

IN THE SUPREME COURT OF THE STATE OF NEVADA
SUPREME COURT CASE NO.

DAVID COPPERFIELD'S DISAPPEARING, INC.; DAVID COPPERFIELD
DAVID KOTKIN; and MGM GRAND HOTEL, LLC, Petitioners,
v.
THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA,
CLARK COUNTY AND THE HONORABLE MARK R. DENTON
Respondents.
CAVIN AND MIHN-HAHN COX,
Real Parties In Interest.

Electronically Filed
Apr 18 2018 10:04 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

From the Eighth Judicial District Court, Clark Count, Nevada
Case No. A-14-705164-C

**DAVID COPPERFIELD'S DISAPPEARING, INC.; DAVID COPPERFIELD
AKA DAVID KOTKIN; AND MGM GRAND HOTEL, LLC'S APPENDIX
IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDAMUS**

ELAINE K. FRESCH
NEVADA BAR NO. 9263
SELMAN BREITMAN LLP
ERIC O. FREEMAN
NEVADA BAR NO. 6648
GIL GLANCZ
NEVADA BAR NO. 9813
JERRY C. POPOVICH [PRO HAC]
CALIFORNIA BAR NO. 138636
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Telephone: 702.228.7717
Facsimile: 702.228.8824

Attorneys for Petitioners DAVID COPPERFIELD'S DISAPPEARING, INC.; DAVID
COPPERFIELD aka DAVID KOTKIN; and MGM GRAND HOTEL, LLC

DOCUMENT DESCRIPTION	EXHIBIT
Confidentiality Agreement and Protective Order and the Amended Confidentiality Agreement and Protective Order	A
District Court Order entered April 17, 2018	B
Joint Ethics Guidelines for The Society of American Magicians	C
International Brotherhood of Magicians Standing Rules at Section 10(d)	D
April 13, 2018 Transcript of Hearing, pp. 21 and 22	E

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Selman Breitman LLP and, pursuant to:

- BY MAIL:** N.R.C.P. 5(b), I deposited for first class United States mailing, postage prepaid, at Las Vegas, Nevada; or
- BY E-MAIL/ELECTRONIC SERVICE:** N.R.C.P. 5(b)(2)(D) and addressee(s) having consented to electronic service, I served via e-mail or other electronic means to the e-mail address(es) of the addressee(s).

a true and correct copy of the above and foregoing **DAVID COPPERFIELD'S DISAPPEARING, INC.; DAVID COPPERFIELD aka DAVID KOTKIN; and MGM GRAND HOTEL, LLC's APPENDIX IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDAMUS**, this 18th day of April 2018, addressed as follows:

SEE ATTACHED SERVICE LIST

/s/ Bonnie Kerkhoff Juarez
BONNIE KERKHOFF JUAREZ
An Employee of Selman Breitman LLP

Brian K. Harris, Esq.
Christian Griffin, Esq.
HARRIS & HARRIS
2029 Alta Drive
Las Vegas, NV 89106
bharris@harrislawyers.net
cgriffin@harrislawyers.net

Attorneys for Plaintiffs/Real Parties in Interest

Benedict P. Morelli, Esq.
Adam E. Deutsch, Esq.
Perry S. Fallick, Esq.
MORELLI LAW FIRM PLLC
777 Third Ave., 31st Floor
New York, NY 10017
bmorelli@morellilaw.com
adeutsch@morellilaw.com
pfallick@morellilaw.com

Attorneys for Plaintiffs/Real Parties in Interest

Lee Roberts, Esq.
Howard J. Russell, Esq.
WEINBERG, WHEELER, HUDGINS, GUNN
& DIAL, LLC
6985 S. Rainbow Blvd., Suite 400
Las Vegas, NV 89118
lroberts@wwhgd.com
hrussell@wwhgd.com

Attorneys for Defendant Backstage
Employment and Referral, Inc.

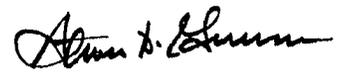
Roger Strassburg, Esq.
Gary W. Call, Esq.
RESNICK & LOUIS, P.C.
5940 S. Rainbow Blvd.
Las Vegas, NV 89118
gcall@rlattorneys.com
rstrassburg@rlattorneys.com

Attorneys for Defendants Team Construction
Management, Inc. and Beacher's LV, LLC

Elaine K. Fresch, Esq.
Jerry C. Popovich, Esq.
Eric O. Freeman, Esq.
SELMAN BREITMAN LLP
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
efresch@selmanlaw.com
jpopovich@selmanlaw.com
efreeman@selmanlaw.com

Attorneys for Petitioners/Defendants David
Copperfield's Disappearing, Inc., David
Copperfield, and MGM Grand Hotel, LLC

EXHIBIT A


CLERK OF THE COURT

1 SPO
2 ERIC O. FREEMAN
3 NEVADA BAR NO. 6648
4 SELMAN BREITMAN LLP
5 3993 Howard Hughes Parkway, Suite 200
6 Las Vegas, NV 89169-0961
7 Telephone: 702.228.7717
8 Facsimile: 702.228.8824
9 Email: efreeman@selmanbreitman.com

10 Attorneys for Defendant
11 DAVID COPPERFIELD'S DISAPPEARING,
12 INC.

13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

15 GAVIN COX and MIHN-HAHN COX,
16 Husband and Wife,

Case No. A-14-705164-C
Dept: XIII

17 Plaintiff,

18 v.

19 MGM GRAND HOTEL, LLC; DAVID
20 COPPERFIELD aka DAVID S. KOTKIN;
21 BACKSTAGE EMPLOYMENT AND
22 REFERRAL, INC.; DAVID COPPERFIELD'S
23 DISAPPEARING, INC.; TEAM
24 CONSTRUCTION MANAGEMENT, INC.;
25 DOES 1 through 20; DOE EMPLOYEES 1
26 through 20; and ROE CORPORATIONS 1
27 through 20,

28 Defendants.

CONFIDENTIALITY AGREEMENT AND STIPULATED PROTECTIVE ORDER

ALL PARTIES to the above-captioned action, by and through their respective counsel, hereby stipulate and agree as follows in regards to maintaining confidentiality concerning all information, documents, video, photographs and other materials obtained from and arising out of the September 24, 2014 inspection of the David Copperfield show, subject illusions and

Selman Breitman LLP
ATTORNEYS AT LAW

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backstage, behind the scenes access.

1. This Confidentiality Agreement ("Agreement") shall govern all information, documents, video, photographs, or other materials produced and/or obtained as a result of the access and inspection on September 24, 2014.

2. As used in this Order, the term "Protected Materials" means all video, photographs, written material produced in whatever format (e.g., hard copy, electronic, digital, etc.) and on whatever media (e.g., hard copy, computer diskette, CD-ROM, hard driver or otherwise) and other materials produced or obtained during the September 24, 2014 inspection of the David Copperfield show, subject illusions and backstage, behind the scenes access.

3. Protected Materials, information contained herein and any copies thereof received pursuant to paragraph 4 below shall be maintained confidential by the receiving party, his/her attorney, other representatives, and expert witnesses, and shall be used only for preparation for the trial of this matter, subject to the limitations set forth herein.

4. Protected Materials shall be disclosed only to "Qualified Persons." Qualified Persons are limited to:

- a. Counsel of Record for the parties, and the parties;
- b. Non-technical and clerical staff employed by Counsel of Record and involved in the preparation and trial of this action;
- c. Parties to this action;
- d. Experts and non-attorney consultants retained by the parties for the preparation or trial of this case; and
- e. The Court, the Court's staff, witnesses and the jury in this case.

5. Plaintiffs' Counsel must make reasonable efforts to insure the individuals in paragraphs 4(b) and 4(c) are "Qualified Persons" with whom the Protected Materials will be shared.

6. Before receiving access to any Protected Materials or the information contained therein, each person described in paragraphs 4(b) and 4(d) above shall execute a "Written

1 Assurance” in the form contained in Exhibit A, attached hereto. Counsel for Plaintiffs shall retain
2 each such executed “Written Assurance.”

3 7. No parties shall provide copies of the “Protected Materials” to any competitor or
4 potential competitor of David Copperfield, David Copperfield Disappearing, Inc. and/or any of
5 their employees, representatives, affiliates or agents. Furthermore, no parties shall provide copies
6 of the “Protected Materials” to any media, news, or broadcasting entity.

7 8. To the extent that Protected Materials or information obtained therefrom are used in
8 the taking of depositions, such documents or information shall remain subject to the provisions of
9 this Order, along with the transcript pages of the deposition testimony dealing with the Protected
10 Materials or information. The parties agree that use of Protected Materials during a deposition
11 does not constitute a waiver of the protected nature of the document(s). If a party chooses to
12 obtain testimony as to the contents of a “Protected Material” or cause a “Protected Material” to be
13 marked as an exhibit to a deposition, the party provide notice to defendants, prior to obtaining
14 testimony as to the contents of a “Protected Material” or cause a “Protected Material” to be
15 marked as an exhibit to a deposition.

16 9. All documents that are filed with the Court that contain any portion of any
17 Protected Material or information taken from any Protected Material shall be filed in a sealed
18 envelope or other appropriate sealed container on which shall be endorsed the title of the action to
19 which it pertains, an indication of the nature of the contents of such sealed envelope or other
20 container, the phrase “Subject To Protective Order,” and a statement substantially in the following
21 form: “This envelope or container shall not be opened without order of the Court, except by
22 officers of the Court and counsel of record, who, after reviewing the contents, shall return them to
23 the clerk in a sealed envelope or container.”

24 10. Any court reporter or transcriber who reports or transcribes testimony in this action
25 shall agree that all Protected Material and information obtained therefrom shall not be disclosed by
26 them, except pursuant to the terms of this Order and that any transcriptions of such testimony (and
27 any accompanying exhibits) will be retained by the reporter or delivered to counsel of record.
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11. Inadvertent or unintentional production or disclosure of Protected Material or information containing therefrom shall not be deemed a waiver in whole or in part of the status of such document or information as Protected Material.

12. This Protective Order may not be waived, modified, abandoned or terminated, in whole or part, except by an instrument in writing signed by the parties. If any provision of this Protective Order shall be held invalid for any reason whatsoever, the remaining provisions shall not be affected thereby.

13. The sealing or redacting of any Court Records, which are subject to this Stipulation will be governed by Nevada Supreme Court Rule Part VII, Rule 3. In the event that either party intends to use any materials covered by this agreement in a way which would render the material a "Court Record" as governed by Nevada Supreme Court Rule Part VII, Rule 2, then said party must notify Defendants, at least 30 days prior to such use to allow defendants, the opportunity to file a motion to request that the materials be sealed or redacted as necessary pursuant to Nevada Supreme Court Rule Part VII, Rule 3(1).

14. After the termination of this litigation, the provisions of this Order shall continue to be binding. This Court retains and shall have jurisdiction over the parties and recipients of the Protected Material for enforcement of the provisions of this Order following termination of this litigation.

15. This Protective Order shall be binding upon the parties hereto, upon their attorneys, and upon the parties' and their attorneys' successors, executors, personal representatives, administrators, heirs, legal representatives, assigns, subsidiaries, employees, agents, independent contractors, or other persons or organizations over which they have control.

16. If any party disagrees with the designation of any document as "Protected Material", will so notify counsel for defendants David Copperfield and David Copperfield Disappearing, Inc. in writing. David Copperfield and David Copperfield Disappearing, Inc. may apply to this Court to set a hearing for the purpose of establishing that said document is confidential. All parties will comply with the provisions of this Stipulation until the Court rules

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on the protected nature of such documents.

17. Any challenges to the confidentiality of the "Protected Materials" shall be heard by the Court presiding over the matter in which these materials were produced. If a party receiving "Protected Materials" wishes to present such material to the Court, such material shall be presented to the Court under seal.

DATED: September 24th, 2014

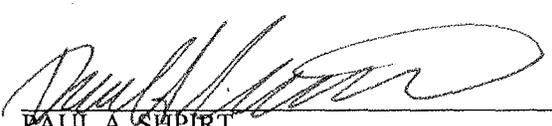
SELMAN BREITMAN LLP

By: 

ERIC O. FREEMAN
NEVADA BAR NO. 6648
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Telephone: 702.228.7717
Facsimile: 702.228.8824
Attorneys for Defendant
DAVID COPPERFIELD'S DISAPPEARING,
INC.

DATED: September 23rd, 2014

EGLLET LAW GROUP

By: 

PAUL A. SHPIRT
NEVADA BAR NO. 10441
400 South 7th Street, Suite 400
Las Vegas, NV 89101
Telephone: 702.450.5400
Facsimile: 702.450.5451
Attorneys for Plaintiffs

DATED: September ____, 2014

THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISINGER

By: 

BRIAN TERRY
NEVADA BAR NO. 3171
1100 East Bridger Ave.
Las Vegas, NV 89125
Telephone: 702.366.0622
Facsimile: 702.366.0327
Attorneys for Defendant Backstage Employment and Referral, Inc.

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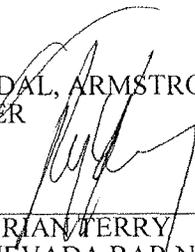
DATED: September ____, 2014 SELMAN BREITMAN LLP

By: _____
ERIC O. FREEMAN
NEVADA BAR NO. 6648
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Telephone: 702.228.7717
Facsimile: 702.228.8824
Attorneys for Defendant
DAVID COPPERFIELD'S DISAPPEARING,
INC.

