

Electronically Filed  
Mar 30 2021 08:58 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

1 **NOAS**  
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10 *Attorneys for Respondent Casino Connections*  
11 *International, LLC*

12 **EIGHTH JUDICIAL DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 CASINO CONNECTION INTERNATIONAL,  
15 LLC., a Georgia limited liability company,

16 Petitioner,

17 v.

18 NEVADA LABOR COMMISSIONER; a  
19 Nevada Administrative Agency, and JOHN  
20 BUYACHEK, JR., an individual,

21 Respondents.

CASE NO. A-19-805612-J  
DEPT. NO. 25

**NOTICE OF APPEAL**

22 Notice is hereby given that Petitioner CASINO CONNECTION INTERNATIONAL,  
23 LLC ("CCI"), by and through counsel, the law firm of Garman Turner Gordon LLP, hereby  
24 appeals to the Supreme Court of the State of Nevada from the Order Denying Judicial Review,  
25 filed on February 20, 2021 in the Eighth Judicial District Court, Clark County, Nevada, attached  
26 hereto as **Exhibit 1**, the Notice of Entry of Order of which was served on February 23, 2021, and  
27 is attached hereto as Exhibit 2.

28 Dated this 25<sup>th</sup> day of March, 2021.

GARMAN TURNER GORDON LLP

/s/ Eric R. Olsen

ERIC R. OLSEN  
Nevada Bar No. 3127  
7251 Amigo St., Suite 210  
Las Vegas, Nevada 89119  
*Attorneys for Petitioner*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 25<sup>th</sup> day of March, 2021, the foregoing **NOTICE OF**  
3 **APPEAL** was submitted electronically for filing and/or service on. Electronic service via e-mail  
4 of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

5 John Buyachek, Jr.  
6 4776 Desert Vista Road  
7 Las Vegas, NV 89121  
8 [jbchek@aol.com](mailto:jbchek@aol.com)

9 Aaron D. Ford  
10 Andrea Nichols  
11 Office of the Attorney General  
12 100 North Carson St  
13 Carson City, NV 89701-4717  
14 [ANichols@ag.nv.gov](mailto:ANichols@ag.nv.gov)

15 **VIA US MAIL TO:**  
16 Shannon Chambers  
17 Office of the Labor Commissioner - State of Nevada  
18 3300 W. Sahara Ave., Suite 225  
19 Las Vegas, NV 89102

/s/ CM Wrangham

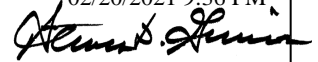
An employee of GARMAN TURNER GORDON

20 4829-3816-8802, v. 1

21  
22  
23  
24  
25  
26 <sup>1</sup> Pursuant to Administrative Order 14-2, dated May 9, 2014, service by electronic means is mandatory in the Eighth  
27 Judicial District Court. Further, pursuant to EDCR 8.05(a), each party who submits an E-Filed document through  
28 the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D); and, pursuant to EDCR  
8.05(d), users who register with the electronic filing system are deemed to consent to receive service electronically.

## EXHIBIT 1

## EXHIBIT 1

  
CLERK OF THE COURT

**ODJR**  
**AARON D. FORD**  
Attorney General  
ANDREA NICHOLS (Bar No. 6436)  
Senior Deputy Attorney General  
Office of the Attorney General  
100 N. Carson Street  
Carson City, NV 89701-4717  
(775) 684-1218 (phone)  
(775) 688-1156 (fax)  
ANichols@ag.nv.gov

Attorneys for Nevada Labor Commissioner

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR CLARK COUNTY**

CASINO CONNECTION  
INTERNATIONAL, LLC., a Georgia  
limited liability company,

Petitioner,

v.

NEVADA LABOR COMMISSIONER; a  
Nevada Administrative Agency, and  
JOHN BUYACHEK, JR., an individual,

Respondents.

Case No. A-19-805612-J

Dept. No. 25

**ORDER DENYING CASINO  
CONNECTION INTERNATIONAL,  
LLC'S PETITION FOR JUDICIAL  
REVIEW OR, IN THE ALTERNATIVE,  
PETITION FOR WRIT OF MANDAMUS  
AND/OR PROHIBITION**

This matter came before the Court on January 12, 2021, for hearing on Petitioner, Casino Connection International, LLC's, Petition for Judicial Review of the Findings of Fact, Conclusions of Law and Order issued by Respondent, Nevada Labor Commissioner, on October 18, 2019. Petitioner, Casino Connection, LLC, was represented by Eric R. Olsen of Garman Turner Gordon, LLP and Respondent, Nevada Labor Commissioner, was represented by Andrea Nichols, Senior Deputy Attorney General.

Petitioner filed its Opening Brief on November 2, 2020. Respondent, Nevada Labor Commissioner, filed its Reply Memorandum of Points and Authorities on December 2, 2020, and Petitioner filed its Reply Brief on January 4, 2021. In addition to the Briefs this Court considered the Transcript, filed herein on September 1, 2020, and the Remainder of the Administrative Record on Appeal filed herein on September 3, 2020.

///

1 Having carefully read and considered the filings and having heard and considered  
2 the arguments of counsel, the Court hereby makes the following Findings of Fact,  
3 Conclusions of Law and Order:

4 **FINDINGS OF FACT**

5 This matter commenced on October 23, 2018, when John Buyachek, Jr. ("Mr.  
6 Buyachek") submitted a claim for wages to the Office of the Labor Commissioner ("OLC")  
7 for unpaid commissions during the period of May 10, 2018 to October 22, 2018.<sup>1</sup> The OLC  
8 commenced an investigation and the OLC's Investigator issued a determination for the  
9 limited time period of May 9, 2018 to June 30, 2018.<sup>2</sup> Mr. Buyachek objected because the  
10 determination did not address the entire time period.

11 The matter was heard on October 8, 2019, by the Deputy Labor Commissioner  
12 serving in her capacity as Hearing Officer.<sup>3</sup> On October 18, 2019, the Hearing Officer issued  
13 Findings of Fact, Conclusions of Law and Order.<sup>4</sup> Respondent, Casino Connection,  
14 International, LLC ("Casino Connection") filed its Petition for Judicial Review or, in the  
15 Alternative Petition for Writ of Mandamus and/or Prohibition, on November 18, 2019.

16 This Court's review is conducted pursuant to NRS 233B.135 which states,

17 1. Judicial review of a final decision of an agency must be:

18 (a) Conducted by the court without a jury; and

19 (b) Confined to the record.

20 In cases concerning alleged irregularities in procedure before an  
21 agency that are not shown in the record, the court may receive  
22 evidence concerning the irregularities.

23 2. The final decision of the agency shall be deemed reasonable  
24 and lawful until reversed or set aside in whole or in part by the  
25 court. The burden of proof is on the party attacking or resisting  
26 the decision to show that the final decision is invalid pursuant to  
27 subsection 3.

28 3. The court shall not substitute its judgment for that of the  
agency as to the weight of evidence on a question of fact. The  
court may remand or affirm the final decision or set it aside in

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<sup>1</sup> ROA 000001-16.

<sup>2</sup> ROA 000381-82.

<sup>3</sup> Appointed pursuant to NAC 607.310(1).

<sup>4</sup> ROA 000381-387.

1 whole or in part if substantial rights of the petitioner have been  
2 prejudiced because the final decision of the agency is:

- 3 (a) In violation of constitutional or statutory provisions;
- 4 (b) In excess of the statutory authority of the agency;
- 5 (c) Made upon unlawful procedure;
- 6 (d) Affected by other error of law;
- 7 (e) Clearly erroneous in view of the reliable, probative and  
8 substantial evidence on the whole record; or
- 9 (f) Arbitrary or capricious or characterized by abuse of  
10 discretion.

11 4. As used in this section, “substantial evidence” means  
12 evidence which a reasonable mind might accept as adequate to  
13 support a conclusion.

14 The Hearing Officer found in relevant part that Mr. Buyachek was employed by  
15 Casino Connection for the time period of September, 2015 to May, 2018.<sup>5</sup> On September  
16 19, 2015, Mr. Buyachek and Casino Connection signed the Formal Offer of Employment<sup>6</sup>,  
17 which contained a brief section regarding commissions:

18 5% commission will be paid on existing sales you will be  
19 managing. 12% commission will be paid on any new sales you  
20 make. Commissions are paid on collected net revenues the  
21 month following the collections. Commissions are paid in equal  
22 installments-divided by the number of paychecks that month.  
23 While you are receiving your draw, only commissions that exceed  
24 your draw will be paid.<sup>7</sup>

25 The Hearing Officer made further factual findings and concluded that Mr.  
26 Buyachek’s, “contracts from May 10, 2018 to October 22, 2018 was \$337,952.60. 12.5% of  
27 this amount would be \$42,244.07.”<sup>8</sup> The Hearing Officer ordered Casino Connection to pay  
28 this amount and assessed an additional penalty pursuant to NRS 608.040 for Casino  
Connection’s failure to pay commissions when they became due as required by NAC  
608.120.<sup>9</sup>

///

///

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<sup>5</sup> ROA 000382.

<sup>6</sup> *Id.* The parties’ offer and acceptance is in the Record on Appeal at ROA 000092, ROA 000141, ROA 000146 and ROA 000169.

<sup>7</sup> ROA 000382-383.

<sup>8</sup> ROA 000383-84.

<sup>9</sup> ROA 000384-385.

## CONCLUSIONS OF LAW

Petitioner, Casino Connection challenges the Hearing Officer's application of NAC 608.120. Pursuant to NRS 608.012 wages includes commissions owed to an employee. NRS 608.180 charges the Labor Commissioner with enforcement of this statute.<sup>10</sup> NAC 608.120 requires an employer to pay each commission to the employee when the commission becomes payable pursuant to an agreement. In light of this statutory scheme, the Court finds no merit in Petitioner's challenge to the regulation either on its face or as applied.

Petitioner argues that Mr. Buyachek had the burden of proving his claim as objector to the Labor Commissioner's original determination and that the Hearing Officer improperly shifted the burden of proof to Casino Connection. The Court concludes that Mr. Buyachek met the burden of showing that he was entitled to 12.5% commission.

