

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID J. MITCHELL; ET AL.;

Appellants,

vs.

RUSSELL L. NYPE; REVENUE
PLUS,) LLC; AND SHELLEY D.
KROHN,

Respondents.

Electronically Filed
Mar 18 2021 03:53 p.m.
80693
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court Case No. 80693
District Court No. A-16-740689-B

**APPELLANTS' MOTION TO FILE APPELLANT'S APPENDIX
VOLUMES XXI TO XXIX UNDER SEAL**

Appellants David J. Mitchell, Meyer Property, Ltd., Zoe Property, LLC, Leah Property, LLC, Wink One, LLC, Aquarius Owner, LLC, LVLP Holdings, LLC, and Live Works Tic Successor, LLC, by and through their counsel of record, hereby moves, pursuant to SRCR, Part VII, Rules 3 and 7, for permission to file Volumes XXI to XXIX of Appellants 'Appendix under seal.

Each of these volumes has extensive papers or exhibits which the parties designated as "Confidential Information" and were protected by a Stipulated Protective Order that was entered by the District Court on February 20, 2018, which is attached as Exhibit 1. These records are necessary for this Court's review of Appellant's Opening Brief and should not be made public pursuant to the district court's order.

Because these records are protected by court order, Appellant respectfully requests that Volumes XXI to XXIX of Appellants 'Appendix be filed under seal. *See* SRCR Part VII, Rule 7 (“Court records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court”).

Dated: March 18, 2021

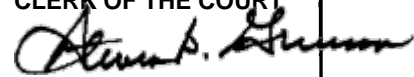
COHEN JOHNSON

By: /s/ H. Stan Johnson
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Attorney for Appellants David J. Mitchell, Meyer Property, Ltd., Zoe Property, LLC, Leah Property, LLC, Wink One, LLC, Aquarius Owner, LLC, LVLP Holdings, LLC, and Live Works Tic Successor, LLC

EXHIBIT 1

EXHIBIT 1



1 NTSO
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Nevada State Bar No. 1540
3 MEGAN K. MAYRY MCHENRY, ESQ.
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5 Henderson, Nevada 89074
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6 Fax: 702-434-3739
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Attorneys for Mitchell Defendants

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10
11 RUSSELL L. NYPE; REVENUE PLUS, LLC;
DOES I-X; DOE CORPORATIONS I-X; and
12 DOE PARTNERSHIPS I-X,

Case No. A-16-740689-B
Department 15

13 Plaintiffs,

14 v.

15 DAVID J. MITCHELL; BARNET LIBERMAN;
16 LAS VEGAS LAND PARTNERS, LLC; MEYER
PROPERTY, LTD.; ZOE PROPERTY, LLC;
17 LEAH PROPERTY, LLC; WINK ONE, LLC;
LIVE WORK, LLC; LIVE WORK MANAGER,
18 LLC; AQUARIUS OWNER, LLC; LVL P
HOLDINGS, LLC; MITCHELL HOLDINGS,
19 LLC; LIBERMAN HOLDINGS, LLC; 305 LAS
VEGAS LLC; LIVE WORKS TIC SUCCESSOR,
20 LLC; CASINO COOLIDGE LLC; DOES I-III; and
ROE CORPORATIONS I-III, inclusive,
21

22 Defendants.

23
24
25 **NOTICE OF ENTRY OF STIPULATED PROTECTIVE ORDER**
26
27
28

LAW OFFICE OF
HAYES & WELSH
A PROFESSIONAL CORPORATION
199 NORTH ARROYO GRANDE BLVD., SUITE 200
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1 PLEASE TAKE NOTICE that on February 20, 2018, this Court entered a
2 STIPULATED PROTECTIVE ORDER, a copy of which is attached hereto.

3 DATED this 21st day of February, 2018.

4 LAW OFFICE OF HAYES & WELSH

5
6 /s/Garry L. Hayes
7 GARRY L. HAYES, ESQ.
8 Nevada State Bar No. 1540
9 199 N. Arroyo Grande Blvd., Ste. 200
Henderson, NV 89074
Attorneys for Mitchell Defendants

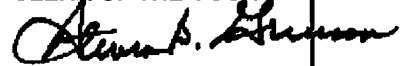
10 **CERTIFICATE OF SERVICE**

11 Pursuant to NRCP 5(b), and EDCR 8.05, I hereby certify that on the 21st day of
12 February, 2018, I served a true and correct copy of the foregoing NOTICE OF ENTRY OF
13 STIPULATED PROTECTIVE ORDER through the Court's electronic filing and service system
14 to:

