

Supreme Court Case No. 83071

ROWEN SEIBEL; MOTI PARTNERS, LLC; MOTI PARTNERS ENTERPRISES, LLC; LLTQ ENTERPRISES 16, LLC; TPOV ENTERPRISES 16, LLC; FERG, LLC; FERG LLC; SQUARED GLOBAL SOLUTIONS, LLC, DERIVATIVELY ON BEHALF OF DNT ACQUISITION LLC; GR BURGR, LLC; AND CRAIG GREEN,

Electronically Filed
Jun 17 2021 11:32 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

V.

Respondent,

and

DESERT PALACE, INC.; PARIS LAS VEGAS OPERATING COMPANY, LLC;
PHWLTV, LLC; and BOARDWALK REGENCY CORPORATION d/b/a/
CAESARS ATLANTIC CITY.

Real Parties in Interest.

**REAL PARTIES IN INTEREST'S RESPONSE TO PETITIONERS'
EMERGENCY MOTION FOR A STAY OF COMPLIANCE WITH THE
DISTRICT COURT'S ORDER COMPELLING PRODUCTION OF
ATTORNEY-CLIENT PRIVILEGED DOCUMENTS**

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I. INTRODUCTION

Petitioners'¹ Emergency Motion for a Stay of Compliance with the District Court's Order Compelling Production of Attorney-Client Privileged Documents (the "Motion to Stay") is premature and, as a result, there is no basis to grant the relief Petitioners seek. To be clear, the district court has not yet ordered that any documents be produced to Caesars.² Instead, as required under an analysis of the crime-fraud exception to the attorney-client privilege, the district court ordered that Petitioners produce the documents *to the district court* for an *in camera* review "to determine whether they are sufficiently related to and were made in furtherance of intended or continued illegality and, thus, whether the same must be produced to Caesars." (Ex. 1, 10:2-4.) Unless Petitioners concede that the documents were made in furtherance of intended or continued illegality – in which case, the documents would not be privileged and subject to *immediate* disclosure to Caesars – the district court has not yet ordered Petitioners to turn over any documents to Caesars. Consequently, there is no imminent irreparable harm to

¹ "Petitioners" refers to Rowen Seibel, LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC, FERG, LLC, FERG 16, LLC, MOTI Partners, LLC, MOTI Partners 16, LLC, TPOV Enterprises, LLC, TPOV Enterprises 16, LLC, R Squared Global Solutions, LLLC, derivatively on behalf of DNT Acquisition LLC; GR Burgr, LLC; and Craig Green.

² "Caesars" refers to Desert Palace Inc., Paris Las Vegas Operating Company, LLC, PHWLTV, and Boardwalk Regency Corporation d/b/a Caesars Atlantic City.

Petitioners nor will the object of the writ be defeated. Simply, Petitioners' Motion to Stay is premature and must be denied.

II. ARGUMENT

The factors that this Court must consider in determining whether to issue a stay are: (1) whether the object of the writ petition will be defeated if the stay is denied; (2) whether petitioner will suffer irreparable injury if the stay is denied; (3) whether the real party in interest will suffer irreparable harm if a stay is granted; and (4) whether petitioner is likely to prevail on the merits of the writ petition. NRAP 8(c); *Hansen v. Eighth Jud. Dis. Ct.*, 116 Nev. 650, 657, 6 P.3d 982, 986 (2000). While no single factor is conclusive, the factors weigh heavily in favor of denying the Motion to Stay. *See Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89 P.3d 36, 38 (2004).

Where a trial court has only ordered *in camera* review of allegedly privileged documents, appellate review of any such order is premature. *See Bennett v. Berges*, 84 So. 3d 373, 375 (Fla. Dist. Ct. App. 2012) (citations omitted) ("[B]ecause the order requires a party to submit allegedly protected materials only for an *in camera* inspection, and the trial court may never require disclosure of the documents to the opposing party, we hold that the petition is premature.") Indeed, even where a court has made certain conclusions of law, no appellate review is appropriate until documents are actually ordered produced to the opposing party.

Cape Canaveral Hosp., Inc. v. Leal, 917 So. 2d 336, 340 (Fla. Dist. Ct. App. 2005) (finding certiorari inappropriate and no irreparable harm where a trial court's order, "while making certain conclusions of law, merely require[d] [Petitioner] to produce the requested documents for an *in camera* inspection by the trial court.")