Lastly, Casino Connection argues that, since it was required to pay another employee 5% to manage existing sales, Mr. Buyachek's commissions should be reduced by this amount. There is no evidence that the 12.5% gets reduced by 5%. Substantial evidence supports the Hearing Officer's determination that, "based on the terms of the agreement the parties mutually entered into, the Claimant [Mr. Buyachek] should have continued to receive commissions even after he was terminated from his employment; he had completed the sale."<sup>11</sup>

Considering the totality of the record, the Hearing Officer's Decision is sound and is supported by substantial evidence.

There is no basis to remand or to set aside the Decision in whole or in part.

Casino Connection has failed to show that its rights have been prejudiced.

The Decision is not: In violation of constitutional or statutory provisions; In excess of the statutory authority of the agency; Made upon unlawful procedure; Affected by other error of law; Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; Nor arbitrary or capricious or characterized by abuse of discretion.

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<sup>10</sup> Additionally, NRS 607.160 requires the Labor Commissioner to enforce all labor laws of the state of Nevada.

<sup>11</sup> ROA 000385.

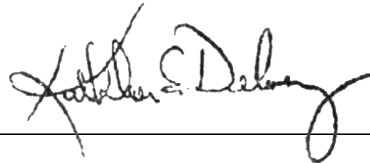
Casino Connection's Alternative Petition for Writ of Mandamus and/or Prohibition must also be denied. Such relief is only available if no adequate and speedy legal remedy exists. Because a petition for judicial review is an adequate and speedy legal remedy a writ of mandamus and/or prohibition is not appropriate to challenge the OLC's Decision. *Kay v. Nunez*, 122 Nev. 1100, 1104-05 (2006).

THEREFORE, IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Order issued by the Nevada Labor Commissioner on October 18, 2019, in the above-referenced matter, is AFFIRMED.

IT IS FURTHER ORDERED that the Petition for Judicial Review or, in the Alternative Petition for Writ of Mandamus and/or Prohibition, filed herein on November 18, 2019, is DENIED.

**IT IS SO ORDERED**

Dated this 20th day of February, 2021



278 FC7 B114 8F98  
Kathleen E. Delaney  
District Court Judge

Respectfully submitted by:

AARON D. FORD  
Attorney General

Approved by:

GARMEN TURNER GORDEN LLP

By: /s/ Andrea Nichols  
ANDREA NICHOLS (Bar No. 6436)  
Senior Deputy Attorney General  
Office of the Attorney General  
100 N. Carson Street  
Carson City, NV 89701-4717

/s/ Eric R. Olsen  
ERIC R. OLSEN (Bar No. 3127)  
7251 Amigo street, Suite 210  
Las Vegas, NV 89119

*Attorneys for Respondent,  
Nevada Labor Commissioner*

*Attorneys for Petitioner,  
Casino Connection, LLP*



1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Casino Connection International  
7 LLC, Petitioner(s)

CASE NO: A-19-805612-J

8 vs.

DEPT. NO. Department 25

9 Nevada Labor Commissioner,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Denying Judicial Review of Administrative Decision was served  
15 via the court's electronic eFile system to all recipients registered for e-Service on the above  
16 entitled case as listed below:

17 Service Date: 2/20/2021

18 Catherine Rowe

crowe@gtg.legal

19 Eric Olsen

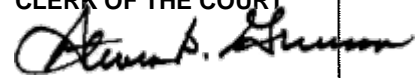
eolsen@gtg.legal

20 Andrea Nichols

anichols@ag.nv.gov

## EXHIBIT 2

## EXHIBIT 2



1 **NEOJ**  
2 AARON D. FORD  
3 Attorney General  
4 ANDREA NICHOLS (Bar No. 6436)  
5 Senior Deputy Attorney General  
6 Office of the Attorney General  
7 100 N. Carson Street  
8 Carson City, NV 89701-4717  
9 (775) 684-1218 (phone)  
10 (775) 688-1156 (fax)  
11 ANichols@ag.nv.gov

12 Attorneys for Nevada Labor Commissioner

13  
14 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF**  
15 **THE STATE OF NEVADA IN AND FOR CLARK COUNTY**

16 CASINO CONNECTION  
17 INTERNATIONAL, LLC., a Georgia  
18 limited liability company,

19 Petitioner,

20 v.

21 NEVADA LABOR COMMISSIONER; a  
22 Nevada Administrative Agency, and  
23 JOHN BUYACHEK, JR., an individual,

24 Respondents.

Case No. A-19-805612-J

Dept. No. 25

**NOTICE OF ENTRY OF ORDER  
DENYING CASINO CONNECTION  
INTERNATIONAL, LLC'S PETITION  
FOR JUDICIAL REVIEW OR, IN THE  
ALTERNATIVE, PETITION FOR WRIT  
OF MANDAMUS AND/OR  
PROHIBITION**

25 PLEASE TAKE NOTICE that on February 20, 2021 the above-entitled Court  
26 entered its Order *Denying Casino Connection International, LLC's Petition for Judicial*  
27 *Review, or in the Alternative, Petition for Writ of Mandamus and/or Prohibition.* A copy of  
28 said Order is attached as Exhibit "A."

Dated this 23<sup>rd</sup> day of February 2021.

AARON D. FORD  
Attorney General

By: /s/ Andrea Nichols  
ANDREA NICHOLS  
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 23<sup>rd</sup> of February 2021, I filed the foregoing document the *Notice of Entry of Order Denying Casino Connection International, LLC's Petition for Judicial Review, or in the Alternative, Petition for Writ of Mandamus and/or Prohibition* via this Court's electronic filing system. Parties that are registered with this Court's EFS will be served electronically.

Eric R. Olsen, Esq.  
GARMAN TURNER GORDON LLP  
650 White Drive, Suite 100  
Las Vegas, NV 89119

The following parties are not registered and therefore, a prepaid postage copy of this document has been placed in the U.S. mail in Carson City, Nevada:

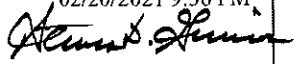
John Buyachek, Jr.  
4776 Desert Vista Road  
Las Vegas, NV 89121

/s/ Susan Messina

An employee of the Nevada Office of the  
Attorney General

# EXHIBIT A

# EXHIBIT A

  
CLERK OF THE COURT

1 **ODJR**  
2 **AARON D. FORD**  
3 Attorney General  
4 **ANDREA NICHOLS** (Bar No. 6436)  
5 Senior Deputy Attorney General  
6 Office of the Attorney General  
7 100 N. Carson Street  
8 Carson City, NV 89701-4717  
9 (775) 684-1218 (phone)  
10 (775) 688-1156 (fax)  
11 ANichols@ag.nv.gov

12 Attorneys for Nevada Labor Commissioner

13 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF**  
14 **THE STATE OF NEVADA IN AND FOR CLARK COUNTY**

15 **CASINO CONNECTION**  
16 **INTERNATIONAL, LLC.,** a Georgia  
17 limited liability company,

18 Petitioner,

19 v.

20 **NEVADA LABOR COMMISSIONER;** a  
21 Nevada Administrative Agency, and  
22 **JOHN BUYACHEK, JR.,** an individual,

23 Respondents.

Case No. A-19-805612-J

Dept. No. 25

**ORDER DENYING CASINO**  
**CONNECTION INTERNATIONAL,**  
**LLC'S PETITION FOR JUDICIAL**  
**REVIEW OR, IN THE ALTERNATIVE,**  
**PETITION FOR WRIT OF MANDAMUS**  
**AND/OR PROHIBITION**

24 This matter came before the Court on January 12, 2021, for hearing on Petitioner,  
25 Casino Connection International, LLC's, Petition for Judicial Review of the Findings of  
26 Fact, Conclusions of Law and Order issued by Respondent, Nevada Labor Commissioner,  
27 on October 18, 2019. Petitioner, Casino Connection, LLC, was represented by Eric R. Olsen  
28 of Garman Turner Gordon, LLP and Respondent, Nevada Labor Commissioner, was  
represented by Andrea Nichols, Senior Deputy Attorney General.

Petitioner filed its Opening Brief on November 2, 2020. Respondent, Nevada Labor  
Commissioner, filed its Reply Memorandum of Points and Authorities on December 2, 2020,  
and Petitioner filed its Reply Brief on January 4, 2021. In addition to the Briefs this Court  
considered the Transcript, filed herein on September 1, 2020, and the Remainder of the  
Administrative Record on Appeal filed herein on September 3, 2020.

///

1 Having carefully read and considered the filings and having heard and considered  
2 the arguments of counsel, the Court hereby makes the following Findings of Fact,  
3 Conclusions of Law and Order:

#### 4 FINDINGS OF FACT

5 This matter commenced on October 23, 2018, when John Buyachek, Jr. ("Mr.  
6 Buyachek") submitted a claim for wages to the Office of the Labor Commissioner ("OLC")  
7 for unpaid commissions during the period of May 10, 2018 to October 22, 2018.<sup>1</sup> The OLC  
8 commenced an investigation and the OLC's Investigator issued a determination for the  
9 limited time period of May 9, 2018 to June 30, 2018.<sup>2</sup> Mr. Buyachek objected because the  
10 determination did not address the entire time period.

11 The matter was heard on October 8, 2019, by the Deputy Labor Commissioner  
12 serving in her capacity as Hearing Officer.<sup>3</sup> On October 18, 2019, the Hearing Officer issued  
13 Findings of Fact, Conclusions of Law and Order.<sup>4</sup> Respondent, Casino Connection,  
14 International, LLC ("Casino Connection") filed its Petition for Judicial Review or, in the  
15 Alternative Petition for Writ of Mandamus and/or Prohibition, on November 18, 2019.

16 This Court's review is conducted pursuant to NRS 233B.135 which states,

- 17 1. Judicial review of a final decision of an agency must be:  
18 (a) Conducted by the court without a jury; and  
19 (b) Confined to the record.

20 In cases concerning alleged irregularities in procedure before an  
21 agency that are not shown in the record, the court may receive  
22 evidence concerning the irregularities.

