did Wynn Resorts ever have any affiliation with an
17 individual by the name of Leonel Alves?

18 A Did Wynn Resorts -- not that I'm aware.

19 THE COURT: I know that name.

20 MR. BICE: You do know that name.

21 THE COURT: But not from this case.

22 MR. BICE: That's right.

23 BY MR. BICE:

24 Q Do you know what role in stepped-up MPDPA
25 enforcement Mr. Alves played?

1 MR. PEEK: Objection. Foundation.

2 THE COURT: Overruled.

3 MR. PEEK: He said he doesn't know Mr. Alves, Your
4 Honor, is what I heard.

5 THE WITNESS: I know Mr. Alves, but he did not have
6 a relationship with Wynn Macau. Do I know what role he had in
7 stepped-up MDPA enforcement? Given I know Mr. Alves and what
8 he's done in Macau, I could speculate, but that may not be
9 what you want.

10 THE COURT: We don't want you to guess or speculate.

11 THE WITNESS: Okay.

12 BY MR. BICE:

13 Q Well, did Wynn Macau in any way seek to encourage
14 the Office of Data Protection to step up increased enforcement
15 of the MPDPA?

16 A No.

17 Q Okay. Have you complained or has Wynn Macau
18 complained to the Macau Government about the burdens of the
19 MPDPA?

20 A We haven't per se filed a formal complaint about the
21 Office of Data Protection, because that wouldn't be received
22 well. But there have been instances where especially in an
23 industry we have had to go to our regulators for help when we
24 felt the Data Protection Office was being -- basically making
25 a decision that would adversely impact the government and the

1 industry.

2 Q Okay. Are there any specific examples where people
3 had to complain or mount some sort of a challenge to what OPDP
4 was doing?

5 MR. PEEK: Objection. Foundation and hearsay.

6 THE COURT: Overruled.

7 THE WITNESS: Yes. I have direct knowledge of a
8 situation where the six casinos in Macau wanted to share video
9 surveillance and files on criminal gangs that were entering
10 the casinos for both cheating and theft and other criminal
11 activities. When we asked permission as an industry to share
12 this information the ODP not only said no, but they said,
13 delete all of your files and all of your surveillance on these
14 criminals unless you get their consent.

15 BY MR. BICE:

16 Q Okay.

17 A I doubt it. And we as an industry had to go to the
18 police and the gaming regulator to appeal for help, because
19 this obviously affects them, and they carried on the fight for
20 us against ODP and we were able to keep this information and
21 to share it.

22 Q Okay. But OPDP has -- do they have the power to
23 discipline any companies like Wynn Macau?

24 A They can issue fines. And I believe in theory you
25 could challenge the fine in court.

1 Q Okay.

2 A But that isn't often done. Usually people just pay
3 the fines, as we did.

4 Q And they can refer -- they can refer you for
5 criminal -- or they can refer violators for criminal
6 prosecution?

7 A They have that ability, yes.

8 Q Okay. So prior to this litigation and document
9 production in this litigation you had never contacted OPDP
10 about sharing documents with any corporate affiliates; is that
11 fair?

12 A Prior to this litigation. Well, after the Freeh
13 report we did begin at Wynn Macau to probably make
14 notifications to OPD, just generic notifications saying,
15 here's the kind of data processing we have going on. But in
16 terms of sharing documents related to this litigation no.

17 Q All right. So when you were asked -- or when Wynn
18 Macau was asked by Wynn Resorts to access documents in Macau
19 why did you go to OPDP first?

20 A Because we knew it was very, very likely that the
21 documents being reviewed for discovery would contain personal
22 data and therefore the Personal Data Protection Office needed
23 to be involved.

24 Q Well, by this point in time had you -- you had
25 already been fined; correct?

1 A Correct.

2 Q And had you already received the warning from the
3 DICJ indirectly from the minister?

4 A Yes.

5 Q Okay. So with the limited amount of time we have
6 today I want to jump ahead to something else here out of the
7 chronology, because this is something that Her Honor had asked
8 you not today, but in a prior hearing we were at.

9 Did the company come to learn of a request for a
10 criminal prosecution of the company and Mr. Wynn and Ms. Chen
11 in 2015?

12 MR. PEEK: Objection. Asked and answered, Your
13 Honor.

14 THE COURT: Overruled.

15 THE WITNESS: In 2015 we were summoned -- Wynn Macau
16 was summed to the judiciary police and we learned that there
17 was some type of criminal investigation open into at least the
18 company, but we didn't know everyone at that point.

19 BY MR. BICE:

20 Q All right. Well, did you -- who had to go down and
21 talk to the police about that subject?

22 A Linda Chen went with counsel.

23 Q And Linda Chen is who?

24 A She is the executive director of Wynn Resorts Macau
25 SA. I think she has some other titles, too, but that's the

1 main one in Macau.

2 Q All right. And so one of the directors was summoned
3 down -- is it accurate to say that one of the company's
4 directors was summoned down to the police --

5 A Correct.

6 Q -- about the MPDPA?

7 A As it turns out, yes.

8 Q And this was sometime in March of 2015; is that
9 correct?

10 A It was early 2015 when we went, yes.

11 Q And did the police tell you who it was that was
12 seeking to have them criminally -- seeking to have the company
13 criminally prosecuted under the MPDPA?

14 A The police don't do that. So no.

15 Q All right. Did you ever find out who it was that
16 was seeking to have the company criminally prosecuted in 2015
17 under the MPDPA?

18 MR. PEEK: Objection. Hearsay.

19 THE COURT: Overruled. That's a yes or no.

20 THE WITNESS: Yes.

21 BY MR. BICE:

22 Q Well, let's take a look at, if we could, Exhibit 69,
23 please.

24 THE COURT: It's a proposed exhibit?

25 MR. BICE: Proposed Exhibit 69, our proposed

1 exhibit. Your Honor, may I approach?

2 THE COURT: You may.

3 MR. BICE: Thank you.

4 BY MR. BICE:

5 Q Have you seen Exhibit 69 before, Mr. Schall? And
6 make sure it's the right exhibit.

7 A Yeah, I have seen it. This looks like a translation
8 maybe that I haven't seen, but I have seen this.

9 Q All right. So you have -- and can you tell us what
10 Exhibit 69 is.

11 A This is a letter that the Macau Public Prosecutor
12 issued on their own to Wynn Resorts Macau SA noting the
13 closing of a criminal investigation.

14 Q All right. Before you received this letter -- or
15 did the company receive this letter in Portuguese from the
16 Prosecutor's Office?

17 A I think it was Chinese.

18 Q In Chinese. All right.

19 A I think it was Chinese.

20 Q And before you received this letter was there
21 another interview with the Prosecutor's Office about this
22 criminal charge?

23 A Yes. Shortly before we got this letter, so within
24 let's say two weeks, the Prosecutor asked to see us at the
25 Prosecutor's Office, and we went to see him.

1 Q And who went down to see the Prosecutor, then, in
2 2015?

3 A Linda Chen and counsel.

4 Q Now, this letter is -- I should rephrase. This
5 letter is dated May 19 of 2017. So it was just issued. So
6 the trip to the Prosecutor's Office by Ms. Chen and counsel
7 was shortly before this letter in 2017?

8 A Correct.

9 Q Okay. The other trip that you're talking about with
10 Ms. Chen and counsel was actually to the police; correct?

11 A Correct.

12 Q All right. And is this letter the first time you
13 learned who was attempting to get the company criminally
14 prosecuted in 2015?

15 A I would say it was the first time we had definitive
16 proof.

17 Q You always suspected that it was Mr. Okada and his
18 companies; correct?

19 A Correct.

20 MR. BICE: Your Honor, I'd move into admission
21 Exhibit 69.

22 THE COURT: Any objection, Mr. Peek?

23 MR. PEEK: Relevance, Your Honor.

24 THE COURT: All right. Mr. Bice, the purpose?

25 MR. BICE: The relevance is to show Your Honor that

1 Mr. Okada and his companies while they were simultaneously
2 telling this Court that the MPDPA shouldn't be deemed a
3 restriction on the access to data in Macau were secretly
4 trying to get Mr. Wynn, Mr. Schorr, Ms. Chen, and the company
5 criminally prosecuted for violating the MPDPA.

6 THE COURT: Thank you.

7 Mr. Peek, anything else?

8 MR. PEEK: I just saw it, Your Honor. So it took me
9 a moment to look at it. I have nothing further, Your Honor,
10 than what I said.

11 THE COURT: Be admitted. Next question?

12 (Plaintiff's Exhibit 69 admitted)

13 BY MR. BICE:

14 Q Mr. Schall, if you'd look at the letter --

15 A Yes.

16 Q -- from the Prosecutor, it says, "On March 23, 2015
17 --" do you see that date?

18 A Yes.

19 Q Do you know what was going on in this litigation
20 around March 15 of 2015?

21 A I'm sorry, I don't.

22 Q Do you know when the Okada parties started filing
23 motions to compel claiming that the MPDPA should be
24 disregarded by the Court?

25 MR. PEEK: Objection, Your Honor. He said he

1 doesn't know.

2 THE COURT: Overruled.

3 THE WITNESS: Given we had discovery in the summers
4 prior to this, I suspect it was sometime in 2015.

5 BY MR. BICE:

6 Q Well, do you recall when they filed their civil
7 lawsuit --

8 MR. PEEK: Objection, Your Honor. Move to strike.
9 He doesn't -- it's speculation on his part. He said, "I
10 suspect."

11 THE COURT: Overruled.

12 MR. PEEK: That's not the same thing as, I know.

13 THE COURT: Okay. Next?

14 BY MR. BICE:

15 Q Do you recall, Mr. Schall, when they filed -- when
16 they, being Mr. Okada and his companies, filed a civil lawsuit
17 that included the MPDPA and other claims?

18 THE COURT: In Macau?

19 MR. BICE: In Macau.

20 THE COURT: Okay.

21 THE WITNESS: I believe that was also in 2015, but I
22 don't recall exactly when.

23 BY MR. BICE:

24 Q Okay. February of 2015 sound about right?

25 A It sounds right.

1 Q Okay. So you'll see here that the Prosecutor's
2 Office disclosed to the company that Aruze USA, Universal, and
3 Kazuo Okada filed a petition. Do you see that?

4 A Yes.

5 Q Have you seen that petition?

6 A No.

7 Q So the Prosecutors didn't provide it to you?

8 A They won't do that.

9 Q Well, have you seen that petition produced from the
10 parties to my right over here in discovery in this action?

11 A I was told it was not produced.

12 Q Have you seen it on any privilege logs, this
13 petition that they filed with the Prosecutor's Office?

14 A I can't say I've looked at their privilege logs.

15 MR. PEEK: Hasn't even looked at his own privilege
16 log, Your Honor. How's he going to look at mine?

17 THE COURT: Mr. Peek.

18 MR. PEEK: Really?

19 BY MR. BICE:

20 Q Mr. Schall, in the gaming industry it's fairly
21 highly regulated. Do you agree?

22 A I agree.

23 Q A criminal prosecution of a company and its senior
24 executives would have very serious consequences for a gaming
25 licensee. Would you agree?

1 A It'd have very serious consequences.

2 Q All right.

3 THE COURT: Is this a good place to break for the
4 evening?

5 MR. PEEK: Yeah.

6 THE COURT: All right.

7 BY MR. BICE:

8 Q Did you --

9 MR. BICE: One question, Your Honor?

10 THE COURT: Yes.

11 BY MR. BICE:

12 Q Mr. Schall, did the company take that threat of
13 criminal prosecution seriously?

14 A We took it very seriously when we were called to the
15 police in early 2015 and then subsequently sued civilly we
16 realized that if we lost with the Prosecutor, they opened a
17 case on us and prosecuted it, it would make our civil case in
18 Macau incredibly difficult. We would have Stock Exchange
19 filings, and we'd be reporting to GCB because our main company
20 in Macau, our only company in Macau that matters would have
21 been under criminal investigation and trial by the
22 Prosecutor's Office.

23 MR. BICE: Thank you.

24 THE COURT: All right. So I will see you all --
25 what time can we start on Wednesday morning? What time?

1 MS. SPINELLI: Whenever you're ready, Your Honor.
2 MR. PEEK: Whenever you're ready.
3 THE COURT: 8:30?
4 MR. PEEK: I thought you told us 9:00 o'clock, Your
5 Honor, so we were prepared to do it at 9:00 o'clock.
6 THE COURT: 8:30 on Wednesday?
7 MR. PEEK: We can make it at 8:30.
8 THE COURT: It's not as bad as Mondays.
9 THE CLERK: We'll be in this room.
10 THE COURT: Yes, we'll be in this room.
11 MR. PEEK: Okay.
12 THE COURT: But, unfortunately, we have a criminal
13 calendar tomorrow, so you've got to move all your stuff out so
14 the criminals don't use them as weapons.
15 MR. PEEK: Okay.
16 (Court recessed at 5:02 p.m., until the following
17 Wednesday, August 23, 2017, at 8:30 a.m.)
18 * * * * *
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EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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DEFENDANTS' EXHIBIT NO.

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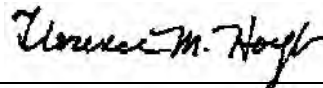
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT
Las Vegas, Nevada 89146**

A handwritten signature in black ink, appearing to read "Florence M. Hoyt", written over a horizontal line.

FLORENCE M. HOYT, TRANSCRIBER

8/22/17

DATE

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

WYNN RESORTS LIMITED	.	
	.	
Plaintiff	.	CASE NO. A-12-656710-B
	.	
vs.	.	
	.	
KAZUO OKADA, et al.	.	DEPT. NO. XI
	.	
Defendants	.	Transcript of
	.	Proceedings
.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

EVIDENTIARY HEARING - DAY 5

WEDNESDAY, AUGUST 23, 2017

COURT RECORDER:

JILL HAWKINS
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
TODD L. BICE, ESQ.
DEBRA L. SPINELLI, ESQ.

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J. STEPHEN PEEK, ESQ.
ROBERT J. CASSITY, ESQ.
BRYCE KUNIMOTO, ESQ.
DAVID KRAKOFF, ESQ.
ADAM MILLER, ESQ.
DONALD JUDE CAMPBELL, ESQ.

1 LAS VEGAS, NEVADA, WEDNESDAY, AUGUST 23, 2017, 8:33 A.M.

2 (Court was called to order)

3 THE COURT: Good morning, counsel. How are you?

4 So, Mr. Peek, our first order of business was you
5 were going to tell me about your offer of proof.

6 MR. PEEK: I'm going to proceed, Your Honor, but I
7 will tell you about my offer of proof, and then you --

8 THE COURT: So if you're going to tell me about your
9 offer of proof --

10 MR. PEEK: -- and then you can tell me, and then you
11 can tell me whether or not you're going to allow me to
12 proceed.

13 THE COURT: Yes.

14 MR. PEEK: Your Honor, the next topic on which I was
15 prepared to examine Mr. Schall is the topic of documents
16 regarding match-no match. You may recall that topic --

17 THE COURT: I do.

18 MR. PEEK: -- being addressed a year ago between the
19 parties, the Aruze parties and Wynn Resorts Limited.

20 THE COURT: Because match-no match is a code that
21 other people reading this record might not understand, it was
22 an effort by the Wynn parties to identify documents previously
23 redacted that were available in slightly different forms from
24 another custodian or source that could be produced in an
25 unredacted form.

1 MR. PEEK: Correct, Your Honor. And it's
2 actually --

3 THE COURT: Right, guys?

4 MR. BICE: I believe that is correct, but I wish Ms.
5 Spinelli was here to answer -- to confirm my understanding is
6 correct. I will tell her when she gets here, and if she
7 disagrees, we will alert the Court.

8 MR. PEEK: Actually, if you could bring up the --

9 THE COURT: So, Mr. Peek, you're making an offer of
10 proof, not an argument. So tell me what your offer of proof
11 is.

12 MR. PEEK: Well, Your Honor, I'm going to
13 demonstrate to the Court on the basis of wilfulness that Wynn,
14 although it was ordered to do so in November and had been
15 previously ordered and had made an effort to find documents,
16 but November was ordered to produce documents on the match-no
17 match, still has failed to provide documents of match-no match
18 either through wilfulness, which I believe, or spoliation.

19 THE COURT: So the issue that I need you to address
20 this morning, Mr. Peek, and which I thought I was pretty clear
21 on Monday was how those issues relate to this particular
22 witness who is here from Macau that we are trying to get
23 finished on his second trip here for this evidentiary hearing.

24 MR. PEEK: Your Honor, it's -- they're Macanese
25 documents is why. They're WRMSA documents. And so examining

1 him with respect to identifying that, for example, Allen Zeman
2 resides in Hong Kong, that John Crawford resides in Hong
3 Kong --

4 THE COURT: You've already established at least Dr.
5 Zeman with him last time he was here on Monday.

6 MR. PEEK: Some of these documents are documents
7 where Mr. Crawford is involved, and some of these documents
8 are where Dr. Zeman is involved. They're also documents, Your
9 Honor, and certainly I think the Court knows this, where Mark
10 Schorr is involved, Cindy Mitchum is involved.

11 THE COURT: And the reason is because those are
12 recipients outside of Macau, and that's part of the order that
13 I previously made to the extent a document was outside of
14 Macau it needed to be produced.

15 MR. PEEK: Correct.

16 THE COURT: Okay.

17 MR. PEEK: These documents have not yet been
18 produced. It has been the Wynn Resorts' position that there
19 is no match within the United States --

20 THE COURT: Okay.

21 MR. PEEK: -- despite the fact that through the
22 examination of Mr. Schall I would show that a document which
23 is a WRM document does in fact have a either Hong Kong author
24 or recipient or a United States author or recipient.

25 THE COURT: Okay. So --

1 MR. PEEK: I can certainly do that. I know Your
2 Honor --

3 THE COURT: The reason is why do you need this
4 witness to do that, as opposed to just identifying the
5 individuals that you have and their usual locale where they
6 live?

7 MR. PEEK: There's only witness, Your Honor -- I
8 have not established that I believe it's -- I believe that the
9 email is from John Crawford. That's the only one -- I mean, I
10 know we've already talked about John Crawford, the Court has
11 heard evidence about John Crawford; but I don't know whether
12 or not John Crawford is the individual whom I have identified
13 through my reading of email is perhaps the one who is there
14 who has proven through at least what I've seen that he is
15 outside -- that he's a Hong Kong person.

16 THE COURT: Okay.

17 MR. PEEK: That's the only one, Your Honor. And
18 perhaps I can just do that.

19 THE COURT: Just ask that. So what else?

20 MR. PEEK: I can ask that -- I can ask that
21 question.

22 THE COURT: Okay. So that part's easy.

23 MR. PEEK: But I don't know if he -- I want to make
24 sure that that person whom I have seen within the body of the
25 email is in fact either John Crawford or somebody who's

1 working for him. Perhaps I can just do that, because I do
2 know that the email has the name Crawford Consulting on it in
3 the body of the email, you know, where you might see, you
4 know, Todd Bice, Pisanelli Bice, or you might see Stephen
5 Peek, Holland & Hart, you see Crawford Consulting. You don't
6 see a name, but you do see Crawford Consulting with an address
7 in Hong Kong.