DATED: September ____, 2014 EGLET LAW GROUP

By: _____
PAUL A. SHPIRT
NEVADA BAR NO. 10441
400 South 7th Street, Suite 400
Las Vegas, NV 89101
Telephone: 702.450.5400
Facsimile: 702.450.5451
Attorneys for Plaintiffs

DATED: September 22, 2014 THORNDAL, ARMSTRONG, DELK, BALKENBUSH &
EISINGER

By:  _____
BRIAN TERRY
NEVADA BAR NO. 3171
1100 East Bridger Ave.
Las Vegas, NV 89125
Telephone: 702.366.0622
Facsimile: 702.366.0327
Attorneys for Defendant Backstage Employment and
Referral, Inc.

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ORDER

IT IS SO ORDERED.

DATED this 29th day of September 2014.



PRESIDING DISTRICT JUDGE

T.K.

Prepared and Submitted by:

SELMAN BREITMAN LLP



ERIC O. FREEMAN
NEVADA BAR NO. 6648
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Telephone: 702.228.7717
Facsimile: 702.228.8824
Attorneys for Defendant
DAVID COPPERFIELD'S DISAPPEARING, INC.

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EXHIBIT A TO STIPULATED PROTECTIVE ORDER

AFFIDAVIT OF _____, being duly sworn and personally appearing before the undersigned attesting officer, duly authorized by law to administer oaths, deposes and says that the within statements are true and correct:

1. I have read the Stipulated Protective Order attached hereto and I understand its terms and meanings.

2. I agree that my signature below submits me to the jurisdiction of the District Court in Clark County, Nevada in which the action *COX v. MGM GRAND HOTEL, LLC, et al.*, Case No. A-14-705164-C, is pending, and binds me to the provisions of the Stipulated Protective Order, including to all promises undertaken in the Order, as if originally agreed by me.

FURTHER AFFIANT SAYETH NOT.

AFFIANT

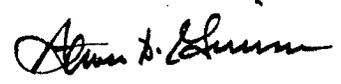
SUBSCRIBED AND SWORN to before me

This ___ day of _____, 201__

NOTARY PUBLIC
My Commission Expires:

(SEAL)

Selman Breitman LLP
ATTORNEYS AT LAW



CLERK OF THE COURT

1 SPO
2 ERIC O. FREEMAN
3 NEVADA BAR NO. 6648
4 SELMAN BREITMAN LLP
5 3993 Howard Hughes Parkway, Suite 200
6 Las Vegas, NV 89169-0961
7 Telephone: 702.228.7717
8 Facsimile: 702.228.8824
9 Email: efreeman@selmanbreitman.com

10
11 Attorneys for Defendants
12 DAVID COPPERFIELD aka DAVID S.
13 KOTKIN, DAVID COPPERFIELD'S
14 DISAPPEARING, INC. and MGM GRAND
15 HOTEL, LLC

16
17 DISTRICT COURT
18 CLARK COUNTY, NEVADA

19 GAVIN COX and MIHN-HAHN COX,
20 Husband and Wife,

Case No. A-14-705164-C
Dept: XIII

21 Plaintiff,

22 v.

23 MGM GRAND HOTEL, LLC; DAVID
24 COPPERFIELD aka DAVID S. KOTKIN;
25 BACKSTAGE EMPLOYMENT AND
26 REFERRAL, INC.; DAVID COPPERFIELD'S
27 DISAPPEARING, INC.; TEAM
28 CONSTRUCTION MANAGEMENT, INC.;
DOES 1 through 20; DOE EMPLOYEES 1
through 20; and ROE CORPORATIONS 1
through 20,

Defendants.

AMENDED CONFIDENTIALITY AGREEMENT AND STIPULATED

PROTECTIVE ORDER

ALL PARTIES to the above-captioned action, by and through their respective counsel,
hereby further stipulate and agree to expand the Confidentiality Agreement and Stipulated
Protective Order ("Agreement") to include maintaining confidentiality of any and all proprietary

Selman Breitman LLP
ATTORNEYS AT LAW

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information, documents, video, photographs, deposition transcripts, deposition videos, deposition exhibits and other materials produced, provided and/or obtained during discovery and depositions in the above-captioned action that directly or indirectly relates to the show/illusions and to any and all proprietary information and is specifically labeled as such by Defendants. The Confidentiality Agreement and Stipulated Protective Order Filed and Entered on October 2, 2014 is hereby incorporated by reference. The Agreement is NOT limited only to information and materials obtained from and arising out of the September 24, 2014 inspection of the David Copperfield show, subject illusions and backstage, behind the scenes access.

This Confidentiality Agreement shall govern any and all information, documents, video, photographs, deposition transcripts, deposition videos, deposition exhibits or other materials regarding the David Copperfield show, subject illusions and backstage, behind the scenes access specifically labeled "Confidential" and/or "Protected Material."

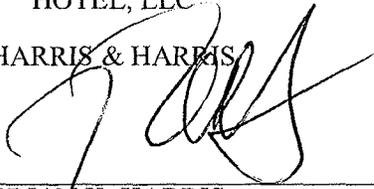
DATED: November 11, 2015

SELMAN BREITMAN LLP

By: 
ERIC O. FREEMAN 9263
NEVADA BAR NO. 6648
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Telephone: 702.228.7717
Facsimile: 702.228.8824
Attorneys for Defendants
DAVID COPPERFIELD aka DAVID S.
KOTKIN, DAVID COPPERFIELD'S
DISAPPEARING, INC. and MGM GRAND
HOTEL, LLC

DATED: November 24, 2015

HARRIS & HARRIS

By: 
BRIAN K. HARRIS
NEVADA BAR NO. 7737
2029 Alta Drive
Las Vegas, NV 89106
Telephone: 702.880.4529
Facsimile: 702.880.4528
Attorneys for Plaintiffs

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DATED: November 10, 2015

WEINBERG, WHEELER, HUDGINS, GUNN & DIAL,
LLC

By: 
HOWARD J. RUSSELL
NEVADA BAR NO. 8879
6385 S. Rainbow Blvd., Suite 400
Las Vegas, NV 89118
Telephone: 702.938.3838
Facsimile: 702.938.3864
Attorneys for Defendant Backstage Employment and
Referral, Inc.

DATED: November 10, 2015

LINCOLN GUSTAFSON & CERCOS, LLP

By: 
SHANNON G. SPLAINE
NEVADA BAR NO. 8241
3960 Howard Hughes Pkwy., Suite 200
Las Vegas, NV 89169
Telephone: 702.257.1997
Facsimile: 702.257.2203
Attorneys for Defendant Team Construction
Management, Inc.

ORDER

IT IS SO ORDERED.

DATED this 16th day of November 2015.

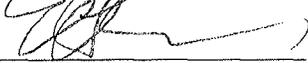


PRESIDING DISTRICT JUDGE

T.S.

Prepared and Submitted by:

SELMAN BREITMAN LLP


ERIC O. FREEMAN
NEVADA BAR NO. 6648
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Telephone: 702.228.7717
Facsimile: 702.228.8824
Attorneys for Defendants
DAVID COPPERFIELD aka DAVID S. KOTKIN, DAVID COPPERFIELD'S DISAPPEARING,
INC. and MGM GRAND HOTEL, LLC

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EXHIBIT A TO STIPULATED PROTECTIVE ORDER

AFFIDAVIT OF _____, being duly sworn and personally appearing before the undersigned attesting officer, duly authorized by law to administer oaths, deposes and says that the within statements are true and correct:

1. I have read the Stipulated Protective Order and Errata attached hereto and I understand its terms and meanings.
2. I agree that my signature below submits me to the jurisdiction of the District Court in Clark County, Nevada in which the action *COX v. MGM GRAND HOTEL, LLC, et al.*, Case No. A-14-705164-C, is pending, and binds me to the provisions of the Stipulated Protective Order, including to all promises undertaken in the Order, as if originally agreed by me.

FURTHER AFFIANT SAYETH NOT.

AFFIANT

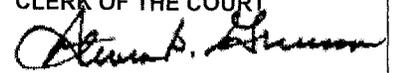
SUBSCRIBED AND SWORN to before me

This ___ day of _____, 201__

NOTARY PUBLIC
My Commission Expires:

(SEAL)

EXHIBIT B



1 **NEO**
2 ELAINE K. FRESCH
3 NEVADA BAR NO. 9263
4 ERIC O. FREEMAN
5 NEVADA BAR NO. 6648
6 JERRY C. POPOVICH [PRO HAC]
7 CALIFORNIA BAR NO. 138636
8 SELMAN BREITMAN LLP
9 3993 Howard Hughes Parkway, Suite 200
10 Las Vegas, NV 89169-0961
11 Telephone: 702.228.7717
12 Facsimile: 702.228.8824
13 Email: efresch@selmanlaw.com
14 Email: efreeman@selmanlaw.com
15 Email: jpopovich@selmanlaw.com

16 Attorneys for Defendant DAVID
17 COPPERFIELD'S DISAPPEARING, INC.,
18 DAVID COPPERFIELD aka DAVID
19 KOTKIN, and MGM GRAND HOTEL, LLC.

DISTRICT COURT
CLARK COUNTY, NEVADA

20 GAVIN COX and MIHN-HAHN COX,
21 Husband and Wife,
22
23 Plaintiff,

Case No. A-14-705164-C
Dept.: XIII

NOTICE OF ENTRY OF ORDER

24 v.
25 MGM GRAND HOTEL, LLC; DAVID
26 COPPERFIELD aka DAVID S. KOTKIN;
27 BACKSTAGE EMPLOYMENT AND
28 REFERRAL, INC.; DAVID COPPERFIELD'S
DISAPPEARING, INC.; TEAM
CONSTRUCTION MANAGEMENT, INC.;
DOES 1 through 20; DOE EMPLOYEES 1
through 20; and ROE CORPORATIONS 1
through 20,
Defendants.

AND RELATED CROSS-ACTIONS

Selman Breitman LLP
ATTORNEYS AT LAW

1 PLEASE TAKE NOTICE that an Order Regarding Defendants' Trial Brief Related to
2 Closing Certain Proceeding from the Media and the General Public was entered on the 17th day of
3 April, 2018, a copy of which is attached hereto.

4
5 DATED: April 17, 2018

SELMAN BREITMAN LLP

6
7 By: /s/ Eric O. Freeman

8 ELAINE K. FRESCH
9 NEVADA BAR NO. 9263
10 ERIC O. FREEMAN
11 NEVADA BAR NO. 6648
12 JERRY C. POPOVICH [PRO HAC]
13 CALIFORNIA BAR NO. 138636
14 3993 Howard Hughes Parkway, Suite 200
15 Las Vegas, NV 89169-0961
16 Telephone: 702.228.7717
17 Facsimile: 702.228.8824
18 Attorneys for Defendant DAVID
19 COPPERFIELD'S DISAPPEARING, INC.,
20 DAVID COPPERFIELD aka DAVID KOTKIN,
21 and MGM GRAND HOTEL, LLC.
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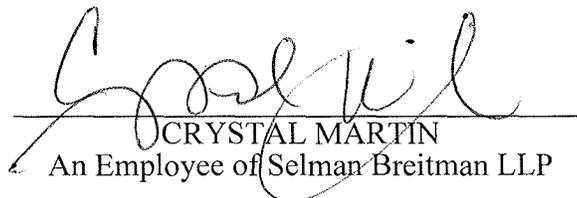
Selman Breitman LLP
ATTORNEYS AT LAW

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Selman Breitman LLP and, pursuant to:

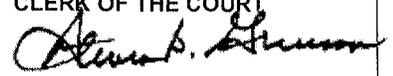
BY E-MAIL/ELECTRONIC SERVICE: N.R.C.P. 5(b), I caused the foregoing document to be served upon the persons designated by the parties in the E-Service master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER**, this 17 day of April 2018, addressed as follows:


CRYSTAL MARTIN
An Employee of Selman Breitman LLP

Selman Breitman LLP
ATTORNEYS AT LAW

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ELAINE K. FRESCH
NEVADA BAR NO. 9263
ERIC O. FREEMAN
NEVADA BAR NO. 6648
JERRY C. POPOVICH [PRO HAC]
CALIFORNIA BAR NO. 138636
SELMAN BREITMAN LLP
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169-0961
Telephone: 702.228.7717
Facsimile: 702.228.8824
Email: efresch@selmanlaw.com
Email: efreeman@selmanlaw.com
Email: jpopovich@selmanlaw.com

Attorneys for Defendant DAVID
COPPERFIELD'S DISAPPEARING, INC.,
DAVID COPPERFIELD aka DAVID
KOTKIN, and MGM GRAND HOTEL, LLC.

DISTRICT COURT

CLARK COUNTY, NEVADA

GAVIN COX and MIHN-HAHN COX,
Husband and Wife,

Plaintiff,

v.

MGM GRAND HOTEL, LLC; DAVID
COPPERFIELD aka DAVID S. KOTKIN;
BACKSTAGE EMPLOYMENT AND
REFERRAL, INC.; DAVID COPPERFIELD'S
DISAPPEARING, INC.; TEAM
CONSTRUCTION MANAGEMENT, INC.;
DOES 1 through 20; DOE EMPLOYEES 1
through 20; and ROE CORPORATIONS 1
through 20,

Defendants.