Here, the district court has not yet ordered Petitioners to produce documents to Caesars. Pursuant to Nevada law, communications between a client (or their representative) and their attorney (or representative) "[m]ade for the purpose of facilitating the rendition of professional legal services to the client, by the client or the client's lawyer to a lawyer representing another in a matter of common interest" are protected from disclosure. NRS § 49.095. The privilege, however, is not absolute. Indeed, ***no privilege exists, "[i]f the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud."*** NRS § 49.115(1) (emphasis added). "The 'crime-fraud exception' to the privilege protects against abuse of the attorney-client relationship." *In re Napster, Inc. Copyright Litig.*, 479 F.3d 1078, 1090 (9th Cir. 2007), *abrogated on other grounds by Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 130 S. Ct. 599, 175 L. Ed. 2d 458 (2009).

"Under the crime-fraud exception, ***communications are not privileged when the client consults an attorney for advice that will serve him in the commission of a fraud or crime.***" *In re Grand Jury Investigation*, 810 F.3d 1110, 1113 (9th Cir.

2016) (internal quotations omitted) (emphasis added). "*The privilege takes flight if the relation is abused. A client who consults an attorney for advice that will serve him in the commission of a fraud will have no help from the law. He must let the truth be told.*" *In re Napster, Inc. Copyright Litig.*, 479 F.3d at 1090 (quoting *Clark v. United States*, 289 U.S. 1, 15 (1933) (emphasis added)).

To invoke the crime-fraud exception, the moving party must first "show that the client was engaged in or planning a criminal or fraudulent scheme when it sought the advice of counsel to further the scheme." *In re Napster, Inc. Copyright Litig.*, 479 F.3d at 1090 (internal quotations omitted). Next, the moving party "must demonstrate that the attorney-client communications for which production is sought are sufficiently related to and were made in furtherance of [the] intended, or present, continuing illegality." *In re Grand Jury Investigation*, 810 F.3d at 1113 (internal quotations omitted). The second step is accomplished through an *in camera* review of the documents. *See id.* at 1114 (internal quotations omitted) ("[A] district court must examine the individual documents themselves to determine that the specific attorney-client communications for which production is sought are sufficiently related to and were made in furtherance of the intended, or present, continuing illegality.")

Following extensive motion practice, having considered the record, the arguments of counsel, and after having taken the matter under advisement, the

district court determined that Caesars had "met its initial burden of proof and established that Seibel's representations as to the independence of the Seibel Family 2016 Trust were unfounded, and Seibel could continue to benefit from the Seibel Agreements despite his unsuitability to conduct business with a gaming licensee." (Ex. 1, at 8:4-7.) Now, the district court must undertake the second part of the analysis and review the requested records *in camera* "to determine whether they are sufficiently related to and were made in furtherance of intended or continued illegality and, thus, whether the same must be produced to Caesars." (*Id.* at 10:1-4.) Petitioners will not be harmed merely by the district court's *in camera* review of the records. Without any harm, the Petitioner's writ petition is premature, there is nothing subject to this Court's review, and a stay inappropriate. Petitioners' Motion to Stay must be denied.

///

III. CONCLUSION

Based upon the foregoing, Caesars respectfully requests that Petitioners' request for a stay be denied.

DATED this 17th day of June 2021.

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/s/ M. Magali Mercera

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and, pursuant to NRAP 25(b) and NEFR 9, that on this 17th day of June 2021, I electronically filed and served the foregoing **REAL PARTIES IN INTEREST'S RESPONSE TO PETITIONERS' EMERGENCY MOTION FOR A STAY OF COMPLIANCE WITH THE DISTRICT COURT'S ORDER COMPELLING PRODUCTION OF ATTORNEY-CLIENT PRIVILEGED DOCUMENTS** properly addressed to the following:

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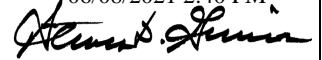
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EXHIBIT 1


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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
New York, derivatively on behalf of Real Party
in Interest GR BURGR LLC, a Delaware
limited liability company,

Plaintiff,

v.