- 23 2. The final decision of the agency shall be deemed reasonable  
24 and lawful until reversed or set aside in whole or in part by the  
25 court. The burden of proof is on the party attacking or resisting  
26 the decision to show that the final decision is invalid pursuant to  
27 subsection 3.

- 28 3. The court shall not substitute its judgment for that of the  
agency as to the weight of evidence on a question of fact. The  
court may remand or affirm the final decision or set it aside in

---

<sup>1</sup> ROA 000001-16.

<sup>2</sup> ROA 000381-82.

<sup>3</sup> Appointed pursuant to NAC 607.310(1).

<sup>4</sup> ROA 000381-387.

1 whole or in part if substantial rights of the petitioner have been  
2 prejudiced because the final decision of the agency is:

- 3 (a) In violation of constitutional or statutory provisions;
- 4 (b) In excess of the statutory authority of the agency;
- 5 (c) Made upon unlawful procedure;
- 6 (d) Affected by other error of law;
- 7 (e) Clearly erroneous in view of the reliable, probative and  
8 substantial evidence on the whole record; or
- 9 (f) Arbitrary or capricious or characterized by abuse of  
10 discretion.

11 4. As used in this section, "substantial evidence" means  
12 evidence which a reasonable mind might accept as adequate to  
13 support a conclusion.

14 The Hearing Officer found in relevant part that Mr. Buyachek was employed by  
15 Casino Connection for the time period of September, 2015 to May, 2018.<sup>5</sup> On September  
16 19, 2015, Mr. Buyachek and Casino Connection signed the Formal Offer of Employment<sup>6</sup>,  
17 which contained a brief section regarding commissions:

18 5% commission will be paid on existing sales you will be  
19 managing. 12% commission will be paid on any new sales you  
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21 month following the collections. Commissions are paid in equal  
22 installments-divided by the number of paychecks that month.  
23 While you are receiving your draw, only commissions that exceed  
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25 The Hearing Officer made further factual findings and concluded that Mr.  
26 Buyachek's, "contracts from May 10, 2018 to October 22, 2018 was \$337,952.60. 12.5% of  
27 this amount would be \$42,244.07."<sup>8</sup> The Hearing Officer ordered Casino Connection to pay  
28 this amount and assessed an additional penalty pursuant to NRS 608.040 for Casino  
Connection's failure to pay commissions when they became due as required by NAC  
608.120.<sup>9</sup>

///

///

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<sup>5</sup> ROA 000382.

<sup>6</sup> *Id.* The parties' offer and acceptance is in the Record on Appeal at ROA 000092, ROA 000141, ROA 000146  
and ROA 000169.

<sup>7</sup> ROA 000382-383.

<sup>8</sup> ROA 000383-84.

<sup>9</sup> ROA 000384-385.



## CONCLUSIONS OF LAW

Petitioner, Casino Connection challenges the Hearing Officer's application of NAC 608.120. Pursuant to NRS 608.012 wages includes commissions owed to an employee. NRS 608.180 charges the Labor Commissioner with enforcement of this statute.<sup>10</sup> NAC 608.120 requires an employer to pay each commission to the employee when the commission becomes payable pursuant to an agreement. In light of this statutory scheme, the Court finds no merit in Petitioner's challenge to the regulation either on its face or as applied.

Petitioner argues that Mr. Buyachek had the burden of proving his claim as objector to the Labor Commissioner's original determination and that the Hearing Officer improperly shifted the burden of proof to Casino Connection. The Court concludes that Mr. Buyachek met the burden of showing that he was entitled to 12.5% commission.

Lastly, Casino Connection argues that, since it was required to pay another employee 5% to manage existing sales, Mr. Buyachek's commissions should be reduced by this amount. There is no evidence that the 12.5% gets reduced by 5%. Substantial evidence supports the Hearing Officer's determination that, "based on the terms of the agreement the parties mutually entered into, the Claimant [Mr. Buyachek] should have continued to receive commissions even after he was terminated from his employment; he had completed the sale."<sup>11</sup>

Considering the totality of the record, the Hearing Officer's Decision is sound and is supported by substantial evidence.

There is no basis to remand or to set aside the Decision in whole or in part.

Casino Connection has failed to show that its rights have been prejudiced.

The Decision is not: In violation of constitutional or statutory provisions; In excess of the statutory authority of the agency; Made upon unlawful procedure; Affected by other error of law; Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; Nor arbitrary or capricious or characterized by abuse of discretion.

---

<sup>10</sup> Additionally, NRS 607.160 requires the Labor Commissioner to enforce all labor laws of the state of Nevada.

<sup>11</sup> ROA 000385.

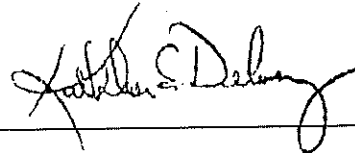
Casino Connection's Alternative Petition for Writ of Mandamus and/or Prohibition must also be denied. Such relief is only available if no adequate and speedy legal remedy exists. Because a petition for judicial review is an adequate and speedy legal remedy a writ of mandamus and/or prohibition is not appropriate to challenge the OLC's Decision. *Kay v. Nunez*, 122 Nev. 1100, 1104-05 (2006).

THEREFORE, IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Order issued by the Nevada Labor Commissioner on October 18, 2019, in the above-referenced matter, is AFFIRMED.

IT IS FURTHER ORDERED that the Petition for Judicial Review or, in the Alternative Petition for Writ of Mandamus and/or Prohibition, filed herein on November 18, 2019, is DENIED.

**IT IS SO ORDERED**

Dated this 20th day of February, 2021



278 FC7 B114 8F98  
Kathleen E. Delaney  
District Court Judge

Respectfully submitted by:

AARON D. FORD  
Attorney General

By: /s/ Andrea Nichols  
ANDREA NICHOLS (Bar No. 6436)  
Senior Deputy Attorney General  
Office of the Attorney General  
100 N. Carson Street  
Carson City, NV 89701-4717

*Attorneys for Respondent,  
Nevada Labor Commissioner*

Approved by:

GARMEN TURNER GORDEN LLP

/s/ Eric R. Olsen  
ERIC R. OLSEN (Bar No. 3127)  
7251 Amigo street, Suite 210  
Las Vegas, NV 89119

*Attorneys for Petitioner,  
Casino Connection, LLP*

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 Casino Connection International  
7 LLC, Petitioner(s)

CASE NO: A-19-805612-J

DEPT. NO. Department 25

8 vs.

9 Nevada Labor Commissioner,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Denying Judicial Review of Administrative Decision was served  
15 via the court's electronic eFile system to all recipients registered for e-Service on the above  
16 entitled case as listed below:

17 Service Date: 2/20/2021

18 Catherine Rowe

crowe@gtg.legal

19 Eric Olsen

eolsen@gtg.legal

20 Andrea Nichols

anichols@ag.nv.gov  
21  
22  
23  
24  
25  
26  
27  
28

**CASE SUMMARY****CASE NO. A-19-805612-J**

**Casino Connection International LLC, Petitioner(s)**  
**vs.**  
**Nevada Labor Commissioner, Respondent(s)**

§  
§  
§  
§  
§

Location: **Department 25**  
 Judicial Officer: **Delaney, Kathleen E.**  
 Filed on: **11/18/2019**  
 Cross-Reference Case Number: **A805612**

**CASE INFORMATION****Statistical Closures**

02/20/2021 Summary Judgment

Case Type: **Other Judicial Review/Appeal**Case Flags: **Appealed to Supreme Court****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-805612-J  
 Court Department 25  
 Date Assigned 11/18/2019  
 Judicial Officer Delaney, Kathleen E.

**PARTY INFORMATION****Petitioner****Casino Connection International LLC***Lead Attorneys***Olsen, Eric R.***Retained*

725-777-3000(W)

**Respondent****Buyachek, John, Jr.****Nevada Labor Commissioner****Nichols, Andrea H.***Retained*

775-684-1218(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX**

11/18/2019



Petition for Judicial Review

Filed by: Petitioner Casino Connection International LLC

*Petition for Judicial Review or, in the Alternative, Petition for Writ of Mandamus and/or Prohibition*

11/19/2019



Clerk's Notice of Nonconforming Document

*Clerk's Notice of Nonconforming Document*

12/13/2019



Clerk's Notice of Nonconforming Document and Curative Action

*Clerk's Notice of Curative Action*

01/09/2020



Motion to Dismiss

Filed By: Respondent Nevada Labor Commissioner

*Motion to Dismiss*

01/09/2020



Clerk's Notice of Hearing

*Notice of Hearing*

01/23/2020



Opposition

Filed By: Petitioner Casino Connection International LLC

*Opposition to Respondent, Nevada Labor Commissioner's Motion to Dismiss Petitioner's Petition for Judicial Review, Etc. and Counter-Motion to Extend Time for Service*