Case No. A-14-705164-C

Dept.: XIII

**ORDER REGARDING DEFENDANTS'
TRIAL BRIEF RELATED TO CLOSING
CERTAIN PROCEEDINGS FROM THE
MEDIA AND THE GENERAL PUBLIC**

AND RELATED CROSS-ACTIONS

Selman Breitman LLP
ATTORNEYS AT LAW

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ORDER REGARDING DEFENDANTS' TRIAL BRIEF RELATED TO CLOSING CERTAIN PROCEEDINGS FROM THE MEDIA AND THE GENERAL PUBLIC

This matter having come on for hearing on April 13, 2018, before the Honorable Mark Denton in Department XIII of the above-entitled court, Elaine K. Fresch, Esq., Jerry C. Popovich, Esq., Gil Glancz, Esq. and Eric O. Freeman, Esq. of Selman Breitman LLP appearing on behalf of Defendants DAVID COPPERFIELD aka DAVIS S. KOTKIN, MGM GRAND HOTEL, LLC and DAVID COPPERFIELD'S DISAPPEARING, INC. ("DCDI") (hereinafter collectively referred to as ("Defendants")); Benedict Morelli, Esq., Adam E. Deutsch, Esq. and Perry Fallick, Esq. of Morelli Law Firm appearing on behalf of Plaintiffs GAVIN COX and MINH-HAHN COX; Howard J. Russell, Esq. and Lee Roberts, Esq. of Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC appearing on behalf of Defendants BACKSTAGE EMPLOYMENT & REFERRAL, INC.; and Gary Call, Esq. and Roger Strassburg, Esq. of Resnick & Louis, P.C. appearing on behalf of Defendants TEAM CONSTRUCTION MANAGEMENT, INC. and BEACHER'S LV, LLC. The Court, having reviewed all of the pleadings and papers on file herein and oral arguments made by counsel at the hearing, and good cause appearing therefor:

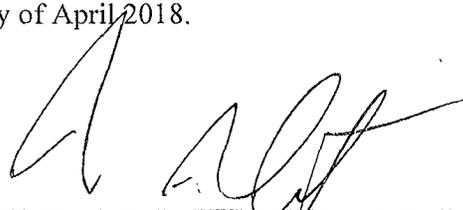
IT IS ORDERED, ADJUDICATED and DECREED the Defendants' request to close certain portions of this trial to the public and media as they relate to the "Thirteen" illusion is hereby DENIED.

IT IS FURTHER ORDERED, ADJUDICATED and DECREED that there may be reason to preclude electronic recording or close the courtroom during certain portions of the trial related to the Defendants' other illusions as there are some things there that may be protectable Trade Secrets that would warrant the Court's consideration of closure of proceedings and therefore must

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be ruled upon separately as the situations arise throughout trial.

IT IS SO ORDERED this 17th day of April 2018.



DISTRICT COURT JUDGE

Respectfully submitted by:
SELMAN BREITMAN LLP



Gil Glancz, Esq.
Nevada Bar No. 9813
3993 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
Attorneys for MGM Grand Hotel, LLC,
David Copperfield and David Copperfield's Disappearing, Inc.

Selman Breitman LLP
ATTORNEYS AT LAW

EXHIBIT C



THE SOCIETY OF
AMERICAN MAGICIANS

WIKI

Joint Ethics Guidelines

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(These Guidelines of Ethics were jointly approved by the Society of American Magicians and the International Brotherhood of Magicians)

All members of The Society of American Magicians agree to:

- 1) Oppose the willful exposure to the public of any principles of the Art of Magic, or the methods employed in any magic effect or illusion.
- 2) Display ethical behavior in the presentation of magic to the public and in our conduct as magicians, including not interfering with or jeopardizing the performance of another magician either through personal intervention or the unauthorized use of another's creation.
- 3) Recognize and respect for rights of the creators, inventors, authors, and owners of magic concepts, presentations, effects and literature, and their rights to have exclusive use of, or to grant permission for the use by others of such creations.
- 4) Discourage false or misleading statements in the advertising of effects, and literature, merchandise or actions pertaining to the magical arts.
- 5) Discourage advertisement in magic publications for any magical apparatus, effect, literature or other materials for which the advertiser does not have commercial rights.
- 6) Promote the humane treatment and care of livestock used in magical performances.

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[SPOTLIGHT MEMBERS](#)

[ONLINE SURVEYS](#)

12/8/2017

President Shares
Assemblies Best Practices

The upcoming calendar is
currently empty.

10/2/2017

President Announces New
M-U-M Editor

[Click here to view past
events and photos »](#)

EXHIBIT D

INTERNATIONAL BROTHERHOOD OF MAGICIANS

BYLAWS



The background of this emblem represents the world. The figure is Mercury, the messenger of the ancient gods and a magician. He carries a wand in his left hand. At the bottom, the letters I.B.M. are joined to indicate UNITY and COOPERATION. The oak leaf denotes strength, while the two acorns represent the Eastern and Western hemispheres. The hands are clasped to signify the FELLOWSHIP and BROTHERHOOD in MAGIC throughout the universe.

NOTE. -The use of the masculine pronoun in certain portions of this document is merely a matter of form and is not intended to be discriminatory in any way. The words "Chairman" and "Chairmen" are similarly intended as nondiscriminatory and are consistent with current general rules outlined in the latest UPI and AP Style Books.

Article I NAME

This organization shall be known as the INTERNATIONAL BROTHERHOOD OF MAGICIANS (I.B.M.).

Article II MISSION AND OBJECTIVES

Sec. 1. The mission of the organization shall be to promote fellowship and the advancement of magic as an entertainment art through premier publications, quality conventions, an international structure and progressive leadership.

Sec. 2. To accomplish this mission, the following objectives are established:

- A. Organize and associate those interested in the art of magic and its advancement without regard to race, color, religion, sex, or national origin;
- B. Advance the ethics of the magical fraternity by adopting a Code of Ethics;
- C. Publish a magazine;
- D. Hold an Annual Convention;
- E. Encourage humane treatment of animals used in magic presentations; F. Oppose public exposures of the principles of the art of magic; and
- G. Protect the magic creations of authors and inventors.

Article III MEMBERSHIP

Sec. 1. Any person 18 years of age or older interested in magic for at least two years previously is eligible for "Active Membership." Applicants for membership must be sponsored by two active members and must pay membership fees and dues as determined by the Board of Trustees (also hereafter referred to as the "Board"). The applicant's name and the name and locale of the applicant's endorsers shall be published in *The Linking Ring* magazine. If within thirty (30) days after the 15th day of the month of publication (60 days outside North America) there are two or more objections to the application, postmarked or emailed to the I.B.M. International Headquarters office, the application will be considered by the Grievance Committee. If after investigation, the objections are

sustained, the applicant shall be notified and all fees will be returned to the applicant. No person is eligible for membership in this organization for a period of one year following the withdrawal or rejection of his application for membership. Nor shall any application for membership be considered in which the applicant was heretofore also rejected within the preceding two years, by a Ring with which applicant sought affiliation unless such Ring, should it still exist, first approves such application. All members in good standing may vote and hold office, except Youth Members and International Auxiliary Members.

Sec. 2. "Honorary Membership" may be conferred upon those persons who have materially advanced the Art of Magic by unanimous vote of the membership at the Annual Business Meeting, following unanimous approval of the Board at a duly constituted meeting. An "Honorary Member" shall be entitled to all rights and benefits of an "Active Member" but shall be exempt from the payment of dues and assessments except those of individual Rings as may be determined by the Ring involved.

Sec. 3. Any person over the age of seven and under the age of 18, interested in magic for at least one year previously, is eligible for "Youth Membership." Youth members, upon attaining their eighteenth birthday, shall automatically become "Active Members." Youth members may not vote or hold office.

Sec. 4. Any spouse or assistant of an Active Member or Honorary Member is eligible to become an "Associate Member." Associate members may vote and hold office but do not receive *The Linking Ring* magazine.

Sec. 5. The Board may establish a class of membership known as "International Auxiliary Membership" within a Ring chartered outside the territorial boundaries of the Americas. Such membership requires an annual determination that not less than 30 percent of the total of all classifications of the Ring's membership are "Active Members". Applicants for International Auxiliary membership shall be required to pay an annual fee in an amount fixed by the Board and may not vote, hold office, nor receive *The Linking Ring* magazine.

Sec. 6. The actual or electronic signature of the applicant to an application for membership shall be a pledge of the applicant's agreement to support the Bylaws, Standing Rules and Code of Ethics of the I.B.M.

Sec. 7. Fees and dues for all classes of membership shall be fixed by the Board.

Article IV BOARD OF TRUSTEES AND DUTIES OF OFFICERS

Sec. 1. The affairs of this organization shall be conducted and managed by a Board comprised of the following qualified members duly elected to and holding the following offices: International President; International President-Elect; International Vice President; International Secretary; International Treasurer; Members of the Executive Committee; and Past International Presidents.

Sec. 2. The Executive Committee shall consist of six (6) members elected to three-year terms. Two members shall be elected each year. No member of the Executive Committee shall be eligible to serve again in such office until the expiration of one year from the date of expiration of their three-year term.

Sec. 3. The following officers shall be nominated and elected each year: International President-Elect; International Vice President; International Secretary; International Treasurer; and two members of the Executive Committee. The International President-Elect shall assume the office of International President the year following election as International President-Elect.

Sec. 4. The International President, International President-Elect, and International Vice President shall be ineligible to immediately succeed themselves to the same office until the expiration of one year after the term of office to which they were last elected.

Sec. 5. Duties of Officers and Board of Trustees:

(A) The INTERNATIONAL PRESIDENT: The International President shall:

- (1) Preside at all Board meetings and the Annual Business Meeting;
- (2) Have full and complete administrative power in conducting the affairs of the organization, subject, however, to the direction of the Board;
- (3) Appoint officers and committees subject to his dismissal to serve during the period of his incumbency, as set forth in the Standing Rules of the I.B.M.; and
- (4) In the case of a vacancy for any reason on the part of any officer except a Past International President, the International President shall appoint a successor to serve until the next Annual Business Meeting, at which time such vacancy shall be filled by regular election procedures for the remainder of the unexpired term.

(B) The INTERNATIONAL PRESIDENT-ELECT: The International President-Elect shall assist the International President and serve in his absence. In the event of the death, resignation, disability or disqualification of the International President, the International President-Elect shall succeed to the duties of the International President. However, such succession shall only be for the period of such disability or disqualification, which shall be determined by the Board. The International President-Elect shall be the liaison officer between the International President, the Board and the Territorial Vice Presidents.

(C) The INTERNATIONAL VICE PRESIDENT: The International Vice President shall preside in the absence of both the International President and the International President-Elect. In the event of the resignation, death, disability or disqualification of the International President-Elect, the International Vice President shall succeed to the duties of the International President-Elect. However, such succession shall only be for the period of such disability or disqualification, which shall be determined by the Board.

(D) The INTERNATIONAL SECRETARY: The International Secretary shall keep a true record of all the proceedings of the organization, shall keep a file of all correspondence pertaining to the office, and shall perform such other duties as may be delegated by the International President or the Board. The International Secretary shall submit, within thirty (30) days after the close of the Business Meeting, a complete report of the minutes of the Business Meeting, the results of the Annual Election, and the Board nominees for the ensuing years' officers to the Executive Editor of *The Linking Ring* for publication. The International Secretary shall also maintain an Operations and Organization Manual, wherein the policies and procedures of the Board are described.

(E) The INTERNATIONAL TREASURER: The International Treasurer shall oversee the receipts and deposits of all monies belonging to the I.B.M. and shall insure prompt payment of all properly approved obligations of the I.B.M. He shall furnish a fiduciary bond in favor of the I.B.M. in such sum as may be fixed by the Board and shall insure proper fiduciary bonding for the Assistant Treasurer for Conventions, Business Manager of *The Linking Ring*, Chairman of the Annual Convention Committee, and appropriate headquarters personnel. The expense of such bonding shall be paid by the I.B.M. He shall be responsible for the maintenance of accurate books of accounting of all receipts and disbursements of the I.B.M., shall insure an accurate accounting of all transactions as reported at the Annual and Business Meetings, and shall insure timely filing of Federal and State Tax returns.

(F) The BOARD OF TRUSTEES: The Board shall have full and complete power to review and direct all acts of all officers and committee members, shall establish policy, shall review and determine all matters relating to disciplinary actions imposed on members or Rings, and may recommend officers for election. The Board may utilize the recommendations of a management team and/or of a designated agent or agents in managing I.B.M. operations. Each year, at times and places determined by the International President, the Board may meet at the Annual Business Meeting, the Mid-year, and/or Special Meetings to conduct the business of the I.B.M.; provided, however, that in the case of a Special Meeting, the Board shall be notified by advance notice, in writing, which shall be sent by regular mail, electronic mail, fax, or personally delivered at least ten

(10) days before the time set for the meeting, to all at such address as shown on the records of the I.B.M. Such meetings may also be attended by the Legal Advisor, the Business Manager of *The Linking Ring*, the Executive Editor of *The Linking Ring*, the Chairman of the Annual Convention Committee, the Executive Secretary and any other persons whose attendance is deemed necessary by the International President and/or the Board. Each member of the Board shall have the right to cast one vote on each and every proposition submitted, except as limited in Article IV, Sec. 5, (G). In meetings of the Board, six (6) or more members, one of whom shall be the International President, or in his absence, the International President Elect or the International Vice President, shall constitute a quorum. Proxies shall not be valid under any circumstances, but subsequent ratification by absent members, in writing, shall be valid; provided, however, that in no event shall such subsequent ratification by absent members be used to subsequently establish a quorum at any meeting for which a quorum was not present.