PHWLTV, LLC, a Nevada limited liability
company; GORDON RAMSAY, an individual;
DOES I through X; ROE CORPORATIONS I
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CAESARS' MOTION TO COMPEL
DOCUMENTS WITHHELD ON THE
BASIS OF ATTORNEY-CLIENT
PRIVILEGE PURSUANT TO THE
CRIME-FRAUD EXCEPTION**

Date of Hearing: February 10, 2021

Time of Hearing: 9:00 a.m.

AND ALL RELATED MATTERS

PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las
Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars
Atlantic City's ("CAC," and collectively, with Caesars Palace, Paris, and Planet Hollywood,
"Caesars,") *Motion to Compel Documents Withheld on the Basis of Attorney-Client Privilege*

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Pursuant to the Crime-Fraud Exception (the "Motion to Compel"), filed on January 6, 2021, came before this Court for hearing on February 10, 2021, at 9:00 a.m. James J. Pisanelli, Esq., M. Magali Mercera, Esq., and Brittanie T. Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. Joshua P. Gilmore, Esq., and Paul C. Williams, Esq. of the law firm BAILEY KENNEDY, appeared telephonically on behalf of TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared"), (collectively the "Seibel-Affiliated Entities"), Rowen Seibel ("Seibel"), and Craig Green ("Green").¹ John Tennert, Esq., of the law firm FENNEMORE CRAIG, appeared telephonically on behalf of Gordon Ramsay ("Ramsay").

The Court having considered the Motion to Compel, the opposition thereto, as well as argument of counsel presented at the hearing, and good cause appearing therefor, enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. THE COURT FINDS THAT, Caesars and MOTI, TPOV, DNT, GR Burgr, LLC, LLTQ, and FERG entered into a series of agreements governing the development, creation, and operation of various restaurants in Las Vegas and Atlantic City beginning in 2009 (the "Seibel Agreements");

2. THE COURT FURTHER FINDS THAT, Caesars is a gaming licensee and each of the Seibel Agreements contained representations, warranties, and conditions to ensure that Caesars was not involved in a business relationship with an unsuitable individual and/or entity;

3. THE COURT FURTHER FINDS THAT, Seibel began using foreign bank accounts to defraud the IRS in 2004;

¹ Seibel, Green, and the Seibel-Affiliated Entities are collectively referred to herein as the "Seibel Parties."

1 4. THE COURT FURTHER FINDS THAT, in 2016, after years of investigations,
2 numerous tolling agreements, and plea negotiations with the U.S. Government, Seibel pleaded
3 guilty to one count of corrupt endeavor to obstruct and impede the due administration of the Internal
4 Revenue Laws, 26 U.S.C. § 7212, a Class E Felony;

5 5. THE COURT FURTHER FINDS THAT, Seibel did not inform Caesars that he was
6 engaging in criminal activity, being investigated for it, or that he pled guilty to one count of corrupt
7 endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. §
8 7212, a Class E Felony;

9 6. THE COURT FURTHER FINDS THAT, Caesars found out through news reports
10 that Seibel pleaded guilty to a felony and thereafter, Caesars terminated the agreements – as it was
11 expressly allowed to do – due to Seibel's unsuitability and failure to disclose;

12 7. THE COURT FURTHER FINDS THAT, before Caesars learned of Seibel's
13 criminal conduct and in an effort to conceal his criminal conviction while still reaping the benefits
14 of his relationship with Caesars – ten days before entering his guilty plea – Seibel informed Caesars
15 that he was, among other things, (i) transferring all of the membership interests under certain Seibel-
16 Affiliated Entities that he held, directly or indirectly, to two individuals in their capacities as trustees
17 of a trust that he had created (the "Seibel Family 2016 Trust"); (ii) naming other individuals as the
18 managers of these entities; and (iii) assigning the Seibel Agreements to new entities;

19 8. THE COURT FURTHER FINDS THAT, Seibel did not disclose that he decided to
20 perform these purported assignments, transfers, and delegations because of his impending felony
21 conviction;

22 9. THE COURT FURTHER FINDS THAT, these purported transfers were made
23 specifically to avoid, undermine, and circumvent Caesars' rights to terminate the Seibel
24 Agreements;

25 10. THE COURT FURTHER FINDS THAT in this litigation, Seibel has alleged that
26 his unsuitability "is immaterial and irrelevant because, *inter alia*, he assigned his interests, if any,
27 in Defendants or the contracts;"