# CASE SUMMARY

CASE NO. A-19-805612-J










01/28/2020	 Reply to Opposition Filed by: Respondent Nevada Labor Commissioner <i>Reply to Opposition to Motion to Dismiss and Opposition to Counter-Motion to Extdn Time for Service</i>
01/30/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
02/11/2020	<b>Motion to Dismiss</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Nevada Labor Commissioner's Motion to Dismiss</i>
02/11/2020	<b>Opposition and Countermotion</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Opposition to Respondent, Nevada Labor Commissioner's Motion to Dismiss Petitioner's Petition for Judicial Review, Etc. and Counter-Motion to Extend Time for Service</i>
02/11/2020	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)
02/26/2020	 Order Denying Motion Filed By: Petitioner Casino Connection International LLC <i>Order Denying the Nevada Labor Commissioner's Motion to Dismiss Petition for Judicial Review, and Granting Counter-Motion to Extend Time for Service</i>
02/28/2020	 Notice of Entry of Order Filed By: Petitioner Casino Connection International LLC <i>Notice of Entry of Order Denying The Nevada Labor Commissioner's Motion to Dismiss Petition for Judicial Review, and Granting Counter-Motion to Extend Time for Service</i>
03/13/2020	 Affidavit of Service Filed By: Petitioner Casino Connection International LLC <i>Affidavit of Service on Nevada Labor Commissioner</i>
04/02/2020	 Motion to Dismiss Filed By: Respondent Nevada Labor Commissioner <i>Nevada Labor Commissioner's Motion to Renew Motion to Dismiss</i>
04/02/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/16/2020	 Opposition Filed By: Petitioner Casino Connection International LLC <i>Opposition to Respondent, Nevada Labor Commissioner's Motion to Renew Motion to Dismiss Petitioner's Petition for Judicial Review, Etc. and Countermotion for Extension of Time to Serve Petition for Judicial Review</i>
04/24/2020	 Reply to Opposition Filed by: Respondent Nevada Labor Commissioner <i>Nevada Labor Commissioner's Reply to Opposition to Motion to Renew Motion to Dismiss Petitioner's Petition for Judicial Review and Opposition to Countermotion for Extension of Time to Serve Petition for Judicial Review</i>
04/27/2020	 Miscellaneous Filing Filed by: Petitioner Casino Connection International LLC <i>Notice of Intent to Appear Telephonically</i>
04/27/2020	 Affidavit of Service

# CASE SUMMARY

CASE NO. A-19-805612-J

	<p>Filed By: Petitioner Casino Connection International LLC  Party Served: Respondent Nevada Labor Commissioner  <i>Affidavit of Service - Nevada Labor Commissioner</i></p>
04/28/2020	<p> Supplemental  Filed by: Petitioner Casino Connection International LLC  <i>Supplemental Declaration of Eric R. Olsen in Support of Opposition to Respondent, Nevada Labor Commissioner's Motion to Renew Motion to Dismiss Petitioner's Petition for Judicial Review, Etc., and Counter-Motion to Extend Time for Service</i></p>
04/29/2020	<p> Receipt of Copy  Filed by: Respondent Nevada Labor Commissioner  <i>Receipt of Courtesy Copy</i></p>
04/30/2020	<p> Supplemental  Filed by: Petitioner Casino Connection International LLC  <i>Second Supplemental Declaration of Eric R. Olsen in Support of Opposition to Respondent, Nevada Labor Commissioner's Motion Renew Motion To Dismiss Petitioner's Petition For Judicial Review, Etc. and Counter-Motion to Extend Time for Service</i></p>
05/05/2020	<p><b>Motion to Dismiss (9:00 AM)</b> (Judicial Officer: Delaney, Kathleen E.)  <i>Nevada Labor Commissioner's Motion to Renew Motion to Dismiss</i></p>
05/05/2020	<p><b>Opposition and Countermotion (9:00 AM)</b> (Judicial Officer: Delaney, Kathleen E.)  <i>Opposition to Respondent, Nevada Labor Commissioner's Motion to Renew Motion to Dismiss Petitioner's Petition for Judicial Review, Etc. and Countermotion for Extension of Time to Serve Petition for Judicial Review</i></p>
05/05/2020	<p> <b>All Pending Motions (9:00 AM)</b> (Judicial Officer: Delaney, Kathleen E.)</p>
05/11/2020	<p> Acceptance of Service  Filed By: Petitioner Casino Connection International LLC  <i>Acceptance of Service - Petition for Judicial Review</i></p>
05/11/2020	<p> Notice of Intent to Participate  Filed By: Respondent Nevada Labor Commissioner  <i>Notice of Intent to Participate</i></p>
05/13/2020	<p> Order Denying Motion  Filed By: Petitioner Casino Connection International LLC  <i>Order Denying the Nevada Labor Commissioner's Motion to Renew Motion to Dismiss, and Granting Counter-Motion to Extend Time for Service</i></p>
05/14/2020	<p> Notice of Entry of Order  Filed By: Petitioner Casino Connection International LLC  <i>Notice of Entry of Order Denying the Nevada Labor Commissioner's Motion to Renew Motion to Dismiss Petition for Judicial Review, and Granting Counter-Motion to Extend Time for Service</i></p>
07/21/2020	<p> Motion to Dismiss  Filed By: Respondent Nevada Labor Commissioner  <i>Nevada Labor Commissioner's Motion to Dismiss for Failure to Comply with NRS 233B.131 (1)(a)</i></p>
07/22/2020	<p> Clerk's Notice of Hearing  <i>Notice of Hearing</i></p>


**CASE SUMMARY**  
**CASE NO. A-19-805612-J**

07/28/2020	 Notice of Telephonic Hearing Filed by: Respondent Nevada Labor Commissioner <i>Notice of Intent to Appear by Communication Equipment</i>
07/28/2020	 Certificate of Service Filed by: Respondent Nevada Labor Commissioner <i>Certificate of Service</i>
08/04/2020	 Opposition Filed By: Petitioner Casino Connection International LLC <i>Opposition to Respondent, Nevada Labor Commissioner's Motion to Dismiss for Failure to Comply with NRS 233B.131(1)(a)</i>
08/13/2020	 Reply to Opposition Filed by: Respondent Nevada Labor Commissioner <i>Reply to Opposition to MTD for Failure to Comply with NRS233B.131(1)(a) and Opposition to Countermotion to Extend Time</i>
08/21/2020	 Supplemental Filed by: Petitioner Casino Connection International LLC <i>Supplement to Opposition to Respondent, Nevada Labor Commissioner's Motion to Dismiss for Failure to Comply with NRS 233B.131(1)(a) and Counter to Extend Time under NRS 233B.131(1)</i>
08/25/2020	 <b>Motion to Dismiss (9:00 AM)</b> (Judicial Officer: Delaney, Kathleen E.) <b>08/25/2020, 09/01/2020</b> <i>Nevada Labor Commissioner's Motion to Dismiss for Failure to Comply with NRS 233B.131(1)(a)</i>
09/01/2020	 Transcript of Proceedings Party: Petitioner Casino Connection International LLC <i>Notice of Transmitting Transcript in Accordance with NRS 223B.131(1)</i>
09/03/2020	 Record on Appeal Party: Respondent Nevada Labor Commissioner <i>Remainder of Administrative Record on Appeal</i>
10/14/2020	 Notice of Change of Address Filed By: Respondent Nevada Labor Commissioner <i>Notice of Change of Address</i>
11/02/2020	 Petitioners Opening Brief Filed by: Petitioner Casino Connection International LLC <i>Petitioner's Opening Brief</i>
11/10/2020	 Order <i>Order Denying Respondent, Nevada Labor Commissioner's Motion to Dismiss for Failure to Comply with NRS 233B.131(1)(a) and Countermotion to Extend Time Under NRS 233B.131(1)</i>
12/02/2020	 Reply Points and Authorities Filed by: Respondent Nevada Labor Commissioner <i>Nevada Labor Commissioner's Reply Memorandum of Points and Authorities</i>
12/28/2020	 Order

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-19-805612-J**

	Filed By: Petitioner Casino Connection International LLC <i>Order Denying Respondent, Nevada Labor Commissioner's Motion to Dismiss for Failure to Comply with NRS 23b.131(1)(a) and Countermotion to Extend Time Under NRS 233B.131(1)</i>
01/04/2021	 Petitioner's Reply Brief Filed by: Petitioner Casino Connection International LLC <i>Petitioner's Reply Brief</i>
01/11/2021	 <b>Minute Order</b> (10:30 AM) (Judicial Officer: Delaney, Kathleen E.) <i>Minute Order Re: Dept. 25 Formal Request to Appear Remotely</i>
01/12/2021	 <b>Hearing</b> (9:00 AM) (Judicial Officer: Delaney, Kathleen E.)
02/20/2021	 Order Denying Judicial Review of Administrative Decision Filed by: Respondent Nevada Labor Commissioner <i>Order Denying Casino Connection's International LLC's Petition for Judicial Review or in the Alternative, Petition for Writ of Mandamus and/ or Prohibition</i>
02/20/2021	<b>Order Denying Judicial Review</b> (Judicial Officer: Delaney, Kathleen E.) Debtors: Casino Connection International LLC (Petitioner) Creditors: Nevada Labor Commissioner (Respondent), John Buyachek, JR. (Respondent) Judgment: 02/20/2021, Docketed: 02/22/2021
02/23/2021	 Notice of Entry of Order Filed By: Respondent Nevada Labor Commissioner <i>Notice of Entry of Order Denying Casino Connection International, LLC's Petition for Judicial Review or, in the Alternative Petition for Writ of Mandamus and/or Prohibition</i>
03/25/2021	 Notice of Appeal Filed By: Petitioner Casino Connection International LLC <i>Notice of Appeal</i>

**DATE**

**FINANCIAL INFORMATION**

<b>Petitioner</b> Casino Connection International LLC	
Total Charges	294.00
Total Payments and Credits	294.00
<b>Balance Due as of 3/29/2021</b>	<b>0.00</b>



DISTRICT COURT CIVIL COVER SHEET

A-19-805612-J

County, Nevada

Department 25

Case No.

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Casino Connection International, LLC	Defendant(s) (name/address/phone): Nevada Labor Commissioner and John Buyachek
Attorney (name/address/phone): E. Olsen Garman Turner Gordon 650 White Drive, Suite 100 Las Vegas, NV 89119	Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)

**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input checked="" type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

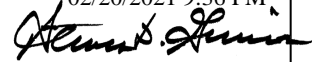
Business Court filings should be filed using the Business Court civil coversheet.

11/18/2019

Date

Signature of initiating party or representative

See other side for family-related case filings.

  
CLERK OF THE COURT

**ODJR**  
**AARON D. FORD**  
Attorney General  
ANDREA NICHOLS (Bar No. 6436)  
Senior Deputy Attorney General  
Office of the Attorney General  
100 N. Carson Street  
Carson City, NV 89701-4717  
(775) 684-1218 (phone)  
(775) 688-1156 (fax)  
ANichols@ag.nv.gov

Attorneys for Nevada Labor Commissioner

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR CLARK COUNTY**

CASINO CONNECTION  
INTERNATIONAL, LLC., a Georgia  
limited liability company,

Petitioner,

v.