8 THE COURT: Okay.

9 MR. PEEK: So that would be the only -- that's some
10 of the narrow questions --

11 THE COURT: That one's fairly easy.

12 MR. PEEK: It is.

13 THE COURT: Did you have other categories?

14 MR. PEEK: Your Honor, the match-no match category
15 was the category that I can certainly brief and I can
16 demonstrate because it's -- I'm going to demonstrate it in the
17 following manner. And this would be my offer. Is I have a
18 document, the document shows an individual who is either an
19 author, recipient, or a cc, or I guess that's a recipient, is
20 in fact outside of the United States --

21 THE COURT: Outside of Macau.

22 MR. PEEK: Outside -- excuse me, outside of Macau.
23 Thank you. That that person is outside of Macau, and then as
24 I go through in evidence sort of the match-no match and there
25 has not been a match of any of those documents.

1 THE COURT: The match-no match part is the part I'm
2 having trouble with, because that's for this witness. That's
3 an argument --

4 MR. PEEK: I agree. And I wasn't going to show this
5 witness the match-no match, Your Honor, because I understand
6 that he would not know the match-no match. So even though I
7 did have it in my outline, it's not something that I would
8 show him, because he wouldn't know. I'd say, you know, here's
9 whatever my exhibit number is for the match-no match pleading
10 that they filed. He certainly would not be able to identify
11 anything other than the Bate number on the document that I
12 have shown him, the actual WRM document is the same Bate
13 number on the match-no match pleading that WRL filed and that
14 says no match.

15 THE COURT: So, other than Mr. Crawford and the
16 document that has Crawford Consulting on it that you want to
17 ask the witness about it, was there something else that you
18 wanted to make an offer of proof on?

19 MR. PEEK: Well, I mean, I don't know if you're
20 saying to me do I need to show -- I mean, I could go through
21 each and every one of the documents, but I don't think that's
22 what you're asking me to do.

23 THE COURT: You don't need to do that. I told you
24 that.

25 MR. PEEK: Okay. No, Your Honor. That was the only

1 other thing that I wanted -- on which I wanted to examine Mr.
2 Schall, would be the match --

3 THE COURT: Lovely.

4 MR. PEEK: -- no match documents.

5 THE COURT: Lovely.

6 Mr. Schall, come on up. It's a new day. We're re-
7 swearing you and we'll let you talk about Mr. Crawford,
8 whoever he is and to see if he's the same person Mr. Peek
9 thinks he is.

10 JASON MARTIN SCHALL, DEFENDANTS' WITNESS, SWORN

11 THE CLERK: Thank you. Please be seated. Please
12 state and spell your name for the record.

13 THE WITNESS: Jason Martin Schall, J-A-S-O-N
14 M-A-R-T-I-N S-C-H-A-L-L.

15 DIRECT EXAMINATION (Resumed)

16 BY MR. PEEK:

17 Q Mr. Schall, good morning.

18 A Good morning, Mr. Peek.

19 Q Yesterday we had talked a little bit about John
20 Crawford.

21 THE COURT: That was on Monday.

22 MR. PEEK: Monday. Thank you.

23 BY MR. PEEK:

24 Q On Monday we had talked a little bit about John
25 Crawford, and I wanted to make sure that I understood that

1 John Crawford had an office in Hong Kong.

2 A To the best of my knowledge, John Crawford resides
3 and has an office in Hong Kong, correct.

4 Q And the name of his company is also Crawford
5 Consulting?

6 A I don't know about today. At one time, yes, that's
7 my recollection.

8 Q In the period of 2011?

9 A I believe so, yes. He may still have it today. I
10 just don't know.

11 Q And during that same period of time he was the
12 outside independent auditor for WRMSA?

13 A No. So the outside independent auditors for WRMSA
14 are Ernst & Young. John Crawford holds a position that under
15 Macau law it's sort of like the head of a financial
16 supervisory board. And the board consists of just him. And
17 what he would do is meet with our CFO or CFOs when there
18 became two and review the annual financial statements at the
19 WRMSA level prior to their publication in the newspaper in
20 Macau also required by Macau law.

21 Q I don't wish to quarrel with you, but he's been
22 identified at least in pleadings and discovery documents in
23 this case as WRMSA's independent auditor. And are you telling
24 us that that is a misnomer?

25 A I don't know what the pleadings say. What I'm

1 telling you, he does not perform what I consider to be an
2 audit function. He does review financial statements, so that
3 could be considered audit. I'm not going to quibble with you.
4 But our independent outside auditors are Ernst & Young.

5 Q That you made clear to me. I just wanted to
6 understand that -- he may not be like the Ernst & Young
7 independent auditor, but he performs an audit function;
8 correct?

9 A If you consider reviewing financial statements prior
10 to their publication an audit function, and I'm not going to
11 disagree with you, then yes.

12 Q He's independent of WRMSA, is he not?

13 A Yes.

14 Q And when he's conducting the review he's conducting
15 it as an independent accountant; correct?

16 A Yes. The position must be an accountant, yes.

17 Q Is he a step between the internal auditors and Ernst
18 & Young?

19 A He is not. He is not. He -- because this position,
20 as far as I'm aware, only really exists in Macau, he's sort of
21 the Macau Government's I guess -- he's the person who gives a
22 check apart from internal audit, apart from Ernst & Young, and
23 apart from our CFO finance group of the financials of Wynn
24 Macau prior to their annual publication. So he sort of sits
25 off to the side of all of those parties.

1 Q Years ago when I, you know, would have a case
2 involving accounting I learned that there was at least what's
3 called a compilation financial or reviewed financial and an
4 audited financial.

5 A Yes.

6 Q You understand those terms?

7 A Yes.

8 Q And is that a correct --

9 A I don't know if that's what we use there, but we
10 would use at least the equivalent.

11 Q So he would be that review person?

12 A He would look at audited financials at the
13 concession level after they'd been audited by Ernst & Young
14 and sort of give his okay to them and sign off.

15 Q In 2013 -- well, at whatever time you were seeking
16 consents from various individuals did you seek a consent from
17 John Crawford, who was performing these accounting functions?

18 MR. BICE: Objection, Your Honor. Asked and
19 answered last -- I don't know how many days ago.

20 THE COURT: Overruled.

21 THE WITNESS: I don't believe so.

22 BY MR. PEEK:

23 Q Is there a reason why not?

24 A Actually, with him I'm not sure, Mr. Peek. I was
25 never made aware that a consent would have been sought or not

1 sought from Mr. Crawford, so I can't answer your question.

2 Q Did you know whether or not there were documents
3 that existed within your email server either authored by or
4 received or sent to Mr. Crawford?

5 A I don't have personal knowledge of that, because I
6 didn't interact with him.

7 Q So you weren't aware, then, of whether or not John
8 Crawford was an author or recipient of any emails and his
9 consent would -- I won't say necessary, but his consent could
10 have been sought?

11 A That's correct.

12 Q Mr. Crawford has a relationship with the -- is it --
13 I think the Technical Institute.

14 A It's TIS, so it's The International School.

15 Q So if I have an email here involving Mr. Crawford
16 and it has TIS as the acronym, that would be Mr. Crawford
17 authoring it?

18 A It should be, yes.

19 Q Should be. In fact, he sought money from Wynn
20 Resorts for his financial institute -- or, excuse me, for his
21 educational institution?

22 THE COURT: Talked about that on Monday.

23 MR. BICE: Objection, Your Honor.

24 THE COURT: Sustained.

25 MR. PEEK: There was another topic, Your Honor.

1 BY MR. PEEK:

2 Q The Wynn Design Development folks, were they --

3 MR. BICE: Your Honor --

4 THE COURT: You didn't ask me about another topic
5 earlier this morning.

6 MR. PEEK: Your Honor, if I forgot something just
7 for a moment as I was talking to you, I was trying -- you kind
8 of caught me off guard. I'm just trying to --

9 (Pause in the proceedings)

10 MR. PEEK: Your Honor, my apologies.

11 THE COURT: Mr. Peek, I asked you about five times
12 this morning if you had anything else that you wanted to do an
13 offer of proof on. You told me no.

14 MR. PEEK: I'm apologizing, Your Honor, to the
15 Court. I tried to go through my outline. It was not my
16 understanding that that was going to be what was going to be
17 discussed with the Court this morning. So when I went through
18 the outline, which is about 20-plus pages, I tried to make
19 sure that I covered everything. And then as I was doing this
20 I came across that, and if the Court is not inclined to allow
21 me to do that I'm fine, I'll move on, Your Honor.

22 THE COURT: Move on.

23 MR. PEEK: Well, since that's all I have with Mr.
24 Crawford and that's all I told you that I have with Mr.
25 Crawford --

1 THE COURT: Lovely.

2 MR. PEEK: -- then I will do this, Your Honor, in
3 briefing. I do have additional exhibits that I would -- I
4 have cross-examination -- or excuse me, I have redirect of Mr.
5 Schall, but I will wait. You remember, Mr. Schall testified
6 for about a half an hour?

7 THE COURT: I know. You may have redirect. I'm not
8 there yet. I've got to let Mr. Bice finish.

9 MR. PEEK: I know. That's all I was saying, Your
10 Honor, that --

11 THE COURT: I'm not going to preclude you from
12 having redirect. Thank you.

13 MR. PEEK: Thank you, Your Honor.

14 THE COURT: Mr. Bice.

15 MR. BICE: Yes, Your Honor. There's one issue I'd
16 like to address with the Court before I examine Mr. Schall,
17 it's very brief, Your Honor, on the -- we've now introduced
18 into the record, Your Honor, with Mr. Schall, the letter from
19 the Prosecutor's Office in Macau concerning the criminal
20 complaint that the Prosecutors revealed was filed by the Okada
21 parties. We have --

22 THE COURT: That is Number 69.

23 MR. BICE: That was 69, Your Honor. We have
24 demanded --

25 THE COURT: I'm not dealing with that right now. We

1 can talk about it on Friday if you want. I'm not dealing with
2 it right now. We're trying to get Mr. Schall out of here so
3 he doesn't have to come from Macau, again.

4 MR. BICE: I understand that, Your Honor. But
5 here's the only reason I'm making this record is Mr. Schall --
6 I would like to have it put into the record, and I'd like to
7 be able to show it to Mr. Schall. And they have refused to
8 produce it to us claiming that --

9 THE COURT: Mr. Bice, I am here on a sanctions
10 hearing against Wynn Resorts, not a sanctions hearing against
11 Okada. If you have motion practice and want to seek sanctions
12 against the Okada parties for failure to comply with orders
13 I've entered I'm happy to do that, but I'm not there yet. I'm
14 trying to get Mr. Schall back to Macau and not make him come
15 back for another session.

16 MR. BICE: I understand that, Your Honor.

17 MR. PEEK: Your Honor, there's no order with respect
18 to this, whatever he's attempting to introduce. There was a
19 discussion --

20 THE COURT: Mr. Peek, I don't know. I want to
21 finish this witness.

22 MR. BICE: We'll deal with it, Your Honor.

23 CROSS-EXAMINATION (Continued)

24 BY MR. BICE:

25 Q Good morning, again, Mr. Schall.

1 A Good morning.

2 Q All right. Let's back up a little bit from where we
3 were. Before we jumped ahead to the criminal prosecution of
4 the Okada parties attempted to commence in Macau, Mr. Schall,
5 they had also attempted to commence -- or they had commenced a
6 civil lawsuit; correct?

7 A Correct.

8 Q And can you recall -- the complaint is already in
9 evidence, because we put it into evidence with Mr. Takeuchi,
10 but can you recall your understanding of the claims that were
11 asserted by the Okada parties?

12 A It seemed to be three primary claims. Firstly, that
13 Wynn Resorts Macau SA's data privacy violations were the
14 proximate cause of the redemption of Aruze USA's shares by
15 Wynn Resorts Limited, and therefore the Okada parties were
16 damaged by that. And that Wynn Resort Macau SA's donation to
17 The University of Macau as Number 2, and acquisition of the
18 Cotai land as Number 3, or effectively ultra vires, and
19 therefore the company should be dissolved, Wynn Resorts Macau
20 SA. Roughly a billion U.S. dollars-plus should be awarded in
21 damages to the Okada parties.

22 THE COURT: Mr. Peek, if you want to move so you can
23 see the witness better.

24 MR. PEEK: I'm just going to move the screen, Your
25 Honor, a little bit to the side.

1 Would you like me to move if you want to use it? I
2 don't know if you're connected to it.

3 MR. BICE: We're connected to it.

4 THE COURT: Be careful, gentlemen. You usually have
5 people who have this as their pay grade to do it as opposed to
6 lawyers who are clumsy.

7 MR. PEEK: Yeah, I can see him now.

8 THE COURT: Mr. Peek, if you want to move, you and
9 Mr. Kunimoto can switch seats.

10 MR. PEEK: I'll move, Your Honor, to where Mr. Bice
11 is. I'll flip with Mr. Krakoff, Your Honor. I don't want to
12 interrupt the flow here.

13 THE COURT: Okay. All right. So while we're doing
14 all the moving around -- I have to break at 11:45 to do Grand
15 Jury proceedings, and I have to end today at 4:30. So that
16 means for me we're going to take a short lunch. So I'm just
17 telling you we'll break at 11:45, and we'll try and start back
18 up at 12:30.

19 MR. BICE: Thank you, Your Honor.

20 THE COURT: Okay.

21 BY MR. BICE:

22 Q So of those three claims there was then an
23 adjudication by the court, correct, in Macau?

24 A Correct.

25 Q And you -- the company had to retain legal counsel

1 to defend those claims?

2 A Correct.

3 Q Can you remember who the lawyer was that was
4 representing the Okada parties?

5 A It was a lawyer, his surname is Sa.

6 Q Attorney Sa?

7 A Correct.

8 Q All right. If you'd go to Exhibit 162.

9 MR. BICE: Your Honor, may I approach.

10 THE COURT: You may.

11 THE CLERK: That's proposed.

12 MR. BICE: Proposed?

13 BY MR. BICE:

14 Q 162, please. Mr. Schall, did you receive a copy of
15 the Court's judgement in favor of Wynn Macau?

16 A Yes, I did.

17 Q Did you have it translated?

18 A Yes, I did.

19 Q All right. Showing you Exhibit 162. If you can
20 tell the Court, is this the translated version of the
21 judgement that you received from the Macau court against the
22 Okada parties?

23 A Yes, it is.

24 MR. BICE: Your Honor, I'd move Exhibit 162 into
25 evidence.

1 THE COURT: Mr. Peek, any objection to 162? And
2 this is the judgement that I asked you about the other day as
3 to whether any further attempts to appeal it had been heard.

4 MR. PEEK: I'm trying to find 172 [sic], Your Honor.

5 THE WITNESS: Correct, Your Honor.

6 MR. BICE: 162.

7 THE COURT: And that you told me that they closed
8 the courts in August in Macau?

9 THE WITNESS: Correct, Your Honor.

10 THE COURT: Just trying to confirm. It's still
11 August, so anything wouldn't have happened yet --

12 THE WITNESS: Correct, Your Honor.

13 THE COURT: -- on an appeal? Okay.

14 MR. PEEK: I think this was a late -- excuse me, a
15 production after the first hearing, so we don't have it in our
16 binders, Your Honor. So if I could just, for a moment -- I
17 know that -- I think -- I'm sure they gave it to us at some
18 time.

19 (Pause in the proceedings)

20 MR. PEEK: If I could look at it over --

21 THE COURT: Yes. Mr. Bice, can he look at it over
22 your shoulder?

23 MR. PEEK: I'll look at the witness's.

24 MR. BICE: He can look at it right here.

25 THE COURT: Mr. Peek, he has it right there for you.

1 He can even take it out of the binder and hand it to you.
2 Ignore his Post-it note.

3 MR. BICE: It doesn't have any Post-it notes on it.

4 THE COURT: All right.

5 MR. PEEK: May I briefly have the witness on voir
6 dire, Your Honor.

7 THE COURT: Sure.

8 VOIR DIRE EXAMINATION

9 BY MR. PEEK:

10 Q You received it -- did you receive this from the
11 Civilian Tribunal of lower court?

12 A Our attorneys received it in Chinese. And our
13 attorneys gave it to me in Chinese with an English
14 translation.

15 MR. PEEK: Other than relevancy, Your Honor.

16 THE COURT: Be admitted.

17 (Plaintiff's Exhibit 162 admitted)

18 THE COURT: Thank you, Mr. Peek.

19 CROSS-EXAMINATION (Resumed)

20 BY MR. BICE:

21 Q All right. In this ruling by the Court, Mr. Schall,
22 did the Court rule in favor of Wynn Macau on the claims
23 concerning the redemption?

24 A Yeah.

25 MR. PEEK: Objection, Your Honor. That calls for a

1 legal conclusion. This person was not involved in this.

2 THE COURT: Overruled.

3 THE WITNESS: Yes.

4 BY MR. BICE:

5 Q Did the Macau courts rule in favor of Wynn Macau as
6 to the claim concerning the donation to the University of
7 Macau?

8 A Yes.

9 Q Did the court rule in favor of Wynn Macau concerning
10 the claim surrounding the land concession?

11 MR. PEEK: Same objections, Your Honor.

12 THE COURT: The objection's overruled. While they
13 may have no weight for me, I'm going to let the witness
14 testify about the judgement that he received through counsel
15 of the litigation from Macau.

16 MR. PEEK: That was my point, Your Honor. It's up
17 to you to decide. It's not up to Mr. Schall.

18 THE COURT: Well, and not up to the Macau court,
19 because this proceeding's in my Court. So --

20 THE WITNESS: Yes.

21 BY MR. BICE:

22 Q Did the court also determine that the Okada parties
23 were malicious litigants?

24 A Yes.

25 Q And that is recited in the court's opinion; correct?

1 A I've seen it translated as malicious and vexatious,
2 but yes.

3 Q All right. Mr. Schall, was the board -- this isn't
4 the only lawsuit that has been filed against the company
5 concerning the MPDPA, is it?

6 A That's correct.

7 Q There is another recent lawsuit that was filed
8 against Wynn Macau; correct?

9 A Yes.

10 Q And who filed that?

11 A Rodolfo [sic] Bangsil --

12 Q Can you tell the Court who Mr. Bangsil is.

13 A A former senior officer of the Philippine Amusement
14 and Gaming Corporation.

15 THE COURT: Also known as PAGCOR?

16 THE WITNESS: Correct.

17 THE COURT: Okay.

18 BY MR. BICE:

19 Q And what is the status of that lawsuit?

20 MR. PEEK: Objection. Relevancy, Your Honor.

21 THE COURT: Overruled.

22 THE WITNESS: It was actually filed in 2015,
23 sometime midyear, but we had trial scheduled earlier this
24 year. And the trial was scheduled for early July, and all of
25 Mr. Bangsil's attorneys got sick. So the trial has been

1 delayed until late January of next year.

2 BY MR. BICE:

3 Q All right. Now, Mr. Schall, is the board of
4 directors of Wynn Macau aware of the litigation that was filed
5 by the Okada parties about the MPDPA and other claims?

6 A Yes.

7 Q And how do you know that the board is aware of that
8 litigation?

9 A When Wynn Macau was served by the court with the
10 lawsuit by the Okada parties I immediately notified the board
11 members in Hong Kong of the lawsuit and advised them that
12 because the lawsuit was asking for a material amount of
13 monetary damages and dissolution of the gaming concession
14 company that we would be making a stock exchange filing, and I
15 would keep them appraised [sic] of the progress of that filing
16 and its contents.