28

1 11. THE COURT FURTHER FINDS THAT, Seibel's long-time counsel, Brian Ziegler
2 ("Ziegler"), represented to Caesars that "great care was taken to ensure that the trust would never
3 have an unpermitted association with an Unsuitable Person and, as you can see, the trust is to be
4 guided by your . . . determination;"

5 12. THE COURT FURTHER FINDS THAT, Seibel always intended to receive
6 benefits/distributions from the Seibel Family 2016 Trust and Seibel took steps – with the assistance
7 of his attorneys – to be able to do so;

8 13. THE COURT FURTHER FINDS THAT, shortly before Seibel pleaded guilty, he
9 undertook a complex scheme that involved (1) creating new entities to which he was purportedly
10 assigning the interests in certain Seibel-Affiliated Entities; (2) creating the Seibel Family 2016 Trust
11 to receive the income from said entities; and (3) entering into a prenuptial agreement with his soon
12 to be wife Bryn Dorfman ("Dorfman") to, in part, continue benefitting from the Seibel Agreements;

13 14. THE COURT FURTHER FINDS THAT, Seibel worked with his attorneys and
14 Green to create new entities to which he would purportedly assign the Seibel Agreements;

15 15. THE COURT FURTHER FINDS THAT, after the new entities were created, Seibel
16 sent letters to Caesars purporting to assign the Seibel Agreements. In each of those letters, Seibel
17 told Caesars that the agreement would be assigned to a new entity whose membership interests were
18 ultimately mostly owned by the Seibel Family 2016 Trust. For some of the entities, approximately
19 less than 1% of the membership interest were held by Green, Ziegler, and Ziegler's children;

20 16. THE COURT FURTHER FINDS THAT, Seibel falsely told Caesars that the sole
21 beneficiaries of the Seibel Family 2016 Trust were Netty Wachtel Slushny, Dorfman, and potential
22 descendants of Seibel;

23 17. THE COURT FURTHER FINDS THAT, Seibel falsely represented that, "[o]ther
24 than the parties described in th[e] letter[s], there [were] no other parties that have any management
25 rights, powers or responsibilities regarding, or equity or financial interests in" the new entities;

26 18. THE COURT FURTHER FINDS THAT, these representations were all false and
27 were made with the intent to deceive Caesars;

28

1 importance of fully informed advocacy in the administration of justice." *Canarelli v. Eighth*
2 *Judicial Dist. Ct.*, 464 P.3d 114, 119 (2020) (quoting *Wynn Resorts, Ltd. v. Eighth Judicial Dist.*
3 *Ct.*, 133 Nev. 369, 374, 399 P.3d 334, 341 (2017)). "The party asserting the privilege has the burden
4 to prove that the material is in fact privileged." *Id.* at 120 (citing *Ralls v. United States*, 52 F.3d 223,
5 225 (9th Cir. 1995)). However, "[i]t is well settled that privileges, whether creatures of statute or
6 the common law, should be interpreted and applied narrowly." *Id.* at 120 (quoting *Clark Cty. Sch.*
7 *Dist. v. Las Vegas Review-Journal*, 134 Nev. 700, 705, 429 P.3d 313, 318 (2018)).

8 3. Under Nevada law, no attorney-client privilege exists, "[i]f the services of the lawyer
9 were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew
10 or reasonably should have known to be a crime or fraud." NRS § 49.115(1).

11 4. "The 'crime-fraud exception' to the privilege protects against abuse of the attorney-
12 client relationship." *In re Napster, Inc. Copyright Litig.*, 479 F.3d 1078, 1090 (9th Cir. 2007),
13 *abrogated on other grounds by Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100 (2009).
14 Specifically, "where the client seeks the advice for 'future wrongdoing,' the crime-fraud exception
15 will not protect communications 'made for the purpose of getting advice for the commission of a
16 fraud or crime.'" *Hernandez v. Creative Concepts, Inc.*, No. 2:10-CV-02132-PMP, 2013 WL
17 1405776, at *4 (D. Nev. Apr. 5, 2013) (quoting *United States v. Zolin*, 491 U.S. 554, 562-63
18 (1989)); *see also In re Grand Jury Investigation*, 810 F.3d 1110, 1113 (9th Cir. 2016) (internal
19 quotations omitted) ("Under the crime-fraud exception, communications are not privileged when
20 the client consults an attorney for advice that will serve him in the commission of a fraud or
21 crime."); *In re Napster, Inc. Copyright Litig.*, 479 F.3d at 1090 (quoting *Clark v. United States*, 289
22 U.S. 1, 15 (1933)) ("The privilege takes flight if the relation is abused. A client who consults an
23 attorney for advice that will serve him in the commission of a fraud will have no help from the law.
24 He must let the truth be told.").