NEVADA LABOR COMMISSIONER; a  
Nevada Administrative Agency, and  
JOHN BUYACHEK, JR., an individual,

Respondents.

Case No. A-19-805612-J

Dept. No. 25

**ORDER DENYING CASINO  
CONNECTION INTERNATIONAL,  
LLC'S PETITION FOR JUDICIAL  
REVIEW OR, IN THE ALTERNATIVE,  
PETITION FOR WRIT OF MANDAMUS  
AND/OR PROHIBITION**

This matter came before the Court on January 12, 2021, for hearing on Petitioner, Casino Connection International, LLC's, Petition for Judicial Review of the Findings of Fact, Conclusions of Law and Order issued by Respondent, Nevada Labor Commissioner, on October 18, 2019. Petitioner, Casino Connection, LLC, was represented by Eric R. Olsen of Garman Turner Gordon, LLP and Respondent, Nevada Labor Commissioner, was represented by Andrea Nichols, Senior Deputy Attorney General.

Petitioner filed its Opening Brief on November 2, 2020. Respondent, Nevada Labor Commissioner, filed its Reply Memorandum of Points and Authorities on December 2, 2020, and Petitioner filed its Reply Brief on January 4, 2021. In addition to the Briefs this Court considered the Transcript, filed herein on September 1, 2020, and the Remainder of the Administrative Record on Appeal filed herein on September 3, 2020.

///

1 Having carefully read and considered the filings and having heard and considered  
2 the arguments of counsel, the Court hereby makes the following Findings of Fact,  
3 Conclusions of Law and Order:

4 **FINDINGS OF FACT**

5 This matter commenced on October 23, 2018, when John Buyachek, Jr. ("Mr.  
6 Buyachek") submitted a claim for wages to the Office of the Labor Commissioner ("OLC")  
7 for unpaid commissions during the period of May 10, 2018 to October 22, 2018.<sup>1</sup> The OLC  
8 commenced an investigation and the OLC's Investigator issued a determination for the  
9 limited time period of May 9, 2018 to June 30, 2018.<sup>2</sup> Mr. Buyachek objected because the  
10 determination did not address the entire time period.

11 The matter was heard on October 8, 2019, by the Deputy Labor Commissioner  
12 serving in her capacity as Hearing Officer.<sup>3</sup> On October 18, 2019, the Hearing Officer issued  
13 Findings of Fact, Conclusions of Law and Order.<sup>4</sup> Respondent, Casino Connection,  
14 International, LLC ("Casino Connection") filed its Petition for Judicial Review or, in the  
15 Alternative Petition for Writ of Mandamus and/or Prohibition, on November 18, 2019.

16 This Court's review is conducted pursuant to NRS 233B.135 which states,

17 1. Judicial review of a final decision of an agency must be:

18 (a) Conducted by the court without a jury; and

19 (b) Confined to the record.

20 In cases concerning alleged irregularities in procedure before an  
21 agency that are not shown in the record, the court may receive  
22 evidence concerning the irregularities.

23 2. The final decision of the agency shall be deemed reasonable  
24 and lawful until reversed or set aside in whole or in part by the  
25 court. The burden of proof is on the party attacking or resisting  
26 the decision to show that the final decision is invalid pursuant to  
27 subsection 3.

28 3. The court shall not substitute its judgment for that of the  
agency as to the weight of evidence on a question of fact. The  
court may remand or affirm the final decision or set it aside in

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<sup>1</sup> ROA 000001-16.

<sup>2</sup> ROA 000381-82.

<sup>3</sup> Appointed pursuant to NAC 607.310(1).

<sup>4</sup> ROA 000381-387.

1 whole or in part if substantial rights of the petitioner have been  
2 prejudiced because the final decision of the agency is:

- 3 (a) In violation of constitutional or statutory provisions;
- 4 (b) In excess of the statutory authority of the agency;
- 5 (c) Made upon unlawful procedure;
- 6 (d) Affected by other error of law;
- 7 (e) Clearly erroneous in view of the reliable, probative and  
8 substantial evidence on the whole record; or
- 9 (f) Arbitrary or capricious or characterized by abuse of  
10 discretion.

11 4. As used in this section, “substantial evidence” means  
12 evidence which a reasonable mind might accept as adequate to  
13 support a conclusion.

14 The Hearing Officer found in relevant part that Mr. Buyachek was employed by  
15 Casino Connection for the time period of September, 2015 to May, 2018.<sup>5</sup> On September  
16 19, 2015, Mr. Buyachek and Casino Connection signed the Formal Offer of Employment<sup>6</sup>,  
17 which contained a brief section regarding commissions:

18 5% commission will be paid on existing sales you will be  
19 managing. 12% commission will be paid on any new sales you  
20 make. Commissions are paid on collected net revenues the  
21 month following the collections. Commissions are paid in equal  
22 installments-divided by the number of paychecks that month.  
23 While you are receiving your draw, only commissions that exceed  
24 your draw will be paid.<sup>7</sup>

25 The Hearing Officer made further factual findings and concluded that Mr.  
26 Buyachek’s, “contracts from May 10, 2018 to October 22, 2018 was \$337,952.60. 12.5% of  
27 this amount would be \$42,244.07.”<sup>8</sup> The Hearing Officer ordered Casino Connection to pay  
28 this amount and assessed an additional penalty pursuant to NRS 608.040 for Casino  
Connection’s failure to pay commissions when they became due as required by NAC  
608.120.<sup>9</sup>

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<sup>5</sup> ROA 000382.

<sup>6</sup> *Id.* The parties’ offer and acceptance is in the Record on Appeal at ROA 000092, ROA 000141, ROA 000146 and ROA 000169.

<sup>7</sup> ROA 000382-383.

<sup>8</sup> ROA 000383-84.

<sup>9</sup> ROA 000384-385.

## CONCLUSIONS OF LAW

Petitioner, Casino Connection challenges the Hearing Officer's application of NAC 608.120. Pursuant to NRS 608.012 wages includes commissions owed to an employee. NRS 608.180 charges the Labor Commissioner with enforcement of this statute.<sup>10</sup> NAC 608.120 requires an employer to pay each commission to the employee when the commission becomes payable pursuant to an agreement. In light of this statutory scheme, the Court finds no merit in Petitioner's challenge to the regulation either on its face or as applied.

Petitioner argues that Mr. Buyachek had the burden of proving his claim as objector to the Labor Commissioner's original determination and that the Hearing Officer improperly shifted the burden of proof to Casino Connection. The Court concludes that Mr. Buyachek met the burden of showing that he was entitled to 12.5% commission.

Lastly, Casino Connection argues that, since it was required to pay another employee 5% to manage existing sales, Mr. Buyachek's commissions should be reduced by this amount. There is no evidence that the 12.5% gets reduced by 5%. Substantial evidence supports the Hearing Officer's determination that, "based on the terms of the agreement the parties mutually entered into, the Claimant [Mr. Buyachek] should have continued to receive commissions even after he was terminated from his employment; he had completed the sale."<sup>11</sup>

Considering the totality of the record, the Hearing Officer's Decision is sound and is supported by substantial evidence.

There is no basis to remand or to set aside the Decision in whole or in part.

Casino Connection has failed to show that its rights have been prejudiced.

The Decision is not: In violation of constitutional or statutory provisions; In excess of the statutory authority of the agency; Made upon unlawful procedure; Affected by other error of law; Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; Nor arbitrary or capricious or characterized by abuse of discretion.

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<sup>10</sup> Additionally, NRS 607.160 requires the Labor Commissioner to enforce all labor laws of the state of Nevada.

<sup>11</sup> ROA 000385.

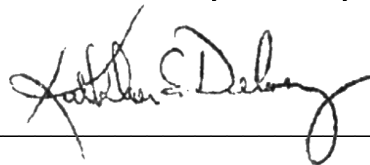
Casino Connection's Alternative Petition for Writ of Mandamus and/or Prohibition must also be denied. Such relief is only available if no adequate and speedy legal remedy exists. Because a petition for judicial review is an adequate and speedy legal remedy a writ of mandamus and/or prohibition is not appropriate to challenge the OLC's Decision. *Kay v. Nunez*, 122 Nev. 1100, 1104-05 (2006).

THEREFORE, IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Order issued by the Nevada Labor Commissioner on October 18, 2019, in the above-referenced matter, is AFFIRMED.

IT IS FURTHER ORDERED that the Petition for Judicial Review or, in the Alternative Petition for Writ of Mandamus and/or Prohibition, filed herein on November 18, 2019, is DENIED.

**IT IS SO ORDERED**

Dated this 20th day of February, 2021



278 FC7 B114 8F98  
Kathleen E. Delaney  
District Court Judge

Respectfully submitted by:

AARON D. FORD  
Attorney General

Approved by:

GARMEN TURNER GORDEN LLP

By: /s/ Andrea Nichols  
ANDREA NICHOLS (Bar No. 6436)  
Senior Deputy Attorney General  
Office of the Attorney General  
100 N. Carson Street  
Carson City, NV 89701-4717

/s/ Eric R. Olsen  
ERIC R. OLSEN (Bar No. 3127)  
7251 Amigo street, Suite 210  
Las Vegas, NV 89119

*Attorneys for Respondent,  
Nevada Labor Commissioner*

*Attorneys for Petitioner,  
Casino Connection, LLP*

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Casino Connection International  
7 LLC, Petitioner(s)

CASE NO: A-19-805612-J

8 vs.

DEPT. NO. Department 25

9 Nevada Labor Commissioner,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Denying Judicial Review of Administrative Decision was served  
15 via the court's electronic eFile system to all recipients registered for e-Service on the above  
16 entitled case as listed below:

Service Date: 2/20/2021

17 Catherine Rowe

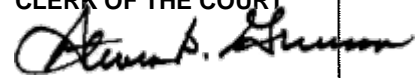
crowe@gtg.legal

18 Eric Olsen

eolsen@gtg.legal

19 Andrea Nichols

anichols@ag.nv.gov



NEOJ  
AARON D. FORD  
Attorney General  
ANDREA NICHOLS (Bar No. 6436)  
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(775) 688-1156 (fax)  
ANichols@ag.nv.gov

Attorneys for Nevada Labor Commissioner

IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR CLARK COUNTY

CASINO CONNECTION  
INTERNATIONAL, LLC., a Georgia  
limited liability company,

Petitioner,

v.