15 JOHN W. MUIJE, ESQ.
16 John W. Muije & Associates
17 1840 E. Sahara Avenue, Ste. 106
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18 jmuije@muijelawoffice.com
Attorneys for Plaintiffs

19 HARRY PAUL MARQUIS, ESQ.
20 Harry Paul Marquis, Chartered
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22 harry@marquislaw.net
Attorneys for Defendants 305 Las Vegas, LLC
23 and Barnet Liberman

24
25 
26 Employee of the Law Office of Hayes & Welsh
27
28



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Attorneys for Defendants

8
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 **RUSSELL L. NYPE; REVENUE PLUS, LLC;**
12 **DOES I-X; DOE CORPORATIONS I-X; and**
13 **DOE PARTNERSHIPS I-X,**

Case No. A-16-740689-B

Department 15

14 **Plaintiffs,**

15 **v.**

16 **DAVID J. MITCHELL; BARNET LIBERMAN;**
17 **LAS VEGAS LAND PARTNERS, LLC; MEYER**
18 **PROPERTY, LTD.; ZOE PROPERTY, LLC;**
19 **LEAH PROPERTY, LLC; WINK ONE, LLC;**
20 **LIVE WORK, LLC; LIVE WORK MANAGER,**
21 **LLC; AQUARIUS OWNER, LLC; LVLP**
22 **HOLDINGS, LLC; MITCHELL HOLDINGS,**
23 **LLC; LIBERMAN HOLDINGS, LLC; 305 LAS**
24 **VEGAS LLC; LIVE WORKS TIC SUCCESSOR,**
25 **LLC; CASINO COOLIDGE LLC; DOES I-III; and**
26 **ROE CORPORATIONS I-III, inclusive,**

27 **Defendants.**

28 **STIPULATED PROTECTIVE ORDER**

Plaintiffs RUSSELL L. NYPE and REVENUE PLUS, LLC ("Plaintiffs"), the
Mitchell Defendants and Defendants BARNET LIBERMAN and 305 LAS VEGAS LLC
("Liberma Defendants" and collectively, "Parties") through their respective undersigned
counsel, hereby stipulate and agree as follows:

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A PROFESSIONAL CORPORATION
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FEB 16 2018

1 1. Plaintiffs have requested production of documents and information in the
2 course of litigation, some of which the Mitchell Defendants claim to contain confidential
3 information.

4 2. That confidential information includes, but is not limited to, documents and
5 things and copies thereof, including but not limited to financial documents, corporate
6 records and confidential agreements between the Mitchell Defendants and third parties.

7 3. With respect to any documents and information that the Mitchell Defendants
8 and Liberman Defendants wish to remain confidential, Mitchell Defendants and Liberman
9 Defendants shall designate the document(s) by identifying bates numbers, including related
10 written discovery responses and deposition testimony, as "Confidential Information" at the
11 time of their disclosure.

12 4. Plaintiffs agree that the Confidential Information shall be used solely for the
13 purposes of this pending litigation, and shall not be used for any commercial, litigation, or
14 other purpose apart from this litigation.

15 5. The Parties agree that only the current legal counsel retained by the Parties
16 may review the Confidential Information and that they will not disseminate or disclose any
17 of the information contained or learned from the Confidential Information to other persons
18 other than the Parties' attorneys, designated expert witnesses retained or consulted for the
19 purpose of this litigation, the Court, or other appropriately interested governmental officials
20 only as ordered by the Court. All information disclosed to Defendants and any experts
21 retained by the Parties shall remain confidential. The Parties agree that disclosure of the
22 Confidential Information to expert witnesses shall be solely for evaluation, testing,
23 testimony, preparation for trial, or other services related to this litigation. The Confidential
24 Information may only be disclosed to an expert witness after such expert witness has read
25 this Stipulated Protective Order and executed a copy of **Exhibit A** attached hereto.

26 6. Plaintiffs may, but shall not be obligated to, object to the Mitchell
27 Defendants' and Liberman Defendants' designation of information as Confidential
28 Information at any time. If such objection is made, counsel for the Parties will negotiate in

1 good faith concerning the appropriateness of the designation. If counsel are not able to
2 agree through such consultation, any party may move the Court, upon notice to the other
3 party, to remove or change the designation of Confidential Information with regard to any
4 specific document, information, testimony, or any other thing, or any portion thereof.

5 7. The Parties agree that to the extent the Confidential Information is used in
6 this litigation, regardless of use, including but not limited to, as exhibits to motions, at trial,
7 or at depositions, the Confidential Information must be submitted under seal to the court
8 and shall not be filed, unless the Parties agree otherwise in writing.