25 5. Importantly, "[t]he planned crime or fraud need not have succeeded for the exception
26 to apply." *In re Napster, Inc. Copyright Litig.*, 479 F.3d at 1090. "The client's abuse of the attorney-
27 client relationship, not his or her successful criminal or fraudulent act, vitiates the privilege." *Id.*
28 (citation omitted). Indeed, "[t]he attorney need not have been aware that the client harbored an

improper purpose." *Lewis v. Delta Air Lines, Inc.*, No. 214CV01683RFBGWF, 2015 WL 9460124, at *2 (D. Nev. Dec. 23, 2015) (citation omitted).

6. "[T]he crime-fraud exception is not strictly limited to cases alleging criminal violations or common law fraud." *Lewis*, 2015 WL 9460124, at *3. "The term 'crime/fraud exception,' . . . , is 'a bit of a misnomer . . . as many courts have applied the exception to situations falling well outside of the definitions of crime or fraud.'" *Rambus, Inc. v. Infineon Techs. AG*, 222 F.R.D. 280, 288 (E.D. Va. 2004) (internal citations omitted); *see, e.g., Cooksey v. Hilton Int'l Co.*, 863 F. Supp. 150, 151 (S.D.N.Y. 1994) (upholding magistrate judge's application of the crime-fraud exception and finding that "the facts of th[e] case demonstrate[d] if not an actual fraud, at least an intent on the part of defendants to defraud plaintiff."); *Volcanic Gardens Mgmt. Co. v. Paxson*, 847 S.W.2d 343, 348 (Tex. App. 1993) ("The crime/fraud exception comes into play when a prospective client seeks the assistance of an attorney in order to make a false statement or statements of material fact or law to a third person or the court for personal advantage."); *Horizon of Hope Ministry v. Clark Cty., Ohio*, 115 F.R.D. 1, 5 (S.D. Ohio 1986) ("Attorney/client communications which are in perpetuation of a tort are not privileged.").

7. To invoke the crime-fraud exception, the moving party must first "show that the client was engaged in or planning a criminal or fraudulent scheme when it sought the advice of counsel to further the scheme." *In re Napster, Inc. Copyright Litig.*, 479 F.3d at 1090 (internal quotations omitted). "Mere allegations of fraud or criminality do not suffice." *Garcia v. Serv. Emps. Int'l Union*, No. 217CV01340APGNJK, 2018 WL 6566563, at *5 (D. Nev. Sept. 6, 2018) (citations omitted). Instead, "[a] movant in a civil case must show by a preponderance of the evidence that the attorney's services were utilized in furtherance of an ongoing unlawful scheme." *Id.* (citing *In re Napster Inc. Copyright Litig.*, 479 F.3d at 1090).

8. Next, the moving party must "demonstrate that the attorney-client communications for which production is sought are sufficiently related to and were made in furtherance of [the] intended, or present, continuing illegality." *In re Grand Jury Investigation*, 810 F.3d at 1113 (internal quotations omitted). This second step is accomplished through an *in camera* review of the documents. *See id.* at 1114 (internal quotations omitted) ("[A] district court must examine the

individual documents themselves to determine that the specific attorney-client communications for which production is sought are sufficiently related to and were made in furtherance of the intended, or present, continuing illegality.").

9. Caesars has met its initial burden of proof and established that Seibel's representations as to the independence of the Seibel Family 2016 Trust were unfounded, and Seibel could continue to benefit from the Seibel Agreements despite his unsuitability to conduct business with a gaming licensee.

10. An issue exists as to the effect of Seibel's prenuptial agreement with his wife and its interplay with the Seibel Family 2016 Trust.

11. Thus, communications seeking legal advice for creation of the prenuptial agreement and the Seibel Family 2016 Trust are discoverable under the crime-fraud exception (NRS § 49.115(1)) as they were made in furtherance of a scheme to defraud Caesars.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion to Compel shall be, and hereby is, GRANTED.

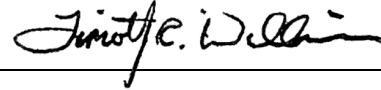
IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Seibel Parties shall submit the following documents from their privilege log to the Court for *in camera* review within ten (10) days of notice of entry of this Order: CTRL00111548; CTRL00111549; CTRL00112143; CTRL00112144; CTRL00112145; CTRL00112146; CTRL00112147; CTRL00113142; CTRL00113288; CTRL00113763; CTRL00113764; CTRL00113765; CTRL00113766; CTRL00113767; CTRL00113774; CTRL00113775; CTRL00113832; CTRL00113833; CTRL00113840; CTRL00113841; CTRL00113843; CTRL00114161; CTRL00114162; CTRL00114164; CTRL00114165; CTRL00114272; CTRL00114273; CTRL00114282; CTRL00114283; CTRL00114284; CTRL00114285; CTRL00114286; CTRL00114300; CTRL00114316; CTRL00114324; CTRL00114346; CTRL00114364; CTRL00114416; CTRL00114417; CTRL00114475; CTRL00114476; CTRL00114871; CTRL00114872; CTRL00114873; CTRL00114874; CTRL00114968; CTRL00114969; CTRL00114970; CTRL00115207; CTRL00115208; CTRL00117851; CTRL00117852;

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2	CTRL00145789;	CTRL00145790;	CTRL00145791;	CTRL00145792;	CTRL00145877;
3	CTRL00145878;	CTRL00145879;	CTRL00145895;	CTRL00145896;	CTRL00145897;
4	CTRL00177870;	CTRL00177871;	CTRL00177872;	CTRL00177873;	CTRL00177874;
5	CTRL00178124;	CTRL00178125;	CTRL00178141;	CTRL00178153;	CTRL00178156;
6	CTRL00178158;	CTRL00178163;	CTRL00178164;	CTRL00178165;	CTRL00178166;
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9	CTRL00178238;	CTRL00333064;	CTRL00333065;	CTRL00333066;	CTRL00333067;
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11	CTRL00335096;	CTRL00335097;	CTRL00335098;	CTRL00336394;	CTRL00336395;
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14	CTRL00114429;	CTRL00114432;	CTRL00114445;	CTRL00114604;	CTRL00114844;
15	CTRL00114870;	CTRL00114989;	CTRL00120720;	CTRL00120721;	CTRL00120723;
16	CTRL00120724;	CTRL00120726;	CTRL00145197;	CTRL00145198;	CTRL00145784;
17	CTRL00145876;	CTRL00173347;	CTRL00173350;	CTRL00173352;	CTRL00178020;
18	CTRL00178080;	CTRL00178092;	CTRL00178094;	CTRL00178115;	CTRL00178120;
19	CTRL00178137;	CTRL00178140;	CTRL00178155;	CTRL00178162;	CTRL00178191;
20	CTRL00178227;	CTRL00333242;	CTRL00333310;	CTRL00366304;	CTRL00366305;
21	CTRL00338414;	CTRL00338425;	CTRL00338426;	CTRL00338511;	CTRL00338513;
22	CTRL00338611;	CTRL00338612;	CTRL00339801;	CTRL00339802;	CTRL00339803;
23	CTRL00339848;	CTRL00339849;	CTRL00340482;	CTRL00346870;	CTRL00346871;
24	CTRL00346875;	CTRL00367769;	CTRL00367770;	CTRL00367771;	CTRL00367772;
25	CTRL00338593;	CTRL00113723;	CTRL00113754;	CTRL00113762;	CTRL00113768;
26	CTRL00114321;	CTRL00114322;	CTRL00145645;	CTRL00145661;	CTRL00145662;
27	CTRL00145663; CTRL00178086; CTRL00178090; and CTRL00178092.				
28					

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall examine, *in camera*, the above identified documents to determine whether they are sufficiently related to and were made in furtherance of intended or continued illegality and, thus, whether the same must be produced to Caesars.

IT IS SO ORDERED.

Dated this 8th day of June, 2021



AAA F5E 5E2F 4B5B

NS

Respectfully submitted by:

Approved as to form and content by:

Timothy C. Williams
District Court Judge

DATED June 4, 2021

DATED May 27, 2021

PISANELLI BICE PLLC

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ M. Magali Mercera
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Debra L. Spinelli, Esq., Bar No. 9695
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By: /s/ Alan M. Lebensfeld
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*Attorneys for The Original Homestead
Restaurant, Inc*

Approved as to form and content by:

DATED May 27, 2021

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
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Wade Beavers, Esq. (SBN 13451)
7800 Rancharra Parkway
Reno, NV 89511

Attorneys for Gordon Ramsay

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Thursday, May 27, 2021 6:17 PM
To: Magali Mercera
Cc: Joshua Gilmore; Stephanie Glantz; Paul Williams; Tennert, John; James Pisanelli; Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Diana Barton; Cinda C. Towne
Subject: Re: Desert Palace v. Seibel: FFCL Granting Motion to Compel Documents Pursuant to Crime-Fraud Exception

CAUTION: External Email

You may

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On May 27, 2021, at 8:04 PM, Magali Mercera <mmm@pisanellibice.com> wrote:

Josh/Stephanie –

Thank you for hopping on a call yesterday. Following our discussion, we went back and reviewed your proposed revisions to the findings of fact and conclusions of law. While we made a few changes you suggested, we cannot agree to the majority of your revisions. Please note that we did not change the reference of “Seibel-Affiliated Entities” to “Development Entities” as we discussed yesterday to remain consistent with how we referred to the parties in our briefing.

We believe our proposed findings of fact and conclusions of law are supported by the record and follows the Court’s minute order directing us to “prepare a Findings of Fact, Conclusions of Law and Order based not only on the court’s minute order but the pleadings on file herein, argument of counsel, and the entire record.”

Please advise if you are willing to sign this order or if competing orders will be necessary.

John/Alan – Please advise if we may apply your e-signature to this version of the findings of fact and conclusions of law.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC

400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

Telephone: (702) 214-2100

Fax: (702) 214-2101

mmm@pisanellibice.com | www.pisanellibice.com



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<FFCL and Order Granting Motion to Compel Comm's Due to Crime-Fraud v2.docx>

<FFCL and Order Granting Motion to Compel Comm's Due to Crime-Fraud v2 (redline).docx>

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Thursday, May 27, 2021 6:37 PM
To: Magali Mercera
Cc: Joshua Gilmore; Stephanie Glantz; Paul Williams; Alan Lebensfeld; James Pisanelli; Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Diana Barton; Cinda C. Towne
Subject: Re: Desert Palace v. Seibel: FFCL Granting Motion to Compel Documents Pursuant to Crime-Fraud Exception

CAUTION: External Email

Magali,
Please apply my e-signature.
Thanks,
John

Sent from my iPhone

John D. Tennert III, Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511
T: 775.788.2212 | F: 775.788.2213
jtennert@fennemorelaw.com | [View Bio](#)



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COVID-19: Governors in our markets have deemed law firms essential services. As a result, our offices will be open from 8 am to 5 pm, but most of our team members are working remotely. To better protect our employees and clients, please schedule an appointment before coming to our offices.

On May 27, 2021, at 5:05 PM, Magali Mercera <mmm@pisanellibice.com> wrote:

Josh/Stephanie –

Thank you for hopping on a call yesterday. Following our discussion, we went back and reviewed your proposed revisions to the findings of fact and conclusions of law. While we made a few changes you suggested, we cannot agree to the majority of your revisions. Please note that we did not change the

reference of “Seibel-Affiliated Entities” to “Development Entities” as we discussed yesterday to remain consistent with how we referred to the parties in our briefing.

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John/Alan – Please advise if we may apply your e-signature to this version of the findings of fact and conclusions of law.

Thanks,

M. Magali Mercera

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<FFCL and Order Granting Motion to Compel Comm's Due to Crime-Fraud v2 (redline).docx>

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

14 Service Date: 6/8/2021

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18 "John Tennert, Esq." . jtennert@fclaw.com

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24 Matt Wolf . mcw@cmlawnv.com

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