NEVADA LABOR COMMISSIONER; a  
Nevada Administrative Agency, and  
JOHN BUYACHEK, JR., an individual,

Respondents.

Case No. A-19-805612-J

Dept. No. 25

**NOTICE OF ENTRY OF ORDER  
DENYING CASINO CONNECTION  
INTERNATIONAL, LLC'S PETITION  
FOR JUDICIAL REVIEW OR, IN THE  
ALTERNATIVE, PETITION FOR WRIT  
OF MANDAMUS AND/OR  
PROHIBITION**

PLEASE TAKE NOTICE that on February 20, 2021 the above-entitled Court entered its Order *Denying Casino Connection International, LLC's Petition for Judicial Review, or in the Alternative, Petition for Writ of Mandamus and/or Prohibition*. A copy of said Order is attached as Exhibit "A."

Dated this 23<sup>rd</sup> day of February 2021.

AARON D. FORD  
Attorney General

By: /s/ Andrea Nichols  
ANDREA NICHOLS  
Senior Deputy Attorney General



CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 23<sup>rd</sup> of February 2021, I filed the foregoing document the *Notice of Entry of Order Denying Casino Connection International, LLC's Petition for Judicial Review, or in the Alternative, Petition for Writ of Mandamus and/or Prohibition* via this Court's electronic filing system. Parties that are registered with this Court's EFS will be served electronically.

Eric R. Olsen, Esq.  
GARMAN TURNER GORDON LLP  
650 White Drive, Suite 100  
Las Vegas, NV 89119

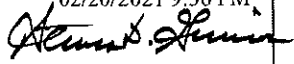
The following parties are not registered and therefore, a prepaid postage copy of this document has been placed in the U.S. mail in Carson City, Nevada:

John Buyachek, Jr.  
4776 Desert Vista Road  
Las Vegas, NV 89121

/s/ Susan Messina  
An employee of the Nevada Office of the  
Attorney General

# EXHIBIT A

# EXHIBIT A

  
CLERK OF THE COURT

1 **ODJR**

2 **AARON D. FORD**

3 Attorney General

4 **ANDREA NICHOLS** (Bar No. 6436)

5 Senior Deputy Attorney General

6 Office of the Attorney General

7 100 N. Carson Street

8 Carson City, NV 89701-4717

9 (775) 684-1218 (phone)

10 (775) 688-1156 (fax)

11 ANichols@ag.nv.gov

12 Attorneys for Nevada Labor Commissioner

13  
14 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF**  
15 **THE STATE OF NEVADA IN AND FOR CLARK COUNTY**

16 CASINO CONNECTION  
17 INTERNATIONAL, LLC., a Georgia  
18 limited liability company,

19 Petitioner,

20 v.

21 NEVADA LABOR COMMISSIONER; a  
22 Nevada Administrative Agency, and  
23 JOHN BUYACHEK, JR., an individual,

24 Respondents.

Case No. A-19-805612-J

Dept. No. 25

**ORDER DENYING CASINO  
CONNECTION INTERNATIONAL,  
LLC'S PETITION FOR JUDICIAL  
REVIEW OR, IN THE ALTERNATIVE,  
PETITION FOR WRIT OF MANDAMUS  
AND/OR PROHIBITION**

25 This matter came before the Court on January 12, 2021, for hearing on Petitioner,  
26 Casino Connection International, LLC's, Petition for Judicial Review of the Findings of  
27 Fact, Conclusions of Law and Order issued by Respondent, Nevada Labor Commissioner,  
28 on October 18, 2019. Petitioner, Casino Connection, LLC, was represented by Eric R. Olsen  
of Garman Turner Gordon, LLP and Respondent, Nevada Labor Commissioner, was  
represented by Andrea Nichols, Senior Deputy Attorney General.

Petitioner filed its Opening Brief on November 2, 2020. Respondent, Nevada Labor  
Commissioner, filed its Reply Memorandum of Points and Authorities on December 2, 2020,  
and Petitioner filed its Reply Brief on January 4, 2021. In addition to the Briefs this Court  
considered the Transcript, filed herein on September 1, 2020, and the Remainder of the  
Administrative Record on Appeal filed herein on September 3, 2020.

///

1 Having carefully read and considered the filings and having heard and considered  
2 the arguments of counsel, the Court hereby makes the following Findings of Fact,  
3 Conclusions of Law and Order:

#### 4 FINDINGS OF FACT

5 This matter commenced on October 23, 2018, when John Buyachek, Jr. ("Mr.  
6 Buyachek") submitted a claim for wages to the Office of the Labor Commissioner ("OLC")  
7 for unpaid commissions during the period of May 10, 2018 to October 22, 2018.<sup>1</sup> The OLC  
8 commenced an investigation and the OLC's Investigator issued a determination for the  
9 limited time period of May 9, 2018 to June 30, 2018.<sup>2</sup> Mr. Buyachek objected because the  
10 determination did not address the entire time period.

11 The matter was heard on October 8, 2019, by the Deputy Labor Commissioner  
12 serving in her capacity as Hearing Officer.<sup>3</sup> On October 18, 2019, the Hearing Officer issued  
13 Findings of Fact, Conclusions of Law and Order.<sup>4</sup> Respondent, Casino Connection,  
14 International, LLC ("Casino Connection") filed its Petition for Judicial Review or, in the  
15 Alternative Petition for Writ of Mandamus and/or Prohibition, on November 18, 2019.

16 This Court's review is conducted pursuant to NRS 233B.135 which states,

- 17 1. Judicial review of a final decision of an agency must be:  
18 (a) Conducted by the court without a jury; and  
19 (b) Confined to the record.

20 In cases concerning alleged irregularities in procedure before an  
21 agency that are not shown in the record, the court may receive  
22 evidence concerning the irregularities.

- 23 2. The final decision of the agency shall be deemed reasonable  
24 and lawful until reversed or set aside in whole or in part by the  
25 court. The burden of proof is on the party attacking or resisting  
26 the decision to show that the final decision is invalid pursuant to  
27 subsection 3.

- 28 3. The court shall not substitute its judgment for that of the  
agency as to the weight of evidence on a question of fact. The  
court may remand or affirm the final decision or set it aside in

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<sup>1</sup> ROA 000001-16.

<sup>2</sup> ROA 000381-82.

<sup>3</sup> Appointed pursuant to NAC 607.310(1).

<sup>4</sup> ROA 000381-387.

1 whole or in part if substantial rights of the petitioner have been  
2 prejudiced because the final decision of the agency is:

- 3 (a) In violation of constitutional or statutory provisions;
- 4 (b) In excess of the statutory authority of the agency;
- 5 (c) Made upon unlawful procedure;
- 6 (d) Affected by other error of law;
- 7 (e) Clearly erroneous in view of the reliable, probative and  
8 substantial evidence on the whole record; or
- 9 (f) Arbitrary or capricious or characterized by abuse of  
10 discretion.

11 4. As used in this section, "substantial evidence" means  
12 evidence which a reasonable mind might accept as adequate to  
13 support a conclusion.

14 The Hearing Officer found in relevant part that Mr. Buyachek was employed by  
15 Casino Connection for the time period of September, 2015 to May, 2018.<sup>5</sup> On September  
16 19, 2015, Mr. Buyachek and Casino Connection signed the Formal Offer of Employment<sup>6</sup>,  
17 which contained a brief section regarding commissions:

18 5% commission will be paid on existing sales you will be  
19 managing. 12% commission will be paid on any new sales you  
20 make. Commissions are paid on collected net revenues the  
21 month following the collections. Commissions are paid in equal  
22 installments-divided by the number of paychecks that month.  
23 While you are receiving your draw, only commissions that exceed  
24 your draw will be paid.<sup>7</sup>

25 The Hearing Officer made further factual findings and concluded that Mr.  
26 Buyachek's, "contracts from May 10, 2018 to October 22, 2018 was \$337,952.60. 12.5% of  
27 this amount would be \$42,244.07."<sup>8</sup> The Hearing Officer ordered Casino Connection to pay  
28 this amount and assessed an additional penalty pursuant to NRS 608.040 for Casino  
Connection's failure to pay commissions when they became due as required by NAC  
608.120.<sup>9</sup>

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<sup>5</sup> ROA 000382.

<sup>6</sup> *Id.* The parties' offer and acceptance is in the Record on Appeal at ROA 000092, ROA 000141, ROA 000146  
and ROA 000169.

<sup>7</sup> ROA 000382-383.

<sup>8</sup> ROA 000383-84.

<sup>9</sup> ROA 000384-385.

## CONCLUSIONS OF LAW

Petitioner, Casino Connection challenges the Hearing Officer's application of NAC 608.120. Pursuant to NRS 608.012 wages includes commissions owed to an employee. NRS 608.180 charges the Labor Commissioner with enforcement of this statute.<sup>10</sup> NAC 608.120 requires an employer to pay each commission to the employee when the commission becomes payable pursuant to an agreement. In light of this statutory scheme, the Court finds no merit in Petitioner's challenge to the regulation either on its face or as applied.

Petitioner argues that Mr. Buyachek had the burden of proving his claim as objector to the Labor Commissioner's original determination and that the Hearing Officer improperly shifted the burden of proof to Casino Connection. The Court concludes that Mr. Buyachek met the burden of showing that he was entitled to 12.5% commission.

Lastly, Casino Connection argues that, since it was required to pay another employee 5% to manage existing sales, Mr. Buyachek's commissions should be reduced by this amount. There is no evidence that the 12.5% gets reduced by 5%. Substantial evidence supports the Hearing Officer's determination that, "based on the terms of the agreement the parties mutually entered into, the Claimant [Mr. Buyachek] should have continued to receive commissions even after he was terminated from his employment; he had completed the sale."<sup>11</sup>

Considering the totality of the record, the Hearing Officer's Decision is sound and is supported by substantial evidence.