9 8. In the event of a disclosure of any Confidential Information by Plaintiffs (or
10 their attorneys or experts) to a person not authorized to have had such disclosure made to
11 him or her under the provisions of this Stipulation, the Mitchell Defendants' and Liberman
12 Defendants' counsel shall immediately procure the return of the information and inform
13 Plaintiffs' counsel of all relevant information concerning the nature and circumstances of
14 such disclosure. Plaintiffs' counsel shall also take all reasonable measures promptly to
15 ensure that no further or greater unauthorized disclosure of the Confidential Information
16 occurs.

17 9. Plaintiffs agree and acknowledge that a material and willful violation of this
18 Stipulation by Plaintiffs (or any of their attorneys or experts) may result in irreparable harm
19 to the Mitchell Defendants and Liberman Defendants, and Plaintiffs therefore consent to the
20 issuance of an injunction to remedy a willful violation of this Stipulation and other
21 appropriate relief as may be ordered by the Court upon motion by a party. If the Mitchell
22 Defendants or Liberman Defendants contend a material and willful violation of this
23 Stipulation, counsel for the Parties will negotiate in good faith to attempt to remedy the
24 alleged violation before seeking relief from the Court. Nothing in this Stipulation shall
25 preclude the Mitchell Defendants and Liberman Defendants from pursuing an action for
26 demonstrable actual damages based on a willful violation of the terms of this Stipulation.
27
28

10. Except as stated herein, no Confidential Information shall be disclosed to any person or entity that becomes a party or legal counsel to this case after execution of this Stipulation, unless ordered by the Court or a written amendment to this Stipulation is executed authorizing disclosure.

DATED: February _____, 2018

DATED: February _____, 2018

LAW OFFICE OF HAYES & WELSH

JOHN W. MUIJE & ASSOCIATES

GARRY L. HAYES, ESQ.
Nevada Bar No. 1540
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Attorneys for Mitchell Defendants

JOHN W. MUIJE, ESQ.
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Attorneys for Plaintiffs

Dated: February 16th, 2018

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400 South 4th Street, Ste. 300
Las Vegas, NV 89101
*Attorneys for Defendants 305 Las Vegas, LLC
and Barnet Liberman*

ORDER

IT IS SO ORDERED.

Dated: February _____, 2018.

DISTRICT COURT JUDGE

Submitted by:
LAW OFFICE OF HAYES & WELSH

GARRY L. HAYES, ESQ.
Nevada Bar No. 1540
MEGAN K. MCHENRY, ESQ.
Nevada Bar No. 9119
199 N. Arroyo Grande Blvd., Ste. 200
Henderson, NV 89074
Attorneys for Mitchell Defendants

10. Except as stated herein, no Confidential Information shall be disclosed to any person or entity that becomes a party or legal counsel to this case after execution of this Stipulation, unless ordered by the Court or a written amendment to this Stipulation is executed authorizing disclosure.

DATED: February 16, 2018

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Attorneys for Mitchell Defendants

Dated: February _____, 2018

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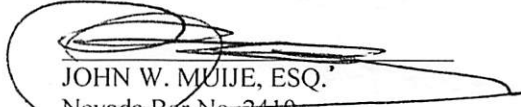
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*Attorneys for Defendants 305 Las Vegas, LLC
and Barnet Liberman*

DATED: February 15, 2018

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Las Vegas, Nevada 89104

Attorneys for Plaintiffs

ORDER

IT IS SO ORDERED.

Dated: February 20, 2018.


DISTRICT COURT JUDGE

Submitted by:

LAW OFFICE OF HAYES & WELSH


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Henderson, NV 89074

Attorneys for Mitchell Defendants

EXHIBIT A

I, the undersigned, hereby acknowledge that I have read the attached Stipulated Protective Order entered in the District Court, Clark County, Nevada in case number A-16-740689-B and understand the terms thereof and agree to be bound by all such terms. Without limiting the generality of the foregoing, I agree not to disclose to any person or entity not authorized to receive such "Confidential Information" pursuant to the terms of the Stipulated Protective Order, and any document or any information designated as "Confidential Information" or any copies of extracts or information derived therefrom, which have been disclosed to me. I further agree to use any information disclosed to me in connection with the above-mentioned case solely for the purpose of this case and not for other purposes.

The undersigned hereby irrevocably submits his/her person to the jurisdiction of the District Court, Clark County, Nevada for the purpose of enforcing said Stipulated Protective Order.

Date: _____

Signature

_____(Print name)