(G) PAST INTERNATIONAL PRESIDENTS: Past International Presidents (PIPs), in such capacity, shall be entitled to cast only one ballot on any proposition submitted at any meeting of the Board. The total ballots cast by the PIPs will count for no more than five (5) votes. For example, if five (5) PIPs are in attendance, each ballot counts for one vote. If there are more than five (5) PIPs, the total number of PIPs is divided by five (5) to arrive at the value of each vote.

(H) TERRITORIAL VICE PRESIDENTS: Territorial Vice Presidents (TVPs) shall provide a link between the members of the I.B.M. and the Board to promote cooperation and communication, and supervise Rings within their area of representation. They shall give assistance, advice and ceremonial support to the Rings in their state, territory, province or country. TVPs may be required to provide administrative support on a temporary or permanent basis to Rings and members of the I. B. M. in an adjoining territory, which lacks the necessary membership for a TVP. To assist in fulfilling their duties, TVPs are authorized to inspect official records maintained by the Executive Secretary and by their respective Rings, such records relate to membership and to payment of dues within their assigned territories. TVPs shall visit Rings as necessary, and shall submit an annual report of their activities to the Territorial Vice President Nominations/Ring Counselor Committee.

(I) HEADQUARTERS OFFICE AND THE EXECUTIVE SECRETARY: The Board shall maintain a Headquarters Office and shall hire an Executive Secretary to manage the Headquarters Office who shall be subject to the Board's continuing approval.

Article V SPECIAL POWERS

Sec. 1. The International President may submit in writing by mail, facsimile transmission, and/or by electronic communication any matters requiring expeditious action to members of the Board. The Board's action thereon shall be determined by vote, in writing by mail, facsimile transmission, and /or by electronic communication of a majority vote of those replying to the International Secretary within six (6) business days.

Sec. 2. In addition to other duties prescribed, the Board shall have full and complete power in all matters relating to policy of the organization.

Sec. 3. The Board may adopt such Standing Rules and policies covering the Board's meetings and the management of the I.B.M. as the Board determines necessary.

Article VI

THE LINKING RING MAGAZINE

An official magazine known as *The Linking Ring* shall be published monthly under the supervision of an Executive Editor hired by the Board and provided to all Active and Youth Members.

Article VII NOMINATIONS AND ELECTIONS

Sec. 1. Nominations

A. The Board may annually nominate candidates for offices on the International Board and may biannually name candidates for all other Territorial offices. Additional candidates may be nominated by petition. By May 1 (the "Closing Date") following the publication by the Board's nominations in *The Linking Ring*, any qualified member may be named for the office of TVP by a nominating petition signed by at least twenty (20) qualified members of that particular country or geographical or political subdivision to be served by that TVP; or for any elective office on the International Board by a petition signed by at least one (1) percent of the total membership as of November 1, preceding the annual election. In each odd-numbered year, a TVP may be nominated and elected for a two-year term for each country or principal geographical or political subdivision having twenty (20) or more members as of November 1, preceding the annual election. At the discretion of the Board, geographical or political subdivisions containing many Rings, or in which Rings are geographically remote from one another, may be further divided and assigned additional TVPs. In its discretion, the Board may make exceptions to the territorial and membership requirements for nomination and election of TVPs where it is clearly in the best interest of the I.B.M. to do so. Members may petition to nominate and elect TVPs only from their own country or geographical or political subdivision.

B. The Executive Secretary and two members who shall be appointed by the International President, shall verify the authenticity of said nominating petitions as coming from qualified voters within six (6) days following the Closing Date. In the event there are two or more petitions for the same office on the Board, the nominee named on the petition carrying the greatest number of signatories shall be the candidate for the office named in the petition, with the exception of nominees for the Executive Committee, where up to two petition nominees carrying the greatest number of signatories are permitted in addition to the two persons nominated by the Board.

C. Candidates nominated by the Board for all elective offices shall be named at the Midyear meeting of the Trustees.

D. *The Linking Ring* editor shall publish the Board's nominees as soon as practical, but no later than the March issue following the Midyear Meeting. **Sec. 2. Elections**

A. Nominees of the Board for elective offices shall be elected without balloting provided that no other nominations are made by petition. However, in the event of a properly petitioned nomination for any elective office on the Board, an official election ballot, bearing the seal of the organization, shall be distributed to all eligible qualified members. In similarly petitioned nominations for TVP, an official election ballot shall be distributed to eligible qualified members only in the principal geographical or political subdivision where the petition was originated. All election ballots shall be returned to the indicated address by the date required by the ballot.

B. Such election ballots shall list the Board's nominated candidates as well as candidates nominated by petition.

C. The Board shall establish rules for the conduct of such elections by ballot and shall afford all qualified members the privilege of voting.

Sec. 3. Residence-Dual Member

Members shall be deemed to be residents of the area of the political subdivision where they reside except whenever a member is affiliated with a duly authorized Ring, in which case such member shall be deemed to reside in the political subdivision where the Ring is authorized. In the event a member belongs to more than one Ring, he shall be deemed as residing in the political subdivision wherein the Ring with which he first was affiliated is situated, unless such member advises otherwise at least 90 days prior to an election.

Article VIII

ANNUAL CONVENTION, BUSINESS MEETING, AND ELECTION

The I.B.M. shall hold an Annual Convention each year and shall hold an Annual Business Meeting and an installation of officers at the Convention. However, in the event of grave cause, the Board

may postpone or eliminate the holding of an Annual Convention; and instead, provide otherwise for an Annual Business Meeting and/or an Annual Election. **Article IX**

CHARTERS AND DISPENSATIONS – RINGS

Any Active or Associate member, in any city or town, may make application to the International President, or to the Ring Coordinator (as defined in the Standing Rules), to organize and to obtain an official charter for a Ring provided the applicant certifies that the proposed Ring will abide by the Standing Rules, all regulations, and by the Bylaws of the I.B.M. Two or more Rings may not exist within the immediate vicinity of each other unless one of them is a youth Ring (hereinafter referred to as a "Link"). The International President or the Ring Coordinator may grant a dispensation to such applicant, pending the granting of a Charter, authorizing the applicant to organize and function as an affiliate until final action has been taken on the application. Exceptions may be made to this Article by the International President or by the Ring Coordinator.

Article X RESIGNATIONS, SUSPENSIONS, OR EXPLUSIONS

Sec. 1. Resignation. Resignation from membership in the I.B.M. may be granted when a member submits his resignation in writing and forfeits his current membership card.

Sec. 2. Grounds for Disciplinary Action. A member may be suspended, expelled, or be subjected to other disciplinary action for the following offenses:

- A. Unbecoming conduct;
- B. Violation of the Bylaws or amendments;
- C. Violation of the Standing Rules or amendments;
- D. Violation of any Board resolution in force and effect;
- E. Violation of the Code of Ethics or amendments thereto; or
- F. Violation of any Oath or Pledge.

Sec. 3. The process governing disciplinary actions against an I.B.M. member, Ring, or Officer shall be as follows:

A. **Filing Charges.** Charges concerning offenses listed in By Laws Article X, Section 2, must be filed in writing and may be filed by any member, or by a Ring, against any other member or Ring. If the charges are limited to local Ring matters ("Ring membership or Ring business"), they must be filed with the Ring. Matters that raise issues beyond Ring membership or Ring business must be filed with the I.B.M. Grievance Committee. In the event the Grievance Committee determines that matters should more properly be resolved by a Ring, the Grievance Committee will remand the matter to the Ring for proceedings in accordance with Article X, Sections 3 (B) – 3 (G) below.

B. **Conduct of Hearings.** Hearings at the Ring level shall take place before a Hearing Body com-posed of Ring officers or their designees. Hearings before the Grievance Committee shall be conducted by a Hearing Body of one or more members of that Committee as designated by its Chair. While no specific format is mandated, the Hearings shall in all cases be held in such manner, and at such time as to ensure fairness and due process to all concerned.

C. **Notice of Hearings.** Any member against whom charges are filed as described in Article X, Section 3 (A), shall be served with a copy of the charges, together with notice of the time, date and place of hearing on the charges, by the Secretary of the Ring of which he or she is a member, or, when appropriate, by the Grievance Committee. Such notice of charges shall be made by mailing the same to the last known address of the accused member as disclosed in the official records of this organization.

D. Pre-Hearing Evidence. The Hearing Body may appoint one or more persons to take prehearing depositions or evidence in any place and from any person.

E. Hearing Rights. Any person against whom charges are filed may, at such person's election: (1) file a written response to such charges, together with evidence or exhibits in support of such response; (2) attend the hearing in person; and/or (3) delegate any person on his or her behalf to attend the hearing and represent such person.

F. Time of Hearings. The hearing on such charges shall be held by the appropriate Hearing Body, not less than thirty (30) days nor more than sixty (60) days from the date of mailing of the notice and charges to the accused member. Continuances may be granted for good cause shown. The Hearing Body must issue a written decision in accordance with this Article X, Section 3 (G) (2), and must predicate its findings and decision upon competent and trustworthy evidence. G. Disciplinary Powers and Procedures.

(1) Of Rings. Rings may automatically suspend a Ring member from Ring membership for non-payment of dues, subject to reinstatement as provided in the Standing Rules. A Ring shall be empowered to assess discipline, subject to the right of the aggrieved party to seek review from the Board, as provided in this Article X, Section 3 (H). Disciplinary powers of a Ring shall be limited to imposing discipline concerning Ring matters only. A Ring shall not have the power to affect a member's I.B.M. membership in any manner. A Ring may not suspend, expel or subject a member to disciplinary action on a Ring matter other than for non-payment of dues, unless two-thirds (2/3) of a quorum of Ring members present at a meeting called to hear the decision of the Hearing Body have voted in favor of sustaining the charges.

(2) Of Grievance Committee. In the case of a hearing before the Grievance Committee, the person or persons conducting such hearing shall, within fifteen (15) days of the hearing, cause a summary of the testimony or a transcript thereof to be submitted to each member of the Grievance Committee, as well as to the Legal Advisor of this organization, together with findings and recommendations. The Grievance Committee shall review such findings and recommendations, and within twenty (20) days of such review shall issue a written decision on the imposition of disciplinary action, which action may consist of, but shall not be limited to, fines, suspension or expulsion from the I.B.M., subject to the right of the aggrieved party to seek review as provided by this Article X, Section 3 (H).

H. Right of Review. A person upon whom disciplinary action has been imposed shall have a right of review, by petitioning the Board in writing within thirty (30) days of such disciplinary action. If such person fails to file an application for said review or, if the result of such review is that such disciplinary action is sustained by a majority vote of a quorum of the Board, then the disciplinary action shall stand, and notice thereof shall be published in *The Linking Ring*, unless otherwise directed by the International President.

I. Suspension of a Ring; Disciplinary Action. A Ring may be suspended, its Charter revoked, or be subjected to other disciplinary action for applicable offenses set forth in this Article X, Section 2, by the Board, by a complaint in writing, setting forth the offenses forming the basis of complaint. Such complaint shall be filed by the Ethics Committee after a due diligence investigation. Upon the filing of such complaint against a Ring, the Executive Secretary shall forward a copy to the President and to the Secretary of the Ring against which charges have been instituted. The Ring, within thirty (30) days after the date of mailing of the charges, shall file any response with the Executive Secretary, after which the Executive Secretary shall advise the Ring of the date and place set for the hearing on the charges before the Board, or its designee. A majority vote of the Board present shall be required to sustain said charges or impose other disciplinary action(s). However, no Ring shall be suspended, or its Charter revoked, unless two-thirds of the voting members present of the Board have voted in favor of sustaining the charges.

J. Removing an I.B.M. Officer. Any I.B.M. elected officer may be removed from his or her office for the same causes applicable to members; and/or for misuse, abuse or gross neglect of the duties of office. A complaint by a member against an elected officer must be made in writing to

the Grievance Committee. The Grievance Committee shall investigate the charges. If the Grievance Committee finds merit to the charges, it shall give appropriate notice to the officer being charged and shall conduct a hearing under the same rules as are applicable to disciplinary proceedings against members. Within twenty (20) days following such hearing, the Grievance Committee shall submit its recommendation to the Board. Two thirds of the voting members present at a meeting of the Board shall be required to remove such officers, or to impose disciplinary action in lieu of removing said officer, or to suspend or expel said officer as a member of this organization.

K. Stay of Punishment. If a disciplined member seeks review in a timely fashion under this Article X, Section 3 (H), his punishment shall be stayed, pending final disposition of such review.

Article XI DUTIES OF MEMBERS

It shall be the duty of every member to exercise an interest in the organization, to avoid wrongful use of its name or authority, and to regulate his/her conduct toward the organization, the fellow members, and to the public in accordance with the Bylaws, Standing Rules, and resolutions of this organization.

Article XII ENDOWMENT AND DEVELOPMENT FUND

Sec. 1. A trust fund to be known as the Endowment and Development Fund of the International Brotherhood of Magicians shall be established and maintained. Such Fund shall be kept separate from other funds of this organization. All donations to this Fund, together with any income derived from such donations, shall be held, managed, administered, and disbursed by the Fund Trustees designated pursuant to the terms of the Trust Agreement creating the Fund which was adopted November 13, 1973, and to any amendments to such Agreement. The Fund shall be used for the purposes stated in the Agreement. Any and all disbursements from the Fund shall be made solely by approval of a majority of Fund Trustees, who shall act by vote. The expense incurred in the administration of such Fund shall be chargeable against the Fund. No charge, however, shall be made for the services of any Fund Trustee in administering such Fund. The Fund Trustees shall annually render an account of Fund transactions to the Board. The Board shall file with the Fund Trustees, within sixty (60) days, a written instrument listing any exceptions and/or objections to the accounting. In the absence of such written instrument, the accounting shall be considered approved.

Sec. 2. Three Fund Trustees shall be designated annually by the International President, subject to the approval of the Board, and shall serve at the pleasure of the Board. Any vacancy created by the resignation or removal of a Fund Trustee, for whatever cause, and the appointment of successor Fund Trustees, shall be made by a Board's instrument in writing. Fund Trustees may act during the existence of any vacancy, so long as there shall continue to be at least two Fund Trustees in office.

Article XIII USE OF NAME AND EMBLEM

The privilege of using the name "International Brotherhood of Magicians," the initials, "I.B.M.," or the emblem of the I.B.M., on stationery or in any other manner, is strictly prohibited except by members of this organization, Rings, or Auxiliaries affiliated with Rings, and shall always be subject to approval of the Board.

Article XIV MYSTERIES AND RULES OF ORDER

Sec. 1. Certain initiatory and symbolic agreements, rituals, secrets, and procedures now in force or hereafter adopted shall constitute the Mysteries of this organization. These Mysteries, together

with the confidential proceedings in any Ring, must never be imparted or revealed to anyone not entitled thereto.

Sec. 2. The Business of this organization may include the following:

- Roll call;
- Reading and approving the previous unreported minutes of previous meetings;
- Reports of officers;
- Reports of committees;
- Correspondence;
- New business;
- Good and welfare; and/or
- Nomination, election, and/or installation of officers when called for by these Bylaws and the Standing Rules.

Sec. 3. The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall guide this organization in all cases to which they are applicable and in which they are not inconsistent with these Bylaws of this organization, the Standing Rules, or other rule or resolution that this organization may adopt; provided, however, that no action or decision of this organization shall be subsequently deemed invalid based solely on the failure of the organization to strictly follow the procedures outlined therein.

Article XV AMENDMENTS

Amendments to these Bylaws may be made at any Annual Business Meeting of this organization by a three-fourths vote of the voting members present and voting. Proposed amendments shall first be submitted to and approved by the Board either at a Board Meeting or pursuant to Article V herein. Such proposed amendments shall be submitted by the International Secretary to the Executive Editor of *The Linking Ring* for publication at least the previous month prior to the date of holding of the Annual Convention Business Meeting; provided, however, in case of emergency, an amendment proposed for immediate action shall be submitted to the Board, which shall immediately convene and shall promptly report its action to the Business Meeting at which the amendment is considered. Proposed amendments shall be brought before the organization assembled for discussion and vote.

Article XVI INDEMNIFICATION

The organization shall indemnify and hold harmless each person who shall serve hereafter as an International Officer or member of the Board, including the Executive Secretary, the Legal Advisor, the Executive Editor of *The Linking Ring*, the Business Manager of *The Linking Ring*, and the Chairman of the Annual Convention Committee, from and against any and all claims and liabilities to which each such person shall incur by reason of his/her having acted on behalf of the corporation or by reason of any action alleged to have been heretofore or hereafter taken or omitted by him or her in said capacities, and shall reimburse each such person for all legal and other expense reasonably incurred by him or her in connection with any such claim or liability; provided, however, that no such person shall be indemnified against or reimbursed for any expense incurred in connection with any claim or liability arising out of his or her gross negligence, gross recklessness, or willful misconduct.

Article XVII DISSOLUTION

In the event of dissolution of the organization, the Board shall, after the payment of the organization's financial liabilities, dispose of all its assets to the I.B.M. Endowment and Development Fund or to another organization or organizations designated by the Board organized explicitly for the advancement and support of the magical arts. Any such organization shall at the

time be qualified and operating explicitly as an exempt organization, organized under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or future applicable provisions of the Internal Revenue Code).

Article XVIII CORPORATION ACT

Sec. 1. Any provisions set forth in these Bylaws are modified to not be repugnant to the general and foreign and domestic corporation acts of the State of Ohio now in effect, or which shall hereafter be in effect, especially such provisions as pertain to Corporations Not For Profit. Should any provisions of the within Bylaws be found in conflict therewith, the same shall be deemed null and void, and full force and effect shall be given to the remaining provisions of these Bylaws, not in conflict therewith, and such subject matter referred to in said conflicting part to then be governed by the general legal and equitable law herein applicable.

Sec. 2. The Board shall appoint a statutory agent in accordance with the laws of the State of Ohio and any other state in which the organization is so required by law, as its agent upon whom notices, processes, tax notices, or demands against this organization may be served; such appointment shall continue until revoked by the Board. Such agent, upon receipt of any legal notice or process, shall immediately and in writing notify the I.B.M. International Office of the same. The Executive Secretary shall in turn notify the Board, the International President, and the Legal Advisor of the same.

Sec. 3. The Board shall insure that all federal and state legal compliance filings shall be made as required by law.

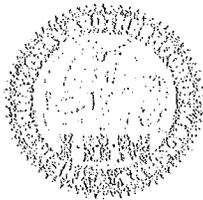
INTERNATIONAL BROTHERHOOD OF MAGICIANS BYLAWS

Amended and Restated – June 2011

Amended – July 2017

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INTERNATIONAL BROTHERHOOD OF MAGICIANS

STANDING RULES

Sec. 1. Names

- A. Local chapters of the International Brotherhood of Magicians shall be known as RINGS.
- B. Youth Chapters, known as MAGIC YOUTH AFFILIATES, may be established by RINGS.

Sec. 2. Headquarters

The headquarters of this organization shall be established by and be subject to lawful change by the Board of Trustees.

Sec. 3. Membership A.

Fees and Dues

1. Applicants for Active or Youth membership shall be required to pay a fee in an amount fixed by the Board of Trustees which shall include initiation fees, dues for one year, and entitlement to the official magazine of the organization for one year. Active and Youth Members may waive the right to *The Linking Ring*, the I.B.M.'s official magazine, and pay dues at a reduced rate as established by the Board of Trustees.

2. Applicants for Associate memberships shall pay a fee in an amount fixed by the Board of Trustees, which shall include initiation fees and dues for one year and are not entitled to receive *The Linking Ring*.

3. Individuals submitting applications for Active, Youth, or Associate membership through an authorized Ring may be required to pay an additional fee, in an amount fixed by the Ring.

4. All dues and assessments for Active Members, who have attained the age of 65 years and have been members of the International Brotherhood of Magicians for a total of 25 years, may be at a reduced rate, as determined by the Board of Trustees.

5. Members in arrears shall forfeit the right to receive *The Linking Ring*, during the period of such arrearage. Any member whose dues are three years in arrears shall be automatically suspended. A member who reinstates his membership status at any time following a lapse of no more than three years will be considered to have uninterrupted membership upon the payment of all back dues owed for the period of such lapse. A member who reinstates his membership status at any time following a lapse of greater than three years will be considered to have uninterrupted membership upon the payment of all back dues owed for the period of such lapse only upon the written approval of the Order of Merlin Committee. Only one such reinstatement will be considered for the purpose of adjusting Order of Merlin award eligibility. A member, whose dues are unpaid at the time of the Annual Meeting or Annual Election, shall not be in good standing, may not vote, hold office or be admitted to a business meeting, until such time as the unpaid dues are paid to the Executive Secretary.

Sec. 4. Duties of Appointive Officers and Committees.

A. The International President shall appoint the following officers:

1. A LEGAL ADVISOR licensed to practice law in the United States of America, who shall advise the Board of Trustees, Officers and Committees on legal matters, and advise Rings as to their Ring Bylaws and other governing documents, so such documents will not be in conflict with the International Bylaws or Standing Rules.

2. A CHAPLAIN, who shall be an ordained clergyman. The Chaplain shall annually conduct a brief memorial service for departed members and render spiritual guidance as needed or requested.

3. A TERRITORIAL VICE PRESIDENT for each state of the United States, each Province in Canada and each country where a Territorial Vice President has not been elected.

4. A RING COORDINATOR, who shall investigate all applications for charters of Rings and submit a complete report with recommendations as to granting of charters to the International President.

B. The International President shall appoint the following special committees and be an ExOfficio member of each such committee:

1. An ANNUAL CONVENTION COMMITTEE, consisting of no fewer than five (5) members, which shall plan and present the Annual Convention in accordance with the provisions of Section 8 of these Standing Rules. There may be staggered terms of membership on this Committee. The President may appoint members to fill positions left by vacating members who have served three years. This Committee will also include an Assistant Treasurer for Conventions.

2. An ETHICS COMMITTEE which shall: (a) initiate, promulgate, and interpret rules of conduct which tend to advance the Art of Magic and the welfare of the membership of this organization; (b) investigate violations of oath, pledge, ethics, Standing Rules, Bylaws, and the conduct of any member or Ring which may tend to bring the organization into disrepute; (c) initiate or recommend the institution of disciplinary action or proceedings against any member of the organization or Ring affiliated therewith in any of the matters mentioned above; and (d) make recommendations to the Board of Trustees concerning ethical matters.

3. A GRIEVANCE COMMITTEE, at least one member of which shall be a person licensed to practice law in the United States. This Committee shall conduct investigations and hearings on grievances and other proceedings submitted to it, and shall issue findings, reports and/or recommendations to the Board of Trustees for disciplinary action against members and/or Rings.

4. An AUDIT COMMITTEE of no fewer than three members, which shall cause an audit or review to be made of the books and records of the Headquarters Office, International Treasurer, Assistant Treasurer for Conventions, and Business Manager of *The Linking Ring* prior to the Annual Business Meeting and submit a report at this Meeting.

5. A DEALERS COMMITTEE of which at least two members shall be established dealers in magic merchandise, which shall recommend to the Board of Trustees a standard of ethics and procedures for dealers to be adopted by the I.B.M. to guide dealers in their relations with each other and with the members of the I.B.M., and shall devise rules for consideration by the Convention Committee pertaining to dealers displaying at the Annual Convention.

6. A SICK AND CONVALESCENT COMMITTEE which shall have the responsibility to do such acts as will tend to bring cheer to ill members of the I.B.M.

7. An I.B.M. AWARDS COMMITTEE responsible for the design and procurement of all I.B.M. awards, certificates and incentives and establishment of the criteria for granting of any such awards and recognitions. This committee shall include the following subcommittees:

a. *The Linking Ring* Awards Subcommittee — chaired by the Executive Editor and responsible for selection and awarding of the annual *The Linking Ring* awards.

b. Ring Quality Awards Subcommittee — responsible for the design, procurement and awarding of Ring Quality Awards.

c. Convention Contest Subcommittee — responsible for the design, procurement and delivery of convention contest trophies and awards and the establishment of contest rules.

8. A FLEMING MEMORIAL COMMITTEE which shall, with the approval of the International President, waive the payment of yearly dues of such members of this organization who, in the opinion of the Committee, become financially unable to continue their membership. The records of this Committee shall be the property of the I.B.M. and shall be permanently maintained as confidential information.

9. A TERRITORIAL VICE PRESIDENT NOMINATIONS/RING COUNSELOR COMMITTEE which shall be responsible to the Board of Trustees for the effective functioning of the Territorial Vice Presidents.

10. An ENDOWMENT AND DEVELOPMENT FUND COMMITTEE consisting of no fewer than three members, which shall perform such duties as may be assigned to them by the ED&F Trustees (subject to the approval of the I.B.M Board of Trustees) which are not inconsistent with that certain Trust Agreement dated November 13, 1973 (the "ED&F Trust Agreement"), as may be amended from time to time; provided, however, that in no event shall any committee member be authorized or permitted to perform any fiduciary duties required to be performed by the ED&F Trustees under the ED&F Trust Agreement.

11. A MEMBERSHIP COMMITTEE which shall identify and examine issues pertaining to the growth and retention of membership of the organization and make appropriate recommendations to the Board of Trustees.

12. A YOUTH COMMITTEE including at least two youth members, which shall: (a) Promulgate, implement, and carry out programs for Youth Members, subject to the approval of the Board of Trustees; and (b) Establish and oversee Youth Chapters, to be known as Magic Youth Affiliates. These Youth Chapters shall exist and operate in conjunction with active Rings, in accord with the Youth Chapter's Charter and subject to applicable rules and procedures which may be adopted by the Board of Trustees.

13. A LONG-RANGE PLANNING COMMITTEE which shall identify and critically examine broad issues which may have a significant effect on the future strength and viability of the I.B.M., and recommend specific courses of action to the Board of Trustees. The Committee shall be comprised of the President Elect, the International Vice President, and six additional members who shall be appointed to staggered three-year terms such that only one-third of the appointed members are replaced each year. The International President shall appoint the Committee's Chair.

14. A PUBLIC RELATIONS COMMITTEE which shall be responsible for all matters concerning publicity relating to the I.B.M.

15. A MANAGEMENT TEAM which shall consist of the International Treasurer, Assistant Treasurer for Conventions, Business Manager of *The Linking Ring*, Executive Secretary (nonvoting), and the Board member charged with overseeing the Headquarters Office, plus three members at large. The Team shall be responsible for the development of the proposed fiscal year budgets for The I.B.M. to be submitted to the Board for review and approval at the Midyear Board Meeting prior to the fiscal year (October 1 – September 30) of the proposed budget, and the monitoring of the approved budgets. The Team shall also be responsible for the development of recommendations pertaining to other tasks as may be assigned by the Board of Trustees.

16. An ORDER OF MERLIN COMMITTEE, of no fewer than three members, shall oversee the recognition and awarding of various classes of membership for uninterrupted membership in the I.B.M. which have been established by the Board of Trustees. The Committee may organize annual events for Order of Merlin members.

17. An EDITORIAL ADVISORY COMMITTEE, which shall offer guidance at the request of the Executive Editor on matters regarding questionable or potentially libelous materials being considered for publication in *The Linking Ring*.

18. Such other Special Committees as the International President deems necessary.

C. No Committee, appointee, or person shall incur any obligations against this organization unless specifically authorized in writing by the International President or by the Board of Trustees.
Sec. 5. *The Linking Ring* magazine

A. An Executive Editor and a Business Manager shall be hired annually by the Board of Trustees and/or their designed agents, and shall be directed and compensated as determined by the Board of Trustees.

B. The Executive Editor shall edit all material for publication in *The Linking Ring* and shall reject libelous materials and questionable advertising. In case of doubt, the Executive Editor shall consult with the Editorial Advisory Committee and with the Legal Advisor and shall be guided by

their advice. The Executive Editor shall be responsible for the timely monthly publication and distribution of the magazine and may hire or appoint an Assistant Editor, an Advertising Manager and a reasonable number of Associate Editors. No article, pictorial matter, or magic effect published in *The Linking Ring* may be reproduced without written consent of the Executive Editor. C. *The Linking Ring* shall be provided only to Active and Youth Members of this organization as a membership privilege. However, copies may be supplied to other members and nonmembers in exchange for contributions to the magazine or for other meritorious reasons, at the direction of the International President or the Executive Editor.

D. Active Members and Youth Members who have permitted their dues to lapse but who later become reinstated may secure back issues, if available, at a price per copy as may be fixed by the Board of Trustees.

E. The Business Manager shall be responsible of all business and financial matters pertaining to the publication of *The Linking Ring*. **Sec. 6. Executive Secretary**

A. An Executive Secretary shall be hired by the Board of Trustees and/or their designated agents to manage the Headquarters Office and shall be directed and compensated as determined by the Board of Trustees.

B. In fulfilling the role of managing the Headquarters Office, the Executive Secretary shall: conduct all routine correspondence and business as necessary; compile and maintain a complete roster of all members of the organization; mail statements of dues to all members at least thirty days prior to the expiration of their membership; receive dues, fees, and other monies, and issue membership cards to duly qualified members; distribute election ballots to all voting members in accordance with the Bylaws; duly account for and deposit all monies received as directed by the International Treasurer; and submit a detailed and itemized account of all transactions of the Headquarters Office at the Annual Business Meeting. The Executive Secretary will also perform other duties as may be required by the Board of Trustees.

C. Membership cards, numbered serially, shall be issued by the Executive Secretary to all new members. The membership number shall designate the order of admission of the member and may never be changed or reissued to another member except that the number may be assigned to the child or spouse of a deceased member. Reinstated members shall receive their original membership number. Membership cards shall be renewed annually upon payment of dues. A current card shall be required for admission to and meeting of any Ring; or of this organization, upon demand.

D. The Executive Secretary shall furnish fidelity or surety bond in favor of the I.B.M. in a sum of fixed by the Board of Trustees and paid for by the I.B.M.

Sec. 7. Elections

A. Nominations

1. Each nominee to the Board should have at least one year of prior service to the organization either at the Ring, Territorial or International Committee level.

2. Nominees may be solicited through *The Linking Ring* and also via the I.B.M. Web site, which shall advise members how to express their interest in being on the Board, whom to contact and when to make their interest known.

B. Petitions

1. Official petition forms will be supplied on request by the International Headquarters Office at any time. These forms may be duplicated only in blank form with space for each signatory's signature, printed name, printed address in full and I.B.M. number. No other petition form may be used.

2. Petitions will be submitted in their original form adhering to the following standards:

a. Each petition must be submitted for a single candidate only.

- b. Electronically sent transmissions and petitions with signatures photocopied will not be accepted.
- c. The person circulating a petition must attest to the authenticity of all signatures contained thereon.
- d. All signatures not accompanied by the printed name, full mailing address, I.B.M. number, and petitions not attested to, will be deemed invalid.
- e. Deadline for the submission of petitions is February 1st preceding the Annual Business Meeting.
- f. The current Bylaws provision for the qualification of petition candidates will be followed.
- g. As soon as verified as specified in the Bylaws, all petitions shall be sealed and stored in the Headquarters for one year.

C. Election Communications - Since an I.B.M. election is an internal matter, the use of advertisements, letters-to-the-editor, or articles and comments in non-I.B.M. media, whether print or electronic shall be prohibited.

1. *The Linking Ring*

a. Equal space will be provided to each individual candidate for the publication of photo-graphs, biographies, qualifications for office and for positive election platforms of both Board nominees and properly qualified petition candidates for international office, at the discretion of the Executive Editor and as may be guided by the International President and Legal Advisor, to be limited to one page each, except for highly unusual cases. These pages will be printed in such amounts as are necessary to mail with each ballot on or about May 1st preceding the election to each overseas member who might not receive his journal in time to exercise the right to vote.

b. In recognition of the fact that the I.B.M. is a brotherhood, there will be no disparaging remarks about any individual or misstatements of facts in these pages. The Executive Editor has the Bylaws-mandated responsibility, in consultation with the International President and the Legal Advisor, to review and approve all material published in *The Linking Ring*.

c. There will be no special inserts in *The Linking Ring* relative to an election except upon approval by the Board of Trustees.

d. Both the International President and the Executive Editor, have the obligation to report both factual matters and their opinions in their monthly columns to the membership. Thus, there can be no formal restrictions on their voicing their opinions concerning election issues and candidates, other than the sense of propriety, brotherhood, fair play, truthfulness, and duty that each is expected to exhibit.

2. I.B.M. Web Page

a. There will be no use of the I.B.M. Web Portal for any political purpose other than that specified in "b" following.

b. Those pages published in *The Linking Ring* carrying each candidate's photograph, biographical material, qualifications for office and positive platform will automatically be published on the I.B.M. Web Portal.

3. Direct Mail

a. No I.B.M. funds will be used for direct mail purposes. The use of the official I.B.M. membership mailing list or official TVP lists for any purpose is expressly prohibited unless authorized by the Board of Trustees. **Sec. 8.** Annual Convention Committee

A. The Annual Convention Committee shall plan, make and complete arrangements for the production and presentation of Annual Conventions for a minimum of the next three succeeding years.

B. A report of the plans and proceedings of the Committee shall be given to the Board of Trustees at the Annual Mid-Year Business Meeting.

C. All monies received by the Committee from all convention related sources shall become funds of the I.B.M. The Assistant Treasurer for Conventions shall submit an itemized financial report to the International Treasurer. The I.B.M. will pay for the establishment of a fiduciary bond for the Assistant Treasurer for Conventions, in favor of the organization and for such sum as may be fixed by the Board of Trustees. The Annual Convention Committee shall secure, on behalf of the I.B.M., its employees and agents, Public Liability Insurance in an amount sufficient to protect the organization, its employees, and agents from any damages and claims for damages that might arise from the presentation of the Annual Convention.

D. The Annual Convention may be held in any town, city, or other place deemed to be suitable by the Annual Convention Committee.

E. No persons shall offer any item of a magical nature or otherwise for sale at an Annual Convention, unless authorized by the Annual Convention Committee.

F. Non-members of this organization shall be charged an amount at least equivalent to one year's International dues and initiation fee in addition to the registration fee charged an I.B.M. member or a member of the member's immediate family, to attend an Annual Convention. A nonmember shall not be permitted to attend the Annual Business Meeting. Except for conventions with the Society of American Magicians, the convention badge furnished a non-member shall be distinctive from that furnished to members of this organization.

Sec. 9. Rings

A.1. The International President or the Ring Coordinator shall first secure the recommendation of the Territorial Vice President of the state, province, or country in which a proposed Ring is to be organized before granting any Charter or dispensation. No Charter shall be granted until the applicant submits proof, in writing, that the proposed Ring has ten or more qualified active members or approved membership applicants. However, outside the territorial confines of the United States and Canada, an International Ring may be formed by ten or more Associate and Active members, provided that at least two of the ten are qualified Active Members, or approved membership applicants for active membership.

A.2. Links may charter and operate independently of adult sponsoring adult Rings. The International President or the Ring Coordinator shall first secure the recommendation of the Territorial Vice President of the state, province, or country in which a proposed Link is to be organized, before granting any Link Charter or dispensation. No Link Charter shall be granted until the applicant submits proof, in writing, that the proposed Link has three or more qualified active members, and seven or more qualified youth members or approved membership applicants. At least one of the three adult members must be of the opposite gender to provide balanced leadership, protective supervision, and to serve as a suitable gender role model. Links must follow the guidelines set forth in the I.B.M. Link Manual.

B. Upon approval of an application for a Charter by the International President or the Ring Coordinator, the Executive Secretary shall prepare a Charter, listing the names of the Charter Members. The Charter shall have the I.B.M. seal affixed and be signed by the International President.

C.1. Each Ring shall elect from its membership at least the following officers to conduct its affairs: President, Vice-President, Secretary, and Treasurer. An amendment was proposed and adopted to strike Sergeant-at-Arms.

C.2. Each Link shall appoint from its adult members a Link Director and Deputy Link Director to conduct its affairs. The Link Director and Deputy Link Director must be free and clear of any criminal history involving substance abuse, domestic violence, felony, or sex related crime.

D. The Secretary of each Ring or Link Director, on expiration of his/her term of office, shall surrender the Charter, together with all other books, records, and property of the Ring or Link, to his/her successor.

E. No Ring shall permit other than qualified members of both its Ring and the I.B.M. to attend its business meeting, nor shall it admit to membership anyone other than those who are I.B.M. members in good standing.

F. Each Ring shall have the right to determine who shall become its members so long as such determination does not violate any other provision of these Standing Rules or the Bylaws of this organization. However, Ring membership once having been granted cannot be withdrawn by a Ring unless the member is suspended or expelled by the I.B.M.

G. A member in good standing may affiliate with any Ring by making application in a manner prescribed by the Ring. A member of any Ring may affiliate with other Rings without relinquishing their membership in the Ring which they first joined by continuing to pay their dues in the original Ring and by also paying such additional dues as may be fixed by the other Ring (s), for dual membership.

H. Each Ring shall have the right to fix and receive its membership fees.

I. The International President may revoke or suspend any Charter in the event a Ring fails to maintain ten Active or Associate members or three Active or Associate and seven Link members in the instance of a Link, in good standing or for other just cause. Upon suspension of a Ring or revocation of its Charter, a Ring shall, upon demand of the International Executive Secretary, surrender its Charter and all Ring property and records pursuant to Section 11 (B) of these Standing Rules.

J. Each Ring may appoint a representative and an alternate as its Representative at the Annual Convention or Business Meeting. The Representative shall be authorized to submit recommendations of the Ring both to the Annual Convention and the Business Meeting. Such Representative or alternate shall be entitled to attend all meetings of the Board of Trustees and may submit recommendations but may not vote.

K. The granting of a Charter to any Ring does not authorize such Ring to incur any obligations or liabilities for or on behalf of this organization.

L. A Ring Secretary or Link Director shall submit annually to the I.B.M. Executive Secretary, but not later than November 1 of each year, a report listing all of the Ring's members, the names of its duly elected officers and the number of regular monthly meetings for the previous year. The report should indicate whether the Ring is incorporated or unincorporated. The report shall include such other data as may be requested by the Board of Trustees.

Sec. 10. Duties and Privileges of Members and Code of Ethics

A. In all instances, we should remember that the I.B.M. is first and foremost a brotherhood and that the making of any denigrating or deliberately misleading statements may be grounds for filing of a formal grievance and possible expulsion from the brotherhood.

B. The Code of Ethics of this organization shall be the Joint I.B.M.-S.A.M. Ethics Statement adopted July 1993 by the International Brotherhood of Magicians and the Society of American Magicians.

C. Members may mention membership in the I.B.M. in publicity materials; however, no statement or implication of endorsement by the I.B.M. may be included in any publicity materials without the express written consent of the Ethics Committee or as approved by the Board of Trustees.

D. Except as noted, members shall not reveal the modus operandi of magic effects or principles to the lay public. Exceptions are (1) where the intent is clearly to teach, so that the recipient may learn how to make and/or perform the effect or effects, rather than simply to satisfy curiosity; (2) where the method of an effect is integral to the plot, as in a detective novel or play; (3) where the method is important to the history of the performer or inventor or the evolution of the effect under discussion, as in a magic history or biography; and (4) where an effect is performed and then the simple method is revealed as a gag or stunt. However, the Ethics Committee, with the approval of the Board of Trustees, may grant a member the privilege of a specific exception if they decide that the Art of Magic is not injured thereby.

E. Members, in case of doubt concerning the interpretation of the Code of Ethics, shall consult with the Ethics Committee. No member may be prosecuted by this organization, or affiliate thereof, or shall be subject to discipline, for pursuing a course of conduct approved by the Ethics Committee.

F. All information obtained within the I.B.M. is for the exclusive use of members and for no other persons. Any member disclosing such information to members not in good standing, or to non-members, to the detriment of this organization, or violating the Code of Ethics as set forth in the foregoing Sections, shall be subject to discipline. **Sec. 11. Regalia and Records**

A. All Official Forms, Seals, Membership pins, reproductions of the Emblem for use of members or Rings, and such other articles and supplies as may, time to time, become available, shall be issued by this organization and may be obtained from the Executive Secretary at a price to be fixed by the Board of Trustees.

B. In the event of surrender or revocation of the Charter of a Ring, all Ring property, records, articles and official documents bearing the name "International Brotherhood of Magicians," shall become the property of this organization and must be returned to the Executive Secretary or deputy appointed by the International President.

Sec. 12. Adoption and Amendments of Standing Rules

A. Amendments of these standing rules may be made at any Board of Trustees Meeting by majority vote of the voting members present.

B. Standing Rules should contain only such rules as may be adopted with or without previous notice by a majority vote of the voting members present at any Board of Trustees meeting. The vote on their adoption, or their amendment, before or after adoption, may be reconsidered. They may be suspended by a two-thirds vote of the voting members present at any Board meeting.

INTERNATIONAL BROTHERHOOD OF MAGICIANS STANDING RULES

Adopted – June 2011

Amended – July 2015



EXHIBIT E

1 CASE NO. A705164

2 DEPT. NO. 13

3 DOCKET U

4

5

DISTRICT COURT

6

CLARK COUNTY, NEVADA

7

* * * * *

8 GAVIN COX and MINH-HAHN COX,)
husband and wife,)

9)
Plaintiffs,)

10)
vs.)

11)

12 MGM GRAND HOTEL, LLC; DAVID)
COPPERFIELD aka DAVIS S.)

13 KOTKIN; BACKSTAGE EMPLOYMENT)
AND REFERRAL, INC.; DAVID)

14 COPPERFIELD'S DISAPPEARING,)
INC.; TEAM CONSTRUCTION)

15 MANAGEMENT, INC.; DOES 1)
through 20; DOE EMPLOYEES 1)

16 through 20; and ROE)
CORPORATIONS 1 through 20,)

17 Defendants.)

18 MGM GRAND HOTEL, LLC.,)

19 Third-Party Plaintiff,)

20 vs.)

21 BEACHER'S LV, LLC, and DOES 1)
through 20, inclusive,)

22)
Third-Party Defendants.)

23 FRIDAY, APRIL 13, 2018

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REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,

REPORTER'S TRANSCRIPT

OF

MOTIONS

BEFORE THE HONORABLE

MARK R. DENTON

DEPARTMENT XIII

FRIDAY, APRIL 13, 2018

CA CSR #13529

1 APPEARANCES:

2 For the Plaintiff:

3 MORELLI LAW FIRM
4 BY: BENEDICT P. MORELLI, ESQ.
5 BY: ADAM E. DEUTSCH, ESQ.
6 BY: PERRY FALLICK, ESQ.
7 777 Third Avenue
8 31st Floor
9 New York, New York 10017
10 (212) 751-9800
11 bmorelli@morellilaw.com
12 adeutsch@morellilaw.com

9 For the Defendant Team Construction Management, Inc.
10 and Beacher's LV, LLC:

11 RESNICK & LOUIS, P.C.
12 BY: ROGER STRASSBURG, ESQ.
13 BY: GARY CALL, ESQ.
14 5940 South Rainbow Boulevard
15 Las Vegas, Nevada 89118
16 (702) 997-3800
17 gcall@rlattorneys.com

15 For the Defendants MGM Grand Hotel:

16 SELMAN BREITMAN, LLP
17 BY: JERRY C. POPOVICH, ESQ.
18 BY: SUSAN FILLICHIO, ESQ.
19 BY: GIL GLANCZ, ESQ.
20 6 Hutton Centre Drive
21 Suite 1100
22 Santa Ana, California 92707
23 (714) 647-9700
24 jpopovich@selmanlaw.com

21 - AND -

22 SELMAN BREITMAN, LLP
23 BY: ERIC O. FREEMAN, ESQ.
24 3993 Howard Hughes Parkway
25 Suite 200
Las Vegas, Nevada 89169
(702) 228-7717
efreeman@selmanbreitman.com

1 APPEARANCES (CONTINUED) :

2 For the Defendant Backstage Employment and Referral,
3 Inc. :

4 WEINBERG, WHEELER, HUDGINS, GUNN & DIAL
5 BY: D. LEE ROBERTS, JR., ESQ.
6 BY: HOWARD RUSSELL, ESQ.
7 6385 South Rainbow Boulevard
8 Suite 400
9 Las Vegas, Nevada 89118
10 (702) 938-3838
11 lroberts@wwhgd.com

12 For the Defendants David Copperfield's Disappearing,
13 Inc. and David Copperfield aka David S. Kotkin:

14 SELMAN BREITMAN, LLP
15 BY: ELAINE K. FRESCH, ESQ.
16 11766 Wilshire Boulevard
17 Sixth Floor
18 Los Angeles, California 90025-6538
19 (310) 445-0800
20 efreschlaw.com

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LAS VEGAS, NEVADA, FRIDAY, APRIL 13, 2018;

9:10 A.M.

P R O C E E D I N G S

* * * * *

THE MARSHAL: All rise. Eighth District Court, Department 13, is now in session, the Honorable Mark Denton presiding.

THE COURT: Good morning. Please be seated.

We're reconvening in -- outside the presence of the jury in Gavin Cox, et al. v. MGM Grand Hotel, LLC, et al. Please state appearances of counsel, identify parties and party representatives who are present today.

MR. MORELLI: Benedict T. Morelli for the plaintiff Gavin and Minh Cox. And they are here in the courtroom, Gavin Cox, Minh Cox, and their three sons.

MR. DEUTSCH: Good morning, Your Honor. Adam Deutsch, also for the plaintiffs.

MR. FALLICK: Good morning, Your Honor. Perry Fallick, also for the plaintiffs.

MR. POPOVICH: Good morning, Your Honor. Jerry Popovich for defendant MGM Grand Hotel, with Mike Infuso, Kelly Davis, Will Martin, and Mark Habersack.

1 MS. FRESCH: Good morning, Your Honor.
2 Elaine Fresch of Selman Breitman for David Copperfield,
3 David Copperfield Disappearing, Inc. Sitting next to
4 me is David Copperfield, my client, and -- excuse me --
5 Gil Glancz is also here today from my office, and Eric
6 Freeman.

7 THE COURT: Good morning.

8 MR. ROBERTS: Good morning, Your Honor. Lee
9 Roberts for Backstage. With us today is the president
10 of Backstage, Mr. Chris Kenner.

11 MR. RUSSELL: Good morning, Your Honor.
12 Howard Russell, also on behalf of Backstage.

13 MR. STRASSBURG: May it please the Court,
14 Roger Strassburg on behalf of Team Construction
15 Management. And I'm assisted ably by my partner, Gary
16 Call, who's also here.

17 MR. CALL: Thank you.

18 THE COURT: As I indicated, this is the time
19 for resumption of trial. I understand there's
20 something to be taken up before we proceed.

21 MS. FRESCH: Sorry.

22 MR. GLANCZ: Good morning, Your Honor. Gil
23 Glancz on behalf of David Copperfield and David
24 Copperfield Disappearing, Inc. I'm here to argue with
25 respect to our trial brief relating to closing certain

1 portions of the court proceedings from the media and
2 the general public. And I'll also be, if necessary,
3 arguing our motion to stay pending a writ, depending on
4 your decision.

5 First, Nevada law recognizes that courts
6 should protect trade secrets and other confidential
7 information by reasonable means by putting stuff under
8 seal and sometimes closing the proceedings. Here,
9 we're seeking to close the proceedings so that David
10 Copperfield's trademarked secrets won't get out.

11 His trademarked secrets are, obviously, his
12 illusions and different magic steps that go to his
13 things. He's worked his whole career, lifetime and
14 years, putting together these different illusions and
15 magic tricks for him to use, and he has secrets behind
16 it.

17 Plaintiffs have argued that everybody knows
18 these tricks, he's making someone appear and disappear,
19 but that's not entirely correct. He's -- there's a lot
20 more that goes on with the trick. And if everybody
21 knew how to do it, they would be doing it as well. And
22 no one else is.

23 One of the other things that plaintiffs
24 argued is that the plaintiffs themselves and all other
25 participating audience members in his trick also know

1 how that trick was done because they're part of it.

2 But, again, that's only a small portion of
3 the illusion itself. They don't have an idea of what's
4 going on on stage and different things that David
5 Copperfield is doing to -- sleight of hands, moving
6 people, and how everything else works. And a lot goes
7 into these tricks. And Mr. Copperfield is going to
8 have to testify to all of these different aspects of
9 it -- of the trick, the methods, in order to defend
10 himself properly in this case.

11 Additionally, the magic trick in question,
12 the Thirteen, also is related to several of his other
13 tricks and illusions, one being the fan illusion, where
14 no other audience participants are even part of the
15 illusion at all. So no one has any idea how he does
16 it. The reason that illusion is relevant is because
17 Mr. Copperfield walks that same exact path that
18 plaintiffs walked when doing the Thirteen Illusion.

19 And it's -- it's clear that there are trade
20 secrets and they should be protected. It meets all the
21 standards. They've guarded the secret. No one else
22 knows the secret. They've taken all the steps that
23 they can to keep it protected. So it's clearly a trade
24 secret. If all of that is revealed to the general
25 public and to the media, then that trick is worthless.

1 Once the secret is revealed, you can't use that trick
2 anymore.

3 And because that illusion has the same
4 methods as other tricks of -- other tricks of David
5 Copperfield, then he would have to give up using all
6 those other illusions as well because people would
7 already know what it is. The value of a magic illusion
8 is the fact that no one knows how it's done.

9 Additionally, there's a growing trend to
10 afford magic illusions and tricks copyright protection.
11 We brought the case of Teller v. Dogge, where the court
12 found that dramatic works are protected and can be
13 copyright-protected. In this case, Mr. Copperfield
14 doesn't have a copyright on -- on his illusion, but the
15 case still stands that the court found whatever reason
16 it could to protect Teller's copyright protection in
17 that case.

18 And what -- there's plenty of ways that the
19 court could have said it's not valid because he didn't
20 file it in the proper time. They could have found that
21 it was abandoned. But the court went out of its way to
22 show that it's a copyrighted material and even said
23 that dramatic works as well as pantomimes are subject
24 to copyright protection.

25 Additionally, currently going through the

1 United States Congress House of Representatives is a
2 bill that's -- that they're passing, Congressional
3 Resolution 698, which is intended to preserve and
4 protect and promote magic in its form, specifically, to
5 treat it as a rare and valuable art form and national
6 treasure.

7 By putting it into that, if that bill goes
8 through, automatically, those become trade secrets and
9 they'll be -- they'll be protected the same way any
10 musical piece, movie, other artworks are protected.

11 We've -- we haven't even begun the trial
12 already, and there's been significant media coverage.
13 We have people in here today from the media taking
14 pictures of the courtroom. We've had lots of
15 interviews and things going on. And the advertisers
16 are now actually teasing that they're going to be
17 revealing how some of his illusions are performed.

18 That's not -- it's basically not fair to have
19 Mr. Copperfield have to divulge all of his trade
20 secrets related to this trick and others when there's
21 no reason for it. So we believe that eliminating
22 the -- by precluding media and general public to come
23 in during his testimony and several others where they
24 discuss the actual methods and design of the illusion
25 would -- would -- would protect Mr. Copperfield's trade

1 secrets.

2 MR. DEUTSCH: Thank you, Your Honor.

3 Your Honor, we submitted a brief on this
4 yesterday, I believe. It starts off with the
5 Constitution of the United States, Your Honor. The
6 First Amendment holds very clearly that legal
7 proceedings should be open to the public. The Supreme
8 Court of Nevada in the Del Papa case has said that.
9 There was another case, Suen v. Las Vegas Sands that
10 said very clearly that legal proceedings are public
11 affairs and should be open to the public for that
12 purpose.

13 The argument that this trick that is relevant
14 in this case, the Thirteen Illusion, is -- is a trade
15 secret or a secret of any kind is belied by the
16 position that Mr. Copperfield is taking in this case.
17 Yesterday in the discussion about opening statements,
18 Mr. Copperfield's attorneys provided the Court with
19 some photograph demonstrative exhibits that they wanted
20 to use to show how many people already know about how
21 this trick is done.

22 And they're taking the position that there's
23 over 100,000 people that already know how this trick is
24 done. Every single night this trick is done,
25 Mr. Copperfield selects 13 people, tells them how the

1 trick is done, shows them how the trick is done,
2 doesn't make them sign any type of nondisclosure
3 agreement of any kind. The world knows how this trick
4 is done.

5 Any discussion about any other tricks, as far
6 as we're concerned, Your Honor, have nothing to do with
7 this case. If the defendants choose to come in here
8 and disclose how other tricks are done, they do that at
9 their own peril. This case is about one trick, the
10 Thirteen, a trick that Mr. Copperfield claims he
11 doesn't do anymore, which means therefore that there's
12 no reason to protect the secret anymore; a trick that a
13 simple search of the internet already discloses how the
14 trick is done; a trick that 13 people every night for
15 all the years knew how it was done.

16 So there's nothing secret about the Thirteen
17 Illusion at this point. Anything having to do with
18 another trick, we don't even think it's relevant to the
19 case. And if they choose to use it, then they do so at
20 their own peril, Your Honor. I think that the public
21 has a right to know what's going on in this courtroom,
22 and I think there's no reason to preclude anyone from
23 being in here, including cameras.

24 Thank you, Your Honor.

25 Oh, can I just say one more thing? I

1 apologize.

2 There's no proof of any copyright here
3 either. They didn't put that in their initial papers.
4 There's no proof of a copyright anywhere, I don't
5 believe. And they raised it today for the first time.
6 So I don't think there's been any proof that anything
7 here is copyrighted.

8 THE COURT: Okay.

9 MR. GLANCZ: Your Honor, to that point, I
10 agree the tricks are not copyrighted. We've raised it
11 just as an example of magic illusions being able to
12 have that kind of protection, and that's what we're
13 seeking here.

14 The case that plaintiff just cited as far as
15 the openness of the proceedings to the media and
16 general public, none of those cases that he cited have
17 to deal with trademarked secrets. There's plenty of
18 cases -- and the supreme court here in Nevada has said
19 that they -- that closing proceedings may be weighed to
20 protect trade secrets such as this.

21 His secrets are what makes him the magician
22 he is today. And while the audience participants may
23 be able to share their limited experience with respect
24 to the small portion of the illusion, they would not be
25 able to provide any information to the majority of the

1 illusion.

2 There's a lot of stuff that goes on while the
3 audience participants are moving from one part of the
4 stage to another, a lot. That's where most of the
5 trick happens. Yes, the reveal is the -- the big
6 climax of the trick, but a lot of other things go on
7 during that time. And no one can testify to that.

8 Plaintiffs don't know the whole trick. The
9 only person that does is Mr. Copperfield sitting right
10 here next to us. So he should be able to be protected
11 and not have to give up that information.

12 Additionally -- sorry -- excuse me -- with
13 respect to the other trick, it goes without saying that
14 that has to be revealed. It's definitely relevant to
15 this case. When you have a person walking the same
16 path as the plaintiffs no more than ten minutes before,
17 it's going to be relevant. You have to discuss that.
18 If he's discussing every method that goes on with the
19 Thirteen Illusion, you're going to find out every
20 method that goes along with the other illusions as
21 well. And he should be protected from having to reveal
22 all that just to defend himself in this case.

23 THE COURT: But you're the one that brought
24 that out on this argument; right?

25 MR. GLANCZ: I am.

1 THE COURT: I didn't hear the plaintiffs
2 bring out the resemblance of another act.

3 MR. GLANCZ: That's true. I don't know. I
4 haven't been part of the whole discovery process of
5 what they know, but I'm assuming that it came through
6 in deposition testimony, and this is the first they
7 learned about it.

8 MR. DEUTSCH: It did not, Your Honor.

9 MS. FRESCH: Your Honor, may I insert?

10 Mr. Copperfield testified about that in his
11 deposition.

12 THE COURT: All right.

13 MS. FRESCH: It has been --

14 THE COURT: The fact is it hasn't been
15 brought out by the plaintiff --

16 MS. FRESCH: But, Your Honor --

17 THE COURT: -- as being similar.

18 MS. FRESCH: But for us to properly defend
19 Mr. Copperfield in this case and for him to properly
20 defend himself, what -- what Mr. Deutsch is suggesting
21 is that he has to choose between not bringing up
22 another illusion so that he does not reveal the secrets
23 behind how that illusion is performed, or he just
24 doesn't get to defend himself properly. That's not
25 fair. That's prejudicial to him. He has to be able to

1 bring up another illusion in order to properly --

2 THE COURT: And if that's the case, then
3 there may be reason to close the court at that time.
4 But that doesn't mean that everything having to do with
5 this illusion has to be closed.

6 MS. FRESCH: Well, obviously, our argument is
7 that this illusion should be the same closed proceeding
8 because not everyone knows the entire process of how
9 the Thirteen is developed and performed from step one
10 to the end when those audience members reappear. No
11 one knows that. Only Mr. Copperfield and the people of
12 Backstage and the other stagehands have any concept of
13 how that is done. That is secret.

14 Mr. Deutsch talks about things like, yeah,
15 there's 96,000 participants. True. But they only know
16 the part from when they leave the stage to where they
17 end up in the back. They don't know how the rest of
18 the illusion. For us to properly defend,
19 Mr. Copperfield needs to explain all of that. I need
20 to explain that in opening statements. How can I do
21 that if I'm going to run the risk that
22 Mr. Copperfield's illusions, the source of his entire
23 career, will be revealed and will be on the news
24 tonight?

25 It already was on "Good Morning America." It

1 was on all the local stations. This is, like, getting
2 more media coverage. It's going to be on the news
3 tonight. That's prejudicial to Mr. Copperfield in his
4 business. These are proprietary information. That's
5 why originally there was a confidential order that was
6 agreed to by plaintiffs and signed by -- signed by Your
7 Honor.

8 I'm sorry.

9 THE COURT: All right. Thank you.

10 MR. DEUTSCH: Your Honor, may I just make one
11 point?

12 THE COURT: All right. The defense will have
13 the last word on it. It's their motion.

14 MR. DEUTSCH: Yeah, I understand, Your Honor.

15 Two things. One, if -- if the relevance of
16 the -- the second trick --

17 THE COURT: Don't refer to --

18 MR. DEUTSCH: I'm not. If the relevance of
19 the second trick -- that's why I didn't name it, but
20 "the second trick" -- is just that -- that there's a
21 walking of the similar route, like counsel just said,
22 they could say that without revealing anything else
23 about that -- that illusion.

24 But the more concerning thing for us, Your
25 Honor, is that this case has been through discovery for

1 four years now. We've had interrogatories, we've had
2 multiple depositions of multiple witnesses, including
3 Mr. Copperfield, Mr. Kenner, other employees that are
4 involved in this illusion, the Thirteen Illusion.

5 And all of those witnesses were asked under
6 oath in multiple occasions, explain to us how the
7 illusion is done. Both Ms. Fresch and -- I'm sorry.

8 I don't know your name.

9 MR. GLANCZ: Mr. Glancz.

10 MR. DEUTSCH: -- Mr. Glancz just got up here
11 and say even the plaintiffs don't know how this entire
12 illusion is going to be done. And Ms. Fresch just said
13 that she's going to tell the jury how the entire
14 illusion is going to be done.

15 So we're sort of perplexed, Your Honor, how
16 we're supposed to start this trial and open when we're
17 now being told in front of everybody in this courtroom
18 that there has been discovery that's been withheld from
19 us in terms of all of the details of this illusion.
20 Mr. Copperfield was asked under oath, "Tell us how the
21 illusion was done."

22 It's now been clear that he didn't share all
23 that information with us. Mr. Kenner was asked that
24 question. It's clear that he didn't share all that
25 information with us.

1 So we now feel that we're being prejudiced by
2 starting a trial where the defendants have purposefully
3 withheld information from us.

4 THE COURT: Okay. Thank you.

5 Let me hear last from defense.

6 MR. GLANCZ: Your Honor, first point is if we
7 did say something to the effect that plaintiffs don't
8 know how the -- plaintiffs' counsel doesn't know how
9 the trick is done, that's -- I didn't mean to say that.
10 They didn't -- they've gotten all the information. But
11 it's also given under confidentiality and a protective
12 order. So they have that, but they can't disclose it
13 to anybody.

14 We want the same -- we want that to be -- to
15 be protected here in trial, where he shouldn't have to
16 make a choice between his future financial capacity in
17 being able to perform different magic tricks versus
18 trying to defend himself in a case.

19 And, currently, besides the one illusion that
20 we talked about, Mr. Copperfield just informed us
21 there's another illusion that is very similar to the --

22 THE COURT: Don't identify what it is,
23 please.

24 MR. GLANCZ: I'm not.

25 MR. DEUTSCH: Your Honor, I just want to know

1 if Ms. Fresch misspoke also.

2 MS. FRESCH: No, Your Honor. I can tell you
3 that, because I was at all those depositions, it -- it
4 depends on how plaintiff asked their questions and what
5 they asked. If they chose not to ask questions in
6 depositions to elaborate on every process of the
7 illusion, that's their problem. We get to talk about
8 that now because we're in trial.

9 THE COURT: All right. Thank you. I don't
10 consider -- yes?

11 MR. ROBERTS: Yes. Your Honor, Lee Roberts,
12 Backstage Employment and Referral.

13 As you know, Your Honor, my company employs
14 the stagehands. And I just wanted to -- to tell the
15 Court that we would support the request to close the
16 courtroom only during the limited portions of the
17 opening and the trial where the details of the illusion
18 are discussed.

19 The continued employment and the ability to
20 earn a living of the stagehands depends upon
21 Mr. Copperfield's success, which, in the case of a
22 magician, depends on the preservation of trade secrets.
23 When illusions are known, they lose their magic.

24 In Richmond Newspapers v. Virginia, 448 U.S.
25 555, page 600, note 5, Justice Stewart noted that "the

1 protection of trade secrets is one of the limited
2 circumstances that can justify the exclusion of the
3 public from a trial during very limited segments of the
4 trial."

5 And we're not asking to close the whole
6 trial, but we support a request to close very limited
7 portions of the trial, Your Honor.

8 Thank you.

9 MR. DEUTSCH: Your Honor, can I just make a
10 clarification after Mr. Roberts's comments?

11 Our understanding was that the only dispute
12 that we were having at this moment was whether or not
13 cameras would be allowed to roll and not an issue -- I
14 was pretty confident that Your Honor has already ruled
15 on two occasions very clearly that Your Honor was not
16 going to close the courtroom as to reporters and that
17 the only thing that was being discussed here was the
18 issue of whether cameras would be allowed --

19 THE COURT: No, I think the motion goes
20 beyond that.

21 MR. DEUTSCH: Okay.

22 THE COURT: So I -- I looked at it. Here's
23 what I understand the defendant to be seeking. This is
24 page 6 of the defendants' motion that was filed
25 April 10th.

1 It says, "Therefore, defendants request that
2 the Court close the proceedings for opening statements,
3 closing arguments, and parts of the argument and
4 testimony related to the defendant's trade secrets, and
5 specifically the Thirteen Illusion" -- and I'm not
6 going to go beyond that.

7 MS. FRESCH: Right.

8 THE COURT: Okay.

9 MS. FRESCH: Okay.

10 THE COURT: All right. Well, here's my -- my
11 ruling: I don't consider the -- the specific illusion
12 involved in this case to be -- to warrant closing the
13 courtroom. Okay? So opening statements, questioning
14 of witnesses, everything else, I'm not going to close
15 the courtroom or the cameras relative to that illusion.

16 But if you're going to get into something
17 else, approach the bench -- approach the bench -- and
18 let me know, because there may be reason to either --
19 either close the cameras or close the courtroom or
20 whatever. Okay? There are some things there that may
21 be protectable trade secrets that would warrant the
22 Court's consideration of closure of proceedings.

23 But I'm not going to close the proceedings
24 relative to the specific illusion that's involved here,
25 the Thirteen Illusion, because I think that's -- that's

1 been out for quite some time in terms of -- and what
2 we're talking about is -- is what happened in this
3 case. And I think that's certainly something that's
4 subject to open court proceedings. Okay?

5 So there's my ruling.

6 So I'm going to need an order to be
7 submitted. And I'm -- I want counsel to be on the same
8 page on it; if not, submit competing orders and then
9 I'll determine which one to sign.

10 MR. GLANCZ: That's fine, Your Honor. I'll
11 draft that order, and then I can pass it over to
12 plaintiffs' counsel for their approval.

13 In the meantime, I'd also like to do an oral
14 motion for stay pending the writ that we'll be filing
15 today.

16 THE COURT: Well, all we're doing today is
17 opening statements. So I'm not going to stay the
18 proceedings. We'll go on with opening statements. And
19 that gives you time if you're going to be seeking a
20 writ. You know, we're not going to be reconvening
21 until next Tuesday, so -- right?

22 MR. GLANCZ: Yes. Thank you, Your Honor.

23 THE COURT: All right. So we're ready for
24 the jury?

25 MR. MORELLI: Finally. Yes.

1 THE COURT: Okay. Let's have the jury
2 brought in. I stand, and I expect everybody else to do
3 so when the jury comes in.

4 (Thereupon, the proceedings
5 concluded at 9:32 a.m.)
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11 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
12 PROCEEDINGS.

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KRISTY L. CLARK, CCR #708

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MR. CALL: [1] 5/16 MR. DEUTSCH: [10] 4/18 10/1 14/7 16/9 16/13 16/17 17/9 18/24 20/8 20/20 MR. FALLICK: [1] 4/20 MR. GLANCZ: [9] 5/21 12/8 13/24 14/2 17/8 18/5 18/23 22/9 22/21 MR. MORELLI: [2] 4/15 22/24 MR. POPOVICH: [1] 4/22 MR. ROBERTS: [2] 5/7 19/10 MR. RUSSELL: [1] 5/10 MR. STRASSBURG: [1] 5/12 MS. FRESCH: [10] 4/25 5/20 14/8 14/12 14/15 14/17 15/5 19/1 21/6 21/8 THE COURT: [23] 4/9 5/6 5/17 12/7 13/22 13/25 14/11 14/13 14/16 15/1 16/8 16/11 16/16 18/3 18/21 19/8 20/18 20/21 21/7 21/9 22/15 22/22 22/25 THE MARSHAL: [1] 4/4	555 [1] 19/25 5940 [1] 2/12		
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