There is no basis to remand or to set aside the Decision in whole or in part.

Casino Connection has failed to show that its rights have been prejudiced.

The Decision is not: In violation of constitutional or statutory provisions; In excess of the statutory authority of the agency; Made upon unlawful procedure; Affected by other error of law; Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; Nor arbitrary or capricious or characterized by abuse of discretion.

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<sup>10</sup> Additionally, NRS 607.160 requires the Labor Commissioner to enforce all labor laws of the state of Nevada.

<sup>11</sup> ROA 000385.

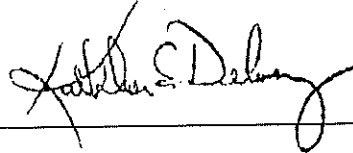
Casino Connection's Alternative Petition for Writ of Mandamus and/or Prohibition must also be denied. Such relief is only available if no adequate and speedy legal remedy exists. Because a petition for judicial review is an adequate and speedy legal remedy a writ of mandamus and/or prohibition is not appropriate to challenge the OLC's Decision. *Kay v. Nunez*, 122 Nev. 1100, 1104-05 (2006).

THEREFORE, IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Order issued by the Nevada Labor Commissioner on October 18, 2019, in the above-referenced matter, is AFFIRMED.

IT IS FURTHER ORDERED that the Petition for Judicial Review or, in the Alternative Petition for Writ of Mandamus and/or Prohibition, filed herein on November 18, 2019, is DENIED.

**IT IS SO ORDERED**

Dated this 20th day of February, 2021



278 FC7 B114 8F98  
Kathleen E. Delaney  
District Court Judge

Respectfully submitted by:

AARON D. FORD  
Attorney General

By: /s/ Andrea Nichols  
ANDREA NICHOLS (Bar No. 6436)  
Senior Deputy Attorney General  
Office of the Attorney General  
100 N. Carson Street  
Carson City, NV 89701-4717

*Attorneys for Respondent,  
Nevada Labor Commissioner*

Approved by:

GARMEN TURNER GORDEN LLP

/s/ Eric R. Olsen  
ERIC R. OLSEN (Bar No. 3127)  
7251 Amigo street, Suite 210  
Las Vegas, NV 89119

*Attorneys for Petitioner,  
Casino Connection, LLP*

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 Casino Connection International  
7 LLC, Petitioner(s)

CASE NO: A-19-805612-J

DEPT. NO. Department 25

8 vs.

9 Nevada Labor Commissioner,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Denying Judicial Review of Administrative Decision was served  
15 via the court's electronic eFile system to all recipients registered for e-Service on the above  
16 entitled case as listed below:

17 Service Date: 2/20/2021

18 Catherine Rowe

crowe@gtg.legal

19 Eric Olsen

eolsen@gtg.legal

20 Andrea Nichols

anichols@ag.nv.gov  
21  
22  
23  
24  
25  
26  
27  
28



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Judicial Review/Appeal**

**COURT MINUTES**

**February 11, 2020**

---

A-19-805612-J	Casino Connection International LLC, Petitioner(s)
	vs.
	Nevada Labor Commissioner, Respondent(s)

---

**February 11, 2020      9:00 AM      All Pending Motions**

**HEARD BY:** Delaney, Kathleen E.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Dana J. Tavaglione

**PARTIES**

<b>PRESENT:</b>	Nichols, Andrea H.	Attorney
	Olsen, Eric R.	Attorney

**JOURNAL ENTRIES**

- NEVADA LABOR COMMISSIONER'S MOTION TO DISMISS...OPPOSITION TO RESPONDENT, NEVADA COMMISSIONER'S MOTION TO DISMISS PETITIONER'S PETITION FOR JUDICIAL REVIEW, ETC. AND COUNTER-MOTION TO EXTEND TIME FOR SERVICE

Extensive argument regarding service upon the Attorney General's Office and Labor Commission; who should be served, if an email to Labor Commission constitutes service, the diligence of the parties, and the Saavedra- Sandoval v. Walmart and Scrimmer v. District Court decisions and what constitutes good cause. Ms. Nichols argued inadvertence is not a good argument for good cause. In order to obtain jurisdiction over the person, the person must be served. She could not find any reference that an email communication is proper service on a party. Mr. Olsen argued the best way address the status of this now is for him to request Court extend the service time. Adding, there is no prejudice to the Labor Commission, this has not set them back in any way.

COURT FINDS Nevada Labor Commissioner's Motion to Dismiss should be GRANTED, and ORDERED, Counter to Extend Service GRANTED to allow time for service. COURT DETERMINES there was not proper service and the Labor Commission is not properly in the case based upon the service that was undertaken. COURT STATED FINDINGS; the applicable Saavedra-Sandoval factors

have met to show a basis for the delay, the applicable Scrimmer factors have been shown to show why there is good cause to serve. COURT will give LEAVE for an ADDITIONAL THIRTY (30) DAYS to serve. To avoid added complications, COURT CLARIFIED, even though Court believes there is a factual basis to believe service was improper upon the Labor Commission, and that could serve as a basis to GRANT the Motion to Dismiss, COURT FURTHER ORDERS, Motion to Dismiss, DENIED in lieu of GRANTING the Motion to Extend Time for Service to ensure the Labor Commission is properly served and properly in the case, can respond, and address the case upon its merits.

Mr. Olsen is to prepare the Order, provide a copy to opposing counsel for review as to form and content, and return it back to the Court within 10 days of today's hearing.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Other Judicial Review/Appeal

## COURT MINUTES

**May 05, 2020**

A-19-805612-J Casino Connection International LLC, Petitioner(s)  
vs.  
Nevada Labor Commissioner, Respondent(s)

**May 05, 2020**

**9:00 AM**

## All Pending Motions

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Bill Nelson

## PARTIES

**PRESENT:** Nichols, Andrea H. Attorney  
Olsen, Eric R. Attorney

## JOURNAL ENTRIES

- NEVADA LABOR COMMISSIONER'S MOTION TO RENEW MOTION TO DISMISS...OPPOSITION TO RESPONDENT, NEVADA LABOR COMMISSIONER'S MOTION TO RENEW MOTION TO DISMISS PETITIONER'S PETITION FOR JUDICIAL REVIEW, ETC, AND COUNTERMOTION FOR EXTENSION OF TIME TO SERVE PETITION FOR JUDICIAL REVIEW

Counsel appeared telephonically.

Ms. Nichols argued the Petitioner was given an extension to serve until 03/27/20, prior to that date they served respondent with a copy of the Court's Order. Petitioner attempted service again 04/13/20; that was past the original extension. COURT NOTED, due to the current Covid-19 pandemic there have been issues contacting government offices. Ms. Nichols argued service was not attempted until after the deadline passed. If Court is inclined to grant the Counter Motion for Extension of Time to Serve Petition, Mr. Olsen can contact her and she will make arrangements for service. Mr. Olsen argued he appreciates the Attorney General's offer to speak with him now to accommodate service, at the time he did not anticipate that would be the case. His process server had directions regarding service that would have made this just as impractical in March as it would have been in April. Additional arguments by counsel regarding the delay in service and if there is any

prejudice.

COURT STATED FINDINGS, and ORDERED, MOTION GRANTED IN PART / DENIED IN PART. Motion to Dismiss DENIED; Countermotion for Extension of Time to Serve, GRANTED. Petitioner has until 05/15/20 to serve Respondent, that is an ADDITIONAL TEN (10) days. Court trusts counsel will communicate. Proper service is to be accomplished within that 10 days time frame. Mr. Olsen is to prepare the Order, provide a copy to opposing counsel for review as to form and content, and return it back to the Court within 10 days. Colloquy regarding how counsel should communicate. Ms. Nichols requested it be by email.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Judicial Review/Appeal**

**COURT MINUTES**

**August 25, 2020**

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A-19-805612-J      Casino Connection International LLC, Petitioner(s)  
vs.  
Nevada Labor Commissioner, Respondent(s)

---

**August 25, 2020      9:00 AM      Motion to Dismiss**

**HEARD BY:** Delaney, Kathleen E.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Due to the unexpected unavailability of the Court, matter CONTINUED.

CONTINUED TO: 09/01.20 9:00 A.M.

CLERK'S NOTE: A copy of this minute order was electronically served upon all registered parties.  
/sb 08.25.20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Judicial Review/Appeal**

**COURT MINUTES**

**September 01, 2020**

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A-19-805612-J      Casino Connection International LLC, Petitioner(s)  
vs.  
Nevada Labor Commissioner, Respondent(s)

---

**September 01, 2020    9:00 AM      Motion to Dismiss**

**HEARD BY:** Delaney, Kathleen E.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Shelley Boyle

**RECORDER:**

**REPORTER:** Bill Nelson

**PARTIES**

**PRESENT:**      Nichols, Andrea H.      Attorney  
                         Olsen, Eric R.      Attorney

**JOURNAL ENTRIES**

- Counsel appeared telephonically.

With Court unable to reach Mr Olsen telephonically, MATTER TRAILED.

MATTER RECALLED, Mr. Olsen now present. All other parties present as before. Mr. Olsen stated the Transcript of Proceedings was filed this morning. Ms. Nichols argued noting the extensions previously granted to Mr. Olsen. Ms. Nichols asked Mr Olsen comply with the requirements of the Administrative Procedures Act. Failure to comply constitutes grounds for dismissal of this action. Mr. Olsen argued he anticipated having the transcript and record filed. He could not locate the disc, he is sure it was received; there is a receipt. He has not had staff in his office during the Covid-19 pandemic. Mr. Olsen stated he has never been able to locate the original disc. Mr. Olsen asked Court allow the filing of the transcript today be acceptable. Mr. Olsen asked the Court to strike the Order that was attached in the Reply, it is an Order from another Court.