17 Q Did the company make a stock exchange filing on the
18 Hong Kong Stock Exchange?

19 A Yes.

20 Q All right. If we could turn -- let's jump back a
21 little bit in time now to -- let's turn to Exhibit Number 21
22 -- Proposed Exhibit Number 21.

23 (Pause in the proceedings)

24 BY MR. BICE:

25 Q You testified I believe in part yesterday, perhaps

1 even before, that Wynn Macau was fined by the Office of Data
2 Protection for breaches of the MPDPA; is that correct?

3 A Correct.

4 Q If I could show you Proposed Exhibit Number 21.
5 Does that appear to be a true and correct copy of the English
6 translation of that fine and the decision by OPDP?

7 A Yes.

8 MR. BICE: Your Honor, I would move Exhibit 21 into
9 evidence.

10 THE COURT: Any objection?

11 MR. PEEK: No objection, Your Honor.

12 THE COURT: Be admitted

13 (Plaintiff's Exhibit 21 admitted)

14 BY MR. BICE:

15 Q Now, Mr. Schall, Wynn Macau had made several
16 overtures to the Office of Data Protection seeking to get
17 authorization to release certain documents out of Macau, is
18 that true?

19 A Yes.

20 Q And do you recall how many different attempts or
21 requests you made of OPDP?

22 A Well, when discovery commenced we did the initiation
23 of the communication with the Data Protection Office, sort of
24 tried to just get everything released up front, which we knew
25 wouldn't be successful. And then later in the case, late last

1 year, we made another attempt to get more specific documents
2 released in relation to the Court's order from late last year.

3 Q And do you recall -- those --

4 MR. BICE: Your Honor, just for the record. Those
5 exchanges are already in evidence as 742, I believe it was A,
6 Defendant's Exhibit 742A. So I don't want to go through --
7 those are already in evidence. So I'm not going to go through
8 each one of them.

9 BY MR. BICE:

10 Q Mr. Schall, what I wanted to find out though is did
11 the Office of Data Protection ultimately allow you to --

12 Are they not in evidence?

13 MR. PEEK: 742A is in evidence, Your Honor, yes, We
14 referred to it. 742 and 742A were --

15 MR. BICE: I thought -- well, I -- certainly 742A I
16 thought was, if it's not --

17 THE COURT: I thought we admitted 742A, too. But
18 let me check my notes.

19 MR. BICE: Because there were a number --

20 THE COURT: But as you all know, Dulce is the one
21 who makes the actual --

22 MR. BICE: I know.

23 THE COURT: -- final -- She says she could be wrong.
24 Yes, we admitted 742A on the -- oh, no, we did not. I did not
25 put a check mark against it. We marked it, but we never

1 admitted it.

2 MR. BICE: All right.

3 MR. PEEK: I would offer 742A, Your Honor.

4 THE COURT: Any objection?

5 MR. BICE: 742A, Your Honor, I just want to make
6 sure what we understand it is.

7 THE COURT: TX45 through 246 is what my notes show.

8 MR. PEEK: It's the declaration --

9 MR. BICE: Through which page, Your Honor? TX what?

10 THE COURT: I show 45 through 246 is what my notes
11 reflect. And this was on Day 3, Mr. Schall's second day of
12 testimony, which would have been on July 28th.

13 MR. BICE: I agree, Your Honor. That is what I also
14 understand it to be.

15 THE COURT: So 742A will be admitted.

16 MR. BICE: Thank you.

17 (Defendants' Exhibit 742A admitted)

18 BY MR. BICE:

19 Q Mr. Schall, did the Office of Data Protection
20 ultimately approve your processing of data in Macau?

21 A Yes.

22 Q All right. Ultimately -- let's talk about did they
23 impose any restrictions on how that processing would occur?

24 A Yes.

25 Q And what were those restrictions?

1 A I don't think I'll recall all of them, but --

2 Q Okay.

3 A -- they required that any review take place in
4 Macau.

5 Q Okay.

6 A That any review take place in a secure location
7 under our control, which meant to them that we needed to
8 basically put all of the reviewers in a room, we needed to
9 secure the room, we needed to make sure that the computers
10 couldn't send anything out. So the reviewers could look at
11 things, but they couldn't somehow download them and then
12 access their email and send them out. That the computers had
13 their USB or flash drives shut off, that we put surveillance
14 cameras in the room and in the hallway leading into the room.
15 And they also took a close look at who the reviewers would be,
16 not as individuals, but what was their status with respect to
17 Wynn Macau.

18 Q Okay. And when you say that the documents -- that
19 OPDP required that the documents remain in your control, who's
20 control, Wynn Macau's control?

21 A Wynn Macau's control.

22 Q All right. So you then told OPDP that certain
23 lawyers from the United States would be the ones reviewing the
24 documents; is that correct?

25 A Correct.

1 Q And you informed them of various law firms that were
2 involved; is that correct?

3 A Correct.

4 Q And also informed them about FTI being involved; is
5 that correct?

6 A Correct.

7 Q And FTI also provided lawyers to conduct the review?

8 A Correct, U.S. lawyers.

9 Q Okay. So are you telling the Court that OPDP didn't
10 require you to just use Macau citizens to review all of the
11 documents in Macau?

12 A Absolutely not.

13 Q Okay. They allowed U.S. lawyers to review all of
14 the documents; correct?

15 A Correct.

16 Q Did they ever give you any suggestion that you
17 needed to use only Macau citizens to review documents in
18 Macau?

19 A No.

20 Q So did you have to implement these security measures
21 to make sure that you knew that no one could send data out of
22 those offices -- or out of the office? Was it a single office
23 where the review was occurring?

24 A Mr. Bice --

25 MR. KRAKOFF: Objection.

1 MR. PEEK: Objection, Your Honor.

2 MR. BICE: He's testifying.

3 THE COURT: Mr. Bice, can we break it down.

4 MR. BICE: Sure.

5 THE COURT: Thank you.

6 BY MR. BICE:

7 Q Was there more than a single room used?

8 A We put the reviewers into a large hotel suite at the
9 original Wynn Macau building. It contained a main sort of
10 living room, two bedrooms off to the side, and then multiple
11 bathrooms.

12 Q Okay. And did the review occur only in that room.

13 A Correct.

14 Q And was that room secure?

15 A Yes.

16 Q And is that a requirement of OPDP?

17 A Yes.

18 Q Did you have monitoring occur at the requirements of
19 OPDP?

20 A As I stated before, we had surveillance. We also
21 required that the reviewers got sort of like a temporary ID.
22 They had to enter our Wynn Macau facility through the staff
23 entrance, which made them badge in so we had a time stamp on
24 them and then could track them through the entire property's
25 surveillance system. And they had to exit the same way. So

1 we always had two points per day, and we could see where these
2 people were going and what they were doing.

3 Q Okay. Now for these reviewers did they receive any
4 training on what they were reviewing -- did they receive any
5 training concerning Macau law requirements?

6 A Yes. They were given a Macau law primer on data
7 privacy.

8 Q And who was that provided by?

9 A My attorney in Macau, Dr. Anna Chavez.

10 Q Okay. So, and is that -- is Dr. Chavez an attorney;
11 correct?

12 A Yes.

13 Q And her first name is Anna?

14 A Anna, yes.

15 Q All right. So Ms. Chavez is a Macau lawyer, and who
16 does she work for?

17 A She's a Macau lawyer, and she works for me and Wynn
18 Resorts Macau SA.

19 Q All right. She does not work for Wynn Resorts in
20 Las Vegas?

21 A She works for Wynn Resorts Macau SA in Macau.

22 Q All right. And she is the one who set what the
23 parameters were concerning what Macau law required?

24 A Correct.

25 Q And she provided that oversight to all the attorney

1 reviewers whether they were from FTI, Pisanelli Bice or
2 anybody else; is that correct?

3 A Correct. Anyone who was going to be in that room
4 reviewing documents received the training and signed an
5 acknowledgement of the same.

6 Q All right. And did people that were conducting the
7 review, did they have the authority to override her
8 instructions?

9 A No.

10 Q And she made -- she gave the legal primer -- I don't
11 want to get into the substance of it, but she gave the legal
12 primer on what the MPDPA would require and permit as well as
13 what had been generically referred to as the Macau law
14 privileges?

15 MR. PEEK: Objection. Leading.

16 THE COURT: Can you rephrase your question, please.

17 MR. BICE: Sure.

18 BY MR. BICE:

19 Q Without getting into the substance, just generally
20 the topic, did she provide guidance on the MPDPA?

21 A Yes.

22 Q Did she also provide guidance and set the rules on
23 the Macau law privileges?

24 THE COURT: Mr. Bice, this is your witness. He
25 needs to not just say yes. He needs to actually have words

1 come out of his mouth. They're much more credible when they
2 come out of his mouth than when they come out of your mouth.
3 So maybe you could ask non-leading questions.

4 MR. BICE: Your Honor, I agree with that. But I'm
5 trying to avoid any waivers of privilege.

6 THE COURT: He's an attorney, he knows.

7 MR. BICE: Well, I understand that. And I'll
8 endeavor, Your Honor.

9 BY MR. BICE:

10 Q What other subject matter, then, did she provide
11 guidance on to the reviewers?

12 A She provided guidance on the Macau Data Privacy
13 Act --

14 Q Okay.

15 A -- and what we have referred to in these proceedings
16 as the Macau law privilege.

17 Q All right. And regarding that Macau law privilege
18 issue for whom was she giving guidance on behalf of?

19 A Wynn Resorts Macau SA.

20 Q All right. Did anyone -- again, did Pisanelli Bice
21 or anyone else have the authority to overrule her guidance on
22 what the Macau law privilege provides?

23 A No.

24 Q All right. So after she would set the rules about
25 what Macau law would provide -- when you were asked earlier

1 during these proceedings about how people would come to you
2 with perhaps a few documents, maybe a dozen or so documents,
3 would they also go to her with requests about specific
4 documents?

5 MR. PEEK: Objection.

6 MR. KRAKOFF: Objection.

7 MR. PEEK: Foundation, Your Honor.

8 MR. KRAKOFF: And leading.

9 MR. PEEK: And hearsay.

10 THE COURT: Overruled. But can you break it up.

11 MR. BICE: Sure.

12 BY MR. BICE:

13 Q You've already testified earlier that people would
14 come to you with specific requests about particular documents
15 after Ms. Chavez -- Attorney Chavez had laid the rules;
16 correct?

17 A Correct.

18 Q All right. Would people also be allowed to go to
19 Ms. Chavez --

20 THE COURT: Can you stop asking leading questions.

21 BY MR. BICE:

22 Q Who else would the people be permitted to go to if
23 they had specific questions about documents?

24 A People went to Anna Chavez with questions, because
25 each time that occurred she would advise me of the same.

1 Q Okay. Did anyone at Wynn Resorts decide the scope
2 of the Macau law privileges?

3 A No.

4 Q Who did that?

5 A It was myself and Anna, and we had one other
6 colleague who occasionally would also opine, a Macau attorney
7 working for Wynn Resorts Macau SA.

8 Q And who was that Macau attorney?

9 A Dr. Carlos Silva.

10 Q All right. So after this guidance was given --
11 let's deal with the MPDPA for a moment. The documents were
12 reviewed in this secure room. Do you recall the dates?

13 A I believe it was -- the first review was summer of
14 2013.

15 Q All right.

16 A And then there was a second review I believe also in
17 the summer maybe 2015, but I could be mixed up.

18 Q All right. And what was determined relative to
19 personal data that were in these documents?

20 A If it was determined that there was personal data in
21 the documents then we either needed a consent from the data
22 subject to release their personal data --

23 Q Okay.

24 A -- or we needed to redact the personal data.

25 Q And who required that?

1 A Well, Macau law requires it, and Wynn Resorts Macau
2 SA required it in furtherance of Macau law.

3 Q All right. Was Wynn Macau Resorts SA willing to
4 release unredacted documents to Wynn Resorts after OPDP's --
5 after you had approached OPDP about the subject?

6 MR. PEEK: Objection, Leading, Your Honor.

7 THE COURT: Can you rephrase your question, please.

8 MR. BICE: Sure.

9 BY MR. BICE:

10 Q Were you willing or was Wynn Macau Resorts willing
11 to release unredacted documents after you had approached OPDP?

12 A Wynn Resorts Macau SA was not willing to release any
13 documents in contravention of the Macau Data Privacy Act. So
14 if we had a document that was unredacted and we did not have
15 consents from each data subject, which personal data appeared
16 in the document, we would not release the document unless it
17 was redacted.

18 Q All right.

19 A We being Wynn Resorts Macau SA.

20 Q All right.

21 THE COURT: And that all started after you got the
22 call from the gentleman who told you no more mess ups?

23 THE WITNESS: Well, that was part of the kickoff of
24 it, Your Honor. But I believe what Mr. Bice is referring to
25 is the specific review sessions.

1 THE COURT: Okay.

2 THE WITNESS: And so not only did we have what you
3 just referred to, but we had also engaged in a process with
4 the Data Protection Office where they set parameters for this
5 review. And we certainly weren't going to violate their
6 parameters.

7 THE COURT: I just wanted to make sure it was
8 subsequent to the communication you had orally, which you said
9 carried the force of law, from the gentleman who said no more
10 mess ups.

11 THE WITNESS: Correct. That was December 2012.

12 THE COURT: Okay.

13 BY MR. BICE:

14 Q So were any documents, based on the review that
15 occurred, were any documents that you didn't have consents for
16 released to Wynn Resorts that contained personal data?

17 A If they were they were redacted. So therefore there
18 would be no personal data, because --

19 Q All right. The documents that are, then, unredacted
20 where do they remain? In other words, where are the originals
21 that don't have the redactions on them. Where do they remain?

22 A They're on flash drives in my safe in Macau in my
23 office.

24 Q All right. Do they -- and you did not release those
25 documents to Wynn Resorts?

1 A I did not.

2 Q All right.

3 A I didn't release them to anyone.

4 Q And they have been held in your safe ever since that
5 review occurred?

6 A Correct. After 2013 I held them, and then I gave
7 them back in Macau when review recommenced the second time.
8 Then they were returned to me after that and went back in my
9 safe and have not moved.

10 Q All right. Let's deal, then, with what's being
11 generically referred to as the Macau law privilege. You
12 understand that that's -- you were talking about Article 92
13 under the gaming concession. Do you recall that?

14 A I do.

15 Q All right. Ms. Chavez gave advise on this issue.
16 Did you later change your position on behalf of Wynn Macau?

17 A I, after consultation with Dr. Carlos Silva, who I
18 referred to earlier, changed our position with respect to the
19 Macau law privilege as it applied to a certain subset of
20 specific documents.

21 Q Okay. And that subset were documents where?

22 A They were documents in Macau that related to land.

23 Q Okay. With respect to the documents that were in
24 the United States, right, that related to the Macau law
25 privileges, who made the determination that those would

1 ultimately be produced?

2 A Once those documents went to the United States and
3 were out of the possession of Wynn Macau Wynn Macau could not
4 make a determination with respect to those documents, and
5 therefore my understanding is Wynn Resorts made the
6 determination to release documents in the United States in its
7 possession that maybe had this Macau law privilege
8 implication.

9 Q All right. Because those were the documents in the
10 United States?

11 A Correct.

12 Q All right. There were also -- were there documents
13 in Macau that weren't -- that Macau -- my apologies -- Wynn
14 Macau retained that were governed by this Macau law privilege?

15 A While I could not specifically identify them, I
16 imagine on those hard drives that Wynn Macau --

17 THE COURT: We really don't want you to guess or
18 speculate.

19 THE WITNESS: Okay. I believe that there are Macau
20 law privileged documents that never left Macau that remain on
21 the hard drives in my safe.

22 BY MR. BICE:

23 Q All right. And Wynn Macau has not released those
24 documents to Wynn Resorts; correct?

25 A Correct.

1 Q All right. And who made the decision that those
2 documents would not be released?

3 A Myself on behalf of Wynn Macau.

4 Q All right. Was this matter ultimately presented to
5 the board of directors of Wynn Macau?

6 A It was presented to the board of directors of Wynn
7 Macau Limited.

8 Q Okay. Well, why did you -- you were asked questions
9 about why would you present this issue to the board of
10 directors of Wynn Macau Limited?

11 A The board of directors of Wynn Macau Limited at that
12 time was eight members, four of whom were independent members.
13 And the four non-independent members all also reside on the
14 Wynn Resorts Macau SA board. So we felt it was more
15 appropriate to go to the broader board with independent
16 representation of the Hong Kong listed company who
17 ramifications would flow up to if it's Macau entity, and
18 basically its sole asset got in some type criminal trouble.

19 Q All right. So the board of directors of Wynn Macau
20 Limited includes the board members of Wynn Macau SA?

21 A Correct.

22 Q All right. So when you presented this, then, to the
23 full board, including the -- can you tell the Court what it
24 means to have independent members.

25 A It's very similar to the United States --

1 MR. BICE: I've got to have a record.

2 THE COURT: Keep going.

3 MR. BICE: I've got to have a record.

4 THE COURT: It's something I know. But Mr. Bice is
5 speaking to a different audience right now.

6 THE WITNESS: It's similar to the United States'
7 requirement in that they can have limited dealings with the
8 listed company on whom's [sic] board they sit. They can't
9 have their -- if their relatives are employed you have to
10 disclose it. They can't be employed or drawing a salary other
11 than as a board member.

12 BY MR. BICE:

13 Q Okay. And so who were the board members when this
14 question -- well, strike that. Let me ask you the overall
15 question. Why did you take this subject matter to the board
16 of directors?

17 A Wynn Resorts Limited asked Wynn Resorts Macau SA to
18 please produce documents, which had Wynn Resorts Macau SA
19 produced this set of documents would have caused Wynn Resorts
20 Macau SA to break the Macau Data Privacy Act. Therefore, I
21 wanted to take the board of Wynn Macau Limited's view because
22 if Wynn Resorts Macau SA broke the law and took a criminal hit
23 whether directly as a company and/or to its senior officers in
24 Macau, this would be a material event, which would require a
25 stock exchange filing, and it could impact Wynn Resorts Macau

1 SA's prospects in Macau.

2 Q Okay. So who was on the board of Wynn Macau when
3 you presented this issue?

4 A Of Wynn Macau Limited?

5 Q Of Wynn Macau Limited, yes.

6 A So the executive director is -- keeping simple were
7 Matt Maddox, Steve Wynn, and Linda Chen --

8 Q Okay.

9 A -- all of whom also were on the Wynn Resorts Macau
10 SA board that -- that was the complete board.

11 Q I understand.

12 A And then you also had Ian Coughlan. So those are
13 your four executive directors. Your four independent
14 directors were Dr. Allan Zeman, Jeffrey Lam, Bruce Rockowitz,
15 and Nick Sallnow-Smith.

16 Q All right. Did the full board vote on this matter?

17 A Mr. Maddox and Mr. Wynn abstained.

18 Q And why did they abstain?

19 A I felt it was appropriate, given their relationship
20 with Wynn Resorts Limited, that they not vote.

21 Q Okay. So then the -- all the board members voted on
22 this matter except for Mr. Maddox and Mr. Wynn, and so that
23 would mean there were six remaining directors; correct?

24 A Six remaining directors.

25 Q So four independents and two executive directors?

1 A Correct.

2 Q And what was the vote?

3 A The six voting members voted unanimously to not have
4 Wynn Resorts Macau SA release documents in contravention of
5 Macau law.

6 Q All right. So those were the documents that are in
7 your safe; correct?

8 A Correct.

9 Q Mr. Schall, I understand this is hypothetical. But,
10 Mr. Schall, if a high ranking executive from Wynn Resorts were
11 to call you and tell you, I don't care what the board voted, I
12 don't care what the position is of the board members, I want
13 you to send those documents to Wynn Resorts in Las Vegas, and
14 if you don't do it you're going to be fired. What are you
15 going to do?

16 MR. PEEK: Objection.

17 MR. KRAKOFF: Objection. Speculation.

18 MR. PEEK: Objection. Leading.

19 THE COURT: Overruled.

20 You can answer.

21 THE WITNESS: I would not do it.

22 BY MR. BICE:

23 Q Well, what would you do?

24 A Given the process we went through with ODP starting
25 in late 2012, 2013, all the way through the fourth quarter of

1 last year, and they had set out very defined parameters of
2 what we could and couldn't do in every phase of this from the
3 initial review to could we release this final set of
4 documents. Had I taken the documents out of the safe and sent
5 them to the United States or flown with them to the United
6 States I believe that the company and myself and probably
7 Linda Chen, as the executive director and Ian Coughlan as the
8 president would have been subject to criminal prosecution for
9 violations of the MDPA. So if push really came to shove I
10 actually would have taken the hard drives out of my safe,
11 given them to the Data Protection Office and resigned.

12 Q Now you knew, at the time of the board vote, that
13 the company -- this board vote occurred when, do you recall?

14 A December 2016.

15 Q And this was after the Court had entered its
16 November 1 order; correct?

17 A Correct. We advised the board of the order, and
18 that was the rationale for bringing this to them.

19 Q All right. And you knew at that point in time, did
20 you not, that the company, you didn't know who, but you knew
21 that somebody was trying to, at that point in time, get the
22 company criminally prosecuted, did you not?

23 MR. PEEK: Objection. Leading, Your Honor.

24 THE COURT: Can you rephrase your question, please.

25 MR. BICE: Sure.

1 BY MR. BICE:

2 Q Did you have awareness at the end of 2016 that
3 someone was trying to get the company criminally prosecuted
4 under the MPDPA?

5 A I did.

6 Q Did Ms. Chen --

7 A Ms. Chen did.

8 Q Okay. Because she had been interviewed by whom?

9 A The police had called her at least twice to come
10 down for interviews.

11 Q Okay. So is it accurate, Mr. Schall, that the
12 documents that are in your safe are not going to be released
13 absent the approval of the board of directors of Wynn Macau?

14 A Actually, if the board of directors of Wynn Macau
15 Limited said I should release them I would not do so.

16 Q What would you do even if the board said so?

17 A I would turn them over to the Data Protection Office
18 and resign.

19 Q Okay. Do you and are other executives face the
20 potential personal criminal liability if there's a violation
21 of those laws, is that your understanding?

22 A If I willingly and knowingly took the hard drives
23 out of my safe and gave them or brought them to the United
24 States I absolutely believe I'd be criminally prosecuted. And
25 I'm a Macau citizen, and they would spare me no quarter.

1 Q How about board director, Chen?

2 A She's the executive director of the concession
3 company, which means she's responsible through the government
4 for everything the company does. She also was very aware of
5 this issue as she'd been interviewed by the police multiple
6 times. I believe she would face criminal prosecution, as
7 well. And I believe the company would face criminal
8 prosecution as a company.

9 Q All right. Let's back up to the specific one letter
10 I want to go over with you with OPDP as the last letter --

11 Which, Your Honor, is Exhibit 742A, and this will be
12 at page number -- and I'm going to approach the witness, Your
13 Honor, if I might.

14 THE COURT: You can.

15 MR. BICE: It's 235. I just wanted to check that,
16 Your Honor.

17 THE COURT: 235?

18 MR. BICE: That'd be page 235. Bear with me one
19 second.

20 BY MR. BICE:

21 Q Showing you what's been marked as page 235 of
22 Exhibit 742A. This is an English translation. Did you
23 receive a letter from OPDP in November of 2016?

24 A Yes.

25 Q And that was in response to a request that you had

1 sent to the Office of Data Protection; correct?

2 A Correct.

3 Q If you would flip back to page -- of that same
4 exhibit right there, go to page 206.

5 A Yes.

6 Q Now I understand this is in Portuguese. But can you
7 tell the Court whether or not this is the letter that was sent
8 in October of 2016, to the Office of Data Protection.

9 A It is.

10 Q If you would also go to the last -- or not to --
11 there are two attachments to that letter that start on page
12 216 and 217 that you sent to the Office of Data Protection.

13 A Oh. I see the page, yes. I see them.

14 Q So you sent them Document Number 1. Included in the
15 letter was an org chart; is that correct?

16 A Correct.

17 Q And then you also included a copy of the court's
18 order, although it had not yet been signed; correct?

19 A Correct.

20 Q So you informed -- you actually gave the Office of
21 Data Protection a copy of the court's order?

22 A We did.

23 Q Okay. Now you were asked some questions yesterday
24 about well, did you tell OPDP that the order only pertained to
25 documents that were sent either into Macau from outside of it

1 or that left Macau because they were transmitted outside. Do
2 you recall those questions?

3 A I recall the questions, yes.

4 Q Mr. Schall, does the MPDPA draw any distinction
5 between where the documents are sent to or from?

6 A No. The Macau Data Protection Act concerns itself
7 with information that's in Macau. It doesn't really matter
8 how it got there. Once it's got there and you're processing
9 it you are subject to the Data Protection Act.

10 Q Okay. And so does OPDP draw any distinction between
11 documents that are sent to or from Macau?

12 A No. They just concern themselves with while it's in
13 Macau and how it leaves.

14 Q Okay. If it's outside of Macau in somebody else's
15 hands that's not an OPDP issue, or is it?

16 A It's not a Data Protection Office issue in the sense
17 that they can't control what that party outside of Macau does
18 with the documents.

19 Q Okay.

20 A But they could take issue with the party who sent it
21 to them if they sent it in violation of the law.

22 Q All right. But if the document is in Macau,
23 regardless of who it was sent to or how it got into Macau,
24 your understanding from OPDP is that the MPDPA applies to that
25 document and you must comply with the MPDPA?

1 MR. PEEK: Objection. Hearsay, Your Honor. And
2 speculation.

3 THE COURT: Overruled.

4 You can answer.

5 THE WITNESS: That's correct.

6 BY MR. BICE:

7 Q If you would look at the last -- going back to the
8 response that you received in November of 2016. It was after
9 you received this letter that you subsequently held the board
10 meeting; correct?

11 A That's correct.

12 Q All right. So if you go to the last page of this
13 letter, page 239 -- or I'm sorry, 243 of the exhibit. Do you
14 see that?

15 A Yes, I see it.

16 Q All right. And the request to transfer the data was
17 what?

18 A I'm sorry. The request to transfer the data --

19 Q Wynn Macau's request to transmit the data, what did
20 OPDP say in response?

21 A Oh. They said, no. I'm sorry.

22 Q You were also earlier asked, and I don't actually
23 think it was the other day, I think it was weeks ago when you
24 were here the first time, do you recall Mr. Peek asking you
25 questions about Article 20 and whether or not Article 20 was a

1 basis for the request of transfer?

2 A I do recall, because I didn't know what Article 20
3 was at --

4 Q All right. If you'd look at actually the exhibit,
5 page 242 of the OPDP's response. Do they address Article 20?

6 A They do.

7 Q And they denied the request?

8 A They did.

9 Q Now if you'd look at the second -- or actually its
10 the paragraph, it's about midway down. It says, "The purpose
11 of the data being served as evident in a legal process in
12 which the applicant is not a party --" Do you see that?

13 A I see it.

14 Q Now in your dealings in the exchanges back and forth
15 with OPDP did they cite some significance of the fact that
16 Wynn Macau was not a party to the litigation in the United
17 States?

18 A Yes, they did. They noted for us many times Wynn
19 Resorts Macau SA is not a party, so you can't rely on any outs
20 in the data protection law which would allow you to defend
21 your legal rights as a party.

22 Q Okay. Now, but Wynn Macau was a defendant in the
23 litigation that the Okada parties started in Macau, was it
24 not?

25 A Correct.

1 Q So there is an out for data protection in Macau for
2 litigation that they had started in Macau against the data
3 holder; correct?

4 MR. KRAKOFF: Objection. Leading.

5 THE COURT: It's not your --

6 MR. KRAKOFF: I'm sorry.

7 THE COURT: Overruled.

8 MR. KRAKOFF: I'll let Mr. Peek. I apologize.

9 THE COURT: Well, no. You technically represent a
10 different party. I forgot you switched parties.

11 MR. PEEK: Thank you, Your Honor.

12 MR. BICE: I'll rephrase.

13 THE COURT: So your objection's overruled, but I'm
14 going to let Mr. Bice rephrase anyway.

15 MR. BICE: I'll rephrase.

16 BY MR. BICE:

17 Q Mr. Schall, is your understanding -- what is your
18 understanding about your ability being the data -- Wynn Macau
19 in Macau to provide documents if it's defending itself in
20 litigation?

21 A When the litigation's in Macau, and Wynn Resorts
22 Macau SA is a direct party to the litigation, we have
23 absolutely no restriction on documents that we can provide to
24 our counsel in Macau to defend our legal right.

25 Q Okay. So you see where they go on in that paragraph

1 to say, "and it ought to be simply regarded as incompatible
2 with the professional and commercial context in which the data
3 subjects provided their personal data to the applicant." Do
4 you see that?

5 A Yes.

6 Q Is that a point that the OPDP also made to you in
7 other correspondence in your other letters, do you recall?

8 A The Office of Personal Data Protection has made this
9 point or something very similar in the context of this case
10 and others, which says you can collect data and you can have
11 consents, and that's good, that's what you should do. But you
12 need to take into account the data subject's reasonable
13 expectation of what you're doing with the data. And sending
14 the data to the United States for a legal process in which
15 Wynn Resorts Macau SA is not a party is not a reasonable
16 expectation unless the consent is specifically geared to that.

17 Q Okay. Dealing with that point, you were asked some
18 questions about well why did you think that the personnel in
19 Macau at the government that sent these letters, specifically
20 these letters dealing with the refusal to grant you permission
21 to process the data, why did you think that you could reveal
22 their names to the court under the MPDPA?

23 A Well, first off it's generally my view that when a
24 government official writes a letter in their official
25 capacity, and they are writing the letter, that they generally

1 will not have an expectation of data privacy. It doesn't mean
2 you should publish the letter in the newspaper, but no
3 expectation of legal privacy. In this particular case,
4 especially because we attached the Court's order in this last
5 request, ODP was 100 percent aware that this all related to a
6 proceeding in a foreign country here in the United States and
7 that we were going to be using their response as part of,
8 let's just call it the record, in this case.

9 Q Okay. And if someone wants to suggest that we did
10 something wrong by disclosing to the Court the identity of
11 those government officials in their correspondence I guess
12 Attorney Sa can file another criminal complaint against us in
13 Macau?

14 MR. PEEK: Objection, Your Honor.

15 MR. KRAKOFF: Objection, Your Honor. Speculation,
16 leading, irrelevant.

17 THE COURT: Sustained.

18 Can you ask another question.

19 BY MR. BICE:

20 Q Let's turn now, then, just briefly to who you sought
21 consents from. First of all, Mr. Schall, who made the
22 decision about who consents would be obtained or sought from?

23 A Wynn Resorts Macau made the decision on seeking
24 consents related to let's say this last set of data that's
25 sitting in my safe.

1 Q Uh-huh.

2 A Okay. But the decision wasn't necessarily not to
3 seek consents from certain people, although that was the
4 result, it was who are we going to go seek consents from. And
5 where we landed was employees, current and former to the
6 extent we could reach the former employed.

7 Q Okay. So you didn't seek consent -- as you've
8 already testified you didn't seek consent from any government
9 officials; is that right?

10 A That's correct. We did not.

11 Q And you didn't seek consents from anybody who wasn't
12 either a former executive or employee of Wynn Macau either
13 existing or former; right?

14 A Correct.

15 Q Okay. And you were asked questions, why wouldn't
16 you seek -- I mean, you know who Edmund Ho is; correct?

17 A I do.

18 Q And why wouldn't you seek the consent from the
19 former chief executive of Macau?

20 A We did not seek consent from government officials.
21 There were several pieces of rationale in our thought process.
22 The first was these are our regulators, directly or
23 indirectly.

24 Q Uh-huh.

25 A They all [unintelligible]. Second, there's a

1 cultural sort of I'll call it a stigma that we would be
2 putting these people in a bad position if we asked for their
3 consent in our opinion.

4 Q Okay.

5 A And the third was we thought there was zero chance
6 we would get their consent. We would get a no -- just no
7 response.

8 Q Well, Mr. Schall, do you recall being asked a whole
9 list of names by Mr. Peek and Mr. Kunimoto? Do you recall
10 that, being asked a whole list of names?

11 A I do.

12 Q Many of whom you didn't even know?

13 A That's correct.

14 Q And some of them you had heard of like Edmund Ho;
15 right?

16 A Correct.

17 Q And Ho Ho?

18 A Correct.

19 Q Okay. Are third parties allowed to come to you with
20 consents and say, here, this person has consented to the
21 release of their data, will you grant us that?

22 MR. PEEK: Objection. Leading, Your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: Absolutely they are. And it occurs
25 several times per year at least.

1 BY MR. BICE:

2 Q Okay. Have the Okada parties presented -- to your
3 knowledge have they presented any signed consents by anyone
4 saying all these peoples names who we've listed we'd like --
5 or we've obtained their consents to release of the data?

6 MR. PEEK: Objection, Your Honor. Assumes facts not
7 in evidence, that there'll be others besides Mr. Okada.

8 THE COURT: Overruled.

9 THE WITNESS: We've not received any such consents.

10 BY MR. BICE:

11 Q Okay. You haven't received a consent from Mr. Okada
12 even; correct?

13 A Correct.

14 THE COURT: And, sir, you're the only one in the
15 room who's allowed to ask for a break for personal
16 convenience. So when you get to the time you need to get out
17 to stretch, go to the restroom, you're allowed to ask, they're
18 not.

19 THE WITNESS: Okay. Thank you, Your Honor.

20 MR. BICE: If he doesn't ask you that in the next 15
21 minutes, Your Honor, I'm going to have to ask the Court for
22 the courtesy of that, but that's all right.

23 THE WITNESS: I'd like a break at 10:00 o'clock to
24 use the washroom, please.

25 MR. PEEK: I was going to say earlier, Your Honor,

1 but I don't think it would resonate with Mr. Schall.

2 THE WITNESS: Thank you, Your Honor.

3 BY MR. BICE:

4 Q All right. Bear with me one second. So of these, I
5 believe it is Exhibit 161.

6 May I approach, Your Honor.

7 THE COURT: Uh-huh. It's a proposed exhibit, Mr.
8 Bice.

9 MR. BICE: Proposed 161, Your Honor.

10 THE COURT: According to Dulce.

11 (Pause in the proceedings)

12 MR. PEEK: 161, Mr. Bice?

13 MR. BICE: I believe that's it.

14 Your Honor, while I'm looking for this can we now
15 take that break.

16 THE COURT: Ooh. You're not allowed to ask.

17 Mr. Schall, is there something you wanted to ask me?

18 THE WITNESS: Can we take a break, please.

19 THE COURT: Yes, you may, sir.

20 I don't want the attorneys to get the wrong idea
21 that they have the right to ask for a break.

22 MR. BICE: I appreciate that, Your Honor.

23 (Court recessed at 9:46 a.m., until 10:04 a.m.)

24 THE COURT: Are we ready to go?

25 Mr. Bice, did you find the document you were looking

1 for, Proposed Exhibit 161?

2 MR. BICE: I did, Your Honor.

3 MR. PEEK: And I have no objection to it, Your
4 Honor.

5 THE COURT: Be admitted

6 (Plaintiff's Exhibit 161 admitted)

7 BY MR. BICE:

8 Q Mr. Schall, I'd like you to turn -- let's quickly do
9 this --

10 Dustin, I'd ask you to turn to Exhibit 161, page 37.
11 It's on the right-hand corner.

12 BY MR. BICE:

13 Q Have you got that in front of you?

14 A Yes.

15 Q Okay. If you would --

16 Your Honor, can I approach.

17 THE COURT: You may.

18 MR. PEEK: What page was that, again, Mr. Bice? I'm
19 sorry.

20 THE COURT: 37.

21 MR. BICE: 37.

22 MR. PEEK: 37?

23 MR. BICE: It's in the right-hand corner -- the
24 Bates Stamp 37.

25 MR. PEEK: Oh.

1 MR. BICE: Page 33 of 105 of the log itself.

2 BY MR. BICE:

3 Q I'm just going to point to you about the third of
4 the way down you see there's a series of emails -- just so
5 that the record -- the Bates Stamps start WRM9116, and then
6 the next entry is 9119. Do you see that?

7 A Yes.

8 Q Okay. Those are email exchanges that you were the
9 author of; correct?

10 A Yes.

11 Q And they list you and they list Robert -- I'll
12 mispronounce his name, Gansmo.

13 A Gansmo.

14 Q Gansmo. And then it lists UE/Aruze executive,
15 right --

16 A Yes.

17 Q -- as being on the cc line, or actually on the to
18 line as well as the cc line; right?

19 A Yes.

20 Q Okay. You gave a consent; correct?

21 A I did.

22 Q And Mr. Gansmo gave a consent?

23 A Yes.

24 Q Somewhere, Mr. Schall, if you sent an email to a
25 Aruze or a Universal executive somewhere on their email server

1 that email exists, right, wouldn't you assume?

2 A I'm not familiar with their IT system, but I would
3 assume so.

4 Q Okay. Well, let's go to another page of this and
5 let's just see, just as examples of, how many these are. Go
6 to page 49.

7 A The Bates stamp page?

8 Q Yes, the Bates stamp page, please.

9 A Okay.

10 Q If you'd go about half way down -- well, you can
11 actually start -- all these are emails from Angela Li?

12 A Correct.

13 Q You see, how many of those emails are sent to either
14 UE/Universal -- or I mean, UE/Aruze manager or employees?

15 A I see several.

16 Q Okay. Do you know --

17 MR. PEEK: I think the question was how many, Your
18 Honor. This is nonresponsive.

19 THE COURT: He said, several.

20 MR. BICE: Several.

21 MR. PEEK: I guess that's responsive.

22 THE COURT: Several is responsive.

23 MR. PEEK: But when you can count you can count.

24 THE COURT: How many? Several. That's a responsive
25 answer.

1 MR. PEEK: Okay.

2 THE COURT: It may not be the one you want, but
3 it's --

4 MR. PEEK: I don't care. It's just that it's
5 imprecise.

6 THE COURT: Mr. Bice, could you continue, please.

7 BY MR. BICE:

8 Q Mr. Schall, do you know whether these emails that
9 are listed on this log have been produced by the Aruze or the
10 Universal parties?

11 MR. PEEK: Objection, Your Honor. Lack of
12 knowledge. He's testified repeatedly --

13 THE COURT: He was asked if he knows.

14 MR. BICE: Yep.

15 THE COURT: He's going to say no; right?

16 THE WITNESS: I don't know.

17 THE COURT: See?

18 MR. PEEK: You're right, it's quicker.

19 BY MR. BICE:

20 Q Do you have any reason to believe that when you send
21 an email or other people send an email to Universal or a Aruze
22 executive that they actually didn't receive it?

23 MR. KRAKOFF: Objection.

24 THE COURT: Mr. Bice, can you rephrase your
25 question, please.

1 BY MR. BICE:

2 Q Do you have any reason to believe that when you send
3 an email to an Aruze executive it's not received?

4 THE COURT: It's the same question, Mr. Bice. Can
5 you ask it a different way.

6 MR. PEEK: He's already suggested the answer, Your
7 Honor.

8 THE COURT: Sir, when you send an email to people do
9 you get a notice sometimes when it's a wrong email address or
10 the server doesn't accept it?

11 THE WITNESS: I typically encounter a bounce back if
12 the email is not received.

13 THE COURT: Now, Mr. Bice, did you want to ask
14 something else?

15 Did you get a bounce back from Universal when you
16 sent the emails?

17 MR. PEEK: Thank you, Your Honor.

18 THE WITNESS: I can't speak to Angela's emails, but
19 in the emails regarding the previous page, about the tax
20 return, they were definitely received, because there was an
21 entire chain of correspondence about it.

22 THE COURT: Thank you. I deal with a lot of pro
23 pers in Guardianship Court. I've really learned how to help
24 people ask non-leading questions. Who, what, where, when,
25 why, and how.

1 BY MR. BICE:

2 Q Do you recall being asked some questions by actually
3 I think it was Her Honor about -- and I think this was the
4 terminology, I might have it wrong, exculpatory evidence?

5 THE COURT: That was the word I used. Exculpatory
6 and inculpatory.

7 BY MR. BICE:

8 Q And inculpatory. Do you recall those questions?

9 A I recall from yesterday.

10 THE COURT: Monday.

11 THE WITNESS: Sorry.

12 BY MR. BICE:

13 Q Mr. Freeh, former FBI Director Freeh, it's your
14 understanding was hired to do what?

15 A Judge Freeh was hired to do an independent
16 investigation into Mr. Okada and his related parties'
17 activities as they relate to our group of companies.

18 Q Was his investigation limited to any exculpatory or
19 inculpatory information -- or was he to be given access to all
20 of it?

21 A It was an independent investigation, and I'll speak
22 to Wynn Macau. The simple instruction was cooperate, and he
23 was given access to everything. So there was no limit placed
24 on him by Wynn Macau.

25 Q When the lawyers for PB and FTI and others were

1 reviewing documents in Macau were you and your legal staff
2 giving them direction?

3 A We gave them direction, but we weren't actively
4 sitting there in the room every hour giving direction.

5 Q And they would -- those lawyers would report to you
6 and get your authorization as to what they were going to
7 release or going to take out of Macau and not take out;
8 correct?

9 A If it was questionable, yes.

10 MR. BICE: I don't have anything further, Your
11 Honor.

12 THE COURT: Mr. Krakoff, I forgot to ask you
13 earlier. Since you technically represent a separate party,
14 were there any questions you wanted to ask Mr. Schall on
15 behalf of Universal?

16 MR. KRAKOFF: No. I'm going to allow Mr. Peek to --

17 MR. PEEK: I'm happy to --

18 THE COURT: Mr. Campbell?

19 Wait. I'm not to him yet.

20 Mr. Campbell, since you represent a different party,
21 do you want to ask any questions?

22 MR. CAMPBELL: No, Your Honor.

23 THE COURT: All right. That takes me back to you,
24 Mr. Peek.

25 MR. PEEK: There's one more back there, Your Honor.

1 THE COURT: No. They represent the same party.

2 Oh. Mr. Malley, are you participating in the
3 hearing today?

4 MR. MALLEY: I'm here. I have no questions.

5 THE COURT: That's lovely.

6 Now, Mr. Peek.

7 MR. PEEK: I wanted to make sure appearances are on
8 the record, Your Honor.

9 THE COURT: I talked to him on Monday. Mr. Peek,
10 you're up.

11 MR. PEEK: Thank you.

12 THE COURT: Great. I'm just flashing back to a
13 hearing with Mr. Rogers with you, okay, and Mr. Hejmanowski
14 that took forever. How many days was that?

15 MR. PEEK: Poor Mr. Rogers.

16 THE COURT: 10 days.

17 MR. PEEK: May his sole rest in peace.

18 THE COURT: Mr. Rogers, may you rest in peace.

19 MR. PEEK: I have some Sticky Notes, Your Honor. So
20 I need those.

21 THE COURT: So is our next witness after this Mr.
22 Okada?

23 MR. PEEK: No, Your Honor. I did not anticipate
24 that Mr. Okada would be going here, so I did not --

25 THE COURT: I thought he was going to come in the

1 afternoon today. Let's finish Mr. Schall before we go to this
2 discussion.

3 MR. PEEK: I had told the Court that I was not going
4 to expect to be finished.

5 THE COURT: Let's finish Mr. Schall.

6 REDIRECT EXAMINATION

7 BY MR. PEEK:

8 Q If I understood your testimony you told us that you
9 didn't really have much familiarity with the OPDP before 2012;
10 correct?

11 A I knew what the ODP was, but we'd had no interaction
12 with them, and all of my colleagues had had no interaction in
13 the industry. So --

14 Q So you say you had -- you knew what it was, but you
15 had no interaction with them?

16 A We knew there was a data protection law. We knew
17 there was a data protection office, but it had never raised
18 its head in any way, shape, or form with anyone in Macau as
19 far as we knew.

20 Q Had you ever visited their office prior to 2012?

21 A I've never visited their office.

22 Q In 2012 were you in Macau Central?

23 A In the --

24 Q So you office with Macau Central?

25 A Yes, sir.

1 Q Was OPDP also officed in Macau Central?

2 A I believe their office building was somewhere in one
3 of the office buildings in Macau Central, yes.

4 Q In 2012 were their offices close to you?

5 A In Macau technically everything's pretty close.
6 But, yes, walking distance if it's where I recall correctly.

7 Q Are they in an office building that you would
8 regularly visit?

9 A No.

10 Q Had you ever been into the building where they were
11 officed before 2012?

12 A If I'm recalling it correctly, yes.

13 Q Were they on one single floor or two single floors,
14 or did you even recognize where they were -- how many offices
15 they occupied?

16 A That I don't know, Mr. Peek.

17 Q Are they in the same building today?

18 A I also don't know. They've grown, so I don't know.

19 Q Well, that's really where I'm going, is you told us
20 you knew they were lightly staffed and not active. But you'd
21 never visited them before 2012; correct?

22 A That's right.

23 Q And you'd never even observed their -- where they
24 were in that building -- that office building; correct?

25 A That's right.

1 Q And yet you tell this Court that they were lightly
2 staffed; correct?

3 A Yes.

4 Q But you have no first-hand knowledge of the fact --
5 the number of staff people that they had, correct, as of
6 February 2012?

7 A I have no first-hand knowledge of the number of
8 staff that they had in February 2012, but their staff, however
9 many there were, had never engaged with any company in Macau
10 that I was aware of.

11 Q I'm not arguing that.

12 A Okay.

13 Q Okay. Just asking you -- you told us that they were
14 lightly staffed and then they grew to well over 100. But I'm
15 trying to just find out how you knew that, the number of
16 lightly staffed. And I think what I'm understanding you to
17 say is that you don't really know what their staffing was in
18 2012, do you?

19 A No.

20 Q No, you don't know, or --

21 A Sorry. I do not know.

22 Q Thank you. And you also said that there was an
23 effort to make it a cabinet level -- make the OPDP a cabinet
24 level position?

25 A As reported by the media last year sometime I

1 believe.

2 Q Okay. And I think you told me that that failed?

3 A It did not move itself up, that's correct.

4 Q I think you also told me that after -- or told us
5 after -- well, excuse me, after the Freeh report came out and
6 you were called to task for the Freeh report that there was a
7 concerted effort by the OPDP to enforce the MPDPA; correct?

8 A In my estimation their enforcement became -- had
9 been stepped up, yes.

10 Q Stepped up. And it was across the universe of
11 companies that did business in Macau; correct?

12 A I'm personally aware of, of course, the gaming
13 industry, insurance industry, and banking industry, yes.

14 Q So it was stepped up as to those with whom you're
15 familiar; correct?

16 A Correct.

17 Q And I think you said that you and some of the other
18 I guess colleagues, would they be your contemporary -- excuse
19 me, your peers at the other concessions, the other six
20 concessionaires -- or the other five concessionaires?

21 A I would call them peers, but I would say four of the
22 other five.

23 Q And the one that's missing is the Sands China or
24 Galaxy or --

25 A Actually, no. It's SJM, just simply because they

1 have a large legal department and they come and go, so I don't
2 really keep up with people there.

3 Q So of the -- there's six concessionaires currently
4 in Macau; correct?

5 A Technically three concessionaires, three sub
6 concessionaires, but six total, yes.

7 Q You are -- you correct me. Six companies who have
8 gaming -- rights to conduct gaming?

9 A Correct.

10 Q And of those, five of you are collaborative with
11 respect to the OPDP; correct?

12 A I and my colleagues at Wynn Macau were personally
13 collaborative with attorneys from four of the five other
14 concessionaires.

15 Q Did you know David Fleming?

16 A I've met David several times, yes.

17 Q Was David active with respect to the OPDP?

18 A I never dealt with him on the ODP -- at the time --

19 THE COURT: He's the guy who went gardening?

20 MR. PEEK: He's the guy that testified very similar
21 about going to jail.

22 THE COURT: But he went gardening.

23 MR. PEEK: Well, that's right. But he also
24 testified about going to jail.

25 THE COURT: That's what I remember about him.

1 MR. PEEK: And Mr. Bice scoffed at it, you may
2 recall.

3 MR. BICE: Actually, I don't recall that at all.
4 And if --

5 THE COURT: Guys, we're not -- I was just --
6 happened to have the flashback about the gardening --

7 MR. PEEK: We're not relitigating that case.

8 THE COURT: -- that case you settled. Let's go.

9 BY MR. PEEK:

10 Q You know Mr. Fleming?

11 A I know him.

12 MR. BICE: I'll object to the characterization.

13 THE COURT: Overruled.

14 THE WITNESS: We did not discuss data protection
15 that I recall when I saw him.

16 BY MR. PEEK:

17 Q Win Hughes?

18 A I know Win Hughes.

19 Q Did you interact with Win Hughes with respect to the
20 OPDP?

21 A No.

22 Q Who, then, at the Sands China Limited did you
23 interact?

24 A It was a Portuguese lawyer who's no longer there.
25 He's gone off to get a doctoral degree. And I'm going to --

1 him name is going to escape me, but I will remember at some
2 point. One of the juniors to Win and David.

3 THE COURT: And then there was Ann Salt, too.

4 THE WITNESS: I knew Ann, as well. I didn't
5 interact with her on the ODP.

6 MR. PEEK: Remembering well, Your Honor.

7 BY MR. PEEK:

8 Q I think you told us that in 2015 that Linda Chen was
9 summoned to the judicial police; correct?

10 A And it was the judicial police to which she was
11 summoned as opposed to the OPDP; correct?

12 A Correct.

13 Q And then I think you said she was summoned a second
14 time?

15 A Yes.

16 Q And I also heard you say that she was summoned
17 multiple times. Was it more than two?

18 A I know there were two. There could have been more,
19 but I'll only sit here and say there were two.

20 Q You only know about two?

21 THE COURT: Can you let him finish, Mr. Peek, so our
22 record is clear when Flo is typing.

23 MR. PEEK: Yes, Your Honor.

24 THE COURT: Thank you.

25 //

1 BY MR. PEEK:

2 Q Remember, you had your -- a 30(b)(6) deposition
3 taken at Wynn Resorts Limited; correct? Remember that?

4 A I recall.

5 Q And you testified under oath at that time?

6 A Yes.

7 MR. PEEK: Your Honor, if I could have open and
8 published Mr. Schall's 30(b)(6).

9 THE COURT: We don't have a certified copy. I
10 believe we discussed that the last time he was here and
11 everyone stipulated that we can use this handy Xerox copy. It
12 was previously published on July 27th, which I am now handing
13 him. Hopefully Mr. Peek will refer you to a --

14 MR. PEEK: And it was also introduced as an Exhibit
15 771 as I recall, too, Your Honor. I will offer --

16 THE COURT: I don't typically admit exhibits.

17 MR. PEEK: I don't think we yet have his original,
18 Your Honor. I don't know if it went to the witness.

19 BY MR. PEEK:

20 Q Anyway, would you turn to page 186.

21 A And these are the -- in the top right corner, page
22 numbers?

23 Q Yes.

24 A Okay.

25 Q Not the TX number, but the actual page numbers of

1 the deposition.

2 A Okay.

3 Q Actually, let me have you turn -- I think we've
4 covered that already. So let me have you turn to page 193 --
5 or excuse me, sorry, 187, line 4.

6 A 187, line 4.

7 Q Uh-huh. Actually, I will go back to 186 just to put
8 it in context. The question was asked of you beginning on
9 line 15 of page 186. So these questions were asked and
10 answered by you. Question, "Is WRL aware of whether the
11 Office of Data Protection has, in fact, threatened anybody at
12 WRMSA with jail time?" Answered by you in line 19, "I was
13 personally called to the office of the director of the Gaming
14 Inspection Bureau and told the secretary of finance asked me
15 to tell you that your company better not have any further data
16 protection leaks or violations after the Freeh report issue."
17 Question, "That was back in late 2012?" Answer, "Correct."
18 "After that were there any similar-type comments made of which
19 WRL is familiar?" Answer, "WRL is aware that representatives
20 of Wynn Macau were called to the Prosecutor's Office in Macau
21 recently and interviewed on criminal data privacy allegations
22 made by your client." "And who was called to that?" Answer,
23 "No. I think Linda Chen was directly called." Question,
24 "Were you present during this? You said representatives of
25 Wynn Macau were called to the Prosecutor's Office, now you've

1 only identified representative, you said plural before."
2 Answer, "I went, but didn't go into the meeting. Linda had
3 counsel with her." Question, "I take it that Linda then
4 reported to you what occurred at this meeting." Answer,
5 "Yes." "Did she report to you factually what occurred?" We
6 have an objection. And I ask a different question. "Was Wynn
7 Macau -- when did this occur, the meeting with Ms. Chen?"
8 "First week of May." "So that's in 2017?" Answer, "Yes."

9 So we started that colloquy, did we not, with after
10 that there were similar-type comments made of which WRL is
11 familiar. You didn't tell me about the 2015 meeting with
12 Linda Chen in your deposition, did you?

13 A Nope.

14 Q And I asked you about whether there were similar
15 meetings; correct?

16 MR. BICE: Objection to the form.

17 THE COURT: Overruled.

18 THE WITNESS: You did ask.

19 BY MR. PEEK:

20 Q And the May of 2017, meeting occurred at a time when
21 the Prosecutor's Office reported to Ms. Chen that whatever
22 criminal prosecution had been initiated it was not going to be
23 pursued; correct?

24 A That's not correct.

25 Q Okay. Well, let's look at Exhibit 69. Maybe I read

1 that wrong.

2 If you could grab me Exhibit 69.

3 THE COURT: It's in one of the books. I don't know
4 which book it's in. I think it's the white book.

5 The green book?

6 MR. PEEK: It's a green book.

7 THE COURT: We looked at it, yes, Monday. You
8 didn't know how much weight lifting you'd be doing here, huh?

9 BY MR. PEEK:

10 Q Let me know when you're at Exhibit 69.

11 A I'm there.

12 Q This is an exhibit that you looked at on Monday;
13 correct?

14 A Yes.

15 Q And it's captioned, "Closing notice." Correct?

16 A Yes.

17 Q And what is it -- what's the closing? What is a
18 closing?

19 A They're closing their file, the Prosecutor.

20 Q And in this closing notice it's the Prosecutor
21 saying that they are not going to pursue a prosecution against
22 the Wynn parties; correct?

23 A That's a good summary, yes.

24 Q So obviously we can agree that May of 2017, is after
25 December of 2016; correct?

1 A I agree with that.

2 Q Okay. And the only notice that you say you had
3 about any criminal prosecution was you say Ms. Chen reported
4 to you about a meeting in March of 2015, that you didn't tell
5 me about when your deposition was taken; correct?

6 A I did not tell you apparently in my deposition that
7 the police had summoned Ms. Chen in 2015 to speak about data
8 privacy. However, like the United States, the Prosecutor's
9 Office, it's not a law enforcement agency, they use the
10 Judiciary Police to do their investigations like the
11 Department of Justice uses the FBI. So the precursor to a
12 prosecution or closing of a criminal file would be a police
13 investigation, which is what Ms. Chen underwent in 2015. I
14 admit I did not tell you about it in the deposition, can't
15 tell you why.

16 Q Did you just -- okay. Did you just forget about it?

17 A Mr. Peek, I can't tell you why. I didn't tell you
18 about it in my deposition.

19 Q And are you telling me, then, that the OPDP was the
20 one that initiated the action with the Public Prosecutor?

21 A No.

22 Q Are you telling me that the OPDP knew about the
23 prosecution and you know that first-hand?

24 A I don't believe I ever mentioned anyone starting the
25 prosecution except your clients.

1 Q I'm sorry.

2 A Your clients started the criminal prosecution.

3 Q Right.

4 A I believe my testimony's consistent with that.

5 Q So the OPDP didn't call you in to talk to you about
6 the criminal prosecution; correct?

7 A ODP refers criminal cases to the Prosecutor or the
8 police. They also don't have law enforcement capability.

9 Q Let me ask you the question, again. Did OPDP call
10 you in to -- or call Linda Chen in to discuss a complaint
11 filed by this unnamed individual or entity?

12 A No.

13 Q Did they call Linda Chen in to discuss this criminal
14 prosecution brought by an unnamed individual or entity?

15 A No.

16 Q But it's -- is it your testimony, then, that you
17 believe that the complaint would have been made to the OPDP
18 and then referred to the prosecution?

19 A That is not my testimony.

20 Q Okay. But you just said -- so you think it went
21 directly to the Public Prosecutor as opposed to the OPDP and
22 then referred to their enforcement arm or the prosecution arm
23 -- or do you know?

24 A Because I haven't seen the complaint that was filed
25 by your clients, what I can tell you is your clients either

1 went to the Judiciary Police who then referred the complaint
2 to the Prosecutor who then sent the Judiciary Police to
3 investigate who then reported back to the Prosecutor. Or they
4 went directly to the Prosecutor who then dispatched the
5 Judiciary Police to investigate who then investigated who then
6 reported back to the Prosecutor who then called us. But until
7 I see your complaint and who it was filed with I can't answer
8 that.

9 Q In the period of let's say October 2012, which I
10 think was the date you were fined, you observed and perceived
11 stepped-up enforcement by the OPDP on transfers of data;
12 correct?

13 A Not just transfers, Mr. Peek, but processing storage
14 transfers, the whole gamut, yes.

15 Q The whole gamut associated with the MPDPA?

16 A Yes.

17 Q Okay. Did the enforcement in any way change from
18 2015 to 2016, or did it remain the same with OPDP?

19 A In my estimation the enforcement remained the same,
20 at a high level. However, because companies in Macau have
21 become far more compliant than they were in 2012 and prior you
22 see a bit less activity out of them, because all their big
23 targets have come into line.

24 Q The response of the OPDP to the November 1st, 2016
25 order was no different then than it was in 2012 through 2015;

1 correct?

2 A Are you asking me would I expect that if I'd made
3 the same request in each of those prior years I would have
4 gotten a similar or exactly the same response? That's
5 probably accurate, but I'm speculating.

6 Q Did you report to the board of WRMSA that Linda Chen
7 had been called to the Public Prosecutor's Office?

8 A Linda's on the board, so that's one member. And I
9 did not directly report to Mr. Wynn or Mr. Maddox, I did not.

10 Q So you don't know whether or not Linda Chen reported
11 this meeting that you say occurred in March of 2015 to the
12 board of directors of WRMSA?

13 A I do not know.

14 Q And you also did not report it; correct?

15 A I did not.

16 Q Who was the president of the company at the time in
17 2015? That was Mr. Coughlan, still?

18 A Mr. Coughlan, in 2015, was the president of Wynn
19 Resorts Macau SA.

20 Q And Ms. Chen's -- Ms. Chen was an executive of
21 WRMSA, as well; correct?

22 A Well, she was the executive director, the special
23 position in gaming companies.

24 Q Did she office in Macau?

25 A Yes.

1 Q Was she senior to Mr. Coughlan or lateral to him?
2 And I don't want to get you in trouble now.

3 A No. I would say that they hold equivalent positions
4 in the Wynn structure. But in the --

5 THE COURT: We need to take a quick break, and then
6 you can finish.

7 MR. PEEK: She has a phone call.

8 (Court recessed at 10:35 a.m., until 10:36 a.m.)

9 THE COURT: Sorry. Sir, you were in the middle of
10 answering about lateral and senior, superior between Coughlan
11 and Chen.

12 THE WITNESS: I'd say within our company they hold
13 equivalent senior roles, the most senior roles. In the eyes
14 of the government Ms. Chen is the top person in Macau besides
15 Mr. Wynn because of the executive director status she holds.

16 BY MR. PEEK:

17 Q The title.

18 A Correct.

19 Q Did you report the meeting that Ms. Chen had to Mr.
20 Coughlan?

21 A Yes.

22 Q And I think you were asked about serious offenses
23 being reportable to DICJ and Nevada Gaming Control Board.
24 Correct? Remember that from last Monday?

25 A Yes.

1 Q And in fact I think you were asked, "A criminal
2 prosecution of a company and its senior executives would have
3 very serious consequences for a gaming licensee. Would you
4 agree?"

5 A Yes.

6 Q And you said, "It'd have very serious consequences."

7 A Yes.

8 Q Did you consider the fact that Ms. Chen was being
9 called before you to be a criminal prosecution -- potentially
10 a criminal prosecution of its senior executives?

11 A I consider a criminal prosecution a prosecution.
12 There was no prosecution in this case. She was interviewed by
13 the police and then called --

14 Q You knew there was a potential for a criminal
15 prosecution; correct?

16 A Yes.

17 Q Did you consider that to be serious?

18 A I didn't consider it to be serious enough to report
19 it, because it wasn't a prosecution.

20 Q I know you're going to anticipate my answer. I'm
21 just -- that's not my question. My is did you consider it to
22 be serious, the fact that she was called and interviewed about
23 transfers of data?

24 A Yes, I consider serious. She was interviewed by the
25 police, yes.

1 Q But I think in your mind you didn't consider it to
2 be serious enough to report it to the DICJ; correct?

3 A You're asking me DICJ, or asking me the Nevada
4 Gaming Control Board?

5 Q I'm asking DICJ. Don't -- we'll get to Nevada
6 Gaming Control Board next. But let's start with DICJ.

7 A I verbally told the DICJ that she had been called
8 on.

9 Q Okay. And who at the DICJ did you report this to?

10 A Their counsel.

11 Q Why didn't you do it in writing?

12 A Because it wasn't a prosecution, so I was giving
13 them a heads up. And if they had required it in writing, they
14 would have said, put that in writing and send it to me, as is
15 their normal pattern. And they did not.

16 Q Do the -- does the Public Prosecutor prosecute on
17 behalf of the DICJ, to your knowledge, if there are criminal
18 prosecutions to be brought?

19 A I believe DICJ now would have to refer to the
20 police, who then would refer to the Prosecutor. I think in
21 the old days DICJ could refer right to the Prosecutor.

22 Q Let's talk about 2015.

23 A No. DICJ I believe would refer to the police, but
24 don't hold me to this.

25 Q Right. Now, I'm talking about 2015.

1 A -- to the Prosecutor.

2 Q Okay. Now, you're the global -- you were the global
3 compliance officer for Wynn Resorts Limited in 2015, were you
4 not?

5 A No.

6 Q You took that title when, in 2016?

7 A Sometime in 2016, yes.

8 Q You were the compliance officer, however for WRMSA?

9 A No.

10 Q Okay. Now, in -- did you report the fact that Ms.
11 Chen had been called to speak with the police about a
12 potential prosecution to anybody at Wynn Resorts?

13 A Yes.

14 Q And who was that?

15 A My boss, Kim Sinatra.

16 Q She's your boss?

17 A Yes.

18 Q Okay. And you don't know what, if anything, Ms.
19 Sinatra did with respect to the Nevada Gaming Controlling
20 Board?

21 A You'd need to ask her.

22 Q Okay. But today as the global compliance officer
23 anytime that there is a criminal prosecution of a company and
24 its senior executives you'd report that to the Gaming Control
25 Board here in Nevada; correct?

1 A If a criminal prosecution occurred against Wynn
2 Resorts Macau SA or any of its senior executives, I would
3 report it to the Nevada Gaming Control Board. However,
4 because anyone in Macau can file a criminal complaint
5 regardless of how specious it may be, I don't feel that
6 investigatory actions by the authorities based on privately
7 filed criminal complaints are reportable.

8 Q Okay. You don't consider them reportable and/or
9 serious because anybody can file one?

10 MR. BICE: Objection. Form.

11 THE COURT: Overruled. You can answer.

12 THE WITNESS: I do not consider them reportable. I
13 do consider them serious, because I can't control law
14 enforcement, so I don't know how they're going to react.

15 BY MR. PEEK:

16 Q Okay. My question actually was also focused on Wynn
17 Resorts Limited, because you're the global compliance officer.
18 So any criminal prosecution of the company and/or its senior
19 executives would also be reportable --

20 MR. BICE: Objection.

21 BY MR. PEEK:

22 Q -- to Nevada Gaming Control Board?

23 MR. BICE: My apologies, Your Honor. Objection.
24 Relevance. This has nothing to do with this issue.

25 THE COURT: Overruled.

1 THE WITNESS: If any of the company or its senior
2 officers were actually criminally prosecuted, criminal charges
3 were brought, we would report that to the Nevada Gaming
4 Control Board, yes.

5 BY MR. PEEK:

6 Q So you believe it's only when an actual criminal
7 prosecution would take place that it becomes reportable;
8 correct?

9 A I'm speaking as to Macau activities.

10 Q But I'm asking now as the global compliance officer
11 for the companies --

12 THE COURT: The objection is sustained to other
13 areas other than Macau.

14 MR. BICE: Thank you.

15 MR. PEEK: May I be heard on that, Your Honor?

16 THE COURT: Sure.

17 MR. PEEK: I can tell you're not happy to hear me.

18 THE COURT: I'm happy to listen, Mr. Peek.

19 MR. PEEK: I know, Your Honor. And I appreciate
20 that. But I think it is important, because they've made a
21 big deal out of the fact that there was this criminal
22 prosecution --

23 THE COURT: Not a criminal prosecution, a criminal
24 investigation.

25 MR. PEEK: Criminal investigation. They've made

1 such a big deal out of it that that's what prompted them to I
2 don't know what, actually, if anything, because I haven't
3 heard any connection as to the December meeting that took
4 place. But I think that because they're licensed in both --
5 because Nevada has control over WRL and its wholly owned
6 subsidiary, what happens in Macau would also be important to
7 Nevada Gaming Control Board.

8 THE COURT: I didn't say you couldn't ask him about
9 what happens in Macau and whether that would be reported to
10 the Nevada Gaming Control Board.

11 MR. PEEK: Okay. Maybe I --

12 THE COURT: What I sustained the objection to was
13 investigations that occurred in other parts of the world other
14 than Macau.

15 MR. PEEK: Oh. I'm sorry. My apologies. I was
16 trying to focus -- maybe I didn't focus myself enough. So let
17 me focus, then, on just Macau. No. I'll move on, Your Honor.
18 BY MR. PEEK:

19 Q I believe we covered this, as well, but I just
20 wanted to make sure that I fully understood it, is that in the
21 course of the presentation to the board in December of 2016 no
22 mention was made of the potential for criminal prosecution;
23 correct?

24 A Well, we didn't -- I just want to -- I think you're
25 just using language. We didn't actually like have a

1 presentation like slides or anything. It was a discussion.

2 Q But you had a discussion.

3 A A discussion, yes.

4 Q Right.

5 A We did have a discussion. To tell you the truth, I
6 could look at the minutes, if you want, but I can't recall if
7 we said the company could be criminally prosecuted, but the
8 implication was at least there, at least they knew it was
9 serious.

10 Q We can go back and look at the transcript whatever
11 it is, and if you don't recall --

12 A I don't recall.

13 Q -- your testimony, it is what it is. But at least
14 the board minutes don't reflect that there was any discussion
15 about the fact that Ms. Chen had been called to the judicial
16 police in May of -- or March of 2015; correct?

17 A That is accurate, Mr. Peek.

18 Q Besides Pisanelli Bice, what other law firms were
19 involved in the review WRMSA's documents in 2013?

20 A In Macau?

21 Q In Macau, yes.

22 A So there's Pisanelli Bice, there's FTI, which I know
23 that's not a law firm, but those were attorneys came. And
24 there was a Brownstein, and I'm going to forget the rest of
25 the names.

1 Q Brownstein Hyatt Farber & Schreck?

2 A Yes.

3 Q Okay. Anybody else?

4 A Those are the ones that I recall being in Macau.

5 Q And you said they came back in 2013; correct?

6 A They commenced in --

7 Q Or 2015?

8 A Commenced in '13, and my recollection is, did it

9 again in 2015. There was some delay in the case.

10 Q Was there an additional collection of documents or

11 just a processing -- further processing of what was on your

12 thumb drive in the safe?

13 A I don't recall. I believe it was the same data that

14 had been gathered initially that, then, just they recommenced

15 the review of.

16 Q I know you and I had gone over this about the Macau

17 law privilege, and I'd asked you about whether others in your

18 staff, to your knowledge, have been, you know, asked about

19 various Macau law privileges. Remember that, when I asked you

20 those questions?

21 A I remember.

22 Q And I don't recall you telling me that Anna Chavez

23 was involved in that process. Is my memory wrong?

24 A I don't know if your memory's wrong --

25 Q Okay.

1 A -- and maybe I didn't tell you that.

2 Q Okay. And you said that Ms. Chavez, from time-to-
3 time would advise you when questions were asked about the
4 Macau law privilege; correct?

5 A That's correct.

6 Q So you were shown a dozen documents; correct?

7 A I said, as memory serves it would have been around a
8 dozen documents by the PB -- FTI people.

9 Q Right, by the PB team.

10 A Yeah.

11 Q So how many times did Ms. Chavez advise you when
12 there were questions about the Macau law privilege?

13 A A couple, as I recall.

14 Q A couple. That would be two.

15 A Okay.

16 Q Okay. Then you said that you met with Dr. Silva, at
17 some time later after the first collection, to discuss with
18 him whether or not there was a Macau law privilege with
19 respect to the land concession; correct?

20 A I don't recall saying when I met with Dr. Silva.

21 Q You didn't. You did not.

22 A Okay.

23 Q I just said after the first collection. Was it
24 after the first collection?

25 A It would have been after the first collection, yes.

1 Q So you said that you met with Dr. Silva to have
2 further discussed the Macau law privilege with respect to the
3 land concession; correct?

4 A Correct.

5 Q Now, I'm going to ask you now when that occurred?

6 A Dr. Silva and I work in an office close together, so
7 we meet frequently. So I -- it was after the Fiedler
8 Organization, which I recall is the International Union of
9 Operating Engineers, and his Websites had published our Cotai
10 land file given to them by the Government. I don't recall
11 when that was, but the meeting with Dr. Silva about the Macau
12 law privilege, as it relates to land documents, would have
13 been after that publication by Mr. Fiedler.

14 Q Now we know that the concession was granted in or
15 about April/May 2012; correct? The land concession for where
16 the Wynn Palace is today?

17 A I think -- that sounds about right, Mr. Peek. I
18 don't remember the exact date of it.

19 Q And I think you said that -- well, let me ask you
20 this. So did you, then, go back to this thumb drive to
21 determine -- well, did you, then, make any effort at all to
22 review those documents on which you had claimed the Macau law
23 privilege and related to the land concession?

24 A I did not.

25 Q Did you advise Wynn Resorts Limited that you had

1 changed your position with respect to Macau law privilege
2 applying to the land concession?

3 A I believe I testified that I advised Wynn Resorts
4 Limited that I felt that the Macau law privilege did not apply
5 to land documents in the context of documents they had in the
6 United States over which they were claiming the Macau law
7 privilege.

8 Q And you would have done that after you met with Dr.
9 Silva?

10 A Yes.

11 Q And you don't know when that happened?

12 A I'm sorry. I don't.

13 Q Did it happen before the Court's order of November
14 1, 2016, which required Macau law privilege, which the Court
15 overruled their claim of Macau law privilege?

16 A My meeting with Dr. Silva --

17 Q Yes. Your meeting with Dr. Silva and your change in
18 position?

19 A My change in position I believe occurred after that.
20 If I recall, I did have discussions with Dr. Silva both before
21 and after the order, because when Fiedler released the
22 documents we had a contemporaneous discussion about well, gee,
23 the Government can't really complain if the documents get out
24 there now. And then after the order, when I told him I was
25 changing my position on it, he and I had a discussion on that.

1 Q And you communicated that to WRL. To whom at WRL
2 did you communicate that change of position?

3 A I communicated it to counsel at PB and --

4 Q I asked you if you communicated to counsel at PB,
5 and you told me you told WRL. So that's why I'm getting
6 confused.

7 A Oh. And Eric Aldrian, I believe, simultaneously.

8 Q So the triggering event would be whenever it is that
9 Fiedler published all these documents?

10 A Well, that was the triggering event for us to start
11 reconsidering, but that was well before the Court's order
12 regarding Macau law privilege.

13 Q Did you ever go back to review the WRMSA documents
14 on which Macau law privilege had been claimed to release those
15 documents?

16 A You're asking, did I review WRMSA documents that
17 remained at WRMSA?

18 Q Yes. You knew that there was a claim of Macau law
19 privilege so those documents -- there's a WRM privilege claim
20 under the Macau law privilege. You're aware of that, are you
21 not?

22 A Yes. Well --

23 Q And we've gone over that both in the first session
24 -- or maybe just Monday, we did that; correct?

25 A Correct.

1 Q Did you ever go back to review what the documents
2 were of which you had claimed Macau law privilege to have
3 those released?

4 A No.

5 Q Did you expect, then, WRL to make that decision once
6 you told it and Pisanelli Bice to release your WRM documents?

7 MR. BICE: Objection to the form, Your Honor.

8 THE COURT: Overruled.

9 You can answer.

10 THE WITNESS: I didn't expect anything from WRL. My
11 mindset at the time was there virtually should not be any
12 documents that are not in the United States. But I did not go
13 back and look to confirm that, Mr. Peek. And just for the
14 record, nor could I have. I hold the hard drives, I don't
15 know how I actually would look at what's on them.

16 BY MR. PEEK:

17 Q But you could have asked Pisanelli Bice on what
18 documents did you claim. Did you claim Macau law privilege on
19 documents related to the land concession? You could have done
20 that; correct?

21 A I knew that Macau law privilege was claimed on them
22 documents, and I said go ahead and release them all, all the
23 ones in the United States. And I assumed, incorrectly, that
24 that was the entire universe of them. I can't confirm that
25 for you.

1 Q Let's go back to the board meeting.

2 A Okay.

3 Q There were three requests -- or three orders by the
4 judge, one related to Macau law privilege; correct?

5 A I believe so, yes.

6 Q Did the board know in December of 2016, that you had
7 changed your position with respect to Macau law privilege as
8 it related to land concessions?

9 A I don't believe the topic came up in that context.

10 Q So are you telling me -- you didn't tell them in
11 that context, but do you know whether or not you had changed
12 your position as of the time of the board meeting?

13 MR. BICE: Objection, Your Honor. It calls for
14 privilege to the extent he's inquiring about his
15 communications with the board members on legal --

16 THE COURT: All he's asking is for a date.

17 MR. BICE: All right.

18 THE COURT: Overruled.

19 Date only on --

20 THE WITNESS: I'm sorry. Can you repeat the
21 question. At the time of the board meeting --

22 BY MR. PEEK:

23 Q At the time of the board meeting had your position
24 changed with respect to the Macau law privilege as it applied
25 to land concession?

1 A No.

2 Q So, then, now you're telling me it would have
3 happened in 2017 when you and Dr. Silva met?

4 A I can't tell you exactly when Dr. Silva I meet,
5 because I see him every day that I'm in Macau. But, I can
6 tell you that it was in the first quarter of 2017 when I
7 communicated the change in position to the people I previously
8 said.

9 Q I think you said that the OPDP -- or the MPDPA is
10 you believe -- sorry. Let me start over, again. Is it that
11 the OPDP protects the individual's expectation of privacy when
12 they enforce it, when they enforce the MPDPA?

13 A I believe what I said is that the Office of Data
14 Protection takes into account what a data subject could
15 reasonably expect would be done with their personal data that
16 is subject to some type of consent.

17 Q Is it your understanding that those who reside in
18 Macau have this expectation of privacy because of the MPDPA?

19 A Like ordinary Macau people?

20 Q Sure.

21 A The ordinary normal Macau people I know are very
22 aware of this act, and I actually know some who've made
23 complaints against various organizations in Macau, yes.

24 Q So there is at least those Macanese citizens know
25 that there is a protection of their data; correct?

1 A Correct.

2 Q And they have this so-called expectation of privacy;
3 correct?

4 A I can't tell you what expectation they have or if
5 they would call it an expectation of privacy. What they know
6 is they can complain to some office if they feel somebody's
7 put their personal data out there.

8 Q Is there a similar -- a law similar to the MPDPA in
9 Hong Kong?

10 A Yes.

11 Q And is it also -- have the same -- does it have a
12 OPDP, as well --

13 A Yes, they do.

14 Q -- in Hong Kong?

15 A Yes.

16 Q And is it the same law as the MPDPA?

17 A I haven't examined it closely. I know it at this
18 time does not have a criminal hook, but that's supposed to be
19 coming. And my understanding is it's far more focused on the
20 use of people's personal data for direct marketing purposes --
21 it seems to be the buzz in Hong Kong.

22 Q It really doesn't have the same -- it's really not
23 the same as the MPDPA's statute, is it?

24 A I don't know about the statutes. The enforcement
25 seems to always be about direct marketing by grocery stores

1 and similar things. But I don't know what the statute
2 similarities are other than there is no criminal piece yet,
3 but it's supposedly coming next year or so.

4 Q You said that the OPDP isn't concerned about the
5 origin of the data, in other words, whether it was sent to or
6 from a location outside of Macau; correct?

7 A I believe what I said is that the ODP concerns
8 itself with data once it's into Macau. If I said they don't
9 care about where it came from, I'm not sure I said that, I
10 don't think that's actually the case. They may, in some
11 situations, care where it came from, but what they really care
12 about is once the data's in Macau they feel that the law --
13 the data protection law applies.

14 Q Even if that person is not a Macanese citizen?

15 A Absolutely. We were fined because of non Macanese
16 citizens making complaints.

17 Q No. I think maybe -- you misunderstood. You were
18 fined because you transferred data of Wynn Macau Macanese
19 citizens to Louis Freeh; correct?

20 A No. My understanding was that the fine was mostly
21 related to guests, most of whom were not, if or all, Macanese
22 citizens.

23 Q Okay.

24 A That's my understanding.

25 Q Yeah, the PAGCOR individuals.

1 A Well, there may have been some other --

2 Q The Japanese --

3 A -- people in the party. Right.

4 Q Okay. As I recall, the board meeting or the
5 resolution of the board didn't really direct WRMSA not to
6 release the data. It just sort of said, don't, you know, kind
7 of we appreciate or recommend that you not do it?

8 MR. BICE: Objection to the form.

9 THE COURT: Overruled.

10 You can answer.

11 THE WITNESS: I'd have to look at the meeting
12 minutes, again. You know, my recollection of how the meeting
13 occurred was don't release the data. I don't remember what
14 the minutes say. I'm sorry.

15 MR. PEEK: Give me a moment. I'll see if I can pull
16 up that exhibit.

17 Nick, if you could bring up for me Exhibit 619.

18 And that's in evidence, Your Honor.

19 And I'm going to ask you to show the witness and the
20 Court, I believe it's the second page where the resolution --
21 the second or third page.

22 THE COURT: And, sir, if you want to look at the
23 whole thing to give yourself context you may.

24 MR. PEEK: No, it's the second page. Go back to the
25 second page, the bottom of the page, last paragraph.

1 BY MR. PEEK:

2 Q This was the resolution; correct?

3 A Well, these are meeting minutes.

4 Q Meeting minutes. Okay. So, then, there was a
5 separate resolution than this?

6 A No. You don't need a separate resolution when the
7 board has a quorum and they decide on an issue.

8 Q Okay.

9 A They could take a resolution and you could minute it
10 or you can just --

11 Q Okay. As I read this second sentence, "It was noted
12 that the company and WRMSA should not violate Macau law
13 especially intentionally and knowingly, and should not take
14 actions that may frustrate its regulators without good
15 reason." That's just -- is that the action or that was just
16 sort of noted? One sentence at a time, please.

17 A Okay. So when you write in the Hong Kong style of
18 minutes it was noted that the company -- that means the board
19 said WRMSA and the company should not violate law.

20 Q Okay.

21 A So it was noted in the meeting minutes.

22 Q Okay. Thank you.

23 A Okay.

24 Q And then it goes on and says, "The board unanimously
25 decided that the company should not advise WRMSA to produce

1 the documents without redactions to Wynn Resorts Limited and
2 that the company should not advise WRMSA to appeal or
3 challenge the OPDP's or DICJ's decisions." Correct?

4 A I see that, yes.

5 Q There was no action actually by WRMSA, was there?

6 A I don't understand.

7 Q Was there any action by WRMSA or any minutes of the
8 meeting?

9 A Oh. You mean --

10 Q WRMSA is the one who had all the documents; correct?

11 A Correct.

12 Q So was there a board meeting of WRMSA other than the
13 fact that four of the directors attended the meeting of WRM?

14 A No. WRMSA did not hold a meeting on this issue.

15 Q And you said that because the -- four of the members
16 of the WML board are WRMSA members that you didn't feel it was
17 necessary --

18 A To hold a meeting. I said that because the three
19 members of the WRMSA board all sit as three members of the WML
20 eight-member-at-that-time board that I felt it was more
21 appropriate that the Hong Kong company, which has four
22 independent directors, so it was 50/50 at that time,
23 considered this issue. And also because the Hong Kong
24 company's sole asset is Wynn Resorts Macau SA, and any
25 material issues with WRMSA, whether they're related to this

1 matter or others, would need to be reported to the Hong Kong
2 Stock Exchange and would materially impact the Hong Kong
3 company.

4 Q Okay. Thank you for that answer. I must have
5 written it down wrong. I wrote that four members of the WRMSA
6 board were on the WML board.

7 A Well, there's --

8 Q So I must have written it down wrong.

9 A There's only three members of the WRMSA board.

10 Q Okay. Because I wrote down that Coughlan, Chen,
11 Maddox, and Wynn were those four members who were not
12 independent, and I understood they sat on the WRMSA board. I
13 guess I wrote that wrong.

14 A It's correct to say that they're not independent,
15 but Mr. Coughlan is not on the board of WRMSA.

16 Q So there are only three members on WRMSA, that's
17 Chen, Maddox, and Wynn?

18 A Correct.

19 Q And only one of those three voted on the WRM vote
20 with respect to the WRMSA documents; correct?

21 A Correct.

22 Q So Ms. Chen would have been making -- had you had a
23 meeting of the WRMSA she would have been the sole person to
24 make that decision; correct?

25 A I didn't have a meeting of the WRMSA board.

1 Q I said if.

2 A Are you asking me to speculate?

3 Q She would have been the only one to make that
4 decision; correct?

5 THE COURT: We don't want you to speculate or guess.

6 THE WITNESS: I have no idea what would have
7 happened theoretically if I had that meeting.

8 BY MR. PEEK:

9 Q Okay. Well, you recommended that Mr. Maddox and Mr.
10 Wynn not vote; correct?

11 A I recommend they abstain.

12 Q Or abstain. Same thing as not vote. Would you also
13 have done the same thing -- I mean, would your position have
14 changed had they had a meeting of the WRMSA board?

15 MR. BICE: Objection, Your Honor. Calls for
16 speculation.

17 THE COURT: Sustained.

18 We don't want you to speculate or guess.

19 MR. PEEK: I don't know that he's speculating, Your
20 Honor.

21 THE COURT: He just told me, in a hypothetical
22 situation, he didn't know what he'd do.

23 BY MR. PEEK:

24 Q Why didn't you have a joint meeting of WRM and
25 WRMSA, because everybody was present?

1 A So you're asking me, because I had the entirety of
2 each board present why I didn't consider it a joint meeting?

3 Q No. That's not what I asked you. I just asked you
4 why you didn't have one, not why you didn't consider it one.
5 I sad, why didn't you have it -- make it a joint meeting?

6 A Because I wanted to have a meeting of Wynn Macau
7 Limited board for the reasons I've already articulated.

8 Q And you didn't think that having a WRMSA board
9 meeting would have any other consequence?

10 A I didn't think that having a WRMSA board meeting was
11 appropriate. So I had a Wynn Macau Limited board meeting for
12 the reasons I've already articulated.

13 MR. PEEK: Let me just -- one moment, Your Honor. I
14 believe that's all I have. If I may have just a moment.

15 THE COURT: You may consult with your team.

16 MR. PEEK: Thank you.

17 THE COURT: Mr. Malley, I assume you have no
18 questions?

19 MR. MALLEY: I have no questions, Your Honor. Thank
20 you.

21 THE COURT: Mr. Campbell, I assume you've got no
22 more.

23 Mr. Bice, how long have you got?

24 MR. BICE: One minute.

25 THE COURT: And, sir, as you know, lawyers sometimes

1 change their minds. So as soon as they all say they're done
2 with you I would leave the building.

3 THE WITNESS: I can do that.

4 MR. KRAKOFF: Good advice, Your Honor.

5 THE COURT: I tell other witnesses the same thing
6 when they've been on the stand. You're asking Mr. Jones, too?
7 He's the new guy in the case.

8 MR. PEEK: Your Honor, I have a great deal of
9 respect for Mr. Jones.

10 THE COURT: He is familiar with the Macau law
11 issues.

12 MR. PEEK: Thank you, Your Honor. I knew that, as
13 well, that he was intimately familiar with this -- those
14 issues. So it was important for me to ask if I missed
15 anything.

16 THE COURT: Did you?

17 MR. PEEK: I probably did, Your Honor. It looks
18 like Mr. Bice is going to tell me that I --

19 THE COURT: Mr. Kunimoto thinks so, yeah. Mr.
20 Kunimoto thinks that's an important question.

21 MR. PEEK: I'll ask it, but I know what the response
22 is going to be, and that's why I didn't ask it. But I'm going
23 to ask it anyway.

24 //

25 BY MR. PEEK:

1 Q Do you have any knowledge of whether or not the
2 privilege log, which you looked at earlier, which is Exhibit
3 161, whether those descriptions are accurate?

4 A I don't know. I'm sorry.

5 THE COURT: Thank you, sir. We appreciate that.
6 Mr. Bice, you said you had less than a minute.

7 MR. BICE: Yes.

8 THE COURT: And I am timing you.

9 RECROSS-EXAMINATION

10 BY MR. BICE:

11 Q Mr. Schall, on the new directions that you gave
12 considering land documents, those were for the documents that
13 were in the United States?

14 A That's the context I recall, yes.

15 Q All right. And with respect to the MPDPA's
16 application to communications that are from -- or into Macau
17 or out of Macau, you've been sued -- or has the company been
18 sued by a non-Macau citizen for alleged violations of the
19 MPDPA?

20 A Yes.

21 Q In fact, you were sued by the non Macau citizens
22 being the Okada parties in one lawsuit; correct?

23 A That's correct.

24 Q And there's now another lawsuit from a Filipino
25 individual; correct?

1 A Correct.

2 Q All right. Thank you.

3 I have nothing further, Your Honor.

4 THE COURT: Anything else, Mr. Peek?

5 FURTHER REDIRECT EXAMINATION

6 BY MR. PEEK:

7 Q When was the lawsuit filed by the individual from
8 the Philippines?

9 A It was in 2015, Mr. Peek. But, I'm sorry, I can't
10 recall the month.

11 THE COURT: And that person's name is Rodolfo?

12 THE WITNESS: Bangsil is the last name, yes.

13 THE COURT: Rodolfo Bangsil?

14 THE WITNESS: Yes.

15 THE COURT: And he's the one who all his lawyers
16 were sick when it was time for trial?

17 THE WITNESS: This happens a lot in Macau trials.

18 THE COURT: It wouldn't work here.

19 MR. PEEK: That's all I have.

20 THE COURT: Anything else?

21 MR. BICE: No, Your Honor. Thank you.

22 THE COURT: Thank you, sir. We really appreciate
23 your time and your accommodating us to come back. Have a very
24 nice trip back to Macau.

25 THE WITNESS: No problem. Thank you.

1 THE COURT: Have a nice day.

2

3 Your next witness, Mr. Bice.

4 MR. PEEK: I think I'm still up, Your Honor, because
5 I have some depo clips that I wanted to play in my case, and I
6 also have some exhibits that I would like to offer into
7 evidence.

8 THE COURT: That would be lovely, Mr. Peek. Which
9 do you want to go first?

10 MR. PEEK: It doesn't matter to me. I don't know if
11 Mr. Cassity is ready for the deposition clip, but if he is --

12 THE COURT: Mr. Cassity appears ready to go.

13 MR. PEEK: I'd just as soon do those, because the
14 exhibits are going to be -- I don't know whether as a result
15 of what I get I'll have to call either some of my people or
16 somebody from the other side.

17 THE COURT: We'll see in a minute.

18 Mr. Cassity, have you got depo clips you want to
19 play for me?

20 MR. CASSITY: We do, Your Honor. And I would ask
21 the Court's preference of how we --

22 THE COURT: Can you identify for me the deponent for
23 the first clip.

24 MR. CASSITY: The first deponent is Kim Sinatra,
25 Your Honor.

1 THE COURT: And do we have the certified copy of Ms.
2 Sinatra's deposition to be published?

3 MR. CASSITY: We do, Your Honor.

4 THE COURT: Can I have it. And which date and
5 volume is this?

6 MR. CASSITY: The first clip we're playing, Your
7 Honor, is May 25th, 2016.

8 THE COURT: Okay.

9 MR. CASSITY: And the second clip we have is
10 May 27th, 2016.

11 THE COURT: I need both those transcripts.

12 Dulce, if you would publish them.

13 Okay. Mr. Cassity, hit "play."

14 (Portion of KIM SINATRA May 25, 2016, deposition
15 played as follows)

16 DIRECT EXAMINATION

17 BY MR. MILLER:

18 Q Does this refresh your recollection that Wynn
19 Resorts' employees did in fact perform investigative services
20 for the Freeh Group?

21 MR. PISANELLI: Objection. Assumes facts not in
22 evidence. Mischaracterizes the record. Lack of foundation.

23 THE WITNESS: I'm going to have to agree with Jim,
24 because everybody at the company was instructed to be
25 cooperative with Judge Freeh's investigation, and so I think

1 the investigation was being conducted by Freeh and if he asked
2 for help from people they were supposed to be cooperative.

3 BY MR. MILLER:

4 Q Who instructed everybody at the company to be
5 cooperative?

6 A Well, I've talked about -- the people who knew about
7 the investigation or anybody who Judge Freeh asked to talk to
8 was told to be totally cooperative.

9 Q Who told them?

10 A It depends. Many times it was probably Kevin
11 Tourak.

12 Q And you in some instances?

13 A Of course.

14 Q Who do you recall communicating that to?

15 A I know that I spoke with Jay Schall in Macau and Ian
16 Coughlan in Macau.

17 Q What did you tell them?

18 MR. PISANELLI: Just in the broadest terms. Subject
19 matter.

20 THE WITNESS: I told them about the subject matter
21 of Judge Freeh's engagement by the compliance committee and
22 that they should make available documents and people to answer
23 their questions.

24 MR. CASSITY: For the record, Your Honor, that was
25 pages 666, line 6, to 667, line 12.

1 THE COURT: And it appears that line 12 says,
2 "Asked?" And Ms. Sinatra said, "Requested." So there's an
3 error in your transcript. I don't know if anybody caught that
4 but me, but, you know. Next?

5 MR. CASSITY: Yes, Your Honor. I agree with that.
6 I appreciate your clarification.

7 The second clip, Your Honor, is pages 156, line 19,
8 to 157, line 11.

9 THE COURT: And are we now at the May 27th
10 transcript?

11 MR. CASSITY: We are in May 27, 2016.

12 THE COURT: Thank you.

13 (Portion of KIM SINATRA May 27, 2016, deposition
14 played as follows)

15 DIRECT EXAMINATION

16 BY MR. MILLER:

17 Q How many lawyers work in the legal department at
18 Wynn Resorts?

19 A Wynn Resorts, or including subsidiaries?

20 Q Including subsidiaries.

21 A Four in Macau, four in Las Vegas, one compliance and
22 two are corporate.

23 Q In addition to you?

24 A That's correct.

25 Q And how many of them directly report to you?

1 A Three direct, and two dotted lines.

2 Q Who were the three direct?

3 A Jay Schall, Kathleen Tam, and Eric Aldrian.

4 Q And are they in the corporate?

5 A Jay works in Macau, but he has title both in Macau
6 and in the subsidiary -- in the U.S., the parent company.

7 MR. CASSITY: That's all we have for Ms. Sinatra,
8 Your Honor.

9 THE COURT: Are there any counterdesignations that
10 you would like to play for Ms. Sinatra at this time?

11 MR. BICE: No, Your Honor.

12 THE COURT: Thank you.

13 Your next deposition section you want to play?

14 MR. CASSITY: Yes, Your Honor. Our next witness is
15 Mr. Wynn.

16 THE COURT: And which volume?

17 MR. CASSITY: Volume 1, which is June 9, 2016.

18 MR. BICE: Your Honor, we had objected to all of the
19 clips about Mr. Wynn, as they didn't have anything to do with
20 the sanctions hearing. There were a number of -- there were a
21 number of designations that they made about Mr. Wynn that are
22 designed to try and publicize issues in the merits of the case
23 that don't have anything to do with the sanctions about the
24 documents.

25 THE COURT: Okay. I understand your objection.

1 Anything else?

2 MR. BICE: No.

3 THE COURT: Objection's overruled. You may play.

4 Can I have the certified copy of the deposition to
5 publish.

6 MR. CAMPBELL: Your Honor, for the record, we're
7 joining in that objection.

8 THE COURT: Thank you, Mr. Campbell. And while I
9 understand they may not strictly be related to the sanctions
10 hearing, as long as they're brief, I'm not going to disallow
11 them at this point.

12 MR. BICE: So -- well, if Mr. Okada, then, shows
13 up --

14 THE COURT: When Mr. Okada shows up.

15 MR. BICE: -- when, okay, we'll be -- we'll have the
16 same breadth of cross-examination?

17 THE COURT: A little latitude.

18 MR. BICE: All right. Thank you, Your Honor.

19 THE COURT: That's what I'm trying to make sure so
20 that we have context. Because, remember, at some point
21 someone who is not me is going to look at this record, and it
22 is important there be some context to some of these things by
23 the principals.

24 MR. BICE: I understand. We'll be --

25 THE COURT: Mr. Cassity.

1 MR. BICE: We'll be guided by the same breadth.

2 MR. CASSITY: Yes, Your Honor. And we have -- we
3 just handed to Dulce or Jill some clips in the June 12, 2016,
4 deposition transcript, the June 13th, 2016, deposition
5 transcript, and the June 14, 2006 [sic] depo transcripts.

6 THE COURT: So I have transcripts being published of
7 June 9th, June 12th, June 13th, and June 14th; is that
8 correct?

9 MR. CASSITY: That's correct, Your Honor.

10 THE COURT: All right. You may proceed.

11 MR. CASSITY: Thank you, Your Honor.

12 (Portion of STEVEN WYNN June 12, 2016, deposition
13 played as follows)

14 DIRECT EXAMINATION

15 BY MR. KRAKOFF:

16 Q I want to move forward now to the 2006 time period.
17 So we skipped a few years. What I want to ask you is --

18 A -- going back through memory lane there.

19 Q Well, it was --

20 A My memory faded. I'm 74 years old now.

21 Q -- very interesting.

22 MR. CASSITY: That was, for the record, Your Honor,

23 154 --

24 THE COURT: And that was important how?

25 MS. SPINELLI: Exactly.

1 MR. PEEK: I was wondering.

2 MR. PISANELLI: Your Honor, it's a slew of those.

3 MR. CASSITY: It's important to show, Your Honor --

4 THE COURT: You're wasting time, Mr. Cassity. Keep
5 going.

6 MR. CASSITY: I'll keep going, Your Honor. The
7 next, Your Honor, is lines -- page 210 of the deposition,
8 lines 1 to 20.

9 BY MR. KRAKOFF:

10 Q When you met with Mr. -- well, what did you say --
11 tell Mr. Okada to convince him that the usual consent
12 provision was a good thing for him?

13 MR. CAMPBELL: I'm going to object to the form of
14 the question. Assumes facts not in evidence.

15 THE COURT: Overruled.

16 MR. CAMPBELL: Also vague and ambiguous.

17 THE COURT: Overruled.

18 BY MR. KRAKOFF:

19 Q You may answer it, sir.

20 A Well, I don't know what I told Kazuo at the time. I
21 mean, the document speaks for itself. I don't remember -- I
22 don't remember the exchange, obviously, as before the break.
23 I'm confused about the chronology. I don't remember what was
24 said at the time. I don't think anything was inconsistent
25 with the tenor of our relationship, but I don't -- these --

1 these amendments that the lawyers in the documents between
2 them were unknown to me, whether they copied me or not. I'm
3 not familiar with these documents, and I can't remember ten
4 years later, nine or ten years later what I said or if I said
5 anything to him.

6 MR. CAMPBELL: I'm going to again renew my
7 objection. Move to strike. This is completely attenuated. I
8 mean, it's completely --

9 MR. CASSITY: Your Honor, we --

10 MR. CAMPBELL: Excuse me. Respectfully.

11 -- attenuated from the reason that we are here.
12 There's no foundation that it's in any connected or tied to
13 any matter which is a material issue in this case at this
14 time.

15 MR. CASSITY: Your Honor --

16 THE COURT: Mr. Cassity, tell me the page numbers
17 for the 6/13 transcript.

18 MR. CASSITY: 6/13 transcript, Your Honor, are 462,
19 lines 6 through 11. And let me -- if I could respond briefly.

20 THE COURT: No. I'm going to look at the
21 transcript, because this is not relevant to what I'm doing
22 right now. Nor is it relevant to the broader context of this
23 entire case. Now, if the other ones are better, maybe I'll
24 let you play them, but I'm inclined to grant Mr. Campbell's
25 request to strike at this point.

1 Okay. The objection to 6 through 11 on page 462 is
2 granted. That's not going to be played.

3 Next? What's on --

4 MR. PEEK: Your Honor, we may just withdraw all of
5 these.

6 MR. CASSITY: Your Honor, we're going to withdraw
7 all these with -- just for a moment, Your Honor. These are --

8 THE COURT: Well, that had to do with what'd you
9 tell the SEC, which doesn't having anything to do with what
10 I'm doing right now. You want to withdraw them, or do you
11 want me to keep looking?

12 MR. PEEK: We'll withdraw those that we just played,
13 Your Honor.

14 THE COURT: They'll be stricken from the record.

15 MR. PEEK: We'd keep it at something substantive
16 here that relates to the sanctions, if we may have a moment.

17 THE COURT: Or even it relates to the broader
18 context. But these --

19 MR. PEEK: Right. Or broader context.

20 THE COURT: So the first segment is stricken, the
21 second segment is stricken, the third segment they're
22 voluntarily withdrawing and not going to play. Let's see
23 about the June 14th. Can you open June 14th just for fun so I
24 can get to the page.

25 What page is it, Ms. Spinelli?

1 MS. SPINELLI: It is page 422.

2 THE COURT: In the 6/14?

3 MS. SPINELLI: Oh. 6/14. No. 6/14, Your Honor, is
4 -- they're at 590 -- this goes quicker than my finger. 672,
5 Your Honor, the very bottom.

6 THE COURT: Thank you.

7 MR. CASSITY: Your Honor, the next two, the first is
8 the June 12, 2016, transcript at page 355, lines 2 through 13.

9 THE COURT: 355?

10 MR. BICE: [Inaudible] the June 6th?

11 MR. CASSITY: June 12th, sorry, 2016, page 355,
12 lines 2 through 13.

13 THE COURT: Let me look at it before you play it,
14 because you're not doing so hot yet, Mr. Cassity.

15 MR. CASSITY: Sorry, Your Honor.

16 THE COURT: The objection on 355, 2 through 15, is
17 sustained. Next?

18 MR. CASSITY: Your Honor, the last is the same date,
19 page 368, lines 18 to 23. And for the record, our position is
20 that both these go to control, Your Honor.

21 (Pause in the proceedings)

22 (Further playing of portion of STEVEN WYNN deposition)

23 BY MR. KRAKOFF:

24 Q Well, in Macau did you choose the original board
25 members for Wynn Macau?

1 A The board of Wynn Macau is composed of people from
2 our company which I pick, but then in accordance -- the
3 original board members I picked. To answer the question, I
4 did.

5 MR. PEEK: That's all we have, Your Honor.

6 THE COURT: So you're not going to play anything
7 from the June 14th?

8 MR. CASSITY: Correct.

9 THE COURT: Okay. So we're going to return the
10 June 14th transcript to you unpublished.

11 Did you have any more clips you wanted to play?

12 MR. CASSITY: No, Your Honor.

13 THE COURT: So do you have any counterdesignations
14 to Mr. Wynn that you want to play?

15 MR. BICE: No, Your Honor.

16 THE COURT: All right.

17 MR. CAMPBELL: No, Your Honor.

18 THE COURT: Your next witness.

19 MR. PEEK: All I have now, Your Honor, is just
20 offering exhibits.

21 THE COURT: Okay. And have you shared the list with
22 Mr. Bice?

23 MS. SPINELLI: No.

24 THE COURT: Ms. Spinelli?

25 MR. PISANELLI: No.

1 THE COURT: Anybody on that side of the aisle?

2 MR. PEEK: I shared the list of exhibits with them.

3 Is what you're asking is have I shared the ones that I propose
4 to offer? Is that what you're asking me?

5 THE COURT: Yes, the new ones. Yeah, the ones that
6 -- to see if they'll stipulate. Do you know the numbers?

7 MR. PEEK: I'm confused with what --

8 THE COURT: What numbers are they? I was just
9 trying to see if could ask them if they stipulate, and then
10 they tell me they didn't know what was on your list, so now
11 we're going to go through the list. What are the numbers?

12 MR. PEEK: 505, Your Honor, which is the --

13 THE COURT: Keep going. What else?

14 MR. PEEK: What's that?

15 THE COURT: Give me the whole list.

16 MR. PEEK: Okay. 505, 508, 509, 514, 515, 516, 517,
17 518, 519, 523, 527, 530, 531, 532, 534, 535, 536, 536A, 537,
18 538, 539, 544, 548 --

19 THE COURT: Okay. Now you've got to stop for a
20 second so I can catch up. 538, 539, 544 --

21 MR. PEEK: -- 548 --

22 THE COURT: 548.

23 MR. PEEK: -- 562 --

24 THE COURT: Keep going. Slower.

25 MR. PEEK: -- 555 --

1 THE COURT: 555?
2 MR. PEEK: 555, triple 5.
3 THE COURT: From 562 back to 555?
4 MR. PEEK: Yes,
5 THE COURT: Okay.
6 MR. PEEK: Then 563, 566, 573, 575, 576, 579, 585A,
7 586, 587A, 587C, 588, 590, 599, 612, 614, 615, 617, 618, 620,
8 623, 633, 634, 636, 639, 641, 642, 649, 651, 654, 661, 666,
9 671, 673, 675, 681, 686, 697, 699, 700, 701, 703, 711, 716,
10 718, 721, 722, 733, 740, 746, 752, 764, 771.
11 THE COURT: I don't take depos.
12 MR. PEEK: Yeah, I know. That's what I was just
13 looking at, as well, Your Honor.
14 THE COURT: So I just crossed it out.
15 MR. PEEK: Yeah. So we scratched that one. They've
16 already told me you're not going to take depos, so --
17 THE COURT: I publish them, but I don't admit them.
18 MR. PEEK: No, no. I understand. Well, it's open
19 -- it's published now, so --
20 THE COURT: It is.
21 MR. PEEK: So it's in the record.
22 777, 780 --
23 THE COURT: 780?
24 MR. PEEK: Yes, ma'am. -- 783 --
25 THE COURT: Did you do anything between? You're

1 withdrawing 771 and 780?

2 MR. PEEK: 777, Your Honor.

3 THE COURT: Thank you.

4 THE CLERK: Your Honor, 777, 45 through 56 is
5 admitted.

6 THE COURT: So parts of that are admitted already.
7 We'll talk about that after lunch.

8 MR. PEEK: Yeah, we will, Your Honor.

9 THE COURT: 783 is where we're up to.

10 MR. PEEK: 783, 786, 794, 797, 798, 799, 804, 805,
11 806, 807, 808, 809, 810, 811.

12 THE COURT: All right. So team, because I don't
13 know which one of you is going to be the decision maker on
14 this, have you had an opportunity to review the list of
15 documents Mr. Peek has just indicated he would like to admit
16 for his purposes in this sanctions hearing?

17 MS. SPINELLI: Not recently, Your Honor.

18 MR. BICE: We will --

19 THE COURT: Would you like to break for lunch and
20 review it over the next hour, slightly less than an hour, and
21 tell me the answer when you come back at 12:30?

22 MR. BICE: Yes.

23 THE COURT: Okay.

24 MR. PISANELLI: Your Honor, to clarify, Mr. Peek
25 just made a comment that he believed that the entire

1 transcript is in the record. We don't believe that to be the
2 case.

3 THE COURT: The entire transcript is in the record.
4 The deposition has been published, but the evidentiary portion
5 of the transcript that is the -- the evidentiary portion of
6 the testimony that's being considered by me is that portion
7 that was played or used for impeachment purposes only.

8 MR. KRAKOFF: Excuse me, Your Honor.

9 THE COURT: Yes, Mr. Krakoff.

10 MR. KRAKOFF: I'm going to be tied up on a family
11 matter from 12:30 to 1:00, and Mr. Adam Miller will be
12 representing our side.

13 THE COURT: I hope that you get it straightened out.

14 MR. KRAKOFF: Thank you, Your Honor.

15 THE COURT: Anything else? See you guys at 12:30.
16 'Bye.

17 (Court recessed at 11:33 a.m., until 12:35 p.m.)

18 MR. PISANELLI: Your Honor, Mr. Bice and Ms.
19 Spinelli have about 10 or 15 more to go. They're almost
20 finished going through the exhibit list.

21 THE COURT: Okay. These guys are also doing some
22 work over here, so --

23 MR. PEEK: Yeah. They're trying to find out what's
24 been admitted.

25 THE COURT: I know. I know -- I could tell from

1 what they're doing what they're doing.

2 MR. PISANELLI: Just wanted to let you know.

3 THE COURT: So Friday for our hearings we will be in
4 10D, which is next door.

5 (Pause in the proceedings)

6 THE COURT: So, Mr. Bice and Ms. Spinelli, I know
7 you were doing a lot of work down in Capriotti's downstairs.
8 Did you get a chance to look at any of the exhibits to tell me
9 you can stipulate to any of them?

10 MR. BICE: Yes.

11 THE COURT: Which ones?

12 MR. BICE: 505.

13 THE COURT: Be admitted.

14 MS. SPINELLI: No.

15 MR. BICE: No, am I wrong?

16 (Off-record colloquy)

17 THE COURT: Guys, don't argue. All you need to do
18 is say, yes, I stipulate. Give me the first number you
19 stipulate to.

20 MS. SPINELLI: 504 with a corrected explanation,
21 Your Honor.

22 MR. BICE: Right.

23 THE COURT: I don't have 504 in Mr. Peek's list.

24 MR. BICE: It's 505.

25 MS. SPINELLI: 505 with an explanation.

1 THE COURT: So are you stipulating to it, or not?

2 MS. SPINELLI: Not as defined.

3 MR. BICE: Not as they define it.

4 THE COURT: Are you stipulating to the document that
5 falls under the Exhibit Tab 505?

6 MR. BICE: With the following condition, that the --
7 that the document that they have purported to identify is of
8 the Macau law. It is in fact not that. It is a policy that
9 went into effect after the Macau Government --

10 THE COURT: So you disagree with the description,
11 but stipulate to the document?

12 MR. BICE: As long as the record is clear that is
13 the foundation of the document. The document is not a
14 document that came into existence prior to 2012 when the MPDPA
15 enforcement happened. And if they don't agree with that,
16 then, no, we do not stipulate to it.

17 MS. SPINELLI: It's important, Your Honor, because
18 it's about -- the MPDPA was passed in 2005. This document
19 came post fine and it's identified on their log, probably a
20 mistake, as the date of the MPDPA.

21 THE COURT: Mr. Peek, I'm tempted to admit 505 --

22 MR. PEEK: I'm not going to argue with them on that,
23 Your Honor. If they're right, they're right. It's --

24 THE COURT: -- and if they want to --

25 And, Dulce, just Whiteout the description on your

1 list. The Exhibit 505 is admitted. You guys can fight about
2 what it is later when we argue.

3 Next, the ones you stipulate to.

4 MR. PEEK: And I believe that they are correct in
5 their -- in what they say to you, Your Honor, that it is
6 different than the one that was in effect in 2005.

7 THE COURT: Next?

8 MR. PEEK: We'll deal with that later.

9 THE COURT: Next?

10 MS. SPINELLI: 562.

11 THE COURT: 562 will be admitted. Five six two.
12 Next?

13 MS. SPINELLI: 599.

14 THE COURT: 599 will be admitted.

15 MS. SPINELLI: 623.

16 THE COURT: 623 is admitted.

17 MS. SPINELLI: 718.

18 THE COURT: 718. 623, Mr. Peek, then 718.

19 MS. SPINELLI: 721.

20 THE COURT: 721 will be admitted.

21 MR. BICE: Hold on a second. Why do I -- yes,
22 that's right.

23 MS. SPINELLI: 740.

24 THE COURT: 740 will be admitted.

25 MS. SPINELLI: 746, pages 62 and 64 of the exhibit,

1 Your Honor.

2 THE COURT: So you're stipulating to a portion of
3 746, pages 62 and 64?

4 MS. SPINELLI: Yes.

5 THE COURT: So we will mark that portion as 746A and
6 admit it.

7 MS. SPINELLI: Is it 62 to 64, or 62 through 64?
8 It's 62 through 64, Your Honor.

9 THE COURT: I wrote that down.

10 MS. SPINELLI: Okay. 764.

11 MR. PEEK: Your Honor, can we hold off on creating a
12 new exhibit until the Court rules on whether or it's admitted?

13 THE COURT: It will be easier for me to do it this
14 way. We can always admit the entire thing, too. But right
15 now I'm getting at least part of it admitted.

16 764?

17 MS. SPINELLI: Yes. Page 57, Your Honor.

18 THE COURT: Just page 57?

19 MS. SPINELLI: Yes. It's Exhibit D to the document.

20 THE COURT: So we will mark 57 as A of 764 and admit
21 that. Any others you can stipulate to?

22 (Pause in the proceedings)

23 MS. SPINELLI: We might have one more, Your Honor.

24 THE COURT: Okay.

25 (Pause in the proceedings)

1 MS. SPINELLI: And we will stipulate to the entirety
2 of 809 they introduced, Your Honor.

3 THE COURT: 809 will be admitted. Any others?

4 MR. BICE: No.

5 THE COURT: Thank you.

6 Mr. Peek, a few of the exhibits that you've
7 proffered have been admitted. I guess that means you need to
8 give me a foundation for the remainder. And I would like you
9 to do them, unless you have categories you can do, on a
10 document-by-document basis, starting with 508.

11 MR. PEEK: I'll do them on a document-by-document
12 basis, Your Honor. And I may -- and I guess I need some
13 guidance from the Court. But maybe that will be addressed
14 when I deal with them as they come up.

15 Nick, may I have 508 on my screen, please.

16 This is a category --

17 THE COURT: They can't display it on your screen
18 without showing it on everything else. They can only have
19 limited --

20 MS. SPINELLI: Okay. That's fine.

21 MR. PEEK: Unless -- can you show it that way?

22 THE COURT: How about I don't look and you guys do
23 it.

24 MR. BICE: We'll use our iPad.

25 MR. PEEK: I'm not sure I can exclude them, Your

1 Honor. If --

2 THE COURT: No. You're trying to exclude me, which
3 I what you're supposed to do.

4 MR. PEEK: Right. That's what I'm doing. But if
5 Dustin can bring it --

6 THE COURT: I'm not looking. You guys all look at
7 it.

8 MR. PEEK: If Dustin can bring it up on their screen
9 and my screen, I'm happy to have Dustin do it.

10 MS. SPINELLI: I just said it's fine, Mr. Peek.
11 Please proceed.

12 THE COURT: 508.

13 MR. PEEK: 508, Your Honor. 508 is a document that
14 was produced by Wynn Resorts Macau. And it has a WRM number,
15 so I don't know if I need to have either one of my folks come
16 up and testify that these are the documents that were produced
17 by WRM, because we have a foundation, certainly, from Mr.
18 Schall already that they came to Macau, they collected
19 documents off of the server, and they identified those that
20 they were going to produce and produced them with redactions.

21 THE COURT: Mr. Peek, since this is a proceeding
22 that is limited in scope, I need you not only to establish
23 where the document came from and who produced it, but how it
24 relates to that limited scope of my hearing.

25 MR. PEEK: No. I understand the relevancy issue, as

1 well, is what you're saying, Your Honor. This is one of those
2 documents, Your Honor, that we had shown you I think starting
3 Monday, maybe even the time before, where a document would be
4 described on a log and then not be the same document that was
5 actually either on the log or on a redo of the log.

6 THE COURT: So are you asking me to admit it for the
7 limited purpose to show that there were mistakes in the log?

8 MR. PEEK: You're calling it mistakes. I would not
9 call it mistakes. But I -- but there's a difference. I like
10 to refer that there's a difference between what they said it
11 was and what it really is. So, yes.

12 THE COURT: With that clarification, Mr. Bice?

13 MR. BICE: Yes, Your Honor. We object to this.
14 Number one, I don't believe that there's any support for that
15 proposition that this is -- my belief is that this is an MPDPA
16 redaction, not a Macau law redaction that they were talking
17 about. And with all due respect, what this is is this is not
18 one of the documents that they actually prepared their
19 witnesses for or that they -- and this is another one of the
20 documents they never described as claiming prejudice to. And
21 this is simply a way around the Court's prior ruling.

22 THE COURT: The ruling that they couldn't use any
23 more redacted documents because they only gave you the few in
24 the discovery response.

25 MR. BICE: That's right. And this document is

1 redacted for MPDPA, and it's also marked highly confidential,
2 and we object to their trying to just interject highly
3 confidential documents into the record.

4 MR. PEEK: Your Honor --

5 THE COURT: They're still talking, but I'm listening
6 to you.

7 MR. PEEK: It is, as I said, to show the mistakes
8 along the way in the productions. So this --

9 THE COURT: Let me ask you a question, Mr. Peek.
10 Because yesterday -- or Monday afternoon you and I talked
11 about using a different method to show me that information
12 which you had referred to as briefing.

13 MR. PEEK: Yes.

14 THE COURT: I was hopeful we were going to use
15 briefing where you could show me a comparison between the
16 multiple logs and documents with the changes as part of an
17 appendix to that briefing so I could cross-reference.

18 MR. PEEK: And that's exactly what I planned on
19 doing, Your Honor. But I thought that out of an abundance of
20 caution that they needed to be admitted in order for me to
21 brief both in my narrative, as well as in the appendix. But
22 it was my intent, yes, Your Honor, because that's what the
23 Court asked me to do. And I can do that with a declaration
24 from my folks identifying this as a document produced by Wynn
25 Resorts Limited or by Wynn Resorts Macau so I'll be able to