Additional arguments by counsel regarding whether the delays should have some adverse consequence. COURT STATED FINDINGS; Court will ALLOW the matter to proceed on the merits. ADDITIONALLY, Court will go ahead and EXTEND the time for filing of the Transcript to be

inclusive through today's date with there being good cause for that late filing. Court DECLINES to strike the Order that was attached to the Reply. Mr. Olsen is to prepare the Order, provide a copy to opposing counsel for review as to form and content, and return it back to the Court within 10 days. Following colloquy regarding scheduling, COURT FURTHER ORDERED, a Briefing Schedule SET. Ms. Nichols to provide the remainder of the record, DUE BY 09/22/20. Petitioner's Opening Brief DUE 11/01/20, Respondent's Answering Brief DUE 12/02/20, Petitioner's Final Reply DUE 01/04/21; a Hearing SET

01.12.21 9:00 .A.M. HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Judicial Review/Appeal**

**COURT MINUTES**

**January 11, 2021**

---

A-19-805612-J      Casino Connection International LLC, Petitioner(s)  
vs.  
Nevada Labor Commissioner, Respondent(s)

---

**January 11, 2021**

**10:30 AM**

**Minute Order**

**Minute Order Re:  
Dept. 25 Formal  
Request to Appear  
Remotely**

**HEARD BY:** Delaney, Kathleen E.

**COURTROOM:** Chambers

**COURT CLERK:** April Watkins

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Please be advised that, in keeping with the directives set forth in the District Court's Administrative Orders issued in response to the COVID-19 pandemic, beginning Tuesday, January 12, 2021 Department 25 will require all Civil Calendar matters to be heard remotely, via the BlueJeans Conferencing System.

The court is currently scheduling all video and telephonic conferences through BlueJeans, wherein a standard Meeting ID number has been issued, and counsel and/or the parties will connect for their respective sessions by audio/video or audio-only.

To connect for an audio/video appearance (which is the Court's preference), copy the following link into your browser or simply enter the Meeting ID number in the application:

<https://bluejeans.com/633737743>

To connect for an audio-only appearance, dial the telephone number below, then enter the Meeting



ID number, followed by the # sign:

Call-in number: 1-408-419-1715

Meeting ID number: 633737743

Again, until further notice, the Meeting ID number for all DC 25 Civil Calendars will be the same.

Finally, PLEASE NOTE the following protocol each participant will be required to follow:

Place your telephone on mute while waiting for your matter to be called.

Do not place the conference on hold, as it may play wait/hold music.

Identify yourself before speaking each time, as a record is being made.

Please be mindful of ambient noises, e.g. rustling papers.

[CLERK S NOTE: A copy of this Minute Order has been electronically served to all registered users in this case through the Eighth Judicial District Court Electronic Filing System.] aw

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Other Judicial Review/Appeal

COURT MINUTES

January 12, 2021

A-19-805612-J      Casino Connection International LLC, Petitioner(s)  
vs.  
Nevada Labor Commissioner, Respondent(s)

**January 12, 2021      9:00 AM      Hearing**

HEARD BY: Delaney, Kathleen E.

COURTROOM: RJC Courtroom 15B

COURT CLERK: April Watkins

RECORDER:

REPORTER: Bill Nelson

**PARTIES**

**PRESENT:**      Nichols, Andrea H.      Attorney  
Olsen, Eric R.      Attorney

**JOURNAL ENTRIES**

- Mr. Olsen argued Casino Connection International, LLC (CCI) would like the Court to vacate award and instruct Labor Commissioner to take no further action as to this claimant. Alternatively, if the Court finds the claimant, Mr. Buyachek, met his burden of proving his entitlement to commission based on substantial evidence, CCI would request the Court reduce rate of commission from 12.5% to 7.5% which accounts for this 5% management fee issue, the fee that is in the agreement that he entered into. Further, CCI's position is that the Labor Commission hearing officer incorrectly put the burden of proof at the hearing on the respondent employer as opposed to the objecting party, Mr. Buyachek, he is the one who requested the hearing by objecting to the determination of the Labor Commission investigator. The determination under the regulation comes down to this, when does the commission become payable pursuant to the agreement. As to the burden issue, it is CCI's position that the hearing officer disregarded the law and put the burden on CCI of proving Mr. Buyachek was not entitled to a 12.5% commission instead of putting it on Mr. Buyachek to prove that he was entitled. The Labor Commission in their brief admits it is difficult to prove a negative and they of course say that the burden does not matter because the determination was based upon the agreement he, Mr. Buyachek, had completed the sale just by getting an advertiser to sign. At the hearing Mr. Buyachek was not required to bear that burden, he did not do it and he said that he agreed to what was on paper but putting the burden on CCI instead of him was in error under the

regulations and procedures. Court inquired if there is an agreement being relied upon by the Commissioner why would that agreement on its face be controlling and why wouldn't the burden then shift to whoever is disputing agreement. Mr. Olsen stated there is no argument by the Attorney General that burden shifted and we said the burden began and ended being placed on CCI. The Hearing Officer stated if you look at the agreement there is no stated date in the agreement when commissions were due and there is no definition of sale. The decision essentially takes positions on those things even though they are not in the evidence. The award says the agreement is silent as to the triggering event for Mr. Buyachek to be paid. The Commissioner went past that ambiguity and disregarded evidence that defines sale. Further, the 14 steps of a sale that provided that definition are not in agreement and Mr. Buyachek admitted himself that there are certain things that he was expected to do as a sales person to complete the process. Nine of the steps follow the signing of the ad agreement and the hearing officer concluded, sales person may or may not have performed some additional duties that are not in the record. Mr. Buyachek acknowledged post contract steps four through 10 were required of him. Once Mr. Buyachek left company, who could not complete those steps. The Hearing Officer acknowledge the 5% existed but failed to include in part of the order reducing the commissions to 7.5%. Both the award itself and briefs of the Labor Commission acknowledge that the employment agreement contains language Mr. Buyachek would receive 5% to manage sales of his predecessor that puts a value on completing the steps four through twelve. It is undisputed Mr. Buyachek received 5% to manage the contracts of his predecessor. It is undisputed that CCI paid 5% on Mr. Buyachek's ad contracts to its successor. Additionally, there is no evidence that CCI on accounts that were under contract with Mr. Buyachek when he left was going to pay 17.5%, 12.5 % to Mr. Buyachek and 5% to successor. There is no evidence in the contract that Mr. Buyachek was entitled to commissions after the sale and to the extent that he is entitled to anything, it has to be discounted by the 5% that was paid to others to complete sales and manage contracts to the end. Mr. Buyachek did not argue at the hearing for 7.5% and the award should be vacated and in the alternative, if the Court is going to account for that, then the award should be remanded with instructions accordingly or the Court has the authority to reduce the commission to 7.5% on the total. Court inquired would Mr. Buyachek still be entitled some commission whether or not you completed all the 14 steps of the cycle. Mr. Olsen stated sale is not defined an agreement and the hearing officer assumed it meant just getting a contract signed to place the ad. If you are looking at the agreement to define that, there is no definition. The evidence with regard to what the definition is, was provided. Ms. Nichols stated looking at the agreement as to commissions, it says 12.5% commissions will be paid on any new sales made and commissions are paid on collected net revenue the month following the collections. CCI continued to receive revenue monthly and they had an agreement with Mr. Buyachek that he would receive 12.5% commission. As to the 5%, Ms. Nichols stated just because Mr. Buyachek received a 5% commission on existing sales he was managing does not equate to his predecessor got a reduction of 5%. In fact, his predecessor received his 12.5% commission until he left. Mr. Buyachek received 5% on whatever he managed and the person that came in after him, received 5% for managing the accounts. There is no evidence that the 12.5% gets reduced by 5%. As to the burden of proof, Ms. Nichols stated Mr. Buyachek filed wage claim for unpaid commissions and CCI only produced documentation for May and June of 2018. The Labor Commissioner could only issue a determination for May and June of 2018, and Mr. Buyachek stated he should of been paid through October of 2018. It was not until a year after the wage claim, when they were preparing for

the hearing, CCI actually produced documents showing the revenues received on Mr. Buyachek's sales from May to October and that is why Mr. Buyachek appealed the original determination. Further, Ms. Nichols stated the issue that the Court should focus on is the payment of the commissions. Mr. Buyachek met his burden of proof showing that he had an agreement showing he was entitled to 12.5% on new sales and that he would get it when CCI collected it. Additionally, Mr. Buyachek testified there were other things he did for the company that he did not get paid for. Colloquy regarding statutes and regulations. Additional arguments by counsel. Looking at the totality of the circumstances, COURT ORDERED, hearing officer's decision AFFIRMED. It appears Mr. Buyachek did meet burden that he was entitled to the amounts and at what amount. Further, the Court does not see justification, does not think burden has been met to show to this Court that what the hearing officer looked at and considered, even if the hearing officer shifted burden that in hindsight maybe should not of been shifted, the Court FINDS the hearing officer's decision is sound and ORDERED, petition DENIED. Ms. Nichols to prepare findings of fact and conclusions of law. Mr. Olsen to review and order to be submitted within 14 days to the Court.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

ERIC R. OLSEN  
7251 AMIGO ST., SUITE 210  
LAS VEGAS, NV 89119

DATE: March 29, 2021  
CASE: A-19-805612-J

RE CASE: CASINO CONNECTION INTERNATIONAL, LLC vs. NEVADA LABOR COMMISSIONER; JOHN BUYACHEK, JR.

NOTICE OF APPEAL FILED: March 25, 2021

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
  - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

---

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

---

***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING CASINO CONNECTION INTERNATIONAL, LLC'S PETITION FOR JUDICIAL REVIEW OR, IN THE ALTERNATIVE, PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION; NOTICE OF ENTRY OF ORDER DENYING CASINO CONNECTION INTERNATIONAL, LLC'S PETITION FOR JUDICIAL REVIEW OR, IN THE ALTERNATIVE, PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

CASINO CONNECTION INTERNATIONAL,  
LLC,

Petitioner(s),

vs.

NEVADA LABOR COMMISSIONER; JOHN  
BUYACHEK, JR.,

Respondent(s),

Case No: A-19-805612-J

Dept No: XXV

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 29 day of